

## The Search

The purpose of the search is to identify the best possible candidate, and the process must support that objective. Overlaying that objective are federal law requirements related to citizenship or immigrant status if hiring via Employment and Social Development Canada's (ESDC) Temporary Foreign Worker Program, and to our commitment embodied in the York University Faculty Association (YUFA) Collective Agreement to employment equity and increasing the proportion of women, racial/visible minorities, persons with disabilities and aboriginal peoples in faculty positions via York's Affirmative Action (AA) program. If the candidate recommended is to receive speedy approval, the search must be demonstrably thorough, proactive and affirmative.

### 1. Position Advertising (sample advertisements)

- All advertisements must appear on the York AEO website, in *CAUT Bulletin* and *University Affairs* and with any other media as stipulated in a unit's individual Affirmative Action Plan. For decanal and Librarian positions, the ads must also appear on the Job Bank and remain continuously posted until the position is filled. If, however, all shortlisted candidates are Canadian, the ad may be removed from Job Bank when the shortlist is approved.
- All full and short-form advertisements to be published in major and non-major media are prepared by the respective unit/Faculty and shall be sent to the Office of the Provost for review and approval. Upon approval, full ads are posted on York's Academic Employment Opportunities (AEO) website. The Office of the Provost is responsible for making arrangements for all academic display ads to be published in *CAUT Bulletin*, *University Affairs* and other major media. Arrangements for advertising small print/line/classified ads in all publications will continue to be made by the individual unit/Faculty. However, it is the responsibility of unit/Faculty to request and receive approval from the Office of the Provost for all advertisements prior to submitting for publication. Note: In the case of Canada Research Chairs, advertisements should also be vetted through the Vice-President Research and Innovation.
- Units/Faculties are responsible to ensure that copies of all advertisements for full-time positions be sent to YUFA and to CUPE 3903 and be posted on bulletin boards in the relevant academic units of the University at the same time that advertisements are placed or otherwise circulated.
- Efforts should also be made to identify qualified applicants currently holding CUPE 3903 positions. See Article 23.08 of the CUPE 3903 Unit 2 Collective Agreement for conditions under which contract faculty are entitled to an interview for full-time faculty positions.
- The specification of duties in the professorial stream should require undergraduate teaching and research.

- Except where it is clearly inappropriate, all advertisements for professorial vacancies in the tenure-stream should include a reference to graduate teaching and supervision and to the requirement of prompt appointment to the Faculty of Graduate Studies.
- Advertisements must indicate that appointments are subject to budgetary approval.
- Hiring ranks must conform to the rank advertised. For example, searches made with the intent to hire a junior candidate i.e., Lecturer/Assistant Professor, may not appoint at the Associate Professor level. Our practice is that normally we do not consider such applicants. There are on occasion cases where an applicant for an Assistant Professor position has received tenure and/or promotion between the time of the application and the file coming forward for approval. Normally the appointment will be made at the posted rank and normally without tenure. The Dean may agree in consultation with the candidate to have an accelerated tenure/promotion process soon after the start date. If exceptional circumstances arise, consult the Office of the Vice Provost and Article 12.18 (b) of the YUFA Collective Agreement. The Dean/Principal shall confirm his/her intentions in writing to the Chair of the unit AND to the Association PRIOR to recommending the appointment.
- The required qualifications for a position as stated in the advertisement/posting are determinative; required qualifications cannot be changed after the fact. The recommended candidate must meet the qualifications/criteria specified in the job advertisement. Candidates who do not meet the posted qualifications must be deemed “unqualified” and cannot be recommended for the position. The Search Committee report should indicate if a candidate was deemed “unqualified” because he/she did not meet the posted criteria and qualifications. In addition, committees should consider using the following phrase when writing to unsuccessful applicants: “the posted criteria and qualifications outlined in the job advertisement were not met.”
- If a PhD is required for the position, the ad must clearly indicate applicants shall possess a PhD or close to completion and in hand by the start date.
- Normally, all academic job postings will have a specified deadline date for receipt of applications. Therefore, postings which say “applications will be received until the position is filled” will not be accepted. Exceptions to this must be approved in advance by the Vice-President Academic & Provost. Decanal and Librarian searches are subject to a process that requires ads remain continually posted on the Job Bank until the position is filled as stated above.
- When advertising for both tenure stream and contractually limited appointments in the same area, specify in the advertisement that applicants should declare which position they are applying for and those who wish to apply for both should submit two complete and separate applications. Short-listed candidates who are unsuccessful in receiving a tenure track appointment, should be asked if they wish to be considered for a contractually limited appointment if such appointment exists in the same area.
- Guidelines relating to appropriate advertisement practices, including Affirmative Action and Employment and Social Development Canada (ESDC), formerly known as HRDC regulations are to be followed.

- YUFA and the administration agreed that units/Faculties may opt to use short form ads for their academic job advertisements. Keep in mind, however, that full text advertisements must first appear on the Academic Employment Opportunities (AEO) website. In composing the short form ads, the following must be included: reference to the AEO website [www.yorku.ca/acadjobs](http://www.yorku.ca/acadjobs), the statement that “York University is an affirmative action employer. The Affirmative Action Program can be found on York’s website at [www.yorku.ca/acadjobs](http://www.yorku.ca/acadjobs) or a copy can be obtained by calling the affirmative action line at 416-736-5713,” and the ESDC statement that “All qualified candidates are encouraged to apply; however, Canadian citizens, Permanent Residents and Indigenous peoples in Canada will be given priority.”
- Federal requirements that priority be given to Canadians (Canadian citizens or permanent residents) require that applicants identify whether or not they are Canadian citizens or permanent residents. A [citizenship form](#) is to be sent to all applicants of academic positions. The form (in English and French) is in addition to the Affirmative Action form. Unlike the AA form where self-identification is discretionary, the citizenship form is mandatory.
- All advertisements shall include the following statement:

“York University is an Affirmative Action (AA) employer and strongly values diversity, including gender and sexual diversity, within its community. The AA program, which applies to Aboriginal people, visible minorities, people with disabilities, and women, can be found at [www.yorku.ca/acadjobs](http://www.yorku.ca/acadjobs) or by calling the AA line at 416-736-5713. All qualified candidates are encouraged to apply; however, Canadian citizens, Permanent Residents and Indigenous peoples in Canada will be given priority.” [When advertising for a CLA position, in addition it is important to include the following clause:] “Temporary entry for citizens of the U.S.A. and Mexico may apply per the provisions of the North American Free Trade Agreement (NAFTA) or citizens of Chile may apply per the provisions of the Canada Chile Free Trade Agreement (CCFTA).”
- The Office of the Provost has an Academic Employment Opportunities website and posting tool for Faculties/Libraries to provide prospective employees with a central repository of academic positions available at York. Designates from each Faculty/Library have been provided with the access necessary to utilize this web module to post positions in consultation with the Vice Provost office. The Academic Positions website is available at: <http://acadjobs.info.yorku.ca/>

## **Sample Advertisement for a Professorial-Stream Position** **[Department/School, Faculty]**

The [Department/School, Faculty] invites applications for a tenure-track professorial-stream appointment in <specified field> at the [Assistant/Associate/Full] Professor level, to commence July 1, [XXXX]. Salary will be commensurate with qualifications and experience. All York University positions are subject to budgetary approval.

A Ph.D. [or a Ph.D. near completion] [by the start of the appointment] [or PhD equivalent typically an MA/MFA with a substantial record of professional experience] in [specific area or specific area or a related field] is required. Candidates must show excellence or promise of excellence in teaching, scholarly research and publication and service.

Applicants should have an ongoing program of research and specialize in one or more of the following areas: [specific areas of specialization]. [list any additional requirements and qualifications]

The successful candidate must be suitable for prompt appointment to the Faculty of Graduate Studies. The position [may or will] involve graduate teaching and supervision, as well as undergraduate teaching. Pedagogical innovation in high priority areas such as experiential education and technology enhanced learning is preferred.

York University is an Affirmative Action (AA) employer and strongly values diversity, including gender and sexual diversity, within its community. The AA Program, which applies to Aboriginal people, visible minorities, people with disabilities, and women, can be found at [www.yorku.ca/acadjobs](http://www.yorku.ca/acadjobs) or by calling the AA line at 416-736-5713. All qualified candidates are encouraged to apply; however, Canadian citizens, permanent residents and Indigenous peoples in Canada will be given priority. [For CLA positions only: Temporary entry for citizens of the U.S.A. and Mexico may apply per the provisions of the North American Free Trade Agreement (NAFTA) or citizens of Chile may apply per the provisions of the Canada Chile Free Trade Agreement (CCFTA).]

The deadline for receipt of completed applications is <date>. A letter of application with an up-to-date curriculum vitae, a statement of research and teaching interests, three letters of reference and teaching evaluations should be sent to: Professor [Name], Chair, [Department/Division/School], [Faculty], York University, 4700 Keele Street, Toronto, Ontario M3J 1P3, [Fax:, E-mail]

Applicants wishing to self-identify can do so by downloading, completing and submitting the forms found at: <http://acadjobs.info.yorku.ca/>. Please select the Affirmative Action tab under which forms pertaining to Citizenship and AA can be found.

**Sample Advertisement for an Alternate-Stream (Teaching-Focused) Position**  
**[Department/School, Faculty]**

The [Department/School, Faculty], York University invites applications for an Alternate Stream (teaching-focused) tenure-track position in [area/discipline] at the rank of [Assistant/Associate /Senior] Lecturer, to commence July 1, [XXXX]. The successful candidate will be expected to teach undergraduate [and graduate] courses and to provide leadership in enhancing teaching and learning through curricular and pedagogical innovation [and support aspects of curriculum delivery and development, etc.].

A Ph.D. [or a Ph.D. near completion] [by the start of the appointment] [or PhD equivalent – specialized doctorate, such as an Ed.D or MA/MFA with a substantial record of professional experience] in [specific area or specific area or a related field] is required.

The successful candidate will demonstrate excellence or clear potential for excellence in teaching university-level courses, a strong commitment to pedagogy and student success and the capacity to bring a theoretical and practical orientation to [area] teaching, learning and program design. A record of pedagogical innovation in high priority areas such as experiential education, technology enhanced learning and community-based learning is preferred as is experience with curriculum development and universal design approaches to teaching and assessment. The successful candidate is also expected to provide evidence of service contributions or potential to contribute to service in administrative and committee work.

Salary will be commensurate with qualifications and experience. All York University positions are subject to budgetary approval.

York University is an Affirmative Action (AA) employer and strongly values diversity, including gender and sexual diversity, within its community. The AA program, which applies to Aboriginal people, visible minorities, people with disabilities, and women, can be found at [www.yorku.ca/acadjobs](http://www.yorku.ca/acadjobs) or by calling the AA office at 416-736-5713. All qualified candidates are encouraged to apply; however, Canadian citizens, permanent residents and Indigenous peoples in Canada will be given priority. [For CLA positions only: Temporary entry for citizens of the U.S.A. and Mexico may apply per the provisions of the North American Free Trade Agreement (NAFTA) or citizens of Chile may apply per the provisions of the Canada Chile Free Trade Agreement (CCFTA).]

The deadline for receipt of completed applications is [date]. Applicants should submit a signed letter of application outlining professional experience, an up-to-date curriculum vitae and a teaching dossier which supports excellence and innovation in teaching [i.e., sample course outlines, student rating, teaching reviews, workshop and professional development programs attended or led, and conference papers and publications relating to pedagogy] and arrange for three signed confidential letters of recommendation to be sent to Professor [Name], Chair, [Department/Division/School], [Faculty], York University, 4700 Keele Street, Toronto, Ontario M3J 1P3, [Fax:, E-mail]>. Referees should be advised to address the candidate's qualifications and experience in relation to the position.

Applicants wishing to self-identify can do so by downloading, completing and submitting the forms found at: <http://acadjobs.info.yorku.ca/>. Please select the "Affirmative Action" tab under which forms pertaining to Citizenship and AA can be found.

### **Advertising Options**

All academic advertisements must be posted on York's Academic Employment Opportunities (AEO) website and, at a minimum, in *CAUT Bulletin* and *University Affairs* (display or classified ad). In addition, the unit's Affirmative Action Plan may stipulate other advertising requirements.

There are also two size options for units/Faculties with regard to the advertisements in paper media. The first is the usual "full-form" ad that must appear on York's AEO website and may also be used for publication in newspapers/journals, etc. Alternatively, units may elect to use a "short-form" ad in external media. YUFA and the Administration have agreed to make available the option of short-form ads to be published in major and non-major print media (newspapers, journals etc.).

### **Short-Form Advertisements**

All short form ads must include the following three items: 1) reference to the Academic Employment Opportunities website [www.yorku.ca/acadjobs](http://www.yorku.ca/acadjobs) for complete job description and application details, 2) the statement that "York University is an affirmative action employer. The Affirmative Action Program can be found on York's website at [www.yorku.ca/acadjobs](http://www.yorku.ca/acadjobs) or a copy can be obtained by calling the affirmative action line at 416-736-5713 and, 3) the ESDC statement that "All qualified candidates are encouraged to apply; however, Canadian citizens and Permanent Residents will be given priority." Example: The Department of Social Science, York University, Toronto, Ontario, Canada seeks a tenure-track Assistant Professor in the area of Business and Society. For complete job description and application details, visit [www.yorku.ca/acadjobs](http://www.yorku.ca/acadjobs). York University is an affirmative action employer. The Affirmative Action Program can be found on York's website at [www.yorku.ca/acadjobs](http://www.yorku.ca/acadjobs) or a copy can be obtained by calling the affirmative action line at 416-736-5713. All qualified candidates are encouraged to apply; however, Canadian citizens and Permanent Residents will be given priority.

## **2. Search Committees and the Search Process**

To ensure that York is taking the appropriate steps to attract a diverse pool of outstanding applicants and that the hiring processes are fair and equitable, please be reminded of the following procedures:

- **Dean/Principal's Representation on Search Committees:** The Deans/Principal, if not already represented on its Search Committees, should take steps to become so. The role of the Dean's representative on Search Committees, in part, is to guide the Committee in following their own hiring procedures, including the unit's Affirmative Action Plan. The Dean's representative should ensure procedures for complying with

ESDC regulations governing the hiring of non-Canadians are followed. The Dean's representative should also ensure that Search Committees undertake a comparative evaluation of the research/scholarly/creative contributions of each candidate on the short list and that the shortlisted candidates are approved by the Dean. The representative is also able to remind the Committee, when necessary, of the guidelines when putting forth York graduates on the shortlist and in working through any conflicts of interest/bias or apprehension of bias in searches.

- **Approval of the Short List:** Search committees, once they have determined the short list, must submit the short list to their Dean/Principal with appropriate documentation in order for the Dean/Principal to assess and approve the recommended short list before the search committee invites interviews.
- **Agreed upon phrasing of the York Terminal Degree Guidelines or Principles:** *“As part of its undertaking to appoint the best candidates for advertised appointments on the basis of academic and professional excellence, the University seeks to bring renewal and diversity of approaches to the University’s academic life. In this regard, the factors that will be taken into account by collegial recruitment or search committees in considering applicants for tenure stream appointments in the context of relevant provisions of the collective agreement, including Articles 12.15 and 12.18, will include but are not limited to the following:*
  - *Approach(es) to the discipline that the candidate may bring;*
  - *Institution(s) where the candidate received their training, in particular their terminal degree;*
  - *Any concentration of approaches to the discipline in the existing faculty complement;*
  - *Any concentration of institutions where existing faculty in the unit received their training;*
  - *The candidate’s professional/academic/research appointment(s) (faculty or otherwise);*
  - *Whether York is the only, or one of few, Canadian institutions to offer a terminal degree in a particular field.*

*The recruitment or search committee will provide to the Dean in the shortlisting memorandum an explanation of how the above-noted factors, where relevant, were taken into account with respect to each of the applicants recommended for inclusion on the shortlist.*

*The normal expectation is that candidates who earned their terminal degree from York will have held professional/academic/research appointments (faculty or otherwise) at other institutions for several years before applying here. Nevertheless, this does not preclude the colleagues from recommending that a recent York graduate be included on the shortlist having regard to the above-noted factors and/or in circumstances where a recent York graduate appears to be amongst the best applicants. It remains*

*with the Dean or Principal to approve the recommended shortlist, having considered the shortlisting memorandum, including any discussion of the above-noted considerations.*

*Consideration of these factors does not preclude or override the recruitment or search committee's normal obligations to consider and address Affirmative Action requirements under the collective agreement, as well as immigration restrictions."*

- **Independent Assessment of the Recommended Candidate:** Before making a recommendation of a candidate to the Provost, the Dean/Principal is expected to undertake an independent assessment of the candidate. This may require that the Dean/Principal meet separately with the candidate.
- **Search Committee Composition:** Normally, faculty members/librarians on the search committee should have tenure/continuing appointments. A list of the membership on the committee should be provided in the committee's report. Unless there are exceptional circumstances, the Chairperson of the Hiring Unit, the Chairperson of the Search Committee, the Affirmative Action Representative and the Dean's Representative on the Search Committee should not be the same person. These roles are distinct and should not be held by the same person.
- **Affirmative Action Plans** are to be updated and approved by the Affirmative Action committee prior to beginning a new search. The date of revision and approval should be noted in the plan. It should also be noted that units must update their gender stats in their Affirmative Action Plans as of 1 July or 1 January in order to determine the percentage of women. The 2015-2018 YUFA Collective Agreement Article 12.21 (b) states: *Units with 40% or more women and 20% or more visible minorities (members of racialized groups) shall review their affirmative action plans with a view to proactively increasing the representation of faculty/librarians and archivists who are Aboriginal (Indigenous) people, and persons with disabilities using the diversity of the populations of the Canadian workforce as a guideline (from the most recent census).*

Affirmative Action Plans can be found at <http://acadjobs.info.yorku.ca/affirmative-action/>.

The Affirmative Action Report in the recommendation file must provide a rationale on why any self-identified applicants were not short-listed. It is highly recommended that tables/templates are used to list applicants with their gender, citizenship (Canadian/non-Canadian), Affirmative Action designation (if self-identified), how the candidate meets the qualifications for the position, and if the candidate is shortlisted or the reason not to shortlist.

As per Article 12.18 of the YUFA collective agreement, *"Deans shall submit to the Joint Affirmative Action Committee the names of candidates on the short list including any self-identification information provided to the Dean by the unit with the short list."*



Units are reminded that (as per Article 12.24 of the YUFA Collective Agreement) the Affirmative Action representative shall complete a workshop organized by the Joint Committee on Affirmative Action. In addition, the Affirmative Action Officer or designate will be invited to meet at least once per year with the hiring committee(s) of each academic unit. If, after meeting with the AA Officer or designate, issues arise to which the Search Committee is unsure, contact the AA Officer or designate for clarification.

- **Self-Identification:** The Affirmative Action program applies only to candidates who have self-identified as one or more of the designated employment equity groups: women, racial/visible minorities, persons with disabilities and aboriginal peoples. The Search Committee must not apply the terms of the Affirmative Action program to candidates based on its own observations. For example, for women to be considered under the Affirmative Action program they must self-identify. All applicants are to be provided with the opportunity to self-identify during the search process in accordance with Article 12.23 of the YUFA Collective Agreement and the procedures outlined in the unit's affirmative action plan. The self-identification form is available at the [affirmative action](#) site.
- **Opportunities to Self-Identify:** As stipulated in the YUFA Collective Agreement, upon receipt of applications for a position, the hiring unit **must** ensure that [self-identification forms](#) and [citizenship forms](#) are sent to all applicants when acknowledging receipt of their application. This includes when a search firm has been retained to assist with a search. Units may also want to take the opportunity to invite applicants to self-identify in the position advertising. In addition, opportunities to self-identify should continue to be available throughout the process in accordance with the hiring unit's Affirmative Action Plan.

As stipulated within Article 12.23 of the YUFA Collective Agreement: "...Units shall send self-identification forms with the letter acknowledging a candidate's application and inviting him/her to self identify.....the hiring committee shall review self-identification information for all candidates from the outset of the process."

- **Proactive Search:** Advertising is only one element in the search process. A proactive search will also attempt to seek out other candidates by a variety of personal contacts.
- **Confidentiality:** Candidates may request that their applications be held in confidence. Our policy is as follows:
  - If the candidate requests that his/her application be confidential to the search committee, then that request will be honoured up to the point at which the short list is determined.
  - If the candidate is on the short list, he/she should know that his/her interview, visit to campus, and/or seminar/talk will be a matter of public record (i.e., it will be advertised within the Department/Faculty/University community).

- This policy should be communicated to candidates who request confidentiality so there is no misunderstanding.
- **Consultation:** While every unit will have its own procedures, the search committee should consult widely among colleagues. Part of the consultative process must involve the appropriate graduate program or programs. This can often be achieved by arranging an interview with the director(s) of the appropriate graduate program. In considering recommendations from an appointing Dean for tenure-stream professorial appointments, the Provost will satisfy himself/herself that the file contains evidence that the recommendation has been informed by the views of the Dean of Graduate Studies or designate.
- **Conflict of Interest:** The Provost's policy on conflicts of interest in hiring must be adhered to and should be known to all members of the Search Committee in advance so that members can declare their conflict and have it resolved at the start. Prior to deciding on a shortlist, members of a search committee should declare any conflict(s) they may have to the Committee. The onus is then on the Chair of the Search Committee to ensure that any conflict(s) have been satisfactorily resolved and to report the outcome in the Search Committee's report to the Dean/Principal. Simply identifying that there was a conflict of interest in the Search Committee's report is not satisfactory; the conflict should be identified together with a description of how it was resolved. If the conflict(s) are not resolved satisfactorily and are not reported in the recommendation file coming forward to the Provost, the file will be held up until it is done and in the extreme case could result in a recommendation not being approved.

As a general guiding principle, the Search Committee must consider whether the relationship between a particular candidate and the member of the Search Committee is such that there is sufficient bias or apprehension of bias so that the member should not judge any of the candidates. If so, that person should be recused from the Search Committee.

Examples of when to **recuse** from the Search Committee:

- (a) A member of the Search Committee has a pecuniary interest in a candidate.
- (b) A member of the Search Committee is a relative or close personal friend of a candidate.
- (c) A member of the Search Committee has provided a letter of reference for a candidate.

More often there will be situations where the relationship between a candidate and a member of the Search Committee may or may not create sufficient bias or apprehension of bias. In such cases the Committee must use its judgment as to whether the member can fairly judge all candidates. Consideration must be given to the nature and time-frame of the relationship and whether the person(s) with the conflict should recuse from the Search Committee completely or not comment or vote on the candidate(s) with whom they have the conflict. In examples (a) – (d) below the nature and time-frame of the relationship should be taken into account; e.g., was the co-

authorship or dissertation supervision within the last 2 years; 5 years; 7 years? If a relationship is current, the Committee could decide that the Search Committee member should recuse from the Committee or at a minimum abstain from commenting or voting on the candidate with whom they have the relationship with.

Examples of when to **not vote or comment** on the candidate in determining the shortlist and possibly recuse from the Committee if the candidate is shortlisted:

- (a) A member of the Search Committee has co-authored with the candidate.
- (b) A member of the Search Committee is in or has worked in a professional relationship i.e. co-investigator with a candidate.
- (c) A member of the Search Committee was the principal PhD dissertation supervisor of a candidate.
- (d) A member of the Search Committee was a PhD supervisory committee member or principal Master's thesis supervisor of the candidate.

In any event, the nature and extent of the conflict and the manner by which the search committee acted to diminish the conflict must be recorded in the committee notes. It is very important that every search has the appearance of fairness; every applicant must be seen to be considered on her/his own merits. If any clarification is needed interpreting this policy, the Chair of the Search Committee or Affirmative Action Representative should contact their Associate Dean's office or the Vice-Provost's office for guidance.

- **Interviews:** For all recommended candidates, except in the most exceptional circumstances, interviews are essential to the hiring process even if the candidate is familiar to the Search Committee, i.e., long-term CUPE members, currently CLA, spent sabbatical or leave at York, does collaborative work with people at York, etc. Although the Search Committee may like to forego an interview because the person is the best qualified for the job, this is problematic for two reasons. First, a more formal interview provides opportunities for the Search Committee to determine if there is possible impediment that could not have been foreseen before. Second, the interview provides an opportunity for the candidate to ask questions they may have concerning the appointment. To not have an interview negates these opportunities. In addition, not holding an interview could be seen as denying the due process that should be afforded to all candidates equally. An interview is required even if there is only one candidate for the position.
- **Spousal Hiring:** York University does not have a special spousal program for spousal hires. In order to assist with the many inquiries about this subject, an information sheet has been developed and is available on the Academic Positions website at <http://acadjobs.info.yorku.ca/spousal-hiring-at-york-university>. It is suggested that this information be included with communication sent out to short-listed candidates.
- **Relocation Services:** The University's Immigration and Relocation Services provides assistance to prospective and newly appointed faculty, professional librarian and

senior managerial staff with many aspects of their relocation to Toronto and the surrounding area. Further information can be found at the [Immigration and Relocation Services](#) website.

- **YUFA Collective Agreement, Articles 12.18 (b), (c)(i), and (c)(ii)** provide further context for the search process:

*“The evaluation and recommendation of candidates for full-time probationary or tenured appointments shall be carried out in the first instance in the academic unit(s) in question...using procedures that ensure fair consideration to all candidates.”*

*“Where such procedures have been formally established by an academic unit(s), or are hereafter amended or established by the mutual agreement of the parties to the Agreement, these shall be adhered to in all but exceptional circumstances...”*

*“In exceptional cases, a Dean/Principal may wish to recommend to the President an appointment at a rank other than the one specified in the recommendation received from the academic unit(s) in question.”*

*“In exceptional circumstances in which a Dean/Principal [may] decline to recommend to the President...the individual recommended for appointment by the academic unit(s)...”*

*“In exceptional circumstances, a Dean/Principal may alter established procedures.”*

Librarians should consult Article 12.19 for comparable details.

- **Timeliness in Conducting the Search**

Units should be reminded that search processes must be conducted in a timely manner, with due regard for the competitive market for faculty/librarians and for the time required for approval processes once the unit’s recommendation has been made to the Dean/Principal. The approval process includes the Dean’s/Principal’s recommendation to the Provost, consideration of files by the Affirmative Action Committee, the Vice-President’s recommendation to the President, the President’s approval, and – if required – any immigration procedures. **In the event that a successful candidate is non-Canadian, please allow four months or more for immigration processes to be completed prior to their start date.**

#### **Expiry Dates on Letters of Offer**

To ensure that responses to offers of appointment come back in a timely manner, you are encouraged to incorporate the following sentence into the existing letter of offer templates: “This offer will expire 15 days from the date of this letter.”

- **Employment Equity Policy**

The Policy defines Employment Equity as follows:

*“Employment equity involves a systematic effort to achieve fairness in employment. First, it is necessary to eliminate systemic, structural and, so far as is possible through education, attitudinal discrimination. Second, no one should be denied access to employment opportunities for reasons unrelated to ability, and all should have access to the fullest opportunities to develop individual potential. Third, in order to fulfill the second objective above, differences between people must be respected and accommodated in accordance with human rights legislation. Finally, it is necessary to promote a climate favourable to the successful integration of members of groups designated for employment equity measures within the University.”* (Please consult the [employment equity policy](#) for further details.)

### **Short-listed candidates**

- The Deans/Principal should, through their representative on Search Committees, ensure that Search Committees undertake a comparative evaluation of the research/scholarly/creative contributions of each candidate on the short list and an evaluation report should be part of the recommendation file going forward to the Dean and subsequently to the Provost.
- Search Committees are required to provide a rationale and ranking of short-listed candidates for both tenure stream and contractually-limited appointments. Search Committees, once they have determined the short list, must submit the short list to their Dean/Principal with appropriate documentation in order for the Dean/Principal to assess and approve the recommended short list. Those lists should then be forwarded to the Office of the Provost and the Affirmative Action Coordinator.
- All short-listed candidate files are to be included in the candidates’ file that is being recommended for appointment. This includes relevant letters of application, curriculum vitae, three *appropriate* and *current* signed letters of reference (where the credentials of the referee should also be made apparent). All documentation, including references in appointment files must be signed.
- All short-listed candidates should be either immediately or (in the case of ABDs or very recent PhDs) imminently appointable to the Faculty of Graduate Studies according to both Senate and Program-specific criteria. The general practice is that there is consultation with the Faculty of Graduate Studies on all new appointments in the professorial stream. This is normally achieved by direct input of the graduate representative of the graduate program directly on the search committee. The Graduate Program Director (or a delegate of the Graduate Program Director) is required to provide a letter supporting the recommendation of the candidate who is recommended for hire. If the letter supporting the recommendation is written by a delegate, this should be clearly stated. In the case of contractually-limited appointments, if a candidate is expected to teach in graduate studies or supervise graduate students, graduate program consultation is

required as in the tenure stream process.

- It is recommended that the Dean may begin informal talks with candidate(s) to ascertain what special arrangements and considerations, e.g., space, labs, equipment, etc. a candidate may require. If there are unusual considerations and/or high costs to any special arrangements, Deans should consult with the Provost. No commitment can be made, of course, until the formal recommendation of the candidate is approved by the Provost, the President and the Affirmative Action Committee.
- Details are to be provided on candidates that self-identified and their status of citizenship. If citizenship is unclear, you can legally ask applicants if they are Canadian or a non-Canadian. In cases where a non-Canadian is recommended for appointment, recent changes to the Temporary Foreign Worker Program require employers to record the outcome of all Canadian applicants.
- The unit should notify all applicants who did not make the shortlist.
- Article 12.18 of the YUFA Collective Agreement states:

Collegial Procedures - Faculty

*“All recommendations for appointment of faculty members are made in writing to the President by the Dean/Principal. [NB: Our practice is for recommendations to go directly to the Vice-President Academic.] The Dean/Principal shall, at the same time as s/he informs the President, provide a Notice of Recommendation to the Chair of the department, or in Faculties/Colleges where there are no departments, to the chair of the appointments committee, and to the Association. Deans shall submit to the Joint Affirmative Action Committee the names of candidates on the short list including any self-identification information provided to the Dean by the Unit with the short list. The parties to the Agreement acknowledge the importance of collegial assessment in the process of evaluating candidates for appointment to the full-time faculty.” (For further details please refer to the full text of Article 12.18.)*

- As stipulated within Article 12.23 of the YUFA Collective Agreement:  
*“...Units shall send self-identification forms with the letter acknowledging a candidate’s application and inviting him/her to self identify....”*
- The YUFA Collective Agreement, Appendix K, provides sample text for the form letter to successful candidates:

*Form Letter to Successful Candidates*

*It is agreed that the Administration will inform all Chairs that they must send the following letter to candidates upon being advised that they are the successful candidate:*

*Dear X:*

*The York University Faculty Association is the certified bargaining agent of all persons holding appointments as full-time faculty members or full-time librarians*

*employed by York University. The Association is responsible for negotiating the terms and conditions of employment of this group.*

*In addition to representing the interests of existing employees in this group, if it is requested, the Association will assist short-listed candidates who have been advised that they are the successful candidate in preparing to negotiate their potential contract. Assistance must be requested before the letter of appointment is signed.*

*If you require further information or any advice concerning the negotiation of the terms and condition of your appointment, please do not hesitate to contact the Association at: 4700 Keele Street, York Lanes, Room 240, York University, M3J 1P3; tel. 416 736 5236; email yufa@yorku.ca.*

*Yours Sincerely,  
President  
York University Faculty Association*

- **Non-Canadian Applications**

Effective October 2001, the government's changes to the federal policy on recruiting foreign academic workers allowed for all searches to be carried out simultaneously from the outset. What this means is that Canadian universities are permitted to advertise simultaneously in Canada and abroad for foreign academics. The search committees are allowed to consider applications from all candidates regardless of nationality, simultaneously. Further to this, the introduction and use of the following language has been mandated by the government to appear in all job advertisements: "*All qualified candidates are encouraged to apply; however, Canadian citizens and Permanent Residents will be given priority.*" This rider should appear within the Affirmative Action provisions of the YUFA collective agreement and all foreign and domestic advertisements.

Although the ESDC department of Service Canada eliminated the two-tier policy for hiring academic staff, detailed rationale for recommending a foreign national is still required. **It should also be stressed that while all applications can now be considered simultaneously, Search Committees are required to deem all domestic (Canadian) applicants unqualified before making an offer to a foreign national.** The requirement to have the employment offer approved by Service Canada is still required. A \$1,000 application fee to the government applies. The request for a "Labour Market Impact Assessment (LMIA)" (previously called a "Labour Market Opinion, LMO") is made by the Affirmative Action, Immigration & Relocation Officer. The process begins upon receipt in the Dean's office of a signed back letter of offer. In cases of Contractually Limited Appointments (CLAs) an LMIA is not required if the successful candidate is a citizen of the USA, Mexico or Chile under the North America Free Trade Agreement (NAFTA) or the Canada-Chile Free Trade Agreement (CCFTA). A \$230 Employer

Compliance fee must be paid to Citizenship and Immigration Canada for all international appointments that are LMIA exempt before candidates can apply for a work permit.

In assisting the Affirmative Action, Immigration & Relocation Officer to prepare these files, search committees must provide copies of: all advertising showing the dates of publication and venues, the successful candidate's c.v. and letters of reference, statistics on the number of Canadian and non-Canadian applicants, c.v. for each of the top three Canadians, and a brief description of the reasons why all of the non-Canadian applicants were deemed unqualified.

For more information contact: Claudia McPherson, Affirmative Action, Immigration & Relocation Officer, email: [mcpherc@yorku.ca](mailto:mcpherc@yorku.ca), ext. 33434

*Note: "Unqualified" means that no Canadians possess the minimal qualifications for the position. This is a more stringent test than the collective agreement, which requires that a non-Canadian must be demonstrably superior before s/he is offered the position. Thus, a foreign national may pass the test for appointment under the terms of the collective agreement, but will not be approved by Service Canada/ESDC unless the case can be made that no Canadian is qualified.*

- **Recent Changes to Temporary Foreign Worker Program**

#### **Search Committee Process: Capturing Data for All Canadian Applicants**

York University continues to attract and welcome applications from outstanding, international academics. Most foreign academics (academics who are neither Canadian citizens nor permanent residents of Canada) that are applying for tenure stream or contractually limited positions must obtain a temporary work permit via the [Temporary Foreign Worker Program](#) in order to work legally in Canada. For academic positions (typically tenure stream positions) that also require a Labour Market Impact Assessment (LMIA) from Employment and Social Development Canada, York University is required to demonstrate that the University was unable to recruit a qualified Canadian before the work permit can be issued. Exemptions are possible for citizens of the USA, Mexico or Chile in certain circumstances, e.g. contractually limited appointments. In June 2014, a number of significant changes were made to the Temporary Foreign Worker Program which applies to the recruitment of foreign academics. In cases where the successful candidate is not a Canadian citizen or permanent resident, York University is now required to provide a list of each Canadian citizen/permanent resident who applied and the reason(s) why they were not selected for the position. Some guidelines to assist you in this process are provided below.

- To comply with federal laws, and as alluded to by the "priority to Canadians" rider placed in academic advertisements, the University is required to gather statistical information about Canadian applicants (Canadian citizens or permanent residents of Canada). Human Rights legislation prohibits us from enquiring about actual country



of origin, but an exemption related to the LMIA process allows us to enquire whether applicants are Canadian or not.

- A new [citizenship form](#) (sample below) is to be sent to all applicants who are applying for academic positions. The form (in English and French) is in addition to the [Affirmative Action \(AA\) form](#). Unlike the AA form where self-identification is discretionary, the citizenship form is mandatory. Applications missing a completed citizenship form and which do not include an indication of citizenship elsewhere in the application should be treated as incomplete.
- The new citizenship form is to be used for new searches going forward or for existing searches where feasible (i.e. you have an opportunity to enquire at a point early in the search, such as in the confirmation letter/email sent to applicants when confirming receipt of their application). If not, the Affirmative Action Representative may inquire regarding citizenship when meeting individually with each short-listed candidate.
- The need to complete the citizenship form should be communicated to applicants in advance during the search process e.g., when confirming receipt of applications.
- The Affirmative Action Representative is asked to provide details regarding Canadian applicants in their report. To assist with recording the outcome of each applicant, a sample template is provided below which may be used to collect both citizenship and Affirmative Action information. Alternatively this information may be collected in two separate tables.

**Template for Recording Search Outcome of Applicants**

Applicant Name	Citizenship (Canadian or Non-Canadian)	AA Group	Short-Listed (Yes or No)	Reason Applicant was not short-listed (Hiring Criteria)
	C	W & A	N	Wrong discipline
	NC	VM	N	Incomplete references
	C	PD		Met basic qualification but not hiring standard – limited publication record
	NC		N	Incomplete application
	C	A	N	PhD in wrong area
	C		Y	Withdrew
	C		Y	Declined Offer to accept offer at another institution
	NC		Y	Weak teaching representation

**Legend**

W - Woman	VM – Racial/Visible Minority	C – Canadian Citizen or Permanent Resident
PD – Person with Disabilities	A – Aboriginal Person	NC - Non-Canadian

## Non-Canadian Canada Research Chairs (CRCs Tier 1 & 2)

There are two types of Canada Research Chair (CRC) appointments: Tier 1 and Tier 2. Tier 1 Canada Research Chairs are seven-year renewable Chairs for experienced researchers considered world leaders in their fields. Tier 2 Canada Research Chairs are five-year Chairs, with the possibility of a renewal, for researchers with potential to lead in their fields.

Non-Canadian CRC candidates are exempt from the Labour Market Impact Assessment process. As a result, in the appointment process, a recommended international candidate can be considered on the same basis as a recommended Canadian candidate provided that the recommended international candidate either already holds a CRC position prior to accepting York's offer of appointment, or the nomination for the recommended international candidate has already been approved by the Government of Canada prior to the candidate's application for a work permit. For international candidates in the latter circumstance, which is more typical of Tier 2 appointments, it is important to try and obtain approval of the nomination as far ahead of the start date as possible to avoid potential immigration difficulties. In the absence of government approval of a CRC nomination, an LMIA must be obtained for the non-Canadian candidate.

### CITIZENSHIP

The employment of non-Canadian academics is governed by the Immigration and Refugee Protection Act; Citizenship & Immigration Canada; and Employment & Social Development Canada. This process requires that we give priority to **qualified** Canadian citizens and Canadian permanent residents. Please advise if you are Canadian (a Canadian citizen or Canadian permanent resident)?

Yes  No

### CITOYENNETÉ (French Version)

L'embauche des universitaires non canadiens est régie par la Loi sur l'immigration et la protection des réfugiés; Immigration et citoyenneté Canada; et Emploi et Développement social Canada. Ce processus implique que nous donnions priorité aux citoyens canadiens **qualifiés** et aux résidents permanents canadiens. Veuillez nous préciser votre statut (citoyen canadien /citoyenne canadienne ou résident permanent/résidente permanente)?

Oui  Non

- **Maintenance of Immigration Status for Faculty**

In order to assist international faculty who have not yet acquired permanent resident status with maintaining appropriate work authorization to continue their employment at York University, the Faculty Relations Office sends a communication to international

faculty once per year, reminding them to keep abreast of their immigration status and work permit expiry date. This communication prompts faculty to take necessary steps to ensure that they remain eligible to work in Canada and to provide guidance on what those steps are. Below is an example of a typical communication sent to international faculty annually in the fall term.

The purpose of this communication is to two-fold:

1. To review the steps required to maintain the appropriate work authorization to continue your employment at York University, if you have not yet acquired permanent resident status, and
2. To request an update on the status of your permanent residence application.

### **Action Steps Required to Maintain Appropriate Work Authorization**

#### ***Tenure-Stream Appointment***

The following action steps are required to maintain your appointment:

1. Apply for permanent resident status; and
2. Apply to renew your work permit, and temporary resident visa (if applicable) before expiration, if you do not yet have permanent resident or Canadian citizenship status.
3. On receipt of your new work permit, notify [Service Canada](#) or the [Ministry](#), so that your Social Insurance Number (SIN) and Ontario Health Insurance Plan (OHIP) records are updated.
4. Notify Records (ext. 77565) of your SIN's new expiry date.

#### ***Contractually Limited Appointment (CLA)***

The following action steps are required to maintain your CLA:

1. If needed, apply to renew your work permit, and temporary resident visa (if applicable) before they expire.

*Note: Permanent resident status is an option for CLAs, but not a requirement in order to maintain your position*

2. If applicable, on receipt of your new work permit, notify [Service Canada](#) or the [Ministry](#), so that your Social Insurance Number (SIN) and Ontario Health Insurance Plan (OHIP) records are updated.
3. Notify Records (ext. 77565) of your SIN's new expiry date.

### **Request for Update**

If you have not already done so, please provide an update on the status of your permanent residence application, and forward a copy of your current work permit to the Immigration & Relocation Coordinator by December 21, 2014.

## Immigration Guidance

Below you will find more information to assist you with these steps:

### *Applying for permanent resident (PR) status*

Those in tenure-stream positions need to apply for permanent resident (PR) status as soon as possible, if not yet filed.

The process is as follows:

- Apply for PR status through the [Canadian Experience Class](#) (CEC), points based [Federal Skilled Worker Program](#) (FSWP) if eligible, or through [family sponsorship](#), if appropriate.
- Processing times are typically faster for Canadian Experience Class applications than via the Federal Skilled Worker Program.
- Please note, language proficiency tests are mandatory for all permanent residence applications, irrespective of whether your first language is English or French.

### *Applying to renew your work permit*

Unless **granted** permanent resident (PR) status before your work permit expires, your work permit (and that of your common-law partner/spouse, if applicable) will need to be renewed. It is important to note that PR [processing times](#) are extremely lengthy, and a work permit cannot be renewed indefinitely.

If you have a contractually limited appointment and are not a permanent resident of Canada, you will need to renew your work permit if it expires before the term of your York University contract.

Process:

- If a Labour Market Opinion was required for your original work permit, please contact the Immigration & Relocation Coordinator (contact details are included below), who will apply for another Labour Market Opinion that must accompany your work permit renewal application.
- Based on current processing times, please **submit** your work permit renewal application to Citizenship and Immigration Canada (CIC) at least **four months** before your work permit expires, and at least **five months** before, if you will also need to renew your [Temporary Resident Visa](#).
- It is important to start the renewal process as soon as possible, as an expired work permit can negatively impact your employability in Canada, your ability to travel outside of Canada, health coverage, and could affect school funding for your children.

Please note: A work permit cannot be granted beyond the validity of your passport. Please ensure your passport is valid through to at least the end date of your work permit renewal request.

It is recommended that you make an appointment with the Immigration & Relocation Coordinator in order to be assisted with the above actions. Please email [mcpherc@yorku.ca](mailto:mcpherc@yorku.ca) or call 416-736-2100 x33434.

- **Service Canada/ESDC Policy on Work Permits for Spouses\***

Under the Spousal Program, the spouse of a highly skilled temporary foreign worker (Skill level 0, A or B in the National Occupational Classification [NOC] code) may qualify for a work permit. University professors are considered highly skilled, (skill level of A, NOC code 4121).

- The spouse of the temporary foreign worker (principal applicant) may be issued an “open” work permit by Service Canada, without first presenting a written job offer or having an offer of employment confirmed by Service Canada. "Open" means the partner/spouse may work for any employer.
- To obtain the “open” work permit, the principal applicant's (e.g. professor's) work permit must have been issued for at least six months. Proof of relationship to the principal applicant and a copy of the principal applicant's work permit are also required.
- Applicants can apply at a visa processing office (embassy, high commission or consulate) abroad, or at a port of entry (if from a country such as the US, UK or Greece, where you do not require a temporary resident visa in order to visit Canada, and you already possess the LMO) or inland through the Vegreville office if eligible.
- The foreign spouse of a “returning Canadian” may also work in Canada. A written job offer, confirmed by Service Canada and proof of relationship to the principal applicant (Canadian spouse) are required.

Anyone interested in pursuing an employment authorization via this route should first consult Claudia McPherson, Affirmative Action, Immigration & Relocation Officer.

*Note: There are many exempted categories of temporary employment for American and Mexican citizens pursuant to the North America Free Trade Agreement (NAFTA), and to citizens of Chile pursuant to the Canada-Chile Free Trade Agreement (CCFTA). These academics can apply for a work permit directly at a CIC visa office or at a Canadian Port of Entry (border or international airport).*

Please refer to the “Guidelines for the application of ESDC’s policy governing the hiring of non-Canadian faculty” for clarification on process and further details on page 40 of this handbook.

Service Canada resources include [How to Hire a Temporary Foreign Worker \(TFW\): A Guidebook for Employers](#) and [Employer's Road Map to Hiring and Retaining Internationally Trained Workers](#).

\* The definition of spouse has been expanded to include common-law and same-sex couples.

- **Guidelines for the application of Employment and Social Development Canada’s (ESDC) (formerly HRDC) policy governing the hiring of non-Canadian faculty**

**1. ESDC regulations in relation to the University’s Affirmative Action program**

According to ESDC’s policy governing the hiring of non-Canadian academics, a faculty position can be given to a non-Canadian applicant, i.e., an applicant who is neither a Canadian citizen nor a permanent resident, only if there are no qualified Canadian applicants for the position. Under this policy, then, the determining factor in deciding whether a faculty position should be offered to a Canadian candidate versus a non-Canadian candidate is whether the Canadian candidate meets the qualifications for the position. If a pool of applicants includes one or more qualified Canadians, then one of the qualified Canadians must be offered the position.

The University’s Affirmative Action program, in contrast to the ESDC policy, makes reference to the notions of “substantially equal” and “demonstrably superior.” In deciding between a candidate who is a member of an applicable Affirmative Action category and a candidate who is not, the determining factor is whether the candidates are “substantially equal”; where the candidates are “substantially equal,” the position is to be offered to the member of the applicable Affirmative Action category. The candidate who is not a member of an applicable Affirmative Action category must be “demonstrably superior” to the candidate who is in order to be ranked first for the position. The applicable Affirmative Action categories are: women (subject to the provisions of YUFA Articles 12.21(a) and (b)), racial/visible minorities, persons with disabilities and aboriginal peoples. Persons in these groups must self-identify in order to be considered under the Affirmative Action program.

In deciding between Canadian and non-Canadian candidates, only the ESDC policy is applicable; this is to say that the only applicable criterion in deciding between Canadian and non-Canadian candidates is whether the Canadian candidates are qualified. The notions of “substantially equal” and “demonstrably superior” and the Affirmative Action categories are irrelevant. For example, if the applicant pool for a position includes a qualified Canadian, then it is irrelevant as to whether any non-Canadian applicants for the position are demonstrably superior to the qualified Canadian; the qualified Canadian applicant must be offered the position. Similarly, in deciding on whether a position should be given to a Canadian candidate as opposed to a non-Canadian candidate, it is irrelevant as to whether one or the other candidate is a member of an Affirmative Action category. The relevant criterion is simply whether the Canadian candidate is qualified.

When there is more than one qualified Canadian, the Affirmative Action criteria for women and other designated groups are to be employed in making a choice between or among them. Likewise, where the choice comes down to two or more non-Canadian candidates, then the Affirmative Action provisions will apply in deciding between/among them.

Hiring units may comply with the ESDC regulations by adopting a two-stage, single-year

hiring process. This process would involve a simultaneous shortlisting process and sequential interviewing and selection processes for Canadian and non-Canadian applicants. This approach can be broken down into the following steps: 1) review the Canadian applicants; 2) draw up a shortlist of the Canadian applicants; 3) review the non-Canadian applicants; 4) draw up a shortlist of non-Canadian applicants (bearing in mind the standards set in reviewing the Canadian applicants); 5) arrange interviews of Canadian candidates, all of which are to take place before interviews of non-Canadian applicants; (6) make a formally recorded decision, according to the hiring unit's normal procedures, on which of the Canadian candidates is qualified, and (7) either a successful offer will be made, bringing the process to a close, or the hiring unit will be ready to move directly to the non-Canadian applicants without delay.

Hiring units are encouraged to use this type of two-stage simultaneous shortlisting and sequential selection process. All hiring units will be expected to carefully document their procedures for complying with the ESDC regulations governing the hiring of non-Canadian candidates.

## **2. Advertising**

The expectations of the qualifications being sought must be clearly articulated in the position advertisement and be consistent with the Affirmative Action Plan of the hiring unit. The posted qualifications should include excellence or promise of excellence in teaching and in scholarly research and publication. The recommended candidate must satisfy the "requirements" and comply with the details as outlined in the position advertisement.

As per YUFA, Article 12.15 on *Criteria and Procedures*:

*The principal criterion for appointment to positions at York University is academic and professional excellence as generally understood in University practice and as embodied in principles which form part of this Agreement. Where appropriate, advertisements shall include the rank at which it is expected the appointment will be made. Whenever possible, specific qualifications for any particular position for which applications are invited shall be clearly identified.*

In accordance with the hiring unit's Affirmative Action plan and as per YUFA, Article 12.16 on *Advertising Requirements*:

*The availability of positions to which it is proposed to appoint probationary or tenured faculty, or probationary or continuing appointment librarians, shall normally be widely advertised prior to the selection of a candidate for appointment. Advertisements shall be posted on York's website [www.yorku.ca/acadjobs](http://www.yorku.ca/acadjobs) and in the relevant Canadian publications, University Affairs and CAUT Bulletin.*

The following language to be used in all job advertisements: "All qualified candidates are encouraged to apply; however, Canadian citizens and Permanent Residents will be given

priority.” [In addition, for contractually limited appointments (CLAs), the following NAFTA and CCFTA language is to be included:] “Temporary entry for citizens of the U.S.A. and Mexico may apply per the provisions of the North American Free Trade Agreement (NAFTA) or citizens of Chile may apply per the provisions of the Canada Chile Free Trade Agreement (CCFTA).”

### **3. Qualifications**

The hiring unit should be clear in setting and defining the minimum qualifications required for the position being advertised. Care should be taken in making distinctions between requiring “an area of specialization” versus “the candidate must be able to teach courses in an area.” Contingent on the types of applicant pools within which a unit is trying to recruit, using too broad or too narrow a focus can make the search process cumbersome.

The following is an example of the types of qualifications often stipulated in a position advertisement: Research qualifications include a completed PhD in history, or equivalent, and an ongoing program of research in the area of specialization in Canadian politics <minimum qualifications>. Candidates should show excellence or promise of excellence in teaching and in scholarly research and publication. <requirement> *In all of its appointments, the Department is keen to attract scholars who have an interest in one or more of the following: cross-cultural contact; war; gender and sexuality; imperial and post-colonial issues <preferred qualifications>.*

If the posted criteria are not met, the candidate is deemed “unqualified.” As per YUFA Article 12.21, “No candidate shall be recommended who does not meet the criteria for the appointment in question.” Units should include such occasions and/or instances in the Search Committee’s report when forwarding an appointment file for approval. In addition, committees should consider using the following phrase when writing to unsuccessful applicants: “the posted criteria and qualifications outlined in the job advertisement were not met versus “you are unqualified for the position.”

### **4. CLAs, NAFTA, CCFTA and Affirmative Action**

CLA candidates from the United States, Mexico or Chile are covered by the provisions of the North American Free Trade Agreement (NAFTA) and Canada-Chile Free Trade Agreement, and as such, are not subject to the ESDC policy on the hiring of non-Canadians. Specifically, American, Mexican, and Chilean CLA candidates are not subject to the ESDC regulation by which qualified Canadian applicants must be considered ahead of non-Canadian applicants; NAFTA accords them with the same access to CLA positions as Canadian applicants. They are, however, subject to the University’s Affirmative Action policy for women and other designated groups who self-identify. Although an LMIA and its \$1,000 application fee is not required for citizens of the USA, Mexico and Chile, the \$230 Employer Compliance fee is required and must be paid by York University before candidates apply for a work permit.

### **SUMMARY**



- ESDC regulations: “Unqualified” means that no Canadians possess the minimal qualifications for the position. Foreign nationals will not be approved by ESDC unless the case can be made that no Canadian meets the hiring criteria.
  - Advertising requirements: “All qualified candidates are encouraged to apply; however, Canadian citizens and Permanent Residents will be given priority.” Candidates must satisfy the position “requirements” which is to include a show of excellence or promise of excellence in teaching and in scholarly research and publication.
  - Qualifications: Recommended candidates must meet the posted criteria; candidates not meeting the posted criteria are deemed “unqualified.” Please use the following phrase when writing to unsuccessful candidates: “the posted criteria and qualifications outlined in the job advertisement were not met.”
  - CLAs, NAFTA, CCFTA and Affirmative Action: CLAs are not subject to ESDC regulations, but are subject to the University’s Affirmative Action protocol.
  - Affirmative Action: Once the ESDC policy has been applied, both York and unit-level Affirmative Action policies and procedures must be followed concerning women and other designated groups who self-identify.
- 
- **Guidelines for Non-Canadian faculty: “Service Canada, Canadian Immigration & You”**

The following guidelines have been provided to inform non-Canadian faculty of the ESDC/CIC processes they will have to follow to secure their permanent residence status:

**SERVICE CANADA,  
CANADIAN IMMIGRATION  
&  
YOU**

---

Congratulations on your recent offer of appointment at York University. As you will have noted, the letter of offer contains the following rider:

*This offer is contingent on clearance by the Employment and Social Development Canada (ESDC) department of Service Canada (SC) and approval by Citizenship and Immigration Canada (CIC). Please note that in order to retain this permanent position, you will be responsible for obtaining permanent residence status from CIC. Until that status is achieved, you will be required to obtain a temporary work permit) in order to enter the country to legally begin the position.*

Under the Temporary Foreign Worker Program, for your appointment to become official, our offer to you must be approved by ESDC. Then, in order to retain the

position permanently, it is mandatory that you apply for and receive permanent residence status from Citizenship and Immigration Canada as soon as you are eligible. Because this process can take a year or more, it may be necessary to obtain one or more temporary work permits in order to assume and retain your position prior to becoming a permanent resident. The ESDC confirmation (Labour Market Impact Assessment) is obtained by the University; obtaining work permit(s) and permanent residence status are the responsibility of the employee.

### **EMPLOYMENT AND SOCIAL DEVELOPMENT CANADA (ESDC)**

For an offer of appointment to a foreign national to become official, it must first be approved by ESDC, who must be satisfied that there are no qualified Canadian (citizen or permanent resident) applicants available for the position. To establish this the University processes and forwards an application to the ESDC office providing the details of the search, copies of advertisements, and for all Canadians that applied, details of the number of applicants that applied, were short listed, interviewed, and the reasons why Canadians were deemed unqualified. If ESDC determines that York's hiring of a foreign national will not adversely affect the Canadian labour market, ESDC will issue a positive Labour Market Impact Assessment ("LMIA")

Once the LMIA has been issued, it is sent to York University. York then forwards it to you. Every LMIA issued has a System File Number which you should quote and provide a copy of when communicating with CIC regarding your work permit application.

### **CITIZENSHIP AND IMMIGRATION CANADA (CIC)**

As stated at the outset, because you have accepted a permanent position in Canada, in order to maintain the position, you are required to obtain permanent immigration status, known as permanent residence. You will not be granted permanent residence in time to enter the country to begin the position, so you will be required to obtain a temporary work permit in the interim. The usual pattern is to obtain the work permit, move to Canada and then apply for permanent residence as soon as you are eligible to apply. Work permits can be applied for online via the CIC website, or submitted to your nearest Visa Office, Embassy, High Commission or Consulate.

Applications for both the temporary work permit and permanent residence can be downloaded from the [CIC website](#). Assistance with your immigration application is available by contacting the Affirmative Action, Immigration and Relocation Officer at York University by emailing [relocate@yorku.ca](mailto:relocate@yorku.ca). The positive LMIA will virtually ensure the successful processing of these applications. Save and except for a handful of specified exemptions, it is virtually impossible to be issued a work permit without an LMIA.

The latter notwithstanding, the real value and intent of the LMIA is for the application for permanent residence. It signifies that ESDC has sanctioned our offer to you of a permanent position, which requires permanent immigration status. CIC can grant this status owing to the existence of the LMIA.

Please bear in mind that the work permit issued is temporary in nature, so prompt submission of your application for permanent residence status will help you avoid possible difficulties and delays down the road. It is also critical that you do not let your temporary work permit lapse. Keep in mind that if you do not become a permanent resident in a timely manner, you must apply for another work permit prior to the expiry of your existing permit. Failure to renew your work permit in a timely fashion will result in your being declared “out of status.” Reversing this declaration can be complicated and is costly.

Remember, a careful perusal of the [CIC website](#) will be of invaluable assistance in completing the application for permanent residence.