

EMPLOYMENT EQUITY POLICY

Item B-HR (13-2006) MC 14/09/2006	REPORT ON THE EMPLOYMENT EQUITY POLICY
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RESOLVED:

1. **That** the contents of the report regarding the Employment Equity Policy **BE NOTED**.
2. **That** the Employment Equity Policy **BE ADOPTED** and **APPROVED** from the date of resolution.
3. **That** all previous Employment Equity Policies from the disestablished Councils **BE RESCINDED** and **BE REPLACED** with the proposed Employment Equity Policy as set out in **Annexure "A"** attached to the report.
4. **That** the Corporate Services Portfolio Committee **BE** the designated body to which reports in terms of the policy **BE SUBMITTED** on behalf of Council.

EKURHULENI METROPOLITAN MUNICIPALITY

EMPLOYMENT EQUITY POLICY

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1. DEFINITIONS

In this policy, unless the context indicates otherwise:

Employee means any person, excluding an independent contractor, who works for the Ekurhuleni Metropolitan Municipality and who receives, or is entitled to receive, any remuneration;

Employer means the Ekurhuleni Metropolitan Municipality;

Any expression or word used in this document which is defined in the Employment Equity Act (Act No 55 of 1998) shall have the same meaning as in the Act unless defined otherwise herein;

The Act means the Employment Equity Act, (Act No 55 of 1998);

Affirmative Action referred to the purposeful and planned placement or development of people from designated groups in positions from which they were debarred in the past in an attempt to redress past disadvantages and to render the workforce more representative of the demographics of Ekurhuleni in particular and South Africa in general.

Black people means Africans, Coloureds and Indians;

Basic Basic means principles that are vital, essential and indispensable to employment equity.

Designated groups mean black people, women and people with disabilities;

People with disabilities means people who have a long term or recurring physical or mental impairment which substantially limits their prospects of entry into or advancement in employment.

Diversity means any way in which individuals or groups differ from one another, including but is not limited to: cultural values, interests, traditions, languages, beliefs and preferences.

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“EMM” means the municipality that was formed when the following towns were disestablished:

Springs, Brakpan, Benoni, Boksburg, Germiston, Alberton, Kempton Park, Nigel and Edenvale.

“Workplace” refers to the place of work as contemplated in the Labour Relations Act 1995 (Act No. 66 of 1995).

“Consultation” means on-going interaction between all relevant stakeholders, within appropriate structures as referred to in the Labour Relations and Employment Equity Acts, with an intention to reach consensus

“Suitably qualified” a person may be suitably qualified for a job as a result of any one of or any combination of the following:

- (a) formal qualification
- (b) prior learning
- (c) relevant experience or
- (d) capacity to acquire within a reasonable time, the ability to do the job

“Revenge”: Intentional non-appointment of a person to inflict revenge for wrong done to one self or on behalf of someone else.

“Patronage”: the power to control appointments in the office with the aim of promoting affirmative action.

“Tokenism”: the practice of making only a perfunctory or symbolic effort to do a particular thing, especially represented groups in order to give the appearance of sexual or racial equality within a workplace.

“Stakeholder”: refer to all people with an interest or concern in something. In this case “stakeholder” shall refer to those parties that shall be consulted on matters of employment equity as stipulated in Section 16 of the Employment Equity Act.

2. PREAMBLE

The Ekurhuleni Metropolitan Municipality (hereinafter referred to as (EMM) recognises that local governance entails a process of reconstruction, democratisation and development in order to eradicate the effects of apartheid. EMM also recognizes that affirmative action and employment equity forms an integral part of this transformation.

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EMM shall implement comprehensive employment equity, training and development and education strategies to redress historic and existing inequalities, imbalances, prejudices and injustices in the workplace by:

- Ensuring equal employment opportunity practices;
- Enforcing the right of fundamental equality and opportunity between men and women in employment as well as the right of every person to be protected against employment or procurement discrimination on the grounds of race, gender ethnic or social origin, colour, age, culture, language, marital status, disability or economic status.
- Committing itself to a consultative process of effective planning and implementing affirmative action and employment equity to redress past imbalances, and identifying the skills, occupational categories required in the future to ensure the attainment of a socially responsible, efficient and racially integrated workforce, representative and sensitive to the needs of the community.

EMPLOYMENT EQUITY POLICY

3. PURPOSE

The purpose of this Employment Equity Policy is to provide:

- (i) A framework for implementing the principles of the Employment Equity Act.
- (ii) A framework for implementing and monitoring Affirmative Action Programmes.
- (iii) A framework for monitoring Economic Empowerment Programmes.
- (iv) Basis whereby in 2015 EMM shall have promoted equality, diversity and transformation through elimination of unfair discrimination and the empowerment of designated groups which will reflect EMM demographics.
- (v) To this extent the EMM:
 - shall have an Employment Equity structure that is transparent, diverse and shall ensure empowerment through multi-skilling; and

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- commit itself to recruitment and selection process that is fair, non-discriminatory, culture free and accessible, thereby enabling a representative workforce.

4. MANDATORY REQUIREMENTS

The Employment Equity Policy is mandated by the following Acts of Law:

4.1 The Constitution (108 of 1996)

- Chapter 2 (the Bill of Rights)
- Section 23: (the Labour Relations Rights)
Relates to the employees and employers; Unions and employer & organisation
- Chapter 10 (Public Administration: Basic values and principles governing public administration)
- Section 195(1)(l):

4.2 The Labour Relations Act (66 of 1995) as amended

4.3 The Basic Conditions of Employment Act (75 of 1997)

4.4 The Employment Equity Act (55 of 1998)

4.5 The Skills Development Act (97 of 1998)

4.6 The Skills Development Levies Act (9 of 1999)

4.7 The municipal Systems Act (32 of 2000)

4.8 All related collective agreement and legislations

4.9 The Promotion of Equality and Prevention of unfair Discrimination Act (4 of 2000). Codes of good practice

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- 4.10 **The Code of Good Practice on the Handling of Sexual Harassment Cases;**
- 4.11 **The Code of Good Practice on the Preparation, Implementation and Monitoring of Employment Equity Plans;**
- 4.12 **The Code of Good Practice on the Employment of People with Disabilities and Code of Good**
- 4.13 **Practice on Key Aspects of HIV/AIDS and Employment.**

5. SCOPE OF APPLICATION

This policy applies to the EMM and all employees as described in Chapter III of the Employment Equity Act, unless it provides otherwise.

It shall also address the broader community of Ekurhuleni.

The policy shall, amongst others, focus on:

- (a) Issues related to Human Resources Management
- (b) Education, Training and Development of employees
- (c) Advancement of people with disabilities
- (d) Management of Gender equality issues and gender mainstreaming:
- (e) Reasonable accommodation (defined in the Chapter 1 of the Act as any modification or adjustment to a job or working environment that will enable a person from a designated group to have access to or participate or advance in employment).

It shall have to divest itself to all related areas which may have a bearing to labour issues. It shall have to be a policy of pure labour issues that one primarily relates to the employment conditions. It shall address the different constituencies that comprise the target groups within the EMM (All areas where people are employed).

6 OBJECTIVES

- 6.1. To transform the EMM as far as possible into an equal opportunity institution by employing a workforce that shall reflect the demographic profile of the municipal area of Ekurhuleni.

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- 6.2. To promote openness and encourage inclusively in the consultation process relating to employment equity, as contemplated in the Employment Equity Act.
- 6.3. To create and establish an environment within EMM as a workplace, that lends itself to equal access and opportunities for growth and development to designated groups.
- 6.4. To ensure skills development and accelerated development by advancing and promoting successful implementation of the equity targets reflected in National Skills Strategy of South Africa.
- 6.5. To confirm the EMM commitment towards the implementation of employment equity through acknowledgement by and involvement of management, the Executive Mayor and the City Manager.
- 6.6. To empower members of designated groups economically.

7. EMPLOYMENT EQUITY VALUES

Successful implementation of equity and attainment of equality will be guided by the following principles and values:

- Development and implementation of a “smart” EE Plan.
- Participatory management of change
- Partnership, consultation and cooperation
- Meaningful and effective consultation with all relevant stakeholders
- Efficiency and effectiveness characterised by high quality standards and performance
- Creation of a climate conducive to transformation and change.
- Embracement and celebration of diversity

Compliance with the LAWS of the land

Redress of past imbalances

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8 **ROLE PRINCIPLES OF EMPLOYMENT EQUITY****(a) Basic**

May in terms of this reference mean the operational or functionary principles or strategies informing the principle i.e. principles behind the principle.

(b) Responsibility

Employment equity shall be focussed to address the EMM's realities and priorities.

Employment equity shall be applied in an objective and responsible manner to ensure that it accelerates capacity building, advancement and equity in employment.

(c) Equity

Employment equity objectives shall ensure basic fairness.

Employment equity shall exclude/avoid revenge, patronage or tokenism.

Employment equity goals shall ensure equity.

(d) Inclusively

The Employment equity process shall be inclusive.

The employment equity process shall compose of all role players in the workplace, i.e. the Municipality, Management the Unions and other relevant stakeholders.

Inclusiveness and representation shall guarantee meaningful and responsible participation by the role-players in instituting a well-conversed transformation programme.

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(e) Security

The employment equity process must be securely located in the policy of the EMM.

The employment equity process must acknowledge the provisions of the constitution of the Republic of South Africa on the aspects of fairness, equality and representivity.

(f) Representativeness

Time frames and monitoring procedures approved must be put in place to ensure the attainment of representivity at the workplace.

The process of employment equity shall be informed and influenced by the dynamic realistic such as natural attrition, creating and filling of posts.

Training and development processes approved by the "Tripartite Institution" to capacitate this process on ensuring proportionality.

(g) Accountability

The Employment equity process must be transparent and accountable to the entire workplace.

9. ROLE AND RESPONSIBILITY

Employment Equity is a strategic initiative of the EMM. Section 24 of the Act requires an employer to assign a manager or managers to be responsible for employment equity. The following managers are identified as the key agents in the implementation and monitoring of employment equity:

The City Manager, Executive Director Human Resources Management and Development Employment Equity Director, Employment Equity Stakeholder Committee, Heads of Customer Care Centre's and Line Managers.

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Those assigned responsibility, should:

- Be permanent EMM employees
- Report directly to the City Manager
- Have key employment equity outcomes incorporated into their performance contracts (in fact, all managers should have key employment equity outcomes incorporated into their performance contracts).

And shall be given:

- The necessary authority or mandate
- An appropriate budget
- Time off from other duties and commitments to attend Employment Equity Stakeholder Committee meetings as per the approved schedule.
- Access to other required resources

The assignment of responsibility does not relieve the employer of any responsibility imposed by the Act.

The assigned managers shall be employed to manage employment equity only or managers who have been assigned this role as part of their other responsibilities.

The Role players are as follows:

(a) Executive Authority

The City Manager of the EMM is the highest administrative authority on all issues relating to employment equity.

(b) Primary Role

The Employment Equity Director takes the responsibility for driving the process.

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(c) Advisory Role

The Employment Equity Stakeholder Committee as a task group assists with the development and monitoring of the implementation of the policy together with the Employment Equity Director.

(d) Operational Role

- The Executive Director of each and every department shall be directly responsible for the implementation of EE in their respective department with the aim of promoting designated groups and equality for all.
- The Executive Director Human Resources Management and Development shall assist in a professional capacity to manage and develop the employees.

10. MONITORING AND EVALUATION

The City Manager, the SED's, all Heads of departments, the Employment Equity Director, Managers and Supervisors shall be responsible for monitoring and evaluating the progress.

The Executive Director Human Resources Management and Development shall monitor and evaluate the Human Resources data-base and track trends in promotion, recruitment, exits, staff profiles and training and development.

The direct monitoring and reporting to the Department of Labour must be done by the City Manager through Council.

11. CONSULTATION

The EMM commits itself to continuous and regular consultation with all relevant stakeholders.

Consultation with all relevant stakeholders shall commence at the beginning of the process.

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Consultation shall apply as determined in the Employment Equity Act and Labour Relations Act (Act 66 of 1995) as amended:

To ensure an informed and constructive consultation process, structured and regular meetings of the Employment Equity Stakeholder Committee or Forums shall be held.

The EMM shall consult with all stakeholders with regard to conducting an analysis, the preparation and implementation of the plan, and the submission of employment equity reports to the Department of Labour.

To ensure the successful implementation of a plan, the EMM shall make every effort to include employee representatives in all aspects of the plan, especially the planning, development and implementation phases.

The EMM shall, in all good faith, keep an open mind throughout the process and seriously consider proposals put forward and consult on such process and proposals with organised labour and other stakeholders.

Where a representative body or trade union refuses to take part in the consultation process in order to reach consensus, the EMM shall record the circumstances, in writing, including those steps that the EMM has taken to communicate and initiate the process as well as the reasons for such refusal. Members of the Employment Equity Stakeholder Committee shall be permitted to consult from time to time with the relevant constituency.

12. COMMUNICATION AND ADVOCACY

EMM shall develop an advocacy strategy to ensure popularisation of the Employment Equity Plan, with the following components:

12.1 A communication strategy

To raise awareness on all issues related to Employment Equity, using both the informal and formal communication structures.

To identify and create a common understanding throughout the EMM area of jurisdiction, with regard to what employment equity is and what it means to the EMM.

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The employment equity policy as well as the employment equity plan must be appropriately and comprehensively communicated to all stakeholders, employees and the public and that, members of the Employment Equity Stakeholder Committee shall be permitted to consult and communicate such policy and plan with their constituency.

The communication mechanism shall indicate the parties responsible for the implementation of the Employment Equity Policy.

All employees to be made aware and be informed of:

- the content and application of the Act as preparation for their participation and consultation
- employment equity and anti-discrimination issues
- the proposed process to be followed by the EMM after consultation with the said stakeholders
- the advantages to employees of participation in the process; and
- the need for the involvement of all stakeholders in order to promote positive outcomes

Managers shall be informed of their obligations in terms of the Act, and training be provided to them where particular skills do not exist. Examples of required training could include amongst others diversity management, coaching and mentoring programmes.

The communication of an employment equity strategy shall focus on positive outcomes, such as the better utilisation of all the EMM's human resources and the creation of a diverse and more productive workforce as well as proper communication with all the stakeholders.

12.2 Training Plan

EMM shall establish employment equity champions/ representatives in all the programmes, who will be trained extensively in all matters related to planning, implementation, consultation, monitoring and evaluation, conducting EE Audits, legal requirements and reporting, to ensure effective implementation, commitment and ownership at programme level.

13 IMPLEMENTATION AND COMPLIANCE

The EMM shall consult on the plan with organised labour. implement the plan and to display the policy and the plan and make it readily available to all its employees and other stakeholders.

All heads of Departments and Divisions shall have key employment equity outcomes incorporated into their performance contracts. Compliance to equity with regard to the achievement of numerical goals shall be evaluated in terms of the EMM's performance evaluation system.

Points shall be allocated where designated groups are appointed, disaggregated according to race, gender and disability. EMM shall review with the intention to increase the weighting attached to performance related to implementation of Employment Equity, to strengthen and support meaningful implementation

14. STAKEHOLDERS COMMITTEE

The EMM shall establish a Stakeholder Committee in order to:

- Oversee and monitor the implementation of the objectives, principles, strategies and procedures of employment equity
- Making recommendations on matters affecting employment equity
- Monitoring and evaluating the effectiveness of employment equity programmes as well as obtaining approval from the Council

The Committee shall report on a regular basis to Council or its nominee.

Composition of the Employment Equity and Skills Development Consultative Committee shall be as follows:

- City Manager
- Political representative
- Each Head of Department or an employee reporting directly to her/him
- 3 representatives: SAMWU
- 2 representatives: IMATU
- 1 representative: Women employees

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- 1 representatives: Disabled employees
- 1 representatives: White Male employees
- 1 non-unionised employee

15. TRAINING AND DEVELOPMENT

The EMM commits itself to develop training and development programmes in order to enable Council to comply with the provisions of the Employment Equity Act. All employees at all levels shall be offered the opportunity to develop their skills, ranging from ABET to top management development.

- The training and development of employment equity candidates is a priority for the success of employment equity. Therefore an aggressive and comprehensive approach to performance improvement must be established.
- Innovative programmes and processes shall be initiated to accelerate the development of candidates with potential for advancement.
- Competency profiles to be compiled to determine training needs;
- Adult Basic Education, Accelerated Technical Training, Accelerated Supervisory and Managerial Training are emphasised and policies to be applied, particularly for employment equity beneficiaries.

16. RECRUITMENT AND SELECTION

The EMM shall take steps to promote equal opportunity by filling all vacant and new positions in accordance with the projected numerical goals indicated in the Plan so as to reach an equitable representation.

No medical testing shall be done unless it meets the requirements of testing as stipulated in Section 7 of the Act.

Psychometric testing approved by Council may only be used if it is valid, reliable, fair and applicable and has been standardised to the South African situation. It shall be administered in accordance with the requirements of Section 8 of the EE

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To ensure that employment equity is achieved effectively during the process of selection and appointments, the implementation of the Recruitment and Selection Policy shall be in accordance with the Employment Equity Act, the Employment Equity Policy, Codes of Good Practice on Employees with Disabilities and any other Regulation emanating from the EE Act.

17. CHANGE MANAGEMENT

EMM is committed to the creation and fostering of an environment in the workplace that promotes equity and removes barriers to development and equality for designated groups

The EMM is committed to assist employees in accepting and understanding change management by providing information programmes, and any other informative programmes to ensure that transformation takes place effectively. It shall, inter alia address:

- Gender equality issues
- Racial imbalances and bias in EMM
- Sexual harassment
- Reasonable accommodation for people with disabilities
- Poor embracement of Diversity
- Hate Speech
- Prohibition of dissemination and publication of unfair discriminatory information

18. RESOURCES

The EMM shall allocate appropriate funds to implement all the components of the equity plan to ensure effective transformation. Budget must be informed by the structure of the EMM and be equitably distributed according to the resources that have been allocated to those structures in the most equitable manner to effect the best implementation of the employment equity process.

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19. REVIEW AND ALIGN ALL ORGANISATIONAL POLICIES, STRUCTURES, PRACTICES AND PROCEDURES

The EMM commits itself to reviewing and developing all policies, procedures and practices in line with the Employment Equity Act and to consult on relevant policies, procedures and practices with organised Labour.

The EMM shall undertake a situation analysis to identify barriers to equal opportunities and introduce measures to eliminate unfair discrimination and implement affirmative action measures to promote the equitable representation of designated groups in all occupational categories and levels and that such analysis be consulted on with organised labour.

21. DISPUTE RESOLUTION

If there is a dispute about the interpretation or application of this policy, any party to the dispute may refer it to the appropriate dispute resolution structure provided for in the Conditions of Employment Agreement applicable and read with the stipulations in the Labour Relations Act 1995, as well as the Employment Equity Act.

22 REPORTING

Reporting on progress of employment equity in EMM shall be two-fold. The first level will be an annual report send to the Department of Labour as stipulated in the Employment Equity Act and on the format as contained in the Regulations of that Act.

The second level will be semester reports send to Council or its nominee to enable it to monitor the movement of employees in each Department so as to determine the effective achievement of employment equity.

In view of the fact that the EMM's operations extend across different functional units and workplaces, the EMM shall submit one report for the entire Municipality.