

EMPLOYMENT EQUITY MYTHS

How to Respond

MYTH: REVERSE DISCRIMINATION

Discrimination is the denial of equal treatment and opportunities to individuals or groups. It can occur on the basis of race, nationality, gender, age, religion, political affiliation, marital or family status, physical or psychiatric disability or sexual orientation. The term *reverse discrimination* has been created and used by people who have privilege to deny their privilege and is often used by men and Caucasians to affirmative action/employment equity policies.

Let's look at the idea of discrimination in reverse using the example of men and women. *If* men and women were equally distributed in all job levels and salary levels of an organization, it *would* be *discriminatory* to selectively advertise for women, or to offer special training programs for them. But they are not. "Reverse discrimination" implies that women, non-Caucasian workers and people with disabilities are being preferred over Caucasian, able-bodied male workers. The facts show that it is minority workers and women who face discrimination in not having access to educational programs and training, and being denied jobs and promotions even when they *do* have the qualifications and experience.

Until all groups catch up, special, positive measures are needed to make sure they are represented in the workplace at the same levels as in the community.

We have such a serious problem that pro-active measures are needed to change the situation. These pro-active steps are temporary. They are aimed directly at under-represented groups. Employment equity rights old wrongs. As trade unionists, we have a proud history of trying to put things right that have been wrong for a long time.

In the short-term, some people who have counted on getting jobs or promotion they hear of by word of mouth will find more people competing for openings.

The new measures are intended to counter a system, which has provided a kind of "affirmative action" program for Caucasian, able-bodied males for a long time in certain industries. Caucasian males will no longer be the only ones at the front of the line -- they will have to take their place in the line up with everyone else. Employment equity levels the playing field for all workers.

Some people are worried that their own children will have to compete with a greater pool of potential hirees. This is a difficult issue, especially since there are not enough good, unionized jobs to go around these days. It is a challenge for all to move to a mindset where the collective good of all comes first. Employment equity is about this shift.

MYTH: EMPLOYMENT EQUITY MEANS HIRING UNQUALIFIED WORKERS

Employment equity plans call for the hiring of *qualified* candidates from designated groups and others. This ensures that qualified workers who were previously kept out of jobs will have the opportunity to fill them.

A qualified worker is someone who comes to the job with all the skills required for the job. Someone who can do the job from the first day or with a *reasonable amount of training*. Getting access to that training is an important key to employment equity. Providing support and mentoring is another critical factor.

It would defeat and undermine the purpose of employment equity to hire unqualified workers just to reach the numerical targets set for each designated group.

Allowing unqualified workers to be hired would affect productivity. It could create safety problems on the job. If a person hired under employment equity couldn't do the job properly, some people would just think that she or he got the job unfairly. They might even think that other members of that group were unable to do that kind of work. It would divide the bargaining unit, and make people justifiably angry.

However, sometimes the hiring or promotion requirements for a job are not fair. Part of the employment equity process is to look at the selection procedures with management to make sure that the questions asked of candidates reflect the actual skills needed for the job, not false criteria that keeps people out. When we look closely at the way workers are tested for hiring or promotion, we often find biased practices.

For instance, in order to get a promotion, sometimes you need experience in the job. How do you get that experience? Usually, by filling in for the person in a higher-paid job. The problem is that some people who have the skills to do the higher position never get picked. That is why unions and management must insist that all candidates, whether from designated groups or not, meet the requirements of the job and can perform the job properly.

MYTH: OVERNIGHT CHANGE IN THE MAKE-UP OF THE WORKPLACE

The workforce will not change overnight. The law allows for slow changes in the workforce make-up, especially when the economy is down.

Employment equity is a negotiated process of change.

Once plans are negotiated and posted, changes in hiring and promotion can only happen as opportunities for change become available.

In a slow economy, there will be few changes. Even retiring employees may not be replaced right away. It will probably take many years to make the make-up of the workforce reflect the composition of the community.

MYTH: EMPLOYMENT EQUITY ALLOWS EMPLOYERS TO DESTROY SENIORITY PROVISIONS

Employment equity is not a chance for employers to go through collective agreements destroying seniority provisions or other hard-won workers rights. Some challenges are possible, and there have been some. A small number of seniority clauses have been found by Human Rights tribunals and courts in Canada to be unfair barriers.

In the *Renaud* decision, a scheduling rule based on seniority was found to conflict with an employee's right to consideration because of his religion. In this case, the worker couldn't work on a Saturday for religious reasons. The ruling gave him the right to a schedule change even though he had low seniority.

Employers won't be able to use the review of work rules (part of negotiating an employment equity plan) as a fishing expedition. For a seniority clause to be overturned, it would have to be found to be discriminatory under the Human Rights Code.

Seniority is an important protection for workers. If applied properly it should *protect* minority workers in the workplace against arbitrary or discriminatory actions by management.

In many workplaces, if there is a layoff, the most senior person could still be right out the door. Why? If they don't have the skills for another job. In these cases, do we grieve? File an unfair labour practice?

No, because that is the language of the collective agreement.

MYTH: CAUCASIAN MALES WILL BE LAID-OFF TO MAKE ROOM FOR DESIGNATED GROUPS

Employment equity law is about making sure that members of the designated groups get a chance at new job opportunities.

No one will be laid off to make room for groups that are under-represented.

Change will come only as new hiring and new promotions become available. Change will not come at the cost of existing workers.

MYTH: EMPLOYMENT EQUITY IS MAINLY FOR RACIAL MINORITIES

Employment equity is for women, Aboriginal people, racial minorities *and* persons with disabilities. Most people who benefit directly from employment equity will probably be women, since most of half of all workers are women -- but not half of all higher-level employees.

Remember that the number of women, injured workers and people with disabilities doesn't really change from one part of the province to another.

Persons with disabilities will also be a major group to benefit from employment equity.

MYTH: EMPLOYMENT EQUITY MEANS THE END OF HIRING OF ABLE-BODIED, CAUCASIAN MALES

Many new employment opportunities will be targeted for members of designated groups.

But Caucasian males and females will continue to be the largest segment of the workforce. That means that there will still be many Caucasian workers hired and promoted in all communities, even in an environment of employment equity.

It plays on workers' fears in a bad economy to say that, "if you are a Caucasian male, there's no point in even applying." It is simply false.

Let's think of our daughters and our sons as well as our relatives and neighbours who have disabilities.

And let's also remember that employment equity will not mean that all people hired or promoted will be members of designated groups. There will always be people hired and promoted who are not members of designated groups.

MYTH: NUMERICAL GOALS ARE THE SAME AS QUOTAS

Quotas were used in the U.S. Affirmative Action programs. They were numbers set by the government for the hiring of women and racial minorities.

The system we have in Canada calls for *numerical goals*. This is a different, more flexible concept.

1. Numerical goals are set within each workplace by the employer and the union. They are based on demographic information about the availability of workers from designated groups to fill different kinds of jobs. (The government in the U.S set Quotas.)
2. Numerical goals are actually proportions or percentages, not actual numbers. For instance, a workplace could target 50% of its hirings and promotions for women. (A quota might say 10 women.)
3. Numerical goals are commitments to hiring qualified members of designated groups. Under some circumstances, it may not be possible to reach the numerical targets set out in the employment equity plan. There may not have been enough qualified candidates from designated groups, even with special recruitment efforts. (In the States, quotas sometimes became "warm bodies". The program was criticized because qualifications for the job were sometimes not even taken into account in the fever to get the right "numbers".)
4. If the employer cannot reach the numerical goals, they have an opportunity to give their reasons. Valid reasons might include fewer opportunities for promotion or hiring, or fewer people retiring. (In the U.S., quotas were seen as inflexible numbers set by the government.)