

THE TRIO FAILED TO OBTAIN JOB DESCRIPTION AND MINIMUM CRITERIA/STANDARDS

115. The Trio members failed to obtain Ms. [REDACTED] job description. The evidence is that they did not even ask for it. If they did, they would have found out that the SD5 never established any job description for Ms. [REDACTED] job.
116. Similarly, the Trio never obtained any minimum required intelligence, cognitive abilities, and personality criteria/standards required for performance of Ms. [REDACTED] teaching job.

The Trio failed to obtain Ms. [REDACTED] job description

117. Dr. Westcott "deemed this [obtaining job description] unnecessary" (CFS236) and claimed that "it was appropriate to proceed with the assessment without a specific job description." (CFS237)
118. Dr. Suffield admitted that he "did not obtain Ms. [REDACTED] job description and other job requirements." (CFS1044).
119. Dr. Suffield first falsely claimed it was the Union's fault that he did not have them but a few paragraphs later he admitted he now understood it was because the SD5 did not have any such minimum requirements; Dr. Suffield wrote: "I understand that SD5 did not have a job descriptions for teachers [more precisely for Ms. [REDACTED] job], or any particular IQ requirements." (CFS1044)
120. It should be obvious that a psychologist who is to conduct a fitness-for-duty (FFD) evaluation must have the job description and must have a clear understanding of the demands of the examinee's position. For example, the APA Professional Practice Guidelines for Occupationally Mandated Psychological Evaluations (APA, 2018) ("APA PPGOMPE") that Dr. Suffield refers to for different reasons spell this out:

3. Psychologists seek to understand the psychologically relevant demands and working conditions of the examinee's position. Rationale. A psychologist's understanding of the job description and psychologically relevant demands and working conditions of the position is a necessary foundation for judgments about the examinee's ability to perform the essential functions of the position. Essential job functions are core occupational duties that are vital to the performance of the job, such that if they are not performed, the very nature of the job is significantly changed (Piechowski & Drukeinis, 2011). In contrast, marginal job functions can be modified through reasonable accommodation of a dis ability (e.g., delegated to others, performed intermittently, removed from an employee's job duties). OMPs are always conducted with reference to the specific job the worker holds or intends to hold (Work Loss Data Institute, 2013).

121. The Trio members apparently believe that they do not need to know what Ms. [REDACTED] job description was to pronounce opinions about her ability to perform duties of her job. This is astonishing incompetence.

The Trio failed to obtain the criterion and the minimum IQ and ability standards

122. The Trio members – Drs. Westcott, Mandel, and Suffield – also failed to understand and still do not understand that one must know the criterion before one can opine that someone does not meet that criterion. This is self-evident but apparently it is beyond comprehension of the Trio members.

123. Dr. Westcott concluded, categorically, without any stated limitations, the following about Ms. [REDACTED] (Westcott September 15, 2010 Report, p. 20):

[REDACTED] does not currently demonstrate the general learning ability, verbal aptitude, non-verbal abilities, non-verbal reasoning, attention, and insight **required of an elementary school teacher** [emphasis added].

124. Similarly, Dr. Suffield concluded, categorically, without any stated limitations, the following about Ms. [REDACTED] (Suffield December 2011 Report, p. 27):

[REDACTED] is [emphasis in original] prevented from performing her regular teaching duties, through a combination of the cognitive deficits best attributed to her multiple sclerosis, and her pre-existing personality traits...

125. To conclude that someone does not demonstrate some abilities “required of an elementary school teacher” **requires knowledge** of those minimum **required abilities**. Similarly, to conclude that someone “is prevented from performing her regular teaching duties” **requires knowledge of what those minimum cognitive abilities for performance of those teaching duties are**.

126. The above is well-established, non-controversial. For example, The Standards for Educational and Psychological Testing (AERA, APA, & NCME, 1999) (SEPT) explains “criterion-referenced interpretation” and even gives examples, one of which is:

Examples include statements that some psychopathology is likely present, that a prospective **employee possesses specific skills required in a given position** [emphasis added],...

127. Similarly, APA PPGOMPA are clear that psychologists must know the criterion standards:

Standard 4.9

When raw score or derived score scales are designed for criterion-referenced interpretation, including the classification of examinees into separate categories, the rationale for recommended score interpretations should be clearly explained.

Comment: Criterion-referenced interpretations are score-based descriptions or inferences that do not take the form of comparisons to the test performance of other examinees. Examples include statements that some psychopathology is likely present, that a prospective employee possesses specific skills required in a given position, or that a child scoring above a certain score point can successfully apply a given set of skills. Such interpretations may refer to the absolute levels of test scores or to patterns of scores for an individual examinee. Whenever the test developer recommends such interpretations, the rationale and empirical basis should be clearly presented. Serious efforts should be made whenever possible to obtain independent

2. In addressing the referral question(s), psychologists endeavour to apply the criterion standard as defined by statutory, regulatory, administrative, and/or other authoritative sources.

...

The meanings of the terms “job suitability,” “disability,” “fitness for duty,” and other constructions intended to communicate an individual’s readiness or **ability to perform essential job functions** [emphasis added] are informed by law, regulation, and/or institutional policy. Whatever its source, **the criterion reference standards for the evaluation will need to be understood by the psychologist in order to address the referral question(s) adequately** [emphasis added].

128. The APA PPGOMPA are about as clear as one can be if it was not already obvious to the Trio: a psychologist must understand the standard before the psychologist can opine on whether or not someone meets the standard.

The Trio failed to use criterion-referenced testing

129. Furthermore, **the criterion reference standard must be specified in raw scores** since specifying it in standard scores turns the exercise into norm referenced standard, and very frequently, in **age discrimination prohibited by law** in all Canadian provinces including BC and Alberta.
130. The Trio failed to use the criterion referenced testing and instead used norm-referenced testing focusing on where Ms. [REDACTED] scored relative to some other people.
131. However, Ms. [REDACTED] position in normative standard score distribution, for example, in a distribution of IQ scores on WAIS-IV CDN (2008), is not relevant and cannot be used to determine whether Ms. [REDACTED] meets minimum intelligence and ability requirements of her job for a number of different reasons including:
- Standard scores are statistical scores that do not describe how Ms. [REDACTED] performed on the underlying task**, for example, how many visual puzzles she was able to solve on the Visual Puzzles (VP) subtest of WAIS-IV.
 - Standard scores often misrepresent and give the wrong impression of** how an examinee actually performed on the underlying task, for example, how many visual puzzles the examinee was able to solve. To illustrate, the Scaled Scores on WAIS-IV CDN (2008) are standardized with mean of 10 and SD of 3, thus, 10 represents the middle of the distribution. A 20-24 year old teacher needs to solve 17-18 puzzles to obtain SS of 10 and place in the middle of the normative standard score distribution. In contrast, 65-69 years old teacher needs to solve only 11-12 puzzles to get SS of 10 and place in the middle of the normative score distribution. Compared to the normative distribution of younger teachers, the older teacher appears “impaired” using Dr. Suffield’s favoured terminology.

Visual Puzzles Subtest (WAIS-IV Canadian)	20-24 Years old	65-69 Years old
Number of puzzles solved	17-18	11-12
Scaled Score in the distribution of 20-24 years old	10 (0 SD)	6 (-1.33 SD)
Scaled Score in the distribution of 64-69 years old distribution	14-15 (+1.33 SD)	10 (0 SD)

Note: 1.33 SD is equivalent to 20 IQ points on IQ scale standardized with M = 100 and SD = 15

132. Accordingly, if there was any minimum required standard for this ability of solving visual puzzles for all elementary teachers to meet, it must be specified in raw scores, that is, in a number of visual puzzles that teachers, regardless of their age, gender, etc., must solve.
133. In other words, **the Trio members were required to use criterion-referenced rather than norm-referenced testing to determine whether Ms. [REDACTED] met the minimum required criteria for performance of her job.**
134. For further clarity, for example, to obtain a driver's license, a person must pass the driver knowledge tests. In Alberta, the driver knowledge test and required passing criteria are described as follows (<https://www.alberta.ca/drivers-knowledge-test.aspx>) :

Knowledge tests are available at registry agent offices for a fee:
The test involves 30 multiple choice questions and you must score a minimum of 25 to pass.

135. Accordingly, it does not matter where one places in the distribution of the Driver Knowledge Test scores and the only thing that matters is that one gets at least 25 multiple choice questions correct out of 30.
136. Alberta does not have higher standards for younger vs. older driver applicants for obvious reasons: **it would amount to age discrimination prohibited by Alberta laws.**
137. Just like Alberta, the Trio members must establish how solving the visual puzzles is actually relevant or important for Ms. [REDACTED] job AND must establish the minimum number of visual puzzles that all teachers performing Ms. [REDACTED] job must solve to meet the minimum requirements of Ms. [REDACTED] job (not the job of some other elementary teachers).
138. For another example, to qualify for "administrative support positions and certain operational position", a Canadian can demonstrate competency (minimum qualification) by passing General Competency Test (GCT1). The passing mark – the criterion – is given in raw scores. The person must get 28 out of 50 items correct.

General Competency Test: Level 1 (GCT1-207)

Use

This test assesses the ability to use reasoning skills to solve problems at the level required for administrative support positions and certain operational positions.

It can be used to help managers in making selection decisions for appointment and for placement in training programs, identifying training and development needs, and counselling for career transitions.

As of January 2, 2023, this test can also be used as an alternative to having a secondary school diploma. When the test is used for this purpose, the pass mark is 28 out of 50.

If you already have a score of 28 (or above) on this test, you don't need to re-take it to meet the alternative to a secondary school education requirement in your job application.

If you took the GIT-320 as an alternative to a secondary school diploma and passed, you don't need to take the GCT1-207 for this purpose. You can use your score on the GIT-320 as an alternative to a secondary school diploma.

This test can also be administered through the [PSC's Online Testing Facility](#) platform.

Description

The **General Competency Test: Level 1 (GCT1-207)** consists of 50 multiple-choice questions. There are three types of questions:

- Understanding Written Material,
- Solving Numerical Problems, and
- Drawing Logical Conclusions.

The GCT1-207 takes about one hour and 45 minutes to write, including time for administrative purposes.

139. Again, the test gives the passing mark in the number of items passed out of 50.

140. The examinees position relative to other test takes or relative to those actually driving or working in the specific jobs for Government of Canada is not relevant for establishing the minimum competency.

141. **Moreover, the Trio's use of age-matched standard scores is bona fide discrimination against younger teachers because it requires them to solve many more visual puzzles to obtain the same age-matched standard score as older teachers.**

The Trio members admitted that they failed to use the criterion-referenced testing

142. On November 18, 2021, the Trio claimed that "criterion-referenced" testing did not exist in 2010 and wrote (CFM528/para22):

... Ms. [REDACTED] repeatedly refer to criterion-referenced testing but do not provide an example of such that would have been available to psychologists to use in 2010. We cannot be expected to use tools that do not exist.

143. The Trio's statement is stunning example of the Trio's incompetence.

144. The criterion-referenced testing existed for decades prior to 2010. All minimally competent psychologists had to be familiar with criterion referenced testing decades ago, and Ms. [REDACTED] need not provide "an example of such [criterion-referenced testing]" to individuals who present themselves as having PhDs in Psychology and being registered with the CAP. The Trio only needs to locate some psychometric or psychological testing text and look up "criterion-referenced" or "criterion." Or they can "google it" to start their education on criterion-referenced testing. Two examples of the criterion-referenced testing are provided above.

145. It is also possible that the Trio was unable to express itself clearly, and what they really meant was that they did not have the criteria nor the minimum required scores for those criteria. If this was the case, the Trio should have asked the SD5 for the criteria and the minimum required scores (cutting scores). If the SD5 was unable to provide them to the Trio, the Trio was required to refuse the assignment.

146. Finally, it is not Ms. [REDACTED] job to provide any examples of anything. It is the SD5's job to demonstrate that the SD5 had criteria, that the SD5 had the minimum cutting scores, that the SD5 minimum cutting scores were bona fide necessary for the performance of Ms. [REDACTED] job, and that there was no way short of undue hardship to accommodate Ms. [REDACTED] if by any chance she did not meet the standard/did not pass the cutting scores on the required criteria. As psychologists dabbling in high-stakes fitness for duty assessments, the Trio ought to know these basic facts.

147. Again, the Trio's lack of knowledge and relevant skills is simply stunning.

The Trio's contraventions of the HPA, COE, and SOP

148. The Trio members, individually and jointly, contravened the HPA 1(pp)(i) by "displaying a lack of knowledge or or lack of skill or judgment in the provision of professional services" and the HPA 1(pp)(xii) by "conduct that harms the integrity of the regulated profession", by

(a) failing to obtain Ms. [REDACTED] job description

- (b) failing to obtain the criterion and the minimum IQ, ability and personality traits standards for performance of Ms. [REDACTED] job
- (c) failing to be familiar with and to understand criterion-referenced testing
- (d) failing to use criterion-referenced testing to determine if Ms. [REDACTED] met the minimum requirements for performing her job duties
- (e) misusing the norm-referenced testing for purposes it was not designed for (where Ms. [REDACTED] scores relative to some other individual is irrelevant to whether or not she meet the minimum requirements)
- (f) engaging in age-discrimination and requiring that Ms. [REDACTED] have far higher levels of abilities than older teachers

149. The Trio's members' actions detailed above also contravened the COE2000 standards:

- (a) Standard I.7 (misuse of psychological knowledge)
- (b) Standard I.9 and I.10 (non-discrimination)
- (c) Standard II.6 (competence)
- (d) Standard II.9 (keep up to date with relevant knowledge...)
- (e) Standard III.4 (maintaining competence)
- (f) Standard III.8 (acknowledge limitations)

150. With respect to the Trio's conduct in 2021 to present, the corresponding COE2017 standards contravened by the Trio are:

- (a) Standard I.7 (misuse of psychological knowledge)
- (b) Standard I.9 and I.10 (non-discrimination)
- (c) Standard II.6 (competence)
- (d) Standard II.9 (keep up to date with relevant knowledge...)
- (e) Standard III.4 (maintaining competence)
- (f) Standard III.8 (acknowledge limitations)

151. The Trio members' actions detailed above, individually and jointly, also contravened the SOP2005 Standards requiring the Trio members to practice only within their areas of competence, to have sufficient knowledge, to base their opinions only on "the professional knowledge of the discipline", etc.:

- (a) Standard 3(1) "Psychologists shall limit practice and supervision to the areas of competence in which proficiency has been gained through education, training or experience."
- (b) Standard 4(1) "Psychologists shall maintain competency in the area in which they practice through continuing education or consultation with their peers in conformance with current professional standards."
- (c) Standard 8(4) "When conducting an assessment of a person, psychologists shall base opinions on, and limit opinions to, the professional base of the discipline."
- (d) Standard 8(5) "As inference involve a degree of confidence, psychologists shall recognize or document any limitations regarding the confidence they have regarding the results."

152. With respect to the Trio's conduct in 2021 to present, the corresponding SOP2019 standards contravened by the Trio are:

- (a) Standard 4.1
- (b) Standard 4.2
- (c) Standard 5.1
- (d) Standard 5.7
- (e) Standard 5.9
- (f) Standard 5.10
- (g) Standard 19.1 (prohibits discrimination)

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(h) Standard 22.2

(i) Standard 22.5 (adhering with the HPA, COE, SOP and other legislation)