



# CSSEA NEWS

COMMUNITY SOCIAL SERVICES EMPLOYERS' ASSOCIATION

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## Pre-employment screening – what is necessary?

Ken Cahoon, Canpro Global Services

Hiring the right person for a job begins with knowing who you are hiring and whether she will contribute to your foundation for success.

Employers know the concerns and costs associated with bad hires — nearly 80 per cent of employers use background checks, according to a study of workers in the United States.

Agencies that protect themselves through due diligence processes can save money and substantially reduce financial and legal risks in the workplace. Pre-employment screening can reduce or avoid:

- negligent hiring lawsuits as screening demonstrates due diligence
- workplace violence because a history of criminal acts is a major factor
- unqualified applicants as many applicants contain material falsehoods
- time wasted recruiting, training and hiring the wrong applicants
- wrongful termination lawsuits — even if applicants lie in the hiring process
- theft, financial loss, sexual harassment and other workforce problems.

*“Agencies that protect themselves through due diligence processes can save money and substantially reduce financial and legal risks in the workplace.”*

### Legal obligations

Employers have an absolute right to conduct lawful pre-employment screening to hire the best qualified person for a position. Areas to take into consideration are employer rights, workplace safety, discrimination (laws prohibit an employer to request an applicant's sex, origin, race, age and disability) and privacy.

### Screening options

When wondering how much information is needed, the answer may lie in the employer's industry, human rights legislation or collective agreement obligations. Many human resources departments feel they must perform the same background checks on each applicant within the organization, regardless of their position.

But the due diligence performed on a finance manager should not be equivalent to that of a residence worker — their roles have different levels of responsibility and require applicable screening authentication.

A finance manager is handling cash and budgets in an executive position within the company, so a credit check is required. A residence worker, on the other hand, may have

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Cssea

# From the CEO



I am delighted to have joined CSSEA on September 1 and as you can imagine, the first few weeks have been a whirlwind. I have adopted an aggressive "60 Day CEO Plan" with a number of immediate goals, including gaining insight into the way CSSEA operates, meeting with all staff, touching base with government and other key stakeholders but more importantly, making initial contact with as many of you as possible.

Fortuitously, the ratification meetings synced nicely with my start date and afforded me a "head-start" opportunity to attend and meet many of you. I witnessed and took part in the bargaining dialogue and heard many of you express both support

that tentative agreements were concluded and relief that an earlier threat of service disruption was averted. The meetings also provided informative, succinct summaries of the key provisions of the tentative agreements and how you feel about the proposed changes.

It has been a pleasure to visit the various communities in which you operate. I had forgotten how beautiful our province truly is and developed a better understanding of the value your services contribute to the social fabric of British Columbia.

As part of my 60 day plan, I have made it a priority to get to know more of you and the work your agency performs. I hope this process continues at the upcoming AGM, as I believe a reciprocal understanding is necessary to form the bedrock of a great working relationship.

The AGM will also feature the election of new panel and board representatives. I am excited to work with both groups to devise a strategic plan that will strengthen and provide clarity and focus to CSSEA's future direction. I also look to the board and panels to gauge ways we can make CSSEA more responsive to members' needs and aspirations.

For those planning to make the trip to Whistler, I will make myself available to meet and chat with as many of you as possible. For those unable to attend, I hope to connect with you in some form in the coming months. ■

To schedule a meeting with Gentil at the Whistler AGM, in Vancouver or in your community, email Karri McDonald at [kmcdonald@cssea.bc.ca](mailto:kmcdonald@cssea.bc.ca)

In *Emergency Health Services Commission v. Cassidy*, 2011 BCSC 1003, the BC Supreme Court ("Court") recently overturned a BC Human Rights Tribunal ("Tribunal") award of \$62,249.47 against the employer for failing to meet the procedural requirements of the accommodation process. The Court ruled that employers' duty to accommodate does not extend to include a separate procedural requirement throughout the accommodation process.

The complainant, a part-time paramedic with the employer, had relapsing and remitting multiple sclerosis, which prevented him from manually palpating pulses. Initially, taken out of service by the employer, the complainant later returned to work as a part-time driver, paid at the rate of a paramedic. The complainant filed a complaint with

the Tribunal claiming discrimination based on physical disability.

## BC COURT RULES SUBSTANTIVE AND PROCEDURAL APPROACHES MUST BE CONSIDERED JOINTLY IN THE DUTY TO ACCOMMODATE

by Bela Barros  
Legal Research Analyst

In its findings of the original decision, the Tribunal had proposed that the employer had both a substantive and procedural duty to accommodate the complainant:

- The substantive aspect - whether the employer could accommodate the complainant to the point of undue hardship.

- The procedural aspect - how the employer had treated the complainant throughout the accommodation process.

The Court clarified that in the 1999 decision *British Columbia (Public Service Employee Relations Commission) v. BCGSEU*, [1999] 3 S.C.R. 3, the Supreme Court of Canada had used the distinction between substantive analysis and procedural analysis as solely an analytical tool.

The Court rejected the Tribunal's finding that the distinction between a substantive analysis and a procedural analysis created a separate duty that can be breached. This ruling is advantageous to employers: it effectively streamlines the accommodation process by limiting the analysis process to a one step procedure versus two distinct processes. ■

# In Profile: Sea to Sky Community Services Society

*Executive Director Lois Wynne shares her perspectives on running a large agency in the heart of BC's adventure capital*

**You run quite a large agency by CSSEA standards. What are some of the challenges of managing 38 programs and 140 staff?**

It can be difficult sharing information among such a large and decentralized staff team - there are challenges in ensuring the different program areas feel connected to a common mission when we are spread out at 12 sites over 100 kilometres! We do make efforts toward our own "exchange" program of sorts, bringing Squamish staff out to Pemberton on a weekly basis and vice versa. And of course, with the age of modern technology, our websites, upcoming e-news, and intranet also helps enormously.



The Squamish Youth Resource Centre grows fresh produce which they sell at the Squamish Farmers Market each Saturday.

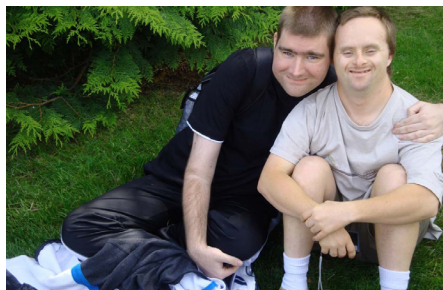
**What is one tip you would give to fellow executive directors that you think is helpful for agencies of all sizes?**

To be open to all new ideas! Organizations such as ours are forever evolving based on the communities' dynamics, population base and overall needs. I think that is what keeps the job interesting and always challenging, by considering the possibilities!

**CSSEA's AGM will soon be arriving in your neighbourhood. What should attendees expect?**

A place with an abundance of outdoor opportunities! There is something for everyone. It is not only an ideal

location for the conference and the learnings that go with that, but will also provide attendees with the feeling of really getting away!



Community living services for adults with disabilities allows for lifelong friendships.

**Help us play tour guide for a moment: What is a must-do for those visiting Whistler in October?**

Whistler is fabulous year-round! Accessing the alpine through one of the gondolas or a ride on the peak-to-peak gondola would be a great way to experience the mountain. Ziptrek is really popular too; our youth group did a field trip and loved it a few years back. There are lots of great walking and hiking trails. A walk through the village to check out shops and restaurants is always great. We are just starting up a new mentorship employment program for youth with disabilities in Whistler and as part of the development, we are looking forward to getting to know more local business owners and giving our youth some great work experience in the dynamic stores and eateries, and with other service providers.

**Your agency has recommended a client to help out at our AGM registration desk. Tell us about her.**

This individual is interested in working in social services. She has been out of work for a number of years due to health concerns. This is a great opportunity for her to gain further insight into the social service

sector and provide great networking opportunities.

**Why was it important for you to participate in our program of offering employment to members' clients?**

We facilitate four employment programs. They provide a great opportunity for individuals to begin to boost their confidence by having an opportunity to feel engaged in community while in a safe and supportive environment. Participants can also practice some of the skills that they have been working on such as personal presentation and networking.



The Healthy Pregnancy Outreach Program provides support to expecting families.

**You seem to actively recruit volunteers. In this time of fiscal restraint, how have volunteers helped with your operations?**

As with all non-profits, volunteers play a critical role in supporting our programs and operations. In the past year, volunteers have been especially helpful in supporting one-off or short-term initiatives such as events or fund-raising campaigns where human resources are only needed for a limited time. We are constantly amazed by the skill level and enthusiasm of our volunteers and we strive to give them a good experience and hopefully offer opportunities for them to build skills and make new community connections. ■



# Dedication Personified: Thank you to our bargaining teams for 22 months of hard work!



no fiscal responsibility so a credit report isn't necessary — a reference check may suit this position better. Essentially, the results should be recent and relevant to the purposes of the role.

Pre-employment screening is a great tool, as past behaviour is an indication of future behaviour. Performing background screening not only fulfills due diligence obligations and protects employers from the liabilities of negligent hiring but also makes good business sense. ■

*Ken Cahoon is a Managing Partner at Canpro Global group of companies. He is a Licensed Investigator who performs Investigations for Local and National clients.*

## Employment Background Screening Stats

- Forty-three per cent of employers typically conduct a background check before extending a job offer to a candidate or immediately following the job offer (39 per cent) while 14 per cent do it after establishing pre-qualified job applicants and five per cent do it after the start date.
- If a background check reveals adverse information, only eight per cent of respondents reject a candidate outright. Fifty-one per cent will consider job relevance or the severity of the information while 33 per cent will go directly to the candidate for more information.
- Respondents cited qualifications (90 per cent) and interviews (75 per cent) as the most important factor when making hiring decisions. They ranked candidates' criminal records third in importance (32 per cent) followed by references and credit checks (both at 13 per cent).
- One-third of employers don't perform credit checks while 38 per cent only do so for a position with financial responsibility and 21 per cent do it for all employees.
- Two-thirds (66 per cent) of respondents never check social networking sites such as Facebook and LinkedIn.

*According to the Trends in Employment Background Screening survey*

## Sectoral Case Updates

**Calculation of hours for wage rate – Issue:** Whether hours worked in one classification or grid level can be applied in another for the purpose of calculating wage rates. **Status:** A second case management meeting is scheduled for December 5, 2011 and hearing dates will follow in 2012.

**Class 4 driver's license – Issue:** Interpretation of Article 28.12, specifically, which costs an employer is obligated to pay. **Status:** Arbitrator Vince Ready's office has proposed additional dates pending confirmation from the parties.

**Verbal warning reduced to writing - Article 11 – Issue:** Documenting a verbal warning. **Status:** Arbitrator Wayne Moore has scheduled case management for October 26, 2011.

**Rate of pay - wage grid – Issue:** Interpretation of application of prior experience to wage rate. **Status:** Arbitrator Brian Foley has proposed dates for case management.

**Local union observer - Article 24.6 – Issue:** Local union observer wants to be present during management deliberations. **Status:** Arbitrator Moore has been appointed and is scheduling case management in Fall 2011.

**Use of sick leave by part-time employees – Issue:** Use of sick leave credits by part-time employees on days outside their regularly scheduled shifts. **Status:** Case management with Arbitrator Vince Ready is scheduled for November 22, 2011.

**Employee Exclusions – Issue:** BCGEU's organizing department is attempting to claim as members employees that have been excluded from the bargaining unit for many years. **Status:** CSSEA has objected to the inclusion of these staff in the bargaining unit. Submissions have been filed with the Labour Relations Board (LRB). The matter has now been placed before Vice Chair Ken Saunders. A case management date has been set for October 14, 2011.

**Variance of certification and declaration re: bargaining agency – Issue:** The HEU has attempted to file an application with the LRB to cancel the BCGEU's certification. **Status:** The LRB dismissed the BCGEU's timeliness objection without reasons and has declined repeated requests to issue those reasons for reconsideration (appeal) purposes. Instead, the LRB advised it will hold a hearing into this matter. CSSEA has requested case management and dates are tentatively scheduled for September 26 or 30, 2011.



## Ask an HRLR Consultant: Anne Campbell



**Q:** I have an employee who has missed three work shifts and I have heard nothing from her. What can I do about this?

**A:** • As stated in Article 11.7 (Abandonment of Position), an employee who fails to report for duty for three (3) consecutive working days without informing the employer of the reasons for her absence will be presumed to have abandoned her position.

- An employee has an obligation to stay in touch with the employer during an absence.
- It is important, in cases where the employee is absent without approval, for the employer to have made a reasonable attempt to contact the employee as soon as possible to determine if she intends to fulfil her contractual obligation to attend her next scheduled shift.
- If you have not been able to reach the employee, then you may be left with no other alternative than to proceed with processing the abandonment of the employee's employment in accordance with the collective agreement – Article 11.7. A registered letter should be sent to the employee advising her that she is absent without approval and has failed to attend her work shifts, failed to notify the employer of the reasons for her absence plus failed to request the necessary authorization for absences in advance of the missed shifts.
- In accordance with Article 11.7, the employee shall be afforded the opportunity within ten days to rebut the abandonment presumption and demonstrate that there were reasonable grounds for not informing the employer of her absence.

*Your HRLR Consultant will be able to provide you with a template letter for use in this situation.*

*We urge you to contact CSSEA prior to processing the abandonment of the employee's employment.*

*Send your questions to [dsun@cssea.bc.ca](mailto:dsun@cssea.bc.ca)*

## Green Still Going Strong!



We are staying the course with our Green Initiative and have asked all presenters to limit handouts.

Thanks for continuing to support our efforts!

## CSSEA @ Whistler!



All available presentations have been posted on our AGM website! Don't forget to preview and/or print them out before you head to Whistler!

## Reminder: Ratification of New Collective Agreements

The ratification vote will take place for CLS and GS members between September 30 to October 5.

A unique web link has been emailed to the primary contact of your agency. Please use that link to vote!

## We Love Your Feedback



Each year, members are asked to fill out a short Service Satisfaction Survey to evaluate how well CSSEA is working for you.

Please take a moment to fill out the online survey through the Surveys page of our website. You can also fill out the survey at our AGM. We appreciate your comments!