



InclusiveACTION

@SickKids Foundation

A "Special Program" to Collect and Analyze Protected Data



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Introduction

The SickKids Foundation (the “Foundation”) *InclusiveACTION* program has been created to collect and analyze data from *Human Rights Code* (“Code”) protected categories such as race, disability, gender, gender expression and sexual orientation. It is based on the Ontario Human Rights Commission’s (“OHRC”) guidebook entitled “*Count Me In: Collecting Human Rights-Based Data*”, published in 2010. This guidebook was generated with the intent to provide a working framework for organizations such as the Foundation to pursue our primary objective to attract, recruit and hire diverse, well qualified people and to gain a deeper understanding of any systemic barriers that may be precluding us from achieving this goal.

Section 14 of the *Code* allows special programs in employment that would otherwise infringe the *Code*. Special programs help people who experience discrimination, economic hardship, or disadvantage to achieve equality. Collecting data to monitor and evaluate special programs is allowed by the *Code*. Data can also be collected for special programs if the information is used to show that groups are under-represented or face other forms of hardship or disadvantage.

Why Are We Collecting Data?

At the Foundation, Equity, Diversity and Inclusion has been part of our strategic plan for some time and is now a core value. We have made a commitment to better reflect, within our organization, the diverse communities we serve. Currently our diversity metrics indicate that we are lagging in attracting, hiring and retaining a pool of diverse talent. We have set targets to increase diverse representation throughout all levels of our organization (Target of 35% within FY 22) and we have specifically made a public pledge to the BlackNorth Initiative to increase our current Black employee population by 8.5% by 2025. We are not only focused on attracting diverse candidates, but also on retaining and providing advancement opportunities for diverse employees (Target of 90% retention rate of diverse employees within FY22 and Target of 35% of Black employees promoted by 2025).

With these tangible targets the Foundation requires a mechanism to benchmark our current representation and progress on attracting, hiring, and retaining in four (4) key categories:

- ❖ Race;
- ❖ Sexual Orientation
- ❖ Gender, Gender Expression;
- ❖ Sexual Orientation; and
- ❖ Disabilities.

As a response to the need, we have developed this Special Program entitled, “*InclusiveACTION*” which aims to collect data at the point of entry. When a candidate applies to one of our job postings via our Applicant Tracking System on the HRIS platform known as HR Spice, the candidate will be directed to a brief, voluntary self-identification survey that will be restricted in scope. A detailed preamble will precede the series of self-identification questions (refer to Appendix B to review the survey).

InclusiveACTION will assist our organization to better understand who is attracted to our job postings at the point of applying and it will also support our initiative to:

- ❖ develop programs to attract new demographic markets
- ❖ prevent or address any systemic barriers to access and opportunity
- ❖ create and promote equity, diversity and inclusion initiatives related to the recruitment and selection process

The Foundation recognizes that to effectively thrive in an increasingly globalized, competitive business environment, we must promote an inclusive and equitable work culture throughout the organization. We need a clear understanding on how to attract and retain the best and brightest people available and we must find

innovative ways to improve service delivery and programming to meet the needs of an increasingly diverse population base. Collecting data on *Code* and non-*Code* grounds can help us meet such goals.

We also feel further motivated to collect this data to:

- ❖ expose any systemic barriers from the point of selection, recruitment and throughout the employee life cycle
- ❖ to observe and address any unequal distribution of individuals with *Code*-protected and non-*Code* protected characteristics within our organization

We have designed this Special Program to ensure that any data collected is done in a way that follows accepted data collection techniques, privacy and other applicable legislation, and is collected for a purpose that is consistent with the *Code*, such as to:

- ❖ monitor and evaluate potential discrimination
- ❖ identify and remove systemic barriers
- ❖ lessen or prevent disadvantage
- ❖ promote substantive equality for people identified by *Code* grounds

We will take every precaution to ensure the *Code* is not being breached and will not be breached in the future by:

- ❖ Ensuring the information is protected and collected in a confidential way with restricted access;
- ❖ Ensuring the information collected is only used as intended;
- ❖ Keeping the program up to date with amendments to the *Code* and guidelines issued by the OHRC; and
- ❖ Tracking complaints and feedback on the program.

What are the Benefits to SickKids Foundation to Collect Such Data?

There are many benefits for regularly collecting data using accepted data collection research methods. In addition to collecting this data at the recruitment stage, we will also utilize this data to retain diverse employees by tracking progression within the Foundation (promotions/lateral transfers), performance and potential ratings and evaluate our attrition data against our set metrics.

Some examples are:

- ❖ Good data can help identify and verify issues, theories and perceptions, such as perceptions of equal opportunity and treatment and institutional barriers to recruitment.
- ❖ Good data can help to proactively address issues, measure progress and capitalize on opportunities.
- ❖ Collecting data can help measure a general state of affairs, not limited to specific cases or events. When data is gathered, tracked and analyzed in a credible way over time, it becomes possible to measure progress and success (or lack of it). Budgets, policies, practices, processes, programming, services and interventions can then be evaluated, modified and improved.
- ❖ Good data can gain trust, develop effective, respectful consultations, and secure the support of key decision-makers and stakeholders. Collecting, tracking and evaluating data on an ongoing basis can provide us with credible, compelling information when communicating with key decision makers and stakeholders about support for sensitive policies, programs or initiatives.
- ❖ Good data can reduce exposure to possible legal action and human rights complaints. Collecting data on an ongoing basis, using accepted data collection methods, can help an organization show that it has met its duty to protect and uphold human rights. A failure to collect data does not, in and of itself, form the basis of an application to the Human Rights Tribunal of Ontario. However, if an application alleging discrimination is made against an organization, not collecting data may factor into the decision of whether an organization

has met its duty to make sure it is not in violation of the *Code*. Data collection and analysis have figured prominently in public interest remedies sought by the OHRC in recent years.

Overcoming Challenges

There are potential challenges when deciding to collect data based on *Code* grounds such as race, disability or sexual orientation. Some questions and concerns we may encounter, include, “Will this data result in ‘reverse discrimination’ and less qualified people getting hired and promoted?” In organizations that have traditionally employed dominant groups, it is common for equity-enhancing measures to be resisted and subject to criticisms of “reverse discrimination” as well as the perception that equity programs and policies cause discrimination against White people. Equity-enhancing programs are recognized as an important means of ensuring substantive equality for disadvantaged persons and groups. As well, meaningful, effectively implemented equity measures can improve the efficiency and productivity of organizations and society as a whole, by diversifying labour pools and skills, among other benefits.

To proactively reduce and address perceptions of “reverse-discrimination,” we will clearly communicate the purpose, goals and methodology for collecting data, explain how the recruitment, hiring and promotion process will be transparent, fair and based on merit, and highlight how collecting data can benefit all staff and the organization as a whole. To address this concern more fully, we will invite questions and incorporate feedback from key internal stakeholders, including our Equity, Diversity and Inclusion Committee, Legal Counsel, the Senior Management Team, and openly communicate to our staff why we are undertaking this initiative prior to the launch of this Special Program. Collecting sensitive information can create feelings of anxiety or distrust and raise concerns about privacy and confidentiality for the applicant. We will attempt to overcome such anxiety, distrust, and concerns by clearly communicating on the application form itself:

- ❖ the rationale, method and benefits of collecting data
- ❖ clarifying who has access to the information and why
- ❖ that the form involves entirely voluntary self-identification, and applicants may opt out of answering all or each individual question as they see fit
- ❖ outlining how the information collected will be handled and stored confidentially in compliance with privacy, human rights and other applicable legislation

We will also commit to continuously learning from other organizations that have instituted similar surveys on how we can improve aspects of this program moving forward.

In summary, *InclusiveACTION* is a Special Program to ensure the Foundation authentically lives our EDI values and meets its strategic targets to boost the pool of diverse talent to enable increased consideration and hiring of diverse candidates at all levels of the organization.

Appendix A

Many people think that collecting and analyzing data that identifies people on the basis of race, disability, sexual orientation and other *Code* protected grounds is not allowed. But collecting data on *Code* grounds for a *Code*-consistent purpose is permitted, and is in accordance with Canada's human rights legislative framework. The OHRC has found that data collection can play a useful and often essential role in creating strong human rights and human resources strategies for organizations in the public, private and non-profit sectors.

The OHRC interprets the term "data collection" broadly to include gathering information using both quantitative research methods such as surveys, and qualitative research methods such as focus groups. The data collection experiences of other organizations show how regularly collecting, tracking and reporting data can help organizations to:

- ❖ verify, monitor, measure and address gaps, trends, progress and perceptions
- ❖ proactively identify opportunities for improvement and growth
- ❖ attract, retain and motivate diverse, well-qualified people
- ❖ improve the quality of decision making, service delivery and programming
- ❖ enhance perceptions of being progressive leaders in their sector or industry
- ❖ achieve organizational goals and strategic objectives.

Code Grounds

Ontario's *Code* prohibits discrimination based on the following grounds:

- race
- ancestry
- place of origin
- color
- ethnic origin
- citizenship
- creed (includes religion)
- sex (includes pregnancy and breastfeeding)
- sexual orientation
- gender identity
- gender expression
- age (18 years or more)
- marital status
- family status
- disability
- record of offences (only in employment)
- receipt of public assistance (only in accommodation).

People are also protected from discrimination based on intersecting grounds, when they are associated with someone who identifies with a *Code* ground, or when they are *perceived* to be a member of a group identified by a *Code* ground.

Non-Code Grounds

From the OHRC's perspective, information can be gathered based on *Code* grounds and non-*Code* grounds (a category of data that is not listed as a *Code* ground), such as education. The main consideration is to make sure that any data collected is done in a way that follows accepted data collection techniques, privacy and other applicable legislation, and is collected for a purpose that is consistent with the *Code*. Examples could be to:

- monitor and evaluate potential discrimination
- identify and remove systemic barriers
- lessen or prevent disadvantage
- promote substantive equality for people identified by *Code* grounds.

Definitions

Indigenous Peoples

A collective name for the original people of North America and their descendants. According to the OHRC, Indigenous peoples include status, non-status, First Nations, Inuit and Métis peoples of Ontario. They are recognized as separate peoples with unique heritages, languages, cultural practices and spiritual beliefs. The OHRC recognizes that there is no single or “correct” definition of Indigenous populations. The choice of a definition depends on how the information will be used. Different definitions are used depending on who developed the definition and the focus and requirements of the user. Each question will yield Indigenous populations with different counts and characteristics.

Disability

Section 10 (1) of the *Code* defines “Disability.” “Disability” should be interpreted in broad terms. It includes both present and past conditions, as well as a subjective component based on perception of disability. Although sections 10(1)(a) to (e) of the *Code* set out various types of conditions, they are meant to be examples not an exhaustive list. Protection for persons with disabilities under this subsection explicitly includes mental illness, developmental and learning disabilities.

Diversity

Diversity refers to the presence of a wide range of human qualities and characteristics. The dimensions of diversity may include (but are not limited to) ethnicity, race, colour, religion, age, gender and sexual orientation.

Diversity Initiatives

Diversity initiatives commonly refer to policies, programs and initiatives designed to promote representative diversity throughout organizations and communities. The OHRC sees measures like mentoring programs, human rights and equity training, anti-racism, anti-homophobia, anti-sexism and bilingualism policies as also being part of diversity initiatives. Such steps can promote diversity by attracting people from different backgrounds, abilities and orientations, and foster an organizational culture that is open, welcoming and that respects people with different backgrounds, abilities and orientations.

Employment Equity

A program designed to identify and eliminate discriminatory policies and practices that act as barriers to fair employment. Networks, friendships and favoritism have shaped employment practices to exclude people who would otherwise merit the job. Employment equity promotes fair hiring and personnel practices to make sure that employees are hired for only one reason – their qualifications to do the job. Equity also includes the rights of people to have equal access to goods, services and opportunities in society. To ensure equality of opportunity, equity programs may treat some persons or groups differently when the situation in society precludes equal treatment.

Human Rights

For this guide, human rights refers to rights enshrined in applicable provincial human rights legislation.

Special Programs

Section 14 of the *Code* allows special programs in employment that would otherwise infringe the *Code*. Special programs help people who experience discrimination, economic hardship or disadvantage to achieve equality. Collecting data to monitor and evaluate special programs is allowed by the *Code*. Data can also be collected for special programs if the information is used to show that groups are under-represented or face other forms of hardship or disadvantage.

Appendix B

SickKids Foundation InclusiveACTION Program: Self-Identification Questionnaire

(Preamble)

At SickKids Foundation (“SKF”), we believe that in order to solve the greatest challenges in child health, first we must invest in each other. We strive to create an equitable, diverse and inclusive culture where expressing our authentic selves is not just safe but celebrated. Your responses to the SKF *InclusiveACTION* Program Self-Identification Questionnaire ([Click Here](#)) is on a voluntary basis. All information and data, including whether you have responded to these questions, will be kept confidential and will adhere to applicable privacy legislation. The information and data obtained will be used strictly to identify the diversity of our applicants, and to assist us in ensuring a barrier-free workplace and obtaining a more diverse talent pool for consideration. We invite you to take the next few moments to respond to each of the following questions below.

(Questionnaire)

I understand that the personal information that I am providing SickKids Foundation with will be used by SickKids Foundation solely for the purpose of administering its equity, diversity and inclusion employment initiatives. I further understand that the personal information I provide will be accessible only by the Human Resources Department and the Hiring Manager who require access to such information for the purpose described above.

1. Please provide your full name (family name and given name):

2. Do you wish to participate in our Self-Identification Questionnaire?

- Yes
- No

(If “No” skip to section **X**)

3. How would you describe your gender identity?

- Man
- Woman
- Gender fluid
- Non-binary
- Two-spirit
- Prefer not to disclose
- Prefer to self-describe (please specify)

4. Do you identify as a transgender person?

- Yes
- No
- Prefer not to disclose

5. Which of the following do you identify with? Please use the comment box if you feel that your identity has not been captured in the list below. Select all that apply

- Asian - East Asian (e.g., Japanese, Korean, Chinese)
- Asian - South Asian (e.g., Indian, Pakistani, Sri Lankan)

- Asian - Southeast Asian (e.g., Indonesian, Filipino, Vietnamese)
- Asian - West Asian (e.g., Uzbek, Turkmen, Kazakh)
- Asian - North American
- Asian - European
- Black - African (e.g., Nigerian, Kenyan, Moroccan)
- Black - Caribbean (e.g., Grenadian, Jamaican, Trinidadian)
- Black - South or Central American (e.g., Brazilian, Argentinian, Peruvian)
- Black - North American
- Black - European
- Indigenous – Status
- Indigenous – Non-status
- Indigenous – Inuit
- Indigenous – First Nations
- Indigenous – Métis
- Latin / Hispanic - Caribbean (e.g., Cuban, Haitian)
- Latin / Hispanic - Central American (e.g., Honduran, Guatemalan)
- Latin / Hispanic - European (e.g., Spanish, Portuguese)
- Latin / Hispanic - South American (e.g., Brazilian, Argentinian, Guyanese)
- Latin / Hispanic - North American
- Middle Eastern - (e.g., Syrian, Lebanese)
- Middle Eastern - North African (e.g., Libyan, Moroccan)
- Middle Eastern - West Asia (e.g., Iranian, Afghani)
- Middle Eastern - North American
- Middle Eastern – European
- Caucasian (White) - Western European (e.g., Dutch, German, French)
- Caucasian (White) - Eastern European (e.g., Polish, Serbian, Russian)
- Caucasian (White) - African (e.g., South African, Namibian)
- Caucasian (White) - North American
- Jewish - Ashkenazi
- Jewish - Sephardi Mixed Race
- Prefer not to disclose
- Prefer to self-describe (please specify)

6. What is your sexual orientation? Please select all that apply

- Asexual
- Bisexual
- Gay
- Heterosexual
- Lesbian
- Pansexual
- Queer
- Two-spirit
- Prefer not to disclose
- Prefer to self-describe (please specify)

7. Do you identify as a person with a mental health condition? (e.g., depression, bipolar disorder, etc.)

- Yes
- No
- Prefer not to disclose

8. Do you identify as a person with a cognitive or learning disability (e.g., ADHD, dyslexia, Down syndrome, etc.)?

- Yes
- No
- Prefer not to disclose

9. Do you identify as a person with a visible or invisible physical disability? (e.g., Seeing, Hearing, etc.)

- Yes
- No
- Prefer not to disclose

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