



Department:
Community Safety & Transport Management
North West Provincial Government
REPUBLIC OF SOUTH AFRICA

EMPLOYMENT EQUITY POLICY

**NORTHWEST PROVINCE:
DEPARTMENT OF COMMUNITY SAFETY AND TRANSPORT MANAGEMENT
HUMAN RESOURCES POLICY**

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PREAMBLE

The North West Department of Community Safety and Transport Management, in its attempt to empower its employees, deemed it necessary to formulate the Employment Equity Policy to enable it to manage equity amongst its employees.

The Constitution guarantees to everyone the fundamental right of equality. The right to equality includes the equality in the social, political and economic spheres of all persons and groups in society. Legislative and other measures have been implemented with a view to eradicating systematic and structural inequalities in society, including inequalities public service employment with a focus on race, gender and disability based disparities.

Despite the removal of the statutory and other formal barriers to entry and advancement within the Public Service since 1994, there are groups of people whose ability to thrive continues to be hampered by this legacy of past discrimination. These groups constitutes of black people, women and people with disabilities. The Employment Equity Act, 1998 was enacted in order to ensure the achievement of employment equity through the elimination of unfair discrimination and the implementation of Affirmative Action measures to advance black people, women and people with disabilities who were marginalized and discriminated against with regard to employment opportunities, earning levels, benefits and service conditions.

The Department of Community Safety and Transport Management in the North West Provincial Government ("the Department") accordingly adopts this policy as a framework for:

A review and renewal of its employment equity programme with a view to accelerating progress towards the realization of a discrimination free workplace where no one is denied opportunity for reasons other than ability, and transforming the Department into an employer of choice where women, men and People with Disabilities from diverse racial and other backgrounds enjoy equal chances to serve the nation and are equitably represented in all structures and at all levels.

1. PURPOSE AND OBJECTIVES

1.1 The purpose of this policy is to guide Managers and employees in the Department in the implementation of measures aimed at giving effect to the right to equality as entrenched in the Constitution and legislation by:

- (a) Eliminating all forms of unfair discrimination in employment practices; and

- (b) Implementing affirmative measures that seek to proactively equalize employment opportunities for black people, women and persons with disabilities as a means of eliminating their systematic unfair discrimination and inequality due to historical injustices.

1.2 The policy objectives include:

- (a) Prohibiting and eliminating all forms of unfair discrimination in employment within the Department,
- (b) Prohibiting, preventing and eliminating sexual harassment,
- (c) Recommitting the Department to the implementation of affirmative action and elaborating the Department's holistic approach to affirmative action;
- (d) Ensure accountability for the elimination of discrimination and implementation of affirmative action;
- (e) Providing for internal redress for violations of rights relating to non-discrimination, harassment and other equality elements; and
- (f) Providing a framework for:
 - (i) Identifying and eliminating persisting forms of discrimination and inequality in the Department as a work place;
 - (ii) Reviewing current affirmative action measures with a view to implementing a comprehensive affirmative action programme that goes beyond numbers and accelerates the realization of employment equity goals in the Department;
 - (iii) Aligning skills development measures with employment equity objectives;
 - (iv) Enhancing departmental compliance with national and international obligations on the promotion of workplace equality and decent work; and
 - (v) Ensuring that all managers and personnel involved in human resources practices that have an impact on workplace equality are held accountable for their action.

2. SCOPE OF APPLICATION

- 2.1 This policy is applicable to all employees and prospective employees of the Department, subject to the proviso that employees that are excluded from the Labour Relations Act and the Employment Equity Act may, after exhausting internal remedies, take their cases to the Equality Court.
- 2.2 Rights relating to affirmative action only apply to Black People, Women, and People with Disabilities whereas rights relating to unfair discrimination apply to all employees.

3. LEGISLATIVE FRAMEWORK

3.1 International laws/standards that influence and regulate equality and human dignity in the workplace include the following:

- 3.1.1** Convention on the Elimination of all Forms of Racial Discrimination (CERD);
- 3.1.2** Convention on the Elimination of all Forms of Discrimination against Women (CEDAW);
- 3.1.3** UN Convention for the Rights of Persons with Disabilities (CRPD);
- 3.1.4** ILO Code of Practice on HIV/AIDS and the World of Work (2001); and
- 3.1.5** ILO Convention 111 (Discrimination), Convention 156 (Workers with Family and Responsibilities) and Convention 183 (Maternity Protection).

3.2 South African laws and policy frameworks that underpin employment equity include the following:

- 3.2.1** Constitution of the Republic of South Africa, No. 108 of 1996;
- 3.2.2** Employment Equity Act, Act No. 55 of 1998;
- 3.2.3** Employment Equity Amendment Act, Act No. 47 of 2013;
- 3.2.4** Public Finance Management Act, No. 1 of 1999;
- 3.2.5** Public Service Act, No. 103 of 1994, as amended;
- 3.2.6** Basic Conditions of Employment Act, No. 75 of 1997;
- 3.2.7** Public Service Regulations, 2001;
- 3.2.8** White Paper on Transforming the Public Service;
- 3.2.9** White Paper on Affirmative Action in the Public Service;
- 3.2.10** Code of Good Practice on Integrating Employment Equity into Human Resources Practices and Policies, 2005;
- 3.2.11** NW Government Employment Equity Policy (Policy No. NWPG 10);
- 3.2.12** NW Government Integrated Provincial Gender Strategy;
- 3.2.13** Code of Good Practice: Key Aspects on the Employment of People with Disabilities, 2002;
- 3.2.14** Code of Good Practice on Key Aspects of HIV/AIDS and Employment;
- 3.2.15** Promotion of Equality and Prevention of Unfair Discrimination Act, 2000;
- 3.2.16** PSCBC Resolutions 1 and 2;

4. ABBREVIATIONS

- 4.1** **AIDS** "means Acquired Immune Deficiency Syndrome;"
- 4.2** **DCP** "means Disciplinary Code and Procedures for the Public Service;"
- 4.3** **EAP** "means Employee Assistance Programme;"
- 4.4** **EEP** " means Employee Equity Plan;"
- 4.5** **HDIs** "means Historically Disadvantaged Individuals;"

- 4.6 **HIV** "means Human Immunodeficiency Virus;"
- 4.7 **ILO** " means International Labour Office;"
- 4.8 **WSP** " means Workplace Skills Plan;"

5. DEFINITIONS

- 5.1 **Affirmative Action** "means Systematic employment measures that seek to redress systematic inequalities experienced by black people, women and persons with disabilities in employment opportunities and include preferential treatment of suitably qualified black people, women and persons with disabilities; in regard to recruitment, skills development, advancement, selection and retention;"
- 5.2 **Department** "means the Department of Community Safety and Transport Management;"
- 5.3 **Head of Department** "means the Head of the Department, him/herself or his delegated authority or his designated office responsible for leave related matters and/or investigation;"
- 5.4 **Employee**" means all employees of the Department employed in terms of the Public Service Act of 1994, the Basic Conditions of Employment Act of 1998, as amended and includes contract workers, interns, volunteers and prospective employees;"
- 5.5 **Black People** "is a generic term which means Africans, Coloured, Indian and women;"
- 5.6 **Disability** "means a physical or mental impairment which is long-term or recurring, and which substantially limits a person's prospect of advancement in employment,
- 5.7 **Employment Equity**," means the achievement of equal opportunities in the workplace through the elimination of unfair discrimination and the implementation of remedial measures aimed at eradicating existing inequalities and advancing black people, women and persons with disabilities, collectively referred to in the Employment Equity Act, as Designated Groups;"
- 5.8 **Employment Equity Plan** "means a plan drawn in compliance with the Employment Equity Act as a framework for proactive elimination of unfair discrimination and implementation of affirmative measures to advance black people, women and persons with disabilities in response to barriers identified through an Employment Equity Audit and to ensure their equitable representation;"
- 5.9 **Historically Disadvantaged Individuals** "in this context refers to black people, women and people with disabilities;"
- 5.10 **Reasonable accommodation** "means any modification or adjustment to a job or to the working environment that will enable the person from designated group to have access to or participate or advance in employment;"

5.11 Suitably Qualified person "means a person who has any one of, or a combination of the following: formal education, prior learning, relevant experience, or capacity to acquire the ability to do the job;"

5.12 Unfair Discrimination, "occurs when an employee is unfairly accorded less favourable treatment with regard to employment opportunities or benefits on the basis of one or more grounds that are prohibited by law;"

5.13 Designated Groups, "means black people, women and people with disabilities who:

5.13.1 are citizens of the Republic of South Africa by birth or decent, or

5.13.2 became citizens of the Republic of South Africa by naturalization,

5.13.2.1 before 27 April 1994, or

5.13.2.2 after 26 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date but who were precluded by apartheid policies,

6. PRINCIPLES

6.1 The principles that underpin this policy and which should inform its implementation, include the following:

- 6.1.1 The right to equality, which incorporates employment equity or equality in the workplace, is a fundamental human right that is guaranteed in the Constitution of South Africa, National Legislation and the Provincial policy Framework;
- 6.1.2 The social consequences of previously legalized historical injustices underpin entrenched systemic structural inequalities that continue to disadvantage women and people with disabilities in employment, skills acquisition and other areas of life;
- 6.1.3 Giving meaning to the right to equality requires the elimination of unfair discrimination and remedial measures like affirmative action that seek to advance those that continue to be disadvantaged, as a means of equalizing opportunities;
- 6.1.4 Affirmative action or remedial measures as expected in the Constitution and equality laws such as the Employment Equity Act, include but transcend the preferential treatment of suitably qualified women and persons with disabilities, in employment practices such as recruitment, development and promotion;
- 6.1.5 The Employment Equity refers to a combination of non-discrimination, affirmative action and it should enhance effective service delivery;
- 6.1.6 Proper implementation of employment equity necessitates the understanding of skills development as a critical part of affirmative action;

- 6.1.7 The experiences of Women and People with Disabilities need to be considered/factored into employment equity planning, implementation and enforcement, and
- 6.1.8 No act of unfair discrimination or any violation of this policy or applicable equality laws should be treated with impunity.

7. POLICY STATEMENT

- 7.1 The Department commits itself to the realization of employment equity goals as envisaged in Employment Equity Act and the achievement of substantive compliance with all equality laws and policies relating to work place equality;
- 7.2 All employees of the Department have a right to equality, which includes freedom from unfair discrimination and sexual harassment, and incorporates the responsibility of the Department to implement affirmative action measures aimed at advancing historically disadvantaged individuals in order to equalize all employment opportunities;
- 7.3 All managers and human resources personnel have a duty, to eliminate unfair discrimination and to implement affirmative measures to eliminate unfair discrimination, advance HDI's (Historically Disadvantaged Individuals) and achieve workplace that reflects the human diversity in the NW Province and broader society;
- 7.4 The duty referred to in paragraph 6.3 above includes preferential measures in employment practices such as recruitment and selection, acting appointments, training and development promotion and retention strategies targeting suitably qualified women and people with disabilities;
- 7.5 All employment decisions in the Department, including decisions relating to recruitment and selection, job assignments, development, promotion and retention shall, forth with, be subjected to an employment equity compliance test, based on the provisions of this policy and relevant laws;
- 7.6 Memoranda or submissions dealing with appointments shall always indicate the employment equity implications of an appointment, and if employment shall be undermined by such an appointment, justify such an appointment and outline future remedial measures;
- 7.7 All structures responsible for making employment related decisions such as recruitment, development and promotion shall have equitable representation of groups designated by the Employment Equity Act as beneficiaries of affirmative action measures (Designated Groups);
- 7.8 Departmental Employment Equity Plans and reports, as envisaged in the Employment Equity Act, shall always be up to date and displayed as prescribed;
- 7.9 Consultation and cooperation with employee representatives is a fundamental pillar of this policy. The Workplace Forum will be the main avenue for such consultation and cooperation; and
- 7.10 The Workplace Forum membership and participation in decision-making should reflect equitable representation of all Designated Groups.

8. STATUTORY AUTHORIZATION

8.1. The purpose of the Employment Equity Act, No. 55 of 1998, is to achieve equity in the workplace by:

- (a) Promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination; and
- (b) Implementing affirmative action measures to redress the disadvantages in employment experienced by designated groups, in order to ensure their equitable representation in all occupational categories and levels in the workplace.

8.2 The White Paper on Affirmative Action is defined as the additional corrective steps which must be taken in order that those who have been historically disadvantaged by unfair discrimination are able to derive full benefit from an equitable employment environment.

8.3 The White Paper on Affirmative action is primarily focused on the field of human resource management and targets the three (3) groups, black people, women and people with disabilities.

8.4 The White Paper on Transforming Public Service Delivery deals with improving the delivery of public services by redressing the imbalances of the past and, while maintaining continuity of service to all levels of society, focusing on meeting the needs of 40% of South Africans who are living below the poverty line and those, such as the disabled, black women living in rural areas, who have previously been disadvantaged in terms of service delivery. The objectives of service delivery include welfare, equity and efficiency.

9. POLICY MATTERS

9.1 EMPLOYMENT EQUITY GOALS

- 9.1.1 Promotion of equal opportunity and fair treatment in employment.
- 9.1.2 No discriminatory practices shall exist anywhere in the department.
- 9.1.3 All forms of harassment shall be eliminated.
- 9.1.4 All barriers shall be removed that unfairly restrict employment and promotion opportunities of designated groups.
- 9.1.5 The department shall provide a grievance procedure to ensure that complaints of harassment are dealt with sensitively and effectively.
- 9.1.6 Enhanced representation of currently under represented categories of people, with the emphasis on blacks, women and people with disabilities in all occupational categories and levels.

- 9.1.7 The department is expected to conduct an organizational climate assessment to test the perceptions of employees with regard to discrimination, barriers of advancement, the accommodation and advancement of diversity.
- 9.1.8 The department shall conduct a demographic profile of its workforce in each occupational category and level, focused on its core business/mandate to determine the level of under representation of blacks, women and people with disabilities.

9.2 EMPLOYMENT EQUITY PLAN

In terms of Section 20 of the Employment Equity Act, 1998 all departments, as designated employers, must prepare and implement an employment equity plan, which will achieve reasonable progress towards employment equity.

The Employment Equity Plan will address the following:

- The objectives to be achieved for each year of plan.
- The employment barriers that adversely affect the employment opportunities and the advancement of black, women and people with disabilities.
- A timetable for each year of the plan for the achievement of the employment equity objectives.
- Numerical goals to achieve an equitable representation of black people, women and people with disabilities as measured against the demographics of the country's population, within each occupational category and level.
- Non-numerical goals, by auditing the departmental policies, practices and conducting organizational diagnostics and environment/climate survey for the purpose of identifying and correcting any covert or overt practices hindering the achievement of equity.
- The duration of the plan, which will be between one (1) and five (5) years.
- Procedures to monitor and evaluate the implementation of the plan.
- Procedure to resolve any dispute about the interpretation and implementation of the plan.
- The establishment of Employment Equity steering Committee which will be responsible for implementing and monitoring the plan.
- Any other matter prescribed by the Employment Equity Act, 1998.

9.3 EMPLOYMENT EQUITY REPORT

Each department shall prepare and submit an Employment Equity report to the Department of Labour as stipulated in Section 21 of the Employment Equity Act, 1998.

Such Employment Equity report must be signed by the Head of Department and must contain the prescribed information on progress made in achieving the goals of the employment equity plan and reasons why any aspects of the plan has not been achieved.

The department is required by Section 22 of the Employment Equity Act, 1998 to publish a summary of their reports in their annual financial reports.

10. PREVENTION AND ELIMINATION OF UNFAIR DISCRIMINATION

10.1 Duty to Eliminate Unfair Discrimination

Every manager must take steps to promote equal opportunity in the workplace by eliminating unfair discrimination in any employment policy or practice within their sphere of authority.

10.2 Prohibition of Unfair Discrimination

- a. All forms of unfair discrimination, whether direct or indirect, are prohibited and it is the responsibility of all employees to inform themselves about and refrain from perpetrating unfair discrimination.
- b. Prohibited grounds of unfair discrimination, include one or more of the following:
 - i. Race;
 - ii. Gender;
 - iii. Sex;
 - iv. Pregnancy;
 - v. Marital status;
 - vi. Family responsibility;
 - vii. Ethnic or social origin;
 - viii. Colour;
 - ix. Sexual orientation;
 - x. Age;
 - xi. Disability;
 - xii. Religion;
 - xiii. HIV status;
 - xiv. Conscience;
 - xv. Belief;
 - xvi. Political opinion;
 - xvii. Culture;
 - xviii. Language; and
 - xix. Birth;

- xx. A difference in terms and conditions of employment between employees of the same employer performing the same or substantially the same work or work of equal value that is directly or indirectly based on any one or more of the grounds listed above, is unfair discrimination.

- c. In line with the Department's conviction that no individual should be denied any employment opportunity for reasons other than ability, unfair discrimination on the basis of other human qualities that may not be in the above list (extracted from the Employment Equity Act) is also prohibited.

10.3 Preferential Treatment

Preferential treatment of Historically Disadvantaged Individuals in employment, within the boundaries of the Employment Equity Act and the Promotion of Equality and Prevention of Unfair Discrimination Act, shall not constitute unfair discrimination.

10.4 Inherent Requirement of a Job

Employment practices that distinguish, exclude, or prefer any person on the basis of an inherent requirement of a job is permissible provided there is a demonstrable relationship between the requirements in question and job performance and also that affirmative action objective are not undermined.

10.5 Prohibition of Unauthorized Medical Testing

Medical testing is prohibited unless authorized by and conducted in accordance with the provisions of Section 7 of the Employment Equity Act and the provisions of the Departmental policy on HIV/AIDS.

11. ROLES AND RESPONSIBILITIES

11.1 Responsibilities

- a. The MEC and the HOD have overall responsibility for achieving employment equity in the Department and for ensuring employment equity compliance throughout;
- b. The HOD must appoint an Employment Equity Manager at SMS level, and with adequate authority and reporting to the HOD, to facilitate employment equity implementation;
- c. It is the responsibility of each SMS level manager to conduct a workplace analysis or audit and to prepare and implement an Employment Equity Plan for his or her component;

- d. Each component's Employment Equity Plan shall be disseminated to all employees in that component and the Department's Employment Equity Plan shall be displayed as prescribed in the Employment Equity Act;
- e. The Human Resources Manager and the Employment Equity Manager in consultation with the line managers shall compile a Workplace Profile and a departmental Employment Equity Plan in response to all barriers identified in a departmental Employment Equity Audit;
- f. The Department's Employment Equity Plan, including targets, shall be revised annually in response to employment shifts and to address barriers identified through a regular analysis of all employment practices,
- g. The HOD shall sign the Employment Equity Plan and ensure that each manager is held accountable for employment equity delivery, through the individual and Departmental performance management processes; and
- h. Employment Equity Reports shall be prepared quarterly and annually by each SMS manager, feeding to quarterly and annual reports to be prepared by the Employment Equity Manager.

11.2 Developing or Updating a Workforce Profile and Numerical Targets

- a. A Workforce Profile, indicating the extend of representation for each Designated Group, shall be regularly developed and/or updated for the Department and each unit.
- b. Numerical Targets for the Department shall be displayed for all to see, and should be integrated in organizational performance review mechanisms.

11.3 Consultation

- a. In addition to the consultation of Trade Unions, measures will be put in place to ensure that the views of non-unionized employees are also taken into consideration.
- b. Final decisions regarding employment equity planning remain a management prerogative and responsibility.

12. APPLICATION OF EMPLOYMENT EQUITY IN ALL HUMAN RESOURCES EMPLOYMENT PRACTICES AND PROCESS

12.1 General Statement

- a. All employment practices and human resources processes should promote an affirming non-discriminatory environment that fosters respect for dignity of all while ensuring that each employee's potential is fully realized in the interests of service excellence.
- b. All employment practices and human resources processes shall be regularly aligned with employment equity requirements and objectives.
- c. The alignment will be facilitated by periodic audits and reviews aimed at identifying and eliminating barriers that undermine equal enjoyment of workplace opportunities by women, black people, people with disabilities and any other group.
- d. Human resources research and data management shall be adapted to support regular monitoring of all aspects of employment equity.

12.2 Human Resources Planning

- a. All human resources planning processes and plans shall aligned to and contribute to the achievement of employment equity goals and objectives.
- b. Human resources planning shall include succession planning and a retention strategy to ensure that there is always a pool of suitably qualified HDI's from which senior and scarce skills appointments that promote equality may be made.
- c. Succession planning does not mean reserving or promising a job to any person.

12.3 Recruitment, Advertising and Selection

a. Recruitment

- i. The determination of employment requirements for any job should be reviewed to identify and eliminate unintended unfair discrimination.
- ii. Requirements that unfairly and unnecessarily perpetuate historical imbalances by disproportionately excluding HDI's, should be avoided.
- iii. There should always be a demonstrable relationship between job requirements, including qualifications and years of experience, and outputs expected from the job.
- iv. Affirmative action requirements regarding a post shall be established before advertising and taking into account in advertising strategies.

b. Advertising

- i. The core functions or essential requirements of each job should be identified and, to the extent possible, included in the advert to facilitate fair selection.
- ii. Posts shall be advertised as widely as possible with special measures implemented to attract as many suitably qualified persons from the Designated Groups, particularly the least represented in that category of posts, as possible.
- iii. It is the joint responsibility of the Director: Human Resources and each SMS manager on whose structure an advertised posts sits, to ensure that as many suitably qualified persons from Designated Groups apply.
- iii. Every job advert shall indicate the Department's position on affirmative action and non discrimination and to the extent possible, indicate whether preferential treatment will be given to candidates from one or more of the Designated Groups that are suitably qualified as envisaged in the Public Service Act.

c. Selection

- i. All Selection Committees or Panels shall compromise at least 40% of either gender and to the extent possible, be inclusive with regard to race and disability.
- ii. Where necessary, appropriately qualified and/or ranked HDI's from other government departments or civil society will be co-opted to ensure that Selection Committees or are Panels are representative.
- iii. Panelists shall be provided with the Departmental and relevant unit's employment equity profile and plan prior to the short-listing and interview processes.
- iv. Standard guidelines for integrating affirmative action considerations in selection processes shall be prepared and integrated in the training of all managers;
- v. Where representiveness is an issue, the interview and selection should focus on identifying suitably qualified persons and not necessarily the best qualified person.

12.4 Appointment and Appointment Process

- a. Where a person other than a candidate who will promote equitable representation of HDIs is recommended for appointment, written reasons should be included and an indication of what was done to recruit suitably qualified HDIs and an undertaking to correct the situation, should be included.

- b. The appointing officer may choose not to fill the post if the equitable representation of one or more of the Designated Groups will be severely undermined.
- c. It is the responsibility of the HOD to ensure that all appointments promote equitable representation of all Designated Groups, particularly in compliance with public service affirmative action targets.
- d. Appointment on the basis of potential shall be accompanied by a skills development plan which shall be implemented immediately after appointment.
- e. An induction is an important practice for HDIs entering through lateral entry or appointed on the basis of potential and should accordingly always be implemented.
- f. A probation period of an HDI appointed on the basis of potential shall be linked to a skills development plan that is informed by the selection process.

12.5 Job Classification and Grading

All forms of unfair discrimination, whether direct or indirect, shall be identified and removed from all job classifications and grading.

12.6 Remuneration, Employment Benefits and Terms/Conditions of Employment

All forms of unfair discrimination, whether direct or indirect, shall be identified and removed from all remuneration, employment benefits and conditions of employment.

12.7 Job Assignments

- a. All forms of unfair discrimination, whether direct or indirect, shall be identified and removed from job assignment practices.
- b. Acting assignments will be executed in a manner that promotes the advancement of HDIs and their equitable representation at all levels of authority.

12.8 The Working Environment and Facilities

- a. The Department shall do everything possible to create an affirming work environment for all employees that is free from harassment and unfair discrimination.
- b. All managers are required to identify unfair discrimination in the work environment within their authority and progressively eliminate such within the context of an Employment Equity Plan.
- c. Creating an affirming and non-discriminatory environment incorporates implementing measures that seek to provide reasonable accommodation to address gender, disability and other differences.

- d. The Employee Assistance Programme should get involved as early as possible in performance deficiencies that seem to emanate from disability or family problems.

12.9 Training and Development

- a. Unfair discrimination, whether direct or indirect, in training and development is prohibited.
- b. All training and development policies and practices, particularly skills development measures as envisaged in the Skills Development Act, shall be regularly audited to identify and eliminate unfair discrimination.
- c. Training and development measures constitute an important part of affirmative action and shall accordingly be aligned to employment equity, particularly affirmative action objectives as outlined in the Training and Development Policy.
- d. Accelerated development and preferential treatment of persons from Designated Groups forms part of employment equity and is to be reflected in the Employment Equity Plan, including targets and in the Workplace Skills Plan.

12.10 Performance Management

- a. A clear job description is an important measure for ensuring openness and eliminating real or perceived unfair discrimination in performance management and should accordingly always be implemented immediately upon appointment.
- b. Proportional responsibility for the achievement of employment equity objectives and targets will be reflected in the Job Descriptions and Performance contracts of the HOD, Human Resources Director, Employment Equity Officer and all SMS Managers.

12.11 Promotion

- a. Promotion is an integral part of employment equity and ensuring employment equity in promotions is as much a requirement as ensuring equitable representation of designated groups at all levels.
- b. Developmental and other measures shall be implemented to ensure that suitably qualified members of designated groups are appointed in all occupational categories and levels.
- c. One of the mechanisms for eliminating unfair discrimination is to ensure that written policies and practices specify the criteria which apply to promotions.
- d. Managers implementing the policies and practices should be monitored to ensure that they are not applying these inconsistently.

12.12 Transfer

- a. Voluntary, including cross transfers that facilitate the objectives of employment equity, shall be encouraged.
- b. Lateral transfers to equivalent positions may be effectively used to achieve employment equity targets.
- c. Reasonable provision shall be made where an employee requests a transfer.

12.13 Demotion

- a. Demotion of the HDIs shall be sanctioned by the HOD after satisfying himself or herself that there was no unfair discrimination in the circumstances that led to such demotion.

12.14 Discipline, Grievance and Dispute

- a. All disciplinary and grievance procedures shall be reviewed regularly to identify and eliminate unfair discrimination, whether direct or indirect, and to ensure that processes facilitate swift, effective and responsive resolution of employment equity disputes.
- b. The manner in which discipline and grievance are managed can generate conflict in a workplace and may undermine employment equity achievements and policies.
- c. Employers should ensure that their disciplinary and grievance policies are consistently and impartially applied.
- d. The existing grievance, discipline and dispute resolution procedures must be conducive in dealing with unfair discrimination.

12.15 Termination of Employment

- a. Employment termination trends shall be reviewed regularly to ensure that HDIs are not disproportionately terminated and to identify and address possible unfair discrimination and improve retention, particularly of Designated Groups.
- b. When employees who have disabilities are dismissed for operational requirements, the employer should ensure that any selection criteria used do not either directly or indirectly unfairly discriminate against people with disabilities.

13. STRUCTURES, RESPONSIBILITIES AND OBLIGATIONS

13.1 General Principles

- a. The consultation principles that are stipulated in the Employment Equity Act shall be compiled with at all times.
- b. Gender, disability and other equality or human rights issues relating to equality in the workplace are to be mainstreamed in the implementation of this policy even though such issues may be elaborated in separate instruments and coordinated by different structures.
- c. Persons or structures responsible for the coordination of gender and other programmes referred to in 12.1 (b) above, should be represented in employment equity structures and decision-making processes.
- d. It is the responsibility of all managers to ensure that all aspects of employment equity are implemented and compiled with within the context of their responsibility.
- e. All managers and employees shall be educated on employment equity and on valuing and managing diversity.

13.2 HOD (Head of Department)

- a. The Head of the Department bears ultimate responsibility for employment equity compliance, including the achievement of a representative workforce.

13.3 Employment Equity Officer and Employment Equity Committee

- a. The HOD shall designate or appoint an SMS manager who participates in all employment decision-making structures as an Employment Equity Officer, as prescribed in the Employment Equity Act.
- b. The Employment Equity Manager shall advise on and monitor the implementation of employment equity and shall be granted sufficient authority to discharge his/her responsibility effectively.
- c. A broadly representative Employment Equity Committee, which is a representative of all employee's labour unions and chaired by the Employment Equity Manager, shall be established to advice on and monitor the implementation of employment equity.

14. DISPUTE RESOLUTION

14.1 Disciplinary Action

- a. The Department reserves the right to take disciplinary action, in accordance with the Labour Relations Act 1998 (as amended) and Resolution 2 of 1999 as amended by Resolution 1 of 2003, against any person who violates any provision of this policy.
- b. The procedure to be followed in dealing with employment equity violations will be as stipulated in Resolution 1 of 2003 Disciplinary Code and Procedures for the Public Service.
- c. Sanctions may range from requiring an apology, being ordered to undergo appropriate training, losing merits points, warnings to sanctions such as suspension, demotion and dismissal for gross violations.

14.2 Grievance Procedure

a. Informal Grievance Procedure

- i. An employee who feels discriminated unfairly or has some other employment equity grievance may approach his or her manager/supervisor for a resolution.
- ii. If not satisfied with the outcome, the employee may approach a higher authority or the HOD.
- iii. Disputes arising from the interpretation and implementation of this policy shall generally be dealt with by a mediator appointed by the HOD with the consent of the parties. If the mediation fails, then the HOD shall further attempt to mediate in his/her capacity.
- iv. Should all attempts at mediation fail, an employee may seek recourse in external avenues, having followed the procedure outlined in (b) below.

b. Formal Grievance Procedure

- i. If the manager/supervisor's response is unsatisfactory, the grievance may be escalated to the Labour Relations Office to facilitate the resolution of grievances in the Department on the prescribed form within 90 (ninety) days from which the employee became aware of the official act or omission which adversely affects him or her.
- ii. The Labour Relations Officer must acknowledge receipt on the prescribed form.
- iii. The LRO must liaise with the relevant structures of authority in the Department to attempt to resolve the grievance.

- iv. The LRO must inform the aggrieved employee about the status and the progress made towards the resolution of the grievance.
- v. If the grievance is resolved to the satisfaction of the aggrieved employee, the confirmation thereof will be reduced to writing by the LRO on the prescribed form.
- vi. If the grievance cannot be resolved the HOD must inform the aggrieved employee accordingly.
- vii. If the aggrieved employee is still dissatisfied after being supplied with the outcome he or she must inform the Executing Authority within 10 (ten) days.
- viii. The Executing Authority must in terms of section 35 (1) of the Public Service Act of 1994, forward the grievance and any relevant documentation to the Public Service Commission for a recommendation within 5(five) days of being informed by the aggrieved employee.
- ix. If however the grievance constitutes an alleged unfair labour practice as defined in the Labour Relations Act, the employee may inform the Executing Authority in writing that he or she wishes to utilize the dispute resolution mechanism provided for in the constitution of the General Public Service Sectoral Bargaining Council and the Public Service Commission should therefore not consider the grievance.
- x. On receipt of the Commission's recommendations the Executing Authority must within 5 (five) days inform the employee and the Commission of his or her decision in writing.
- xi. Appropriate disputes may be taken to the Commission for Conciliation, Mediation and Arbitration (CCMA) or the Equality Court, after exhausting internal procedures.

15. MONITORING, EVALUATION AND REVIEW

- 15.1 The Employment Equity Manager shall, with the assistance of the employee's trade unions and the Employment Equity Committee, monitor, evaluate and advise on the implementation of the Employment Equity Policy.
- 15.2 All Performance Agreements of managers shall contain applicable employment equity obligations and failure to comply shall attract possible disciplinary action, and/or a reduction in the performance bonus.
- 15.3 The Employment Equity Manager, who is directly accountable to the HOD, shall cooperate with all equality officers, including the Gender Focal Point, Disability Officer or Focal Point.
- 15.4 A monthly Employment Equity Report shall be prepared by each SMS manager for their unit and integrated in their performance review.
- 15.5 A departmental Employment Equity Report that is signed by the HOD shall be prepared quarterly and annually by the Employment Equity Manager with the help of the Human Resources Director. Such report is to be summarized in the annual report and submitted to the Department of Labour, as prescribed.

15.6 The Department's Human Resources Organizational Strategy and Planning Sub-Directorate is responsible for communicating the document within the Department and all managers and supervisors are responsible for the implementation thereof.

16. RELATED POLICIES

16.1 Effective implementation of this policy requires that it be read together with departmental policies on HIV/AIDS, Training and Development, Sexual Harassment and other HR policies.

16.2 Other policies to be given consideration include departmental policies on Gender, Disability and Older Persons.

17. COMMENCEMENT OF THE POLICY

This policy shall be implemented by the Department with effect from the date of approval and signature by the HOD.

APPROVED



BDT MAHLAKOLENG (MR)
HEAD OF DEPARTMENT

SIGNED THIS DAY 02OF.....09.....2014.