The Hiring Process: 8 Discriminatory Terms Not to Use in Your Job Postings



- *Irish need not apply*
- *Female wanted*
- *Christian preferred*

What's At Stake

Human rights laws ban employers from posting job ads that express a limitation, specification or preference based on gender, age, race, religion or other protected grounds. Phrases like the ones above are obvious examples and most employers know better than to use such radioactive language in their job ads. But what even well informed employers may overlook is how a qualification or description that's neutral on its face may still be discriminatory if it has *the effect* of excluding a protected class.

Example: Requiring applicants to have a valid driver's licence might discriminate against individuals with visual impairments and other disabilities that make them incapable of driving.

Unfortunately, there are all kinds of neutral, everyday phrases and code words that can get you into discrimination trouble if you include them in your job ads.

If You Require It, You Must Justify It

Recognize that preferences and qualifications that are otherwise discriminatory may be not only unavoidable but essential for some positions. But while listing these preferences in your job ad may be justifiable, it also raises a red flag. The burden now shifts to you to show that the preference or qualification is a "bona fide occupational requirement" (BFOR). And that's not always easy. To meet that burden, you must prove that the otherwise discriminatory preference or qualification :

- Is essential to performing the job;
- Was adopted in the good faith belief of its necessity to fulfill a legitimate and non-discriminatory work-related purpose; and
- Is reasonably necessary to accomplish the work-related purpose.

Thus, for example, requiring applicants to have a valid driver's licence would be a BFOR for a truck driver's position.

8 Code Words to Avoid

Here are 8 potentially discriminatory phrases and code words to avoid using unless you can justify them as a BFOR.

1. **“Recent Graduate”**

Because recent graduates are predominately younger, the phrase may be deemed a veiled method of excluding older job applicants.

2. **“Experienced” or “At Least X Years of Experience”**

“Experience” is also a red flag for age discrimination but in the opposite direction—it indicates a preference for an older job applicant.

3. **“Canadian Citizenship” or “Canadian Experience”**

Requiring Canadian work experience or citizenship may be seen as a covert way of excluding immigrants and discriminating on the basis of nationality, ethnic origin and even race and religion.

4. **“Proficiency” in English or Other Language**

Fluency or proficiency in a language may also be a form of ethnic or nationality discrimination that you’d have to justify as a BFOR.

5. **“Accent-Free”**

Requiring job applicants to speak a language without an accent is even more problematic than a fluency requirement. For example, while it might be a BFOR to require a receptionist to speak English, requiring that he/she speak unaccented English would much harder to justify.

6. **“Post-Secondary Degree”**

Higher education requirements may pose barriers for the disabled and even races underrepresented in universities and trade schools. The simplest way to avoid opening this can of worms is not to require a higher degree unless it’s essential. Don’t insist on a college degree where a high school diploma will do.

7. **Personality Traits**

What many employers fail to recognize is that personality and professional traits may be associated with some groups to the exclusion of others. Common examples you should try to avoid:

- “Dynamic” = young;
- “Career-minded” = male;
- “Dedicated” = male;
- “Good fit” = individuals with the same characteristics as current employees;
- “Traditional” ≠ women, minorities, LGBT individuals;
- “Long-term career potential” ≠ older.

8. **Gender-Specific Terms like “Waitress”**

Even though they’re used in everyday language, gender-specific terms like “waitress” and “handyman” carry the taint of discrimination and should be avoided. While this may sound like a lecture about being politically correct, in the context of discriminatory job advertising the words you use to describe the position can have a

significant and direct bearing on your liability.

Example

A janitor claims she was fired because she was a woman and the co-op community wanted to replace her with a man. The Ontario Human Rights Tribunal agrees and awards her $5,000. It also orders the co-op to hire an outside consultant to create a non-discrimination policy. The crucial piece of evidence is the job advertisement calling for "CLEANER/MAINTENANCE MAN." I get that "'maintenance man' may be a casual idiomatic label for the job." But, the Tribunal continues, use of a "male-oriented phrase" to designate a job title "has an exclusionary impact for women because it evinces a distinction based on gender. . . and reinforces negative stereotypes about the ability of women to do maintenance work" [*Wedley v. Northview Co-operative Homes Inc.*, 2008 HRTO 13 (CanLII)].

Moral: Use gender-neutral rather than gender-specific terms to describe the advertised position.

Don't Use	**Do Use Instead**
Waiter or waitress	Wait staff or server
Stewardess or steward	Flight attendant
Salesman	Salesperson
Handyman	Maintenance person
Foreman	Supervisor
Seamstress	Needleworker
Meter maid	Parking enforcement officer
Lumberjack	Logger, forester
Longshoreman	Stevedore
Journeyman	Experienced tradesperson
Headmaster	Principal
Mail man	Letter carrier, mail carrier