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| **Employee Relations Procedures Manual** | |
| **SECTION 01: RECRUITMENT & SELECTION**  **1.2 Employees-Recruitment & Selection Policy** |  |

On the recommendation of Cabinet, the Territorial Commander has agreed to the following guidelines for recruitment and selection to be followed by Salvation Army employers in Canada.

**1. Human Rights Legislation and Employment Selection**

Section 15 of The Canadian Charter of Rights and Freedoms, which is part of the Canadian Constitution, guarantees Canadians the right to,

"equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability"

The Charter has direct application to the government (federal, provincial and municipal) and its agents, and indirect application to private, non-government organizations, because human rights legislation and labour relations/employment standards legislation are subject to it.

Human Rights Legislation adheres to the principle that employment decisions should be based on criteria relating to an applicant's ability to do the job in question, rather than on factors that are unrelated to job performance. It is also recognized that employers have a legitimate right to obtain the most qualified and suitable candidate for a particular job.

Provincial Human Rights Legislation entitles all individuals to equal employment opportunities without regard to:

race or colour,

national/ethnic origin or citizenship,

religion or creed,

age,

family or marital status,

sex (including pregnancy or childbirth and sexual orientation),

record of offenses (in certain jurisdictions),

disability,

(in certain jurisdictions) political belief.

All Salvation Army employers, particularly Divisional Commanders and Department Heads will need to be familiar with the prohibited grounds designated in their jurisdictions.

Section 8. of the Canadian Human Rights Act provides a helpful guideline in defining discrimination in recruitment and selection:

"It is a discriminatory practice

(a) to use or circulate any form of application for employment, or

(b) in connection with employment or prospective employment,

(i) to publish any advertisement, or

(ii) make any written or oral inquiry that expresses or implies any limitation, specification or preference based on a prohibited ground of discrimination."

An exception is sometimes allowed in cases where an otherwise prohibited ground of discrimination may be permitted, if such discrimination is clearly relevant to the job. A particular skill or qualification can then be specified if the preference is, in fact, based on a ***bona fide*occupational requirement (BFOR).** A BFOR is an employment condition, imposed honestly and without intent to defeat the purpose of the relevant human rights legislation, and is based on the practical reality of accepted business practice in the situation. A BFOR must have a substantial connection to the operation of the employer's business and not discriminate more than is necessary. If a complaint is filed, the onus to prove that a requirement is reasonably necessary rests with the employer. The requirement must be "reasonably necessary to assure the efficient and economical performance of the job, without endangering the employee, fellow employees and the general public." *(Ontario Human Rights Commission vs. Etobicoke - 1982)*. A policy, which is not imposed consistently, will not satisfy the requirement that the qualification be related to the performance of the employment concerned.

Discrimination is prohibited by law in regard to employment advertising, as well as the terms and conditions of employment, including transfers, promotion and training programs. Discrimination results if the established employment systems encourage or discourage certain individuals because they are members of certain groups, rather than because of their ability to perform a job. Systemic or constructive discrimination describes indirect discrimination that is hidden (usually unintentionally) in the normal operations, rules and procedures of the employer. Intent to discriminate does not matter. Rather, it is the consequences of an employer's action that determine whether or not the employer has discriminated.

It is imperative that Salvation Army employers do not violate Human Rights Legislation in either recruitment or selection policies and procedures, and that Salvation Army employers maintain the philosophy of equal opportunity as a right of all Canadians.

**2. RECRUITMENT**

Recruitment is the process of attracting applicants with certain skills, abilities and other personal characteristics to job vacancies in an organization. The recruitment procedures of Salvation Army employers must be broad enough to provide equal opportunities to all Canadians in order to comply with Provincial Human Rights Legislation.

a. External Recruitment

Any advertisement is to be carefully worded to avoid discriminating against anyone on any of the prohibitive grounds under human rights legislation. If in doubt about a matter of inclusion in an advertisement, check with the Territorial Director of Employee Relations or your district human rights office before posting.

If using outside recruitment agencies, the employer is responsible to ensure that they do not engage in any prohibited discriminatory practices under Human Rights Legislation.

b. Internal Recruitment.

All employees must have equal opportunity for advancement or promotion within the organization. If an existing employee is given no opportunity to compete against a new recruit for the job, all other factors (i.e. skills, experience, and training) being equal, then it may be determined that a prohibited discriminatory practice exists. Job postings must be visible to all current employees. They must not be discriminatory in wording, except where a bona fide occupational requirement (BFOR) exists.

c. Application forms.

Human Rights Legislation prohibits the use of an employment application form or a

"written or oral inquiry ... that directly or indirectly classifies or indicates qualifications by a prohibited ground for discrimination."

Appendix "A" [Notes Link](Notes:///852569E4006AFC78/4937121C26550EB48525688D00560C46/AFB41C046841D94F85256A2D006A1476) provides a list of application and interview questions which must be avoided, as well as those which can be asked, along with additional comments and guidelines.

d. Selection Interviewing.

As indicated above, only questions related to job success can be asked on application forms and during employment interviews. It is recommended that behavioural questions that are job-specific be developed, which focus on how candidates handled relevant situations in previous jobs or how they propose they would handle specific situations in the role for which they are being considered. Work sample tests or intelligence/aptitude tests can also be effectively used in the screening process but they must ensure fairness and equality of opportunity to all applicants. For positions that are extremely physically or mentally demanding, or for positions where medical clearance is a legal or funding body requirement, pre-employment medicals or medical testing should be made a condition of employment.

Any medicals requested or physical/mental demands testing required as a part of the hiring process must relate to the essential duties and requirements of the job only, and should be secured only after a conditional offer of employment has been made (in other words, following selection).

All applicants interviewed for a particular position must be given the opportunity to provide comparable information. Questions asked should relate specifically to the responsibilities and requirements of the job. The same questions are to be asked and answered by each applicant. If possible, two or more interviews are to be held with different interviewers in order to guard against personal biases. Interviewers must be fully aware of the need to avoid bias in selection. Appendix "A" ( [Notes Link](Notes:///852569E4006AFC78/4937121C26550EB48525688D00560C46/AFB41C046841D94F85256A2D006A1476) ) provides guidelines on appropriate and inappropriate interview questions.

**3. EMPLOYMENT EQUITY IMPLICATIONS**

Employment equity involves taking positive steps to remedy the under-representation of women, visible minorities, disabled and aboriginal people in the labour force by eliminating employment barriers. The Federal Employment Equity Act was proclaimed in force August 13, 1986, and applies to all Crown agencies and federally-regulated employers with 100 or more employees.

In an effort to strengthen and enhance present Human Rights legislation, a number of provinces are currently giving consideration to the concept of employment equity.

The designated groups under the Federal Employment Equity Act are:

a. Women

b. Visible Minorities - Chinese, Black, Indo-Pakistani, West Asian or Arab, Filipino, Japanese, South-East Asian, Korean and Oceanic.

c. Natives

d. Disabled - The World Health Organization defines disability as: "any mental or physical disadvantage, resulting from an impairment or a disability, that limits or prevents the fulfillment of a role that is normal for that individual."

The emphasis of employment equity is that employers are to be responsible to ensure that the recruitment process focuses on actual job requirements, that reasonable accommodation (see 4. below) is made for applicants with a disability or other protected attributes, and any employment practices in connection with recruiting, hiring, promoting and training, that may be discriminatory against the designated minority groups, are eliminated. Salvation Army employers will take all steps necessary to ensure that employment barriers are eliminated and equal opportunity is provided to all applicants.

Salvation Army employers giving consideration to initiating employment equity programs are to be governed by guidelines outlined under applicable provincial Human Rights legislation

**4. REASONABLE ACCOMMODATION**

Reasonable accommodation is most often associated with giving consideration to the needs of persons with disabilities. It is recognized that many of the barriers to equal opportunity for employment of persons with disabilities exist because of inadvertence or lack of awareness of special needs, not because people have deliberately sought to discriminate against persons with disabilities. Historically, persons with disabilities have borne the costs associated with their special needs. Accommodation in employment is the removal, at the employer's expense, of those barriers which would otherwise prevent persons with disabilities from enjoying equal opportunity of employment. Each person with a disability must be considered individually in order to determine what changes can be made to a situation, including physical environment, in order to accommodate that person's needs.

Reasonable accommodation is also required under the law to protect applicants and employees with other protected attributes. For example, accommodating special religious or family needs of employees would be required in order to provide equal opportunity without discrimination on the basis of religion or family status.

For employers, 'reasonable accommodation' means that, if a person is capable of performing or fulfilling the essential duties of an employment position, it is the responsibility of the employer to provide the means of removing barriers to that person's employment, provided the cost of doing so is "reasonable", i.e. accommodation of a person's individual needs is required, unless such accommodation would cause "undue hardship" to the employer.

**RECRUITMENT AND SELECTION POLICY**