



Province of the  
**EASTERN CAPE**

SOCIAL DEVELOPMENT  
& SPECIAL PROGRAMMES

**EMPLOYMENT EQUITY AND  
AFFIRMATIVE ACTION POLICY**

Policy Registration No: 2012-312



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## LEGISLATIVE FRAMEWORK

The following is the legislative framework, regulations, policies, codes, rules and standards underpinning this policy:

- i. Constitution of the Republic of South Africa, Act 108 of 1996 as amended.
- ii. Employment Equity Act 55 of 1998 as amended.
- iii. Labour Relations Act 66 of 1995 as amended.
- iv. Basic Conditions of Employment Act 75 of 1997.
- v. Skills Development Act 97 of 1998.
- vi. Skills Development Levies Act 9 of 1999.
- vii. South African Qualifications Authority (SAQA) Act, 1995 and the National qualification Framework (NQF).
- viii. White Paper on Affirmative Action in the Public Service, Notice no. 564 of 1998.
- ix. Public Service Regulations of 2001 as amended.
- x. Access to information Act 2 of 2000.
- xi. Promotion of Administration Justice Act 3 of 2000.
- xii. Promotion of Equality and Prevention of Unfair Discrimination Act of 2000.
- xiii. Integrated National Disability Strategy (INDS).
- xiv. Integrated Provincial Disability Strategy (IPDS) Eastern Cape.
- xv. White Paper on Transformation of Public Service of 1995.
- xvi. Code of Good Practice: Preparation, Implementation and Monitoring of Employment Equity Plans.
- xvii. Code of Good Practice: On the Employment of People with Disabilities.
- xviii. Code of Good Practice: HIV/Aids.
- xix. Employment Equity Plan of the Department.
- xx. Provincial Employment Equity Policy (2011-2014): Eastern Cape Provincial Government Office of the Premier.
- xxi. Any other relevant legislation that might be applicable in this policy.

## DEFINITIONS AND TERMS

"For purposes of this policy, unless otherwise stated, the following definitions shall apply

i.	<b>Act</b>	Employment Equity Act 55 of 1998 as amended.
ii.	<b>Affirmative Action</b>	Measure to ensure that suitably qualified people from designated groups have equal employment opportunities and are equitably represented in all occupational categories and levels in the workforce of the designated employer.
iii.	<b>Black</b>	Is a generic term that refers to African , coloured and Indians
iv.	<b>Broad Representation</b>	Achievement of a Public Service that is inclusive of all historically disadvantaged groups in a manner that represents the makeup of the population within all occupational classes and at all post levels of the Public Service.
v.	<b>Constitution</b>	Constitution of the Republic of South Africa, Act 108 of 1996 as amended.
vi.	<b>Department</b>	Department of Social development & Special Programmes.
vii.	<b>Designated Employer</b>	Employers with more than 50 employees.
viii.	<b>Designated Group</b>	Black people, women and people with disabilities.
ix.	<b>DPSA</b>	Department of Public Service and Administration.
x.	<b>Disability</b>	Persons having a physical or mental impairment, which is long term or recurring and which substantially, limits their prospects of entry into, or advancement in employment.
xi.	<b>Disadvantaged Groups/ Historically Disadvantaged Groups</b>	Those groups identified as having been unfairly discriminated against on the basis of past legislation, policies, prejudice and stereotypes.
xii.	<b>Equal Employment Opportunity</b>	Formal right of all to be treated equally in employment irrespective of race, gender and disability.
xiii.	<b>Equality</b>	Full enjoyment of rights and freedoms by all in similar/ proportionate manner.
xiv.	<b>Executing Authority</b>	Member of the Executive Council (MEC).
xv.	<b>EEA</b>	Employment Equity Act 55 of 1998 as amended.
xvi.	<b>EEC</b>	Employment Equity Committee.
xvii.	<b>Gender</b>	Social and cultural differences between women and men.
xviii.	<b>Gender Equality</b>	Equal distribution between gender groups.
xix.	<b>Gender Mainstreaming</b>	Strategy for achieving gender equality.
xx.	<b>Managers</b>	All people responsible for the work of others.
xxi.	<b>Reasonable Accommodation</b>	Any modification or adjustment to a job or the working environment that will enable a person from a designated group to have access to or participate or advance in employment.
xxii.	<b>Suitable qualified persons</b>	Any persons contemplated in sections 20(3) and 20(4) of the Employment Equity Act.
xxiii.	<b>Unfair Discrimination</b>	Unjust measures, attitudes, and behavior that obstruct the enjoyment of equal rights and opportunities in employment of Black people, women and people with disabilities.

## 1. PREAMBLE

- 1.1. Chapter 3 of the Employment Equity Act (EEA) read along with section 42 and 43 thereof requires that the designated employers engage in consultations in respect of engaging in a workforce profile analysis in order to identify areas of under representation of designated persons. Once this has been done, it is necessary to set realistic and achievable targets for representation over a one (1) to five (5) year period. These targets must be reinforced by equal opportunity, affirmative action, diversity and skills development policies and strategies that are documented and scheduled.
- 1.2. Furthermore, Equality has become a founding principle upon which the current constitutional dispensation of the country is built, in direct reaction to the inequities of South Africa's past. It is central to the Bill of Rights in which it is established as the first substantive right. Given its pivotal importance, "Equality", as a theme to be pursued in the building of a democratic and just society, permeates the concerns of the new government and its administration. In the workplace Affirmative Action has to become the drive to materialize the value of equality. It must seek to achieve this through the removal of any conditions that violates the right to equality. As such, equality is the point around which Affirmative Action turns, where it has great resonance for all Affirmative Action matters. Through Affirmative Action's pursuit of equality, it becomes a tool to bridge the gap between the injustices of the past and a democratic future.
- 1.3. As per Section 42 of the Employment Equity Act 55 of 1996, an analysis of the Departmental current workforce was conducted, the National and Provincial demographics (as per economically active population labour force, September 2009) was considered. This analysis was done in terms of race, gender, and disability status and salary level. The analysis was done so as to be able to determine the degree of under representation of people from designated groups in various occupational categories and levels. The analysis of the current workforce profile for the Department revealed that the majority of employees in the Department are females. At SMS level i.e. levels 13 – 16, the target is 50% females and 50% males and currently the department stands at 48% females and 52% males. There is still negative variance of 2% that must be closed by employing additional females at this level. In terms of gender at the SMS level, males are standing at 52% as against females which are standing at 48%.
- 1.4. The current workforce profile shows over representation of females at 73% against males which stands at 27%. This stats shows significant improvements done by the Department in terms of employing people from the designated groups, however, in the process of reviewing targets, it is important to assess where this 73% females is situated in terms of levels in the Department because it is fruitless to claim to have the majority females whilst this majority is situated at the lower levels and not represented at higher levels.
- 1.5. The current disability workforce profile shows that there is still under representation in this area in particular at SMS level. In terms of employment of people with disabilities the department stands at 1.5%, which leaves the department with a negative variance of 0.5 %. The department will therefore target the recruitment of persons with disabilities at all salary levels and occupational categories, and in particular management level. As Employment Equity targets were reviewed, it then transpired that, non- disclosure of the disability status could be one of the contributors to this under representation and this means that the department must make concerted efforts to facilitate the disclosure and target persons with disabilities for employment.

## 2. PURPOSE AND OBJECTIVES

- 2.1. To ensure that the Eastern Cape Department of Social Development and Special Programmes demonstrate its commitment in creating an equitable workplace climate, free of unfair discrimination through building a sound organizational culture and environment conducive to effective people management, sound employee relations and effective service delivery, a transformation and impact that encompasses everybody outside and within the Department.
- 2.2. To give strategic direction in order to ensure that the Eastern Cape ,Department of Social Development and Special Programmes complies with the various provisions of the employment Equity Act 55 of 1998 which fundamentally obligates the Department to develop an Employment Equity Plan in order to achieve equity in the workplace by:

- a) Promoting the constitutional right of equality for all employees and the exercise of true democracy in the workplace.
- b) Creating equal opportunities and fair treatment in employment through the elimination of unfair discrimination.
- c) Implementing Affirmative Action measures designed to redress the historical disadvantages in employment experienced by black people, women and persons with disabilities (referred to as designated groups) in order to ensure their equitable representation in all occupational categories and levels in the workplace.
- d) Achieving a diverse workforce that is broadly representative of the Eastern Cape Province as well as South African economically active population, and
- e) Promoting economic development and efficiency in the workplace.

### 3. SCOPE OF APPLICABILITY

- 3.1. The policy is applicable to all employees of the Department.

### 4. PRINCIPLES AND VALUES

The following are the principles underpinning this policy:

- 4.1. **Equity** by striving towards equitable representation that reflects the demographics of the Eastern Cape Province as well as equitable treatment for all employees.
- 4.2. **Fairness** through application of fair practice, policies and procedures.
- 4.3. **Transparency** by application of the principle of openness.
- 4.4. **Access** by providing relevant information, resources and facilities for people from the designated groups.
- 4.5. To implement the objectives of this policy in a cost effective manner in line with Departmental MTEF and PFMA.
- 4.6. **Participation** through consultation of all stakeholders and promotion of cultural understanding of diversity amongst employees.
- 4.7. Management and Employees are **accountable** for making decisions that are in line with the achievement of the objectives of this policy.
- 4.8. To provide **reasonable accommodation** that will enable people from designated group to maximize their potential.
- 4.9. The policy shall be applied in a **professional** manner in accordance with HR best practices.
- 4.10. The application of this policy shall take into account the **relative and historical disadvantages** inflicted upon persons within the designated group by the recognition of their position as opposed to other persons within this group.
- 4.11. This policy seeks to ensure the achievement of optimum **services delivery** to all.

### 5. POLICY STATEMENT

- 5.1. The Department commits itself to create an environment that is equitable and promotes representivity in all occupational categories through affirmative action measures to the workforce by addressing the imbalances of the past injustices and inequalities.

### 6. POLICY PROVISION

#### 6.1. Affirmative Action Measures

- 6.1.1. The Department shall implement Affirmative Action measures to redress the disadvantages in employment experienced by the designated groups, in order to ensure their equitable representation in all occupational categories and levels as well as provisions of fair opportunities through meaningful participation in order to maximize individual potential.

#### 6.2. Fair Treatment

- 6.2.1. The Department is committed to the promotion and development of people from the designated group. However, it will not put an absolute barrier to the prospective or continued promotion or advancement of people from the non-designated groups.

#### 6.3. Training and Development

- 6.3.1. The Department supports and encourages the development of all its employees so that they can attain standards of competence required to fulfill their potential and contribute to achieving the strategic

objectives of the Department. The Department shall further develop Employment Equity Plan that will amongst others, ensure that people from designated groups are developed through the provision of Accelerated Development Programme and other Skills Development Programmes, Succession Planning, Career Planning Programmes etc.

#### **6.4. Reasonable Accommodation**

6.4.1. The Department shall endeavor to provide the reasonable and necessary support to ensure that the enjoyment of equal opportunities in the work environment is friendly, safe, accessible, sensitive and responsive to the needs of people from the designated groups.

#### **6.5. Recruitment and Selection**

6.5.1. The recruitment and selection process shall be conducted in such a manner that it is at all stages fair, transparent and accessible to all job seekers and the selection process must be aligned to the targets as set out in the Employment Equity Plan and shall be driven by a broadly representative panel. Preferences shall be given to candidates from the designated group during a selection process and shall be based on one or a combination of the following:

- (a) Formal qualifications
- (b) Prior learning
- (c) Relevant experience or
- (d) Capacity to acquire skills within a reasonable time and the potential to do the job.

6.5.2. Adverts emanating from the department shall be placed in media that has a readership amongst people from the designated group. Special efforts shall also be undertaken to ensure that people with disabilities are reached by the adverts. All adverts shall indicate that the Department is committed to achieving employment Equity by carrying the following message: **"The Department of Social Development is committed to and supports the Employment Equity Act"**.

6.5.3. All non-permanent appointments, such as contract appointments, internships, and learnerships shall be conducted in the manner that supports the Department's objective of being broadly representative of the South African population, primarily the citizen of the Eastern Cape Province.

6.5.4. It is essential that when a decision regarding the recruitment, selection, promotion and advancement of people from designated group is made that their relative historical disadvantages be taken into account together with the relevant employment equity plans.

6.5.5. The recruitment and selection process as well as other processes such as promotions and transfers, shall be strongly be guided, informed and driven to meet the objectives of the Employment Equity Plan and the broad numerical targets of the department

### **7. STAKEHOLDER INVOLVEMENT**

7.1. Management and employees shall participate in the process of ensuring that the Department achieves its employment equity objectives and targets. The HOD unless delegated shall perform the following duties:

- a) Conduct Employment Equity Awareness workshops throughout the Department,
- b) Champion the development, implementation, monitoring and review of the Departmental Employment Equity Strategies to ensure successful implementation, and
- c) Consolidate and submit Employment Equity Report annually to the Department of Labour.

### **8. EMPLOYMENT EQUITY COMMITTEE (EEC)**

8.1. A structure known as the Employment Equity Committee (EEC) shall be established by the Head of Department (HOD).

#### **8.1.1. Composition of EEC**

The EEC shall be constituted as follows:

- a) District Corporate Services Managers
- b) Trade Union Representatives from each recognized union within the sector
- c) Employee Representative from each Programme
- d) HR (Recruitment & Selection) representatives
- e) Internal Labour Relations official
- f) Business Intelligence Unit (BIU) official
- g) Risk Management Unit



- h) Special Programmes Unit
- i) Research Unit

#### 8.1.2. Administrative Support

- (a) Any General Manager responsible for the Employment Equity in the Department shall be a Chairperson of the committee and the Senior Manager responsible for EE shall be his/her Deputy Chairperson to manage the meetings.
- (b) The Manager responsible for Human Resource Policy and Planning shall be the Secretary to scribe and arrange meetings and take minutes.
- (c) Every meeting must be recorded in a form of minutes and records thereof must be kept by the Chairperson.

#### 8.1.3. Functions of the EEC

The EEC shall perform the following functions:

- (a) **Develop and Review** an Employment Equity Plan for the Department and **advise** Management on its implications,
- (b) **Monitor** the implementation of the EE plan and **review** progress made,
- (c) **Assist** management in auditing employment policies, procedures and practices to ensure that there are no barriers that adversely affect people from the designated group,
- (d) Make **inputs** on the formulation and development of EE policy,
- (e) **Determine and Review** the Departmental EE and Affirmative action targets as well as reports sent to Department of Labour,
- (f) **Address, correct and Inform** management of any deviations from the EE plan,
- (g) **Support** management with regard to employment equity issues.
- (h) **Assist** in the process of consultation of the EE plan and policy with stakeholders,
- (i) Take **corrective actions** to enforce compliance with the EE plans and
- (j) **Compile** progress reports on the Employment Equity Plans.

### 9. THE DESIGNATED STRUCTURE WHICH HAS THE AUTHORITY TO APPROVE, ADJUST AND REVIEW THE POLICY

- 9.1. Responsibility and Accountability for development, adjustment and review of this policy rest on General Manager: Corporate Services. The final approval of the policy rests with the Head of the Department.

### 10. ADMINISTRATION OF THE POLICY

- 10.1. The function of administration and enforcement of this policy rests on all officials in Management and the implementation of the Employment Equity Policies and Plans must form part of their Key Performance Indicators in their performance agreements or contracts.
- 10.2. The General Manager: Corporate Services shall guide the Management in the administration and enforcement of this policy.

### 11. ACCOUNTABILITIES AND RESPONSIBILITIES

#### 11.1. Head of Department (HoD):

- (a) must assign one or more senior manager to take responsibility for monitoring and implementing an employment equity plan.
- (b) shall provide the managers with the authority and means to perform their functions and take reasonable steps to ensure that the managers perform their functions.
- (c) must display at the workplace where it can be read by employees a notice in all official languages in the prescribed form summarising the provisions of the Act.
- (d) can use a number of outreach and proactive mechanisms to attract applicants from under-represented groups.
- (e) may involve non-governmental organisation for the blind and people with disabilities.
- (f) shall implement affirmative action measures.
- (g) must make sure that the designated groups (black people, women and people with disabilities) have equal opportunities in the work place.
- (h) shall provide sufficient budget to eliminate the physical barriers against people with disabilities.
- (i) must align the staffing needs with the set numerical targets,

- (j) must ensure successful implementation of Departmental EE plans,
- (k) shall raise awareness on equity matters, such as legal implications of discrimination and other illegal practices which could lead the Department to litigations,
- (l) must allow the EEC members time off to attend to committee activities, and
- (m) must budget for EE activities in order to achieve EE act objectives.

#### 11.2. Employees:

- (a) Must familiarize themselves with the provisions of this policy
- (b) Must keep a copy of this policy for the purpose of their reference.
- (c) Must report any violation or suspected violation of this policy through their supervisors
- (d) must take part in the consultation processes on employment equity undertaken by the employer
- (e) must reflect the interests of all occupational categories and levels of the employer's workforce, employees from designated groups and employees who are not from designated groups.

#### 12. EFFECTIVE DATE OF THE POLICY

12.1. This policy will be effective from the date of its approval by the Head of the Department and MEC.

#### 13. PROCEDURES FOR IMPLEMENTATION

##### 13.1. The Department must:

##### 13.1.1 Enforce accountability by:

- (a) Assigning one or more Senior Managers to take responsibility for monitoring and implementing an employment equity plan;
- (b) Providing the managers with the authority and means to perform their functions.
- (c) Taking reasonable steps to ensure that the Managers perform their functions (the assignment of responsibility to a manager does not relieve the designated employer of any duty imposed by the Employment Equity Act or any other law).
- (d) Establishing a fully functional Employment Equity Committee representative of all designated and non-designated groups across all occupational categories and levels of the workforce to reflect the interests of all employees.
- (e) This committee must meet on a quarterly basis.

##### 13.1.2 Ensuring that an analysis is conducted by:

- (a) Assessing all of its employment policies, practices, procedures and the working environment as prescribed, in order to:
  - (i) identify any barriers which adversely affect people from designated groups; and
  - (ii) identify practices or factors that positively promote employment Equity and diversity in the workplace
  - (iii) Determining the extent of under-representation of employees from designated groups in the different occupational categories and levels of the employer's workforce.

##### 13.1.3 Develop an Employment Equity Plan

- (a) A designated employer must prepare and implement an employment equity plan which will achieve reasonable progress towards employment equity in that employer's workforce.
- (b) An employment equity plan prepared must state:
  - (i) the objectives to be achieved for each year of the plan;
  - (ii) the affirmative action measures to be implemented as required by section 15 (2) of the act;
  - (iii) where under-representation of people from designated groups has been identified by the analysis, the numerical goals to achieve equitable representation of suitably qualified people from designated groups within each occupational category and level in the workforce, the timetable within which this is to be achieved, and the strategies intended to achieve those goals;
  - (iv) the timetable for each year of the plan for the achievement of goals and objectives other than the numerical goals;
  - (v) the duration of the plan, that may not be shorter than one year, or longer than five years;
  - (vi) the procedures that will be used to monitor and evaluate the implementation of the plan and whether reasonable progress is being made towards implementing employment equity;

- (vii) the internal procedures to resolve any dispute about the interpretation or implementation of the plan; and
  - (viii) the persons in the workforce, including Senior Managers responsible for monitoring and implementing the plan.
- (c) A designated employer must retain the employment equity plan for a period of three years after the expiry of the plan, unless the employer employs fewer than one hundred and fifty employees (150), in which case the plan must be retained for two years.

#### **13.1.4. Develop Affirmative Action Measures**

- (a) Affirmative action measures are measures designed to ensure that suitably qualified people from designated groups have equal employment opportunities and are equitably represented in all occupational categories and levels in the workforce of a designated employer.
- (b) Making reasonable accommodation for people from designated groups in order to ensure that they enjoy equal opportunities
- (c) Measures to identify and eliminate employment barriers, including unfair discrimination, which adversely affect people from designated groups;
- (d) Measures to further diversity in the work place based on equal dignity and respect of all people to:
  - (i) ensure the equitable representation of suitably qualified people from designated groups in all occupational categories and levels in the workforce,
  - (ii) retain and develop people from designated groups and implement appropriate training measures in terms of an act of Parliament providing for skills development and
  - (iii) eliminate any barriers identified during the analysis and should be specified in the plan.
- (e) The measures referred to in subsection (d) above include preferential treatment and numerical goals but exclude quotas.

#### **13.2. Matters for Consultation**

- 13.2.1. A designated employer must consult all relevant stakeholders on the following issues:
- (a) Conducting an analysis of its employment policies, practices, procedures and the working environment in order to identify employment barriers which adversely affect people from designated groups;
  - (b) The preparation and implementation of employment equity plan which is aimed at achieving reasonable progress towards employment equity in the employer's workforce.
  - (c) The report to be submitted to the Department of Labour detailing the progress made in implementing the employment equity plan.

#### **13.3. Reporting**

- 13.3.1. The department must submit a report to the Director General, Department of Labour on progress made in the implementation of their employment equity plan on the first day of October every year for manual report, otherwise January for electronic reporting,
- 13.3.2. Furthermore they are also required to submit quarterly reports on progress made on the implementation of their employment equity plans to the Office of the Premier,
- 13.3.3. A method of reporting should remain for the period of the plan and must be consistent from year to year and from reporting period to reporting period; and
- 13.3.4. The department must retain a copy of the report for a period of three years after it has been submitted to the Director General, Department of Labour, unless the employer employs fewer than one hundred and fifty (150) employees, in which case the report must be retained for two years.

#### **13.4. Monitoring and Implementation Of EE Plan**

- 13.4.1. A report detailing the progress with the implementation of employment equity, with specific reference to achievement of numerical goals, has to be compiled every six months by the person with the responsibility for implementation and monitoring of the plan. This report should be aligned to the Accountability and Compliance Framework.
- 13.4.2. The above-mentioned report must be made available to all relevant stakeholders for perusal and comments.
- 13.4.3. A summary of the above-mentioned report must be circulated to all staff members by means of circulars, and notices on notice boards.

13.4.4. The above-mentioned summary must contain an invitation to all employees to submit their comments or questions on the progress made with the implementation of the plan to the responsible person or persons specified in the plan.

**14. MONITORING ARRANGEMENTS OF THE POLICY**

- 14.1. The Head of department (HOD) shall remain the custodian of the Employment Equity Programmes in the Department and it is his/her responsibility to monitor compliance to this policy from time to time, unless delegated otherwise.
- 14.2. The Employment Equity Committee (EEC) shall also assist the Head of Department (HOD) by monitoring the implementation of this policy.
- 14.3. Human Resource Development (HRD) unit, Recruitment and Selection unit as well as District Offices shall prepare Employment Equity monitoring reports quarterly.
- 14.4. Employment Equity report must be prepared and sent to the Department of Labour by 1<sup>st</sup> of October yearly for manual reporting/otherwise January for electronic reporting..

**15. RISK MANAGEMENT & COMPLIANCE**

- 15.1. Violation or Non-Compliance to this policy and its Annexure or Appendices may result into a disciplinary action including up to dismissal and therefore there is no inherent risk that could be identified.

**16. REVIEW OF THE POLICY**

- 16.1. The policy shall be reviewed to determine its effectiveness and appropriateness after 3 years from the date of approval or as necessitated by changes in legislation and or by a directive from DPSA.

**17. POLICY RECOMMENDATION & APPROVAL**

**Recommended/ ~~Not Recommended~~**



\_\_\_\_\_  
**Head of Department: Dept. of Social  
Development & Special Programmes**

13/04/2012  
Date

**Approved/ ~~Not Approved~~**



\_\_\_\_\_  
**MEC: Dept. of Social Development &  
Special Programmes**

18/04/2012  
Date