

## REMOVING THE "CANADIAN EXPERIENCE" BARRIER

Some employers ask people applying for jobs if they have "Canadian experience." That can make it much harder for people new to Canada to find work. Some "regulatory bodies" (such as the professional associations for accountants or doctors) also ask for Canadian experience.

The Ontario Human Rights Commission (OHRC) believes that asking for Canadian experience can result in discrimination. Employers and regulatory bodies should **always have to show why Canadian experience is needed.**

"Canadian experience" is not a good way to tell if you have the rights skills or experience to do a job. Employers should ask about all of your previous work – where you got your experience should not matter. [[?]]

### **The Ontario Human Rights Code**

The Human Rights Code is an Ontario law that gives you equal rights and opportunities for jobs. You have similar rights in other areas too, like housing and services.

Some rules or practices may result in unequal treatment. A job ad or hiring process that blocks people who don't have Canadian experience can hurt newcomers to Canada, even though they may have experience in another country and can do the job. Not hiring someone because of where they worked before may be discrimination based on race, ancestry, colour, place of origin or ethnic origin.

### **What questions can be asked?**

Asking about Canadian experience could be a way to find out about your race, ancestry, colour, place of origin or ethnic origin. The Human Rights

Code says employers must not put out a job ad, use an application form, or ask a job applicant questions to find out about what are called “prohibited grounds of discrimination” in the Code.

During a job interview, employers should not ask you where you got your experience. They should consider all of your work experience, in any country. Employers should only ask specifically about “Canadian” experience if they can show it is really needed to do the job (that it is a “legitimate requirement”) and that providing “accommodation” would cause “undue hardship.”

An employer must not use an employment agency to hire people based on preferences like race or colour, or use an employment agency to recruit, select, screen or hire people based on whether they have Canadian work experience.

Often, there are easy ways to assess a person’s skills and abilities, even if they have not worked in Canada.

*Example: An employer is looking for a typist/receptionist. Even if the person was trained in another country, there are several ways to tell if they can really do the job, such as a test (a typing test, for example), letters of reference or having the person actually do the job for a short time (a “probationary period”).*

### “Legitimate” job requirements

Job requirements should be reasonable and directly related to how the job is done. The Supreme Court of Canada says an employer must show that the requirement:

- relates to the purpose or nature of the job
- was adopted honestly rather than for a discriminatory reason
- is necessary to do the job

- there isn't a better way that would avoid or reduce the negative effect
- the situations of individual job applicants are still considered and accommodated as much as possible, unless the cost to do that would be very high or would create health and safety risks ("undue hardship").

An employer won't be able to say that a requirement for Canadian experience is justified unless they can show that they have taken a flexible approach, looked at other types of experience, and weighed this against the other requirements of the job.

The hiring process should be clear and open. Job ads should talk about the exact skills and work experience needed for the job. Applicants should be given the chance to show their skills during interviews and even in a simulated job setting.

*Example: Rather than imposing a general Canadian experience requirement on job applicants, or insisting that they have established local business contacts before they are hired, an advertising agency provides job applicants with the opportunity to show their ability to generate business.*

### ***What must organizations do?***

Employers and regulatory bodies should make sure that they are not discriminating against people and that their policies, programs and practices respect human rights. This includes not having job or accreditation requirements that create barriers for newcomers. Where barriers exist, an employer has a duty to remove them.

*Example: A major bank wants to make sure that people without Canadian experience don't face a barrier when they apply for a job. To do this, the bank decides not to include a question about "country of origin" on its job application form.*