

KWAZULU – NATAL DEPARTMENT OF EDUCATION AND CULTURE

AFFIRMATIVE ACTION POLICY DOCUMENT PUBLIC SERVICE PERSONNEL

1. INTRODUCTION

Affirmative Action should be interpreted not as an activity undertaken in addition to other Administrative tasks, but as an essential tool for achieving the Department's strategic and operational goals. It follows that Affirmative Action is not an isolated function carried out only by specially appointed staff, but rather an integral element to every aspect of the Department's management practices. Central to the Affirmative Action Policy is the fact that responsibility for Affirmative Action is no longer the preserve of an Affirmative Action specialist, but of every Manager, Supervisor and Human Resource Practitioner.

The value of equality has become a founding principle upon which the current constitutional dispensation of our country is built. Equality is also central to the Bill of Rights, in which it is established as the first substantive right. Section 195(1) of the Constitution of the Republic of South Africa stipulates that:

“Public Administration must be broadly representative of the South African people, with employment and personnel management practices based on ability, objectivity, fairness and the need to redress the imbalances of the past to achieve broad representation”.

Taking into account the legislative prescripts and the constitutional imperatives, it is mandatory for the Department to introduce strategies to achieve a diverse workforce based on the principles of objectivity, fairness and equality. This will necessitate the implementation of employment and personnel management practices based on ability, objectivity, fairness and the need to redress the imbalances of the past through an Affirmative Action Policy.

The KwaZulu – Natal Department of Education and Culture hereby acknowledges the existence of inequalities, imbalances, prejudices and injustices as a consequence of the past discriminatory policies and practices.

It is therefore necessary for the Department to introduce corrective steps in order to ensure that those who have been historically disadvantaged by unfair discrimination are able to derive full benefit from an equitable employment environment.

2. SCOPE OF APPLICATION

This policy applies to employees employed in terms of the Public Service Act (103) of 1994 as amended.

3. APPLICABLE LEGISLATION

Constitution 1996 (Act 108 of 1996)
Labour Relations Act 1995 (Act 66 of 1995) as amended
Employment Equity Act 1998 (Act 55 of 1998)
Public Service Regulations, 2001
Skills Development Act 1998 (Act 97 of 1998)
Public Finance Management Act, 1998
Promotion of Equality and Prevention of Unfair Discrimination Act, 2 of 2000
Public Service Act (103) of 1994, as amended
Skills Levies Act, 1999

4. OBJECTIVES

The objectives of the Department's Affirmative Action Policy, within the framework of the applicable legislation, are to:

- enhance the capacities of the historically disadvantaged through the development and introduction of practical measures that support their advancement within the Department;
- inculcate in the Department a culture which values diversity and supports the affirmation of those who have previously been disadvantaged;
- remove all forms of discriminatory practices based on race, gender, disability, age and language so as to achieve equity in the Department;
- promote inter – cultural communication at all levels by creating a favourable climate which is sensitive to the diversity within the workplace;
- design and implement Education Training and Development Programmes that will empower employees at all occupational levels in particular the designated groups;

- examine and modify traditional management styles and empower management to manage diversity;
- Accelerate the intake and empowerment of designated groups at all occupational levels.
- give particular attention to gender representivity at all levels;
- make employment more accessible to persons with disabilities; and
- pay attention to the uncertainties and fears generated by the transformation process.

5. **POLICY PROVISIONS:**

1. All appointments and promotions must be made in accordance with this policy as well as the Department's Recruitment Policy for public service personnel.
2. The advertisement for any post must indicate that the Department is an Affirmative Action, equal opportunity employer and that all posts will be filled with the intention of achieving the numerical goals of the Department as set out in the Employment Equity Plan.
3. Candidates must be shortlisted in accordance with the Department's Recruitment Policy for Public Service Personnel and with due regard to the Department's numerical goals.
4. In cases where the Department's workforce profile reflects that there is under – representation in that level or category of the workforce where the appointment is to be made then persons falling within the under – represented group must as far as reasonably possible be shortlisted provided that they are suitably qualified.
5. When determining whether a person is suitably qualified for a job, the Department may not discriminate against a person solely on the ground of that person's lack of relevant experience.
6. All shortlisted applicants must as far as reasonably possible be interviewed.
7. At the conclusion of the interview the candidates must be ranked on the basis of merit. It must be noted that at this stage of the process merit must be the only criterion used.

8. From the merit list:
 - (a) the person falling within the most under – represented group in the category or level of the workforce where the appointment is to be made, must be recommended provided that he/ she scores at least 60% at the interview.
 - (b) Should a candidate from the most under – represented group score less than 60% then a candidate from the next most under – represented group must be recommended provided that he/ she scores at least 60%.
9. In instances where there is no clear preference due to the same level of under – representivity then merit will be the over – riding criterion.
10. The Chief Executive Officer should always ensure that the appointment is in line with the provisions of the Departmental Affirmative Action Policy and Recruitment Policy (Public Servants).
11. The recommendations of the Selection Committee can only be varied in the following circumstances:
 - if the person who has the authority to appoint is of the opinion that the provisions of this policy have been incorrectly applied.
 - if there is evidence of bias and/ or procedural irregularities.
12. The Selection Committee when making recommendations must be in possession of the Department’s workforce profile. A copy thereof must accompany their recommendations for the filling of the post.

6. TRAINING AND DEVELOPMENT

The Department will:

- induct, orientate, train, mentor and embark on the Education Training Development Programmes for members of the designated groups and tailor these to suit their needs.
- provide the necessary resources for training programmes and ensure that participation in such programmes is supported by line managers;

- liaise with managers to ensure that the training provided is related to the competencies required for enhancing job performance;
- liaise with training providers to ensure that training and education contribute meaningfully to career development;
- provide training to line managers which enables them to undertake their Affirmative Action responsibilities;
- develop all employees and school governing bodies, to engender respect for diversity based on equal dignity and respect for all employees;
- other forms of training will be provided in line with the Department's Workplace Skills Plan and Training and Development Policy.

7. EVALUATION OF EMPLOYEES

The Performance Evaluation system should be implemented in line with the provisions of the Employment Equity Act (55 of 1998).

8. MONITORING

Affirmative Action within the Department will be monitored through the legislative framework of the Employment Equity Act, 1998 The Department's Employment Equity Plan and other relevant prescripts.

- the Department will implement the Performance Evaluation System, which will be aimed at:
 - determining the efficiency of the employees
 - ensuring that employees are placed correctly with regard to their abilities.
 - identifying areas where further development and training are necessary

9. DISPUTE PROCEDURES

Dispute about the implementation or interpretation of this policy will be referred in writing to the CCMA within six months after the act or omission that allegedly constitutes unfair discrimination.

10. CONCLUSION

The legacy of racial discrimination, gender, disability, stereotyping and the compulsion to implement Affirmative Action as a statutory requirement, results in individuals from the historically disadvantaged groups having to face hostility on the job. Members of these groups are often stigmatized as token appointees and are seen to be unworthy of their jobs. Such hostility has cast a slur on many if not all members of these groups despite their levels of competence, capacity, and qualifications and even when black people, women or persons with disabilities are better at their jobs than anyone else. As a result, many individuals from the target group prefer not to be associated with Affirmative Action. For the perpetrators and the victims of this behaviour, this policy document wishes to emphasize and remind employees that Affirmative Action is a corrective measure of the KwaZulu –Natal Department of Education and Culture to bring about equality for the designated groups that have suffered innumerable historical injustices. For this reason, the Department cannot and will not entertain an apologist stance to Affirmative Action nor should any individual from the historically disadvantaged groups feel apologetic about benefiting directly from this policy.

GENERAL

Disciplinary Action will be taken against any employee who disregards the provisions of this policy

AFFIRMATIVE ACTION POLICY

DEFINITIONS:

1. **Black people:** means Africans, Coloured and Indians
2. **Designated groups:** means black people, women and Persons with disabilities
3. **Disabled:** persons whose prospects of securing and retaining suitable employment or promotion are substantially reduced as a result of physical or mental impairment.
4. **Suitably qualified:** refers to anyone or a combination of the following factors:
 - ❑ Formal qualifications
 - ❑ Prior learning
 - ❑ Relevant experience or
 - ❑ Capacity to acquire within a reasonable time, the ability to do the job. Trainability of that person (How trained is that person).
5. **Under – representation:** Where a person from the designated group is numerically under – represented in a particular level and category of the workforce.