



**Handbook for Members of
Advisory Search Committees**

University Secretariat
Concordia University
November 2021

HANDBOOK FOR MEMBERS OF ADVISORY SEARCH COMMITTEES

The *Policy on Senior Administrative Appointments* ([BD-5](#)) approved by the Board of Governors on December 14, 2016, as amended from time to time, states that the University Secretariat shall prepare a Handbook for Advisory Search Committees which shall be provided to each member of the Advisory Search Committee before its first meeting and which shall be used by the Advisory Search Committee to promote fairness and objectivity in the exercise of its functions and ensure that Concordia's continued commitment to Equity, Diversity, Inclusion and Accessibility inform all recruitment processes under the Policy.

As such, in this Handbook, you will find the following:

1. The *Policy on Senior Administrative Appointments* ([BD-5](#));
2. The Duty to Act Fairly through the Lens of the Rules of Natural Justice – a [Handbook](#) published by the University Secretariat; and
3. Guidelines Regarding Hiring Practices, guided by the *Charter of Human Rights and Freedoms*.

Members of Advisory Search Committees are encouraged to raise any questions or concerns that they may have with the Chair of the Committee.

Me Frederica Jacobs
Secretary-General and General-Counsel
November 2021

POLICY ON SENIOR ADMINISTRATIVE APPOINTMENTS

Effective Date: September 16, 2021

Approval Authority: Board of Governors

Supersedes /Amends: December 14, 2016

Policy Number: BD-5

PURPOSE

The purpose of this Policy is to establish the parameters for the search and selection process of Senior Administrators (as defined below).

SCOPE

This Policy shall apply to all Senior Administrators who are appointed by the Board of Governors (the “Board”).

DEFINITIONS

For the purposes of this Policy, the following definitions shall apply:

“Advisory Search Committee” means a committee established by the Board for the search of the President and Vice-Chancellor (the “President”) or established by the President for the search of a Senior Academic Administrator (as defined below).

“Chair” means the person who chairs an Advisory Search Committee, namely the Chair of the Board, the President or a Vice-President, as applicable, based upon the person to whom the position being searched reports.

“Election Procedures” means the relevant election procedures, which may be adopted from time to time by a particular union or other relevant group in the context of appointments of their members to committees.

“Evaluation Committee” refers to any evaluation committee established in accordance with the *Policy on Employment and Remuneration of Senior Administrators, Deputy Provosts, Vice-Provosts and Associate Vice-Presidents* ([BD-8](#)).

“Senior Academic Administrator” means an individual who is appointed by the Board in an academic leadership position, including the Provost and Vice-President, Academic, the Vice-

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President, Research and Graduate Studies, the Academic Deans, the University Librarian and any other position of equivalent rank and responsibility as determined by the Board.

“Senior Administrator” means the President, any Senior Academic Administrator, any Senior Non-Academic Administrator and any other position of equivalent rank and responsibility as determined by the Board.

“Senior Non-Academic Administrator” means an individual who is appointed by the Board in a non-academic leadership position and any other position of equivalent rank and responsibility as determined by the Board.

POLICY

Search Process for the President and Senior Academic Administrators

1. The term of office for the President and for a Senior Academic Administrator shall normally be five years. A standard termination date shall normally be June 30.
2. A President or a Senior Academic Administrator may serve a maximum of two consecutive five-year terms in a given office.
3. An Evaluation Committee shall be established when an incumbent has indicated that they wish to seek a second term.
4. An Advisory Search Committee shall be established in the following cases:
 - when an incumbent is completing their second consecutive term as President or as a Senior Academic Administrator in a given office;
 - when the President or a Senior Academic Administrator has indicated that they do not wish to seek a second term;
 - when the President or a Senior Academic Administrator who is completing a first term has indicated that they wish to seek a second term but has not been recommended for re-appointment;
 - when the position of President or of a Senior Academic Administrator is or is known to imminently become vacant; or
 - when a new Senior Academic Administrator position is established.

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5. Without undertaking an evaluation, the Board may extend the terms of the positions below by a period not exceeding one year:
 - a) President; and
 - b) Senior Academic Administrator, on recommendation of the President.
6. When one of the conditions of [section 4](#) is met, the relevant Advisory Search Committee shall be established by the Board or the President, as applicable.
7. The responsibility of the Advisory Search Committee shall include publicizing the vacancy, receiving and evaluating applications, interviewing suitable applicants and selecting a candidate for recommendation to the Board or to the President, as applicable.
8. The establishment of an Advisory Search Committee shall normally be initiated by the Board or the President, as applicable, no later than one year prior to the end of the incumbent's term of office.
9. The President Search Committee shall be composed of 12 members as follows and its membership shall be ratified by the Board:
 - Chair
 - Three external members of the Board, appointed by the Executive Committee of the Board (the "Executive Committee")
 - Four full-time faculty members, one from each faculty, elected in accordance with the Election Procedures
 - One part-time faculty member, elected in accordance with the Election Procedures
 - One representative of the administrative and support staff, elected in accordance with the Election Procedures
 - One graduate student, appointed by the Graduate Students' Association
 - One undergraduate student, appointed by the Concordia Student Union
10. The Advisory Search Committee for the Provost and Vice-President, Academic and the Vice-President, Research and Graduate Studies shall be composed of 12 members as follows:

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- Chair
 - One external member of the Board, appointed by the Executive Committee
 - Five full-time faculty members, two from the Faculty of Arts and Science and one from each of the other faculties, elected in accordance with the Election Procedures
 - One part-time faculty member, elected in accordance with the Election Procedures
 - One librarian, elected in accordance with the Election Procedures
 - One representative of the administrative and support staff from the unit where the position is being searched, elected in accordance with the Election Procedures
 - One graduate student, appointed by the Graduate Students' Association
 - One undergraduate student, appointed by the Concordia Student Union
11. Advisory Search Committees for the Deans of the Faculty of Arts and Science, the Faculty of Fine Arts, the Gina Cody School of Engineering and Computer Science, and the John Molson School of Business shall be composed of 10 members as follows:
- Chair
 - One external member of the Board, appointed by the Executive Committee
 - Four full-time faculty members from the faculty where the position is being searched, elected in accordance with the Election Procedures
 - One part-time faculty member from the faculty where the position is being searched, elected in accordance with the Election Procedures
 - One representative of the administrative and support staff from the faculty where the position is being searched, elected in accordance with the Election Procedures
 - One graduate student from the faculty where the position is being searched, appointed by the Graduate Students' Association
 - One undergraduate student from the faculty where the position is being searched, appointed by the Concordia Student Union
12. The Advisory Search Committee for the Dean of the School of Health shall be composed of 12 members as follows:
- Two Co-Chairs, namely the Provost and Vice-President, Academic and the Vice-President, Research and Graduate Studies
 - One external member of the Board, appointed by the Executive Committee
 - Five full-time faculty members, two from the Faculty of Arts and Science and one from each of the other faculties, elected in accordance with the Election Procedures

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- One part-time faculty member with health-related expertise, elected in accordance with the Election Procedures
 - One representative of the administrative and support staff from the School of Health, elected in accordance with the Election Procedures
 - One doctoral student working in a health-related field, appointed by the Graduate Students' Association
 - One postdoctoral fellow working in a health-related field, chosen through a process monitored by the School of Graduate Studies
13. The Advisory Search Committee for the Dean of Graduate Studies shall be composed of 10 members as follows:
- Chair
 - One external member of the Board, appointed by the Executive Committee
 - Five full-time faculty members, two from the Faculty of Arts and Science and one from each of the other faculties, elected in accordance with the Election Procedures
 - One representative of the administrative and support staff from the School of Graduate Studies, elected in accordance with the Election Procedures
 - Two graduate students, one of whom shall hold a part-time teaching contract, appointed by the Graduate Students' Association
14. The Advisory Search Committee for the University Librarian shall be composed of 10 members as follows:
- Chair
 - One external member of the Board, appointed by the Executive Committee
 - Four librarians, elected in accordance with the Election Procedures
 - One part-time faculty member, elected in accordance with the Election Procedures
 - One representative of the administrative and support staff from the Libraries, elected in accordance with the Election Procedures
 - One graduate student, appointed by the Graduate Students' Association
 - One undergraduate student, appointed by the Concordia Student Union
15. The eligibility requirements to serve on the Board set forth in the University By-Laws shall apply, adapted as required, to faculty members, librarians, members of the

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administrative and support staff, and students appointed to serve on all Advisory Search Committees established under this Policy.

16. Members of an Advisory Search Committee shall sit as individuals and not as delegates of their constituencies. Each member is called upon to exercise their own judgment in the best interests of the University.
17. A profile of the ideal candidate shall be prepared by the relevant Advisory Search Committee and approved by the Board in the case of a search for a President. Members of the University community shall be provided an opportunity to comment on a draft profile prior to it being finalized. The profile shall guide the Advisory Search Committee's deliberations.
18. A [Handbook for Advisory Search Committees](#), prepared and updated by the University Secretariat, shall be provided to each member of an Advisory Search Committee before its first meeting and shall be used by the Advisory Search Committee to promote fairness and objectivity in the exercise of its functions.
19. When advertising the position, the qualifications and experience needed for the position shall be described in a way that encourages a diverse pool of qualified candidates to apply.
20. Decisions shall be carried by a majority vote unless an Advisory Search Committee decides to set a higher standard. Voting shall be by secret ballot upon request of any member.
21. The Chair shall only vote when the outcome of a vote results in a tie. This in no way limits the Chair's right of expression during any or all proceedings.

Confidentiality

22. All Advisory Search Committees and any other committee struck in accordance with this Policy shall meet *in camera* and their deliberations shall be strictly confidential, including the identity of all candidates, all documentation related to the search and the expression of opinions in deliberations.

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23. By agreeing to serve on an Advisory Search Committee or any other committee struck in accordance with this Policy, members undertake to respect confidentiality to preserve the integrity of the process. Members shall, at all times, respect the standards of integrity, civility and ethical behavior.
24. In cases where a breach of confidentiality has taken place, or for any other valid reasons, the Chair may take any appropriate action including, but not limited to, the exclusion of the concerned member(s) from the Advisory Search Committee, with or without a replacement.

Appointment of the President

25. The Advisory Search Committee shall select up to three candidates comprising the short-list for presentation to a Special Committee of the Board (the “Special Committee”) whose members shall be appointed by the Executive Committee. The Special Committee shall be comprised of eight members: the Chancellor of the Board, who shall act as Chair; and seven members of the Board, five of whom shall be external members and none of whom serve on the Advisory Search Committee.
26. The Special Committee shall be provided with the relevant documentation and the reasons why the candidates are short-listed for the position and shall have the opportunity to meet with the short-listed candidates. Following the review of the short-listed candidates, the Special Committee shall confer with the Advisory Search Committee to decide which candidate shall be presented to the Board.
27. In the event that the Special Committee agrees with the Advisory Search Committee’s recommendation, that candidate shall be presented to the Board. In the event that the Special Committee and the Advisory Search Committee do not agree upon the candidate, a meeting shall be convened between those two committees during which the Special Committee shall convey its reasons for not supporting the Advisory Search Committee’s recommendation. Following that meeting, in the event that both committees still disagree on the candidate to be presented to the Board, the Advisory Search Committee shall resume the search.
28. The report of the Advisory Search Committee shall contain a reasoned recommendation, reflect its conclusions and indicate the numerical vote.

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29. The recommended candidate shall be presented at a meeting of the Board by way of a motion embodying the Advisory Search Committee's recommendation and shall be moved by the Chair of the Board.

Appointment of Senior Academic Administrators

30. In the case when the President is not the Chair of an Advisory Search Committee, the Chair shall confer with the President prior to finalizing the recommendation. In the event that the President does not agree with the recommendation, they shall direct that the search resume or that it be postponed.
31. The report of the Advisory Search Committee to the President shall contain a reasoned recommendation, reflect its conclusions and indicate the numerical vote.
32. The recommended candidate shall be presented at a meeting of the Board by way of a motion embodying the Advisory Search Committee's recommendation and shall be moved by the President.

Appointment of Senior Non-Academic Administrators

33. The terms of office of Senior Non-Academic Administrators shall normally be for a period of 5 years and are renewable.
34. The President shall recommend to the Board the appointment of Senior Non-Academic Administrators. The President shall consult with members of the administrative units who will report to the Senior Non-Academic Administrator and individuals who would most likely interact with them.
35. Prior to making the recommendation to the Board, the President shall provide the Human Resources Committee of the Board (the "Human Resources Committee") with the opportunity to meet with the candidate.
36. The Human Resources Committee shall be provided with the relevant documentation and the reasons why the candidate is the person being recommended by the President to the Board. If the Human Resources Committee disagrees with or has strong reservations about the recommendation, it shall so inform the President and shall provide the

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President with the reasons why it finds the recommended candidate unacceptable. If the President nevertheless decides to make the recommendation to the Board, they shall inform the Board as to the Human Resources Committee's disagreement with the recommendation.

37. On recommendation of the President, the Board may extend the term of a Senior Non-Academic Administrator by a period not exceeding one year without undertaking an evaluation.

Policy Responsibility and Review

38. The overall responsibility for implementing and recommending amendments to this Policy shall rest with the Secretary-General.

Approved by the Board of Governors on January 17, 2001; and amended on September 18, 2002, May 18, 2006, June 23, 2011, June 7, 2013, May 20, 2015, December 14, 2016, and September 16, 2021.

**THE DUTY TO ACT FAIRLY
THROUGH THE LENS OF THE
RULES OF NATURAL JUSTICE¹**

Handbook for Members of Advisory
Search Committees

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¹ The information provided for in this Handbook is 'inspired' by Concordia University's Handbook for Members of University Tribunals and Administrative Decision-Making Bodies which focuses on the Rules of Natural Justice in a different context. For more information regarding the Rules of Natural Justice, please see

https://www.concordia.ca/content/dam/common/docs/policies/official-policies/2011_Natural_Justice.pdf

THE DUTY TO ACT FAIRLY THROUGH THE LENS OF THE RULES OF NATURAL JUSTICE

I. INTRODUCTION

The rules of natural justice are presumed to apply to bodies entrusted with judicial or quasi-judicial functions only. No such presumption arises with respect to bodies charged with performing administrative functions.

On the other hand, an administrative body does have a duty to act fairly in arriving at decisions with potentially serious effects on someone's rights, interests, or status.

This does not mean that the duty to act fairly applies in the same way to all administrative decisions. The duty to act fairly is flexible and changes from situation to situation, depending upon:

- the nature of the function being exercised;
- the nature of the decision to be made;
- the relationship between the body and the individual;
- the effects of that decision on the individual's rights; and
- the legitimate expectations of the person who is the object of the decision.

The Quebec Court of Appeal has repeatedly confirmed that the duty to act fairly applies to universities.

Accordingly, decisions made by members of Concordia University's committees and governing bodies must be in conformity with the requirements of the law, the relevant University policies, and regulations. With this in mind, this Handbook is intended to serve as a general framework and guide for Concordia University's Advisory Search Committees. It is not, however, intended to substitute for legal counsel, and readers are invited to contact the University Secretariat as the need arises.

Please note that where the term "body" is used in this Handbook, it is used in a generic sense, to refer to administrative decision-making bodies such as Advisory Search Committees.

THE DUTY TO ACT FAIRLY THROUGH THE LENS OF THE RULES OF NATURAL JUSTICE

II. NATURAL JUSTICE

While the duty to act fairly is less onerous than a strict adherence to the rules of natural justice, it is nonetheless helpful to have a high-level overview of those rules.

Natural justice has been described as *“fair play in action – the principles and procedures which in any particular situation or set of circumstances are right and just and fair”*.

In the context of hiring, this would include an individual’s right to apply for a position and the right to have the assessment of that application be free from bias.

The *“right to be heard”* - Whether the person is “heard” “on paper” (i.e., an application for a particular position) or in person (i.e., an interview), the form has to be fair, impartial, and appropriate in the specific circumstances. All prospective candidates are entitled to be treated fairly and equally.

The *“right to have one’s application be treated without bias”* - A mere reasonable apprehension of bias that a body did not or will not act impartially is sufficient to call into question a particular decision.

A reasonable apprehension of bias can be presumed where a member of a body has an interest in the matter, they are called upon to decide. Most often, the interest is pecuniary, however small the amount may be, but it may also arise from a personal friendship or from a family or professional relationship with the person likely to be affected by the decision. If a member of a body believes that their interests or relationships would lead to a reasonable apprehension of bias, they must declare the situation and, if necessary, step down.

At any time during the process, a member of a body may create a reasonable apprehension of bias by the way they act towards the person that their decision is to affect. A reasonable apprehension of bias may exist even if bias is not real, but only reasonably perceived.

A member of a body may familiarize themselves with a file prior to the selection process and form an opinion as to the subject matter, but they may not, at that stage, express an opinion in public.

Members of an Advisory Search Committee have a duty to exercise their role fairly and impartially. All prospective candidates should be treated equally, with courtesy, dignity, and respect. In the same vein, members of an Advisory Search Committee should refrain from

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having any private communications with prospective candidates or other persons about any potential candidate. Such communications are likely to give rise to a reasonable apprehension of bias.

III. THE DUTY TO ACT FAIRLY

This duty arises from the same general principles as do the rules of natural justice. Its existence, scope and extent will depend upon the factors mentioned above: the nature of the function being exercised; the nature of the decision to be made; the relationship between the body and the individual; the effects of that decision on the individual's rights; and the legitimate expectations of the person who is the object of the decision.

In the final analysis, the question to be answered is: Did the Advisory Search Committee, on the facts, act fairly towards the person in question and did it fairly follow its own procedures?

IV. CLOSING REMARKS

This Handbook provides a high-level overview of the rules of natural justice and the duty to act fairly. University committees are not judicial or quasi-judicial bodies and as such have considerable discretion in elaborating their procedures. As long as basic safeguards are met, University committees have significant latitude in establishing their own procedures. However, once these procedures are established, they must be respected.

The University Secretariat is available for consultation and would be pleased to review procedures or answer specific questions with any interested committees.



**GUIDELINES REGARDING HIRING PRACTICES AND THE
*CHARTER OF HUMAN RIGHTS AND FREEDOMS***

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GUIDELINES REGARDING HIRING PRACTICES AND THE CHARTER OF HUMAN RIGHTS AND FREEDOMS

I. INTRODUCTION

The present document has been prepared by the University Secretariat and is based upon a document drafted by the *Commission des droits de la personne et des droits de la jeunesse*² regarding potential discrimination during a hiring process. The University Secretariat has reproduced below, with relevant additions and modifications, the most relevant excerpts of the Commission's document insofar as the University's Advisory Search Committees are concerned.

These guidelines constitute a high-level overview of certain considerations regarding hiring practices as well as questions and pitfalls to avoid. They are not intended to substitute for legal counsel.

II. PROHIBITION OF DISCRIMINATION AT THE TIME OF HIRING

Although employers enjoy broad discretion in the selection of candidates seeking a job, this discretion must be exercised in accordance with the rights and freedoms guaranteed by the [Charter of Human Rights and Freedoms](#) (the "Charter"), and other established principles of Equity, Diversity, Inclusion and Accessibility, which the University is committed to.

Sections 10 and 16 of the Charter specifically prohibit employers from discriminating during the hiring process. Discrimination occurs when an employer distinguishes or excludes a candidate based upon:

"race, colour, sex, gender identity or expression, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap."³

Discrimination also takes place when an employer excludes a candidate based upon their criminal record, if the latter is in no way connected with the employment or if the person has obtained a pardon.⁴

² "L'application et l'interprétation de l'article 18.1 de la Charte des droits et libertés de la personne" adopted at the 625th meeting of the Commission, held February 26, 2016, under resolution COM-625-7.2.2
http://www.cdpcj.qc.ca/Publications/forms_employment.pdf

³ S. 10 of the Charter.

⁴ S. 18.2 of the Charter.

GUIDELINES REGARDING HIRING PRACTICES AND THE *CHARTER OF HUMAN RIGHTS AND FREEDOMS*

Section 18.1 of the Charter prohibits, in an employment application form or employment interview, the collection of information regarding any ground mentioned in section 10 of the Charter. Consequently, members of an Advisory Search Committee must refrain from asking direct or indirect questions with a view to obtaining information that relates to these grounds.

When evaluating a candidate for a position, it is important for the members to be open to diverse experiences, competencies, and expertise, and to recognize, among other things, a variety of backgrounds, skill sets as well as continued effects of historical exclusion of certain groups.

Members of Advisory Search Committees should keep in mind these general principles while conducting a selection process:

- The sole fact of asking questions pertaining to a prohibited ground listed in section 10 of the Charter is sufficient to constitute a violation of the Charter, even if it is established that the question has no relation to the decision to refuse to hire.
- It is not necessary that employment be denied for discrimination to occur. The mere presence of a discriminatory question before hiring is sufficient to prove that the right protected by the Charter has been infringed.
- A Member's intention, when the question is asked, is irrelevant. Asking questions pertaining to prohibited grounds of discrimination out of curiosity, to break the ice or to lighten the interview process is not permitted and would constitute a violation of the right protected under the Charter. Further, the principles of Equity, Diversity, Inclusion and Accessibility should always remain paramount when evaluating a candidate's profile or making decisions on short-listing candidates for any position.
- The fact that a candidate answers a discriminatory question cannot automatically be interpreted as a waiver of their protected right under the Charter. However, persons who, voluntarily and without being invited by the employer to do so, disclose information protected under the Charter, cannot subsequently allege violation of their protected rights. When a candidate has provided information on a voluntary basis, it remains the responsibility of the Chair to advise Members of the Advisory Search Committee that such information does not have any bearing on the evaluation of the concerned candidate.

That being said, the answers to some questions needed to assess a candidate's qualifications may sometimes, incidentally or inadvertently, provide information regarding prohibited

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grounds. For instance, a person's given name can indicate their sex. The name of an educational institution or the address of a previous employer may occasionally indicate the person's national origin, but section 18.1 does not prohibit such questions. However, the Charter prohibits the use of such indications to exclude a candidate based on these criteria.

It is the duty of the Chair of an Advisory Search Committee to ensure that its members are reminded of these guidelines on an ongoing basis, including in deliberations as well as pre- and post-interview debriefs regarding a candidate's performance.

III. ENCOURAGING A DIVERSE POOL OF CANDIDATES

As mandated by the *Policy on Senior Administrative Appointments* ([BD-5](#)), when advertising a position, the qualifications and experience needed for the position shall be described in a way that encourages a diverse pool of qualified candidates to apply.

An open and diverse community fosters the inclusion of underrepresented voices. The University encourages applications from members of groups that have been marginalized on any grounds enumerated under the Charter. The University is also strongly committed to ensuring that there are diverse voices in its community, and welcomes applications from all qualified candidates, including women, members of visible minorities, Indigenous persons, members of sexual minorities, persons with disabilities, and members of any other underrepresented groups. The University invites applicants to self-identify in their applications to promote the University's commitment to these principles.

IV. SUMMARY

The Charter encourages a rigorous approach in the selection process, by leading the employer, and thus, members of an Advisory Search Committee, to focus on candidates' professional qualifications with respect to the requirements of a job rather than on a prohibited ground of discrimination or stereotypic generalizations relative to these grounds or characteristics.

With this in mind, members of an Advisory Search Committee must avoid questions concerning race, sexual gender, civil status (i.e., marital status), sexual orientation, age, ethnic or national origin (i.e., place of birth or citizenship), pregnancy (including questions about having or intentions to have children), language, religion (including religious convictions or practices), political convictions and social conditions. Members of an Advisory Search Committee must also avoid taking into consideration any of these prohibited grounds of discrimination during a selection process, which includes pre, and post-interview deliberations and debriefs regarding



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a candidate's performance.

The University Secretariat is available for consultation and would be pleased to answer specific questions regarding this matter.