



Policy on Employment Equity

Policy information

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**University of Cape Town
Employment Equity Policy and Procedure**

In accordance with the provisions of the Employment Equity Act 55 of 1998, the Employment Equity Regulations of 2014 and the Employment Equity Codes of Good Practice, as amended

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1. Preamble

The goal of the UCT Employment Equity as captured in our Vision 2030 is “to unleash human potential for a fair and just society.” To this end, we are committed to redressing inequality and building social justice through conscious interventions to return dignity to the formerly historically disadvantaged by amplifying their voices and creating an institutional culture that makes it possible for them to reclaim their agency.

A policy on employment equity can adhere to the letter of the law or embrace the spirit of the law. Our policy combines both as we do not see these as mutually exclusive. We acknowledge that an employment equity policy can come across as simply a tick box compliance exercise. Especially when it utilises the offensive racial and ethnic designations that characterised the apartheid system. However, not using these designations makes it very difficult to track the progress that is being made to undo the skewed racial profile of UCT’s staff composition left behind by the discriminatory racial policies of the past. But using these designations does not mean an endorsement of them and using them is certainly not an end in itself. However important compliance is, it is a means to an end.

If the letter of the EE policy is to ensure redress through intentional and targeted recruitment strategies designed to improve the representivity of designated groups and the creation of an inclusive and diverse workplace then the spirit of the policy is to champion an organisational culture of inclusivity and respect for all its people and ensure equal opportunity and fair treatment in all aspects of employment including recruitment, promotion, training and advancement.

The policy is designed to provide decision-makers with the guiding principles to make defensible decisions in a reasonable, fair and justifiable manner, but even more importantly to ensure that transformation takes place in pursuit of the vision of becoming the leading African university proud of its new inclusive identity that reflects the interests and aspirations of all of its staff and students. Our EE policy is unequivocal in its stance on anti-racism, non-sexism and any other forms of unfair discrimination. Integral to this policy is not only compliance but also commitment to redress, inclusivity and diversity. At the heart of our policy is transformation, of which decolonization is a central tenet.

The Employment Equity policy is to be read in conjunction with the relevant staffing policies governing implementation in the workplace. These will include recruitment and selection, remuneration and promotions amongst others, also see (http://www.hr.uct.ac.za/hr/policies/HR_policies).

2. Purpose

The purpose of this policy is:

- a) To state the role of the University in respect of execution of its EE obligations;
- b) To provide a guideline (see the attached HR Practice Note) for employees to use when dealing with EE matters;

- c) To clarify the rights of employees;
- d) To clarify the role of the EE governance structures; and,
- e) To define concepts or terms used in this document in relation to EE.

Furthermore, this policy aims at ensuring that the institution complies with EE legislative principles by:

- a) Upholding fair and objective principles and procedures for the staffing, development, retention and exiting of employees of the institution; and,
- b) Providing guidelines for the appointment of candidates to the institution, as well as, the development, promotion, retention and exiting of employees in the institution.

3. Definition of Terms

- 3.1 'Affirmative Action' means measures developed in response to barriers identified in the analysis report (EEA12) to ensure that suitably qualified persons from designated groups have equal employment opportunities and are equitably represented in all occupational categories in the workforce.
- 3.2 'Barriers' means any obstacle to the implementation of EE and affirmative action as identified by the institutional barrier analysis and set out in the objectives of the University's current EE Plan.
- 3.3 'Designated groups' mean black (i.e. African, Coloured and Indian) people, women and people with disabilities who are citizens of South Africa by birth or descent; or became citizens of the Republic of South Africa by naturalisation: before 27 April 1994; or after 26 April 1994 and who would have been entitled to acquire citizenship prior to that date but were precluded by apartheid policies. It also include Chinese employees who are citizens of South Africa by birth or descent; or became citizens of the Republic of South Africa by naturalisation: before 27 April 1994; or after 26 April 1994 and who would have been entitled to acquire citizenship prior to that date but were precluded by apartheid policies.
- 3.4 'Employee' means any person other than an independent contractor who works for the University, and who receives, or is entitled to receive, any remuneration; and in any manner assists in carrying on or conducting the business of the employer.
- 3.5 'Employment Equity Forum' refers to the forum for consultation on Employment Equity as required by the Act and it advises the Vice-Chancellor and Executive, and reports to the Institutional Forum and the University Human Resource Committee on these matters.
- 3.6 'Employment policies, practises and procedures' refers to, but is not limited to, recruitment procedures, advertising and selection criteria, appointments (and the appointment process), job classification and grading, remuneration, employment benefits and terms and conditions of employment, job assignments, the working environment and facilities, training and development, performance evaluation systems, promotion, transfer, demotion, and disciplinary measures other than dismissal.
- 3.7 'Inherent Requirements of the job' means tasks which are essential to perform a job and without which the position or the job cannot successfully function. It is a characteristic which must be necessary for effectively carrying out the duties attached to a position.
- 3.8 'Manager' means any employee of the University with managerial or supervisory responsibilities.
- 3.9 'Occupational Levels' means or refers to occupational levels within organisations as determined using different job evaluation or grading systems. Guidelines on 'Occupational Level' are provided in EEA9 Annexure of the EE Regulations, 2014, as amended.

- 3.10 'Persons with disabilities' Persons are considered as 'Persons with disabilities' if they have a physical or mental impairment which is long-term (i.e. the impairment that has lasted or is likely to persist for at least twelve months) or recurring, which substantially limits their prospects of entry into, or advancement in employment.
- 3.11 'Reasonable Accommodation' means any modification or adjustment to a job or to the working environment that will enable a person from a designated group to have access to or participate or advance in employment.
- 3.12 'Recognition of Prior Learning' (RPL) means a process by which individuals who had gained skills and knowledge through informal, non-formal or experiential learning can be assessed, recognised and awarded credits for such learning if it meets the requirements of an National Qualification Framework registered qualification or part qualification.
- 3.13 Registered Trade Union Representative' means a representative of a trade union as defined in section 213 of the Labour Relations Act and registered in terms of section 96 of the Labour Relations Act, and as recognised by the university's recognition agreements with these trade unions.
- 3.14 'Suitably qualified person' means a person may be suitably qualified based on the formal qualifications, prior learning, relevant experience or capacity to acquire, within a reasonable time, the ability (attributes, skills and competencies necessary) to perform a job. A person may be deemed to be "suitably qualified" for a job as a result of any one of or a combination of the aforementioned.

4. Scope and Objectives

- 4.1 This Policy applies to all permanent, fixed-term contractors, part-time employees and job applicants of the University. Excluded are volunteers, independent contractors and all other forms of recruitment.
- 4.2 The University strives to and recognizes its obligations in terms of the Constitution of the Republic of South Africa and the Employment Equity Act (55 of 1998) as amended to:
- 4.2.1 Promote equal opportunity and fair treatment in employment through the elimination of unfair discrimination; and,
 - 4.2.2 Implement affirmative action measures to redress the disadvantages in employment experienced by designated groups, in order to ensure their equitable representation in all occupational levels in the workforce.

5. Policy Principles

The University shall realize the objective of creating an equitable work environment for all its employees, by interpreting and implementing this policy in accordance with the following principles:

- 5.1 The staffing policies and its implementation will be fundamentally aimed at matching the staffing resources to the strategic and operational needs of the University and ensuring the full utilisation and continued development of all employees.
- 5.2 Each employee-related decision must be rationally and objectively justifiable.
- 5.3 The strategic and operational needs of the institution and the relevant reporting and managerial structures of the institution are determined by the Vice-Chancellor and the Leadership Lekgotla, together with their Faculty/ Departmental Management teams. The Employment Equity strategies are developed in consultation with employees and their representatives via the various consultative fora.

- 5.4 All aspects of talent management (the staffing, structuring, recruitment, selection, interviewing, appointment, development, promotion, retention and termination) of employees will be non-discriminatory, except as provided in this policy with reference to Employment Equity and will afford employees equal opportunity to grow and develop in the institution.
- 5.5 The equitable representation of designated groups in all occupational levels shall be fulfilled in a fair and equitable manner, by taking into account:
- relevant interests and legitimate aspirations of all employees;
 - the University's commitment to academic excellence; and
 - the need for balancing efficiency and representivity.

Special weight shall be applied to progressively address under-representation of designated groups and the University shall not adopt any employment policy or practice that will establish unfair barriers to the prospective or continued employment or advancement of people who are not from designated groups.

- 5.6 The University shall promote an organisational culture of respect for the dignity, inclusivity and non-marginalisation of all its employees, and barriers to the full utilisation of the potential of all employees shall be removed.
- 5.7 The University is an Employment Equity employer, and as such, preference will be given to suitably qualified candidates who are members of designated groups as defined in section 1 of the Employment Equity Act, as amended, until their representation in all occupational levels has reached the desired targets and long-term goals.
- 5.8 Transparency: All Employment Equity measures and decisions shall be taken in a transparent and justifiable manner.
- 5.9 Communication and consultation: In line with its commitment to transparency, the University shall ensure that all policies, programmes and procedures relating to Employment Equity are developed on a consultative basis with all relevant stakeholders. All relevant stakeholders shall be afforded a reasonable opportunity to participate in relevant decision-making.
- 5.10 Resources: The University shall ensure that adequate financial and other relevant resources are made available to ensure the support and realisation of this Policy, subject to affordability and financial sustainability.
- 5.11 The University recognises that all the people that have been appointed have met the criteria of suitably qualified as defined in this policy.
- 5.12 The University furthermore shall promote and maintain an environment that empowers all its employees and students to achieve their highest potential without fear of prejudice or bias.
- 5.13 Using the University's recruitment policies and procedures as a framework, every reasonable effort will be made to appoint suitable internal and external candidates from the designated groups to vacant positions. To make the University's recruitment strategy an effective tool for Employment Equity, the focus of the strategy will strive to be proactive and long term, rather than reactive and short-term. Hence, succession planning and retention strategies will be used to identify and develop the potential of internal and external candidates from the designated groups.

6. Implementation

6.1 Affirmative Action and Employment Equity

6.1.1 Affirmative Action:

- a) As a designated employer the University shall, in order to achieve Employment Equity, implement affirmative action measures for people from designated groups as defined in section 1 of the Employment Equity Act as amended.
- b) 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 levels in the workforce of the institution.
- c) Affirmative action measures include, but are not limited to, the following:
 - i. measures to identify and eliminate employment barriers, including unfair discrimination, which adversely affect people from designated groups;
 - ii. measures designed to further diversity in the workplace based on equal dignity and respect of all people;
 - iii. making reasonable accommodation for suitably qualified people from designated groups including persons with disabilities;
 - iv. measures to recruit, promote, retain and develop people from designated groups, including skills development and skills transfer; and,
 - v. measures that include preferential treatment, numerical goals and measures other than numerical goals, but exclude quotas or the creation of absolute barriers.
- d) No provision in this policy should be construed as requiring the University to take any decision concerning employment policy or practice that would establish an absolute barrier to the prospective or continued employment or advancement of people who are not from designated groups. This includes, but is not limited to, any decision relating to the termination of employment of any employee of the University for reasons not relating to the conduct or capacity of the employee or the operational requirements of the employer in terms of the provisions of Chapter VII of the Labour Relations Act, dealing with dispute resolution, as amended.

6.1.2 Employment Equity

- a) The University is defined as a “designated employer” in terms of section 1 of the Employment Equity Act as amended, and, as such, the provisions of Chapter 3 of the Employment Equity Act, dealing with affirmative action, are directly applicable to the institution.
- b) The University shall take steps to promote equal opportunity in the workplace by eliminating unfair discrimination in any employment policy or practice.
- c) Unfair discrimination is prohibited where no person may unfairly discriminate, directly or indirectly, against an employee in any employment policy or practice, on one or more grounds, including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture language and birth.
- d) It will not constitute unfair discrimination to take affirmative action measures consistent with the purposes of the Employment Equity Act as amended as set out in this policy or to distinguish, exclude or prefer any person on the basis of an inherent requirement of any job.
- e) Victimisation and harassment of an employee, including racial and sexual harassment of any form, constitutes unfair discrimination and such conduct shall attract disciplinary action against any employee found to have committed such acts.
- f) Pay disparity based on unjustifiable and arbitrary grounds constitutes unfair discrimination and the University shall ensure that the principle of equal pay for work of equal value shall be upheld for all appointments as stipulated in section 2 in the Employment Equity Regulations, 2014, as amended

6.2 **Recruitment and Selection**

- 6.2.1 The recruitment processes shall be informed by the University's Employment Equity Plan which includes the planned affirmative action provisions.
- 6.2.2 Recruitment and selection, as an important mechanism to achieving the University's numerical goals and targets and increasing the representivity of the designated groups, shall be conducted fairly and without unfair discrimination in order to ensure that a larger skills pool is available from which to recruit.
- 6.2.3 The University's Recruitment and Selection Policies and practices shall outline the approach to recruitment and selection and reflect the goals of the University's Employment Equity Policy (*refer to the attached HR Practice Note*).
- 6.2.4 When advertising positions, the University shall consider the Employment Equity Policy read in conjunction with HR Practice Note in all its recruitment processes. Job advertisements shall emphasise the suitable criteria for the job and shall accurately reflect the inherent or essential requirements (i.e. the core functions) of the job and competency specifications.
- 6.2.5 All selection committee chairs must always adhere to the compliance of the Employment Equity Policy and the HR Practice Note. This shall be achieved through the adherence of the recruitment process rules and criteria, the completion of EE Checklist (HR168) forms and raising of disputes in accordance with section 7 of this policy.
- 6.2.6 During the recruitment and selection process, the suitability of the candidates will be determined in line with the definition of a 'suitably qualified person' as enshrined in the EE Act in section 20 (3) and (4). The suitability of a candidate will further be interrogated in terms of the recognition of prior learning as defined in this policy.
- 6.2.7 During the recruitment and selection process, the Employment Equity representatives shall form part of the committee and consistently participate in:
- a) sharing information and data in relation to Employment Equity goals and targets for consideration by the committee;
 - b) advising the committee on the Employment Equity Plan demographic profile, goals and targets;
 - c) the formulation of the job advert taking cognisance of any statement that may unfairly exclude designated groups;
 - d) the meeting to propose the shortlisted candidates to the full committee and the final interview shortlist that is decided by the committee;
 - e) the interview phase and provision of feedback about the interviewed candidates;
 - f) voting in the process to assess whether candidates are deemed suitably qualified;
 - g) documenting and recording the process using the EE Checklist (HR 168) form;
 - h) noting any recruitment process concerns to the committee, Head of Department and the Transformation Chair;
 - i) report non-compliance to the EE policy to the VC via the DVC Transformation Office.
- 6.2.8 The recruitment and selection process will be done in a fair and open manner to verify demonstrated competence, growth potential and alignment with the institutional values and principles as outlined in section 5.

6.3 Career Advancements

- 6.3.1 The University recognises upward mobility and lateral transfers as having the potential to impact and accelerate equitable representation of all groups in occupational levels

within a workplace, including acting in a more senior position for a specific period of time.

- 6.3.2 The advancement and transfers processes shall be informed by the University's Promotion Policies/procedures and are considered as key drivers for Employment Equity in that they can involve fast tracking the advancement towards achieving numerical goals and targets through structured and targeted capacity building programmes including succession planning, career development, leadership development, New Generation of Academics Programme and Next Generation Professoriate.

6.4 Employee learning and development

- 6.4.1 The University is committed to development of all its employees and its objective of encouraging learning and development of employees while prioritising designated groups.
- 6.4.2 Staff learning and development processes shall be informed by the University's Learning and Development policy, which will be guided by the University's Employment Equity Policy and which will grant preference in access to training and development opportunities for designated groups until their representation in all occupational levels has reached the desired targets and long-term goals.

6.5 Reasonable accommodation

The University shall ensure reasonable accommodation for job applicants and employees, from designated groups including persons with disabilities, where applicable.

6.6 Education and Training

- 6.6.1 Line Managers shall be provided with the necessary and appropriate guidelines and training to ensure they are competent to deal with any incidents relating to unfair discrimination, harassment as well as the management of a diverse workforce profile.
- 6.6.2 Training and guidance shall also be provided by the Human Resources Department (HRD) to selection, performance evaluation, grading and promotion committees/panels regarding the making of appointments, the conducting of the evaluation process, performance management, job grading, promotion and lateral transfers and the employment equity plan provisions and considerations.
- 6.6.3 Employment Equity training for the purposes of capacity building shall be provided to enhance Employment Equity knowledge to employees and Employment Equity representatives to sharpen the understanding of the concepts, legislation and Employment Equity Practices towards the achievement of Employment Equity goals and targets.

6.7 Communication

The University shall, via the Office for Inclusivity and Change (OIC) and the Human Resources Department (HRD), ensure that all employees understand their role in terms of creating a work environment and culture which is free from any form of harassment and unfair discrimination. Communication and training structures shall ensure effective communication by and consultation of all employees.

6.8 Other Employment Equity Process steps

- 6.8.1 As employer, UCT shall take reasonable steps to consult and reach agreement on matters listed in section 17 of the Employment Equity Act as amended (which deals with matters for consultation) with its employees or representatives nominated by the employees, subject to the provisions of section 16 of the Employment Equity Act as amended (which deals with consultation with employees).
- 6.8.2 The University must collect information and conduct an analysis in the prescribed form, of its employment policies, practices, procedures and the working environment in order to identify employment barriers which adversely affect people from designated groups in terms of the provisions of section 19 of the Employment Equity Act as amended (which deals with the barrier analysis).
- 6.8.3 The University shall prepare and implement an Employment Equity plan, which will achieve reasonable progress towards employment equity in the institution's workforce, and such plan shall contain, at the very least, the information listed in section 20(2) of the Employment Equity Act as amended (which deals with the preparation of the employment equity plan).
- 6.8.4 The University shall comply with the provisions of section 21 (which deals with the reporting to the Department of Labour), section 23 (which deals with the preparation of successive employment equity plans) and all other provisions of Chapter III of the Employment Equity Act as amended, dealing with affirmative action measures.
- 6.9 **Implementation Structure/s**
- 6.9.1 **The University's Human Resources Department and the Office for Inclusivity and Change:**
- 6.9.1.1 The University's OIC and HRD carry joint primary responsibility for the implementation and monitoring of this Policy.
- 6.9.1.2 The Employment Equity Manager in the OIC shall be responsible for establishing the appropriate organisational structures, compliance procedures and monitoring mechanisms, including the regular collation of information, workforce data and analysis, the conducting of equity audits regarding any aspects of employment at the University and reporting of findings to the Executive Management Team at least on an annual basis. In addition, the OIC shall publish progress made in respect of Employment Equity on a quarterly basis
- 6.9.1.3 The University has a group of trained Employment Equity representatives forming a structure that is responsible for monitoring and reporting on the recruitment and selection process.
- 6.9.1.4 The Human Resource Department shall be responsible for overseeing and implementing all staff related policies, procedures, processes and practices from entry to exit, and ensure integration with Employment Equity legislative requirements.
- 6.9.1.5 The OIC shall be responsible for dealing with both students and staff sexual and racial harassment, gender-based violence, disability services and contributing towards creating a culture of inclusivity.
- 6.9.2 **Employment Equity Forum and University Human Resources Committee:**
- 6.9.2.1 The Employment Equity Act requires the University, as a designated employer, to consult employees in respect of its employment policies, procedures and practices,

including preparation and implementation of an Employment Equity Plan which, inter alia, must set out its numerical goals and the affirmative action measures to achieve Employment Equity. It must also create procedures that will be used to monitor and evaluate the implementation of the plan to check whether reasonable progress is being made towards implementing Employment Equity.

6.9.2.2 The Employment Equity Forum (EEF) is the forum for consultation on these and other matters pertaining to employment equity as required by the Act. It advises the Vice-Chancellor and reports to the Institutional Forum and University Human Resource (Sub-) Committee (UHRC) of Council.

6.9.2.3 The role of the EEF must be seen in the context of the Vice-Chancellor's accountability for transformation more generally and the role of the Institutional Forum which has specific functions laid down in the Higher Education Act; advising Council on equity policies and on the fostering of an institutional culture which promotes tolerance and respect for fundamental human rights and creates an appropriate environment for teaching, research and learning.

6.9.2.4 The role of the University Human Resources Committee (UHRC) is to ensure legislative compliance is always maintained and that the implementation of Employment Equity processes and reporting is properly facilitated and reported upon, thereby contributing to the achievement of Employment Equity targets and objectives.

6.9.2.5 The Senate, Faculty Boards and academic departments have parallel responsibilities for transformation in the areas of student admissions policies, academic development and curricula, and institutional culture. These are part of a wider transformation agenda and will be reported to Employment Equity, but just as the Senate structures will not ordinarily or primarily concern themselves with the related Human Resource issues that are the domain of this advisory committee so too this advisory committee will not ordinarily or primarily concern itself with student academic development programmes or curriculum matters.

6.9.2.6 The EEF is a forum for EE representatives and for the registered trade unions to share experiences, as well as being a communication channel between employees on the ground and the senior executive.

6.9.2.7 The EEF may:

- a) refer any matter relating to Employment Equity to the Institutional Forum and UHRC where it believes that the issue is one on which the Institutional Forum and UHRC should be advising the Council; and
- b) submit a report or proposal directly to the chairperson of the UHRC, the designated Council representative, if for any reason it considers this necessary.

6.9.2.8 The EEF shall provide a forum to share experience and good practice on Employment Equity, this shall include presentations by Employment Equity representatives.

6.9.2.9 The role of the Employment Equity members/representatives shall be governed by the terms of reference of the EEF, which document can be obtained on the University intranet/website.

6.9.3 Department or Faculty Transformation Committees:

6.9.3.1 Each faculty and University PASS department is required to have its own transformation structure and each head (Dean, Executive Director, or Registrar)

must seek its advice in exercising accountability for transformation generally and consult it and employees more generally on the faculty or department employment equity plan.

6.9.3.2 Each faculty board and PASS department management structure shall include Employment Equity in their agendas, and report on its progress against their Employment Equity Plans to the relevant head on a quarterly basis.

6.10 Accountability

6.10.1 The Vice-Chancellor, in consultation with the governance structures of the University, is responsible for implementation of Employment Equity, taking affirmative action measures and ensuring compliance with the provisions of the Employment Equity Act, as amended.

6.10.2 The Vice-Chancellor shall duly appoint Employment Equity Manager/s as stipulated in section 24 of the Employment Equity Act, as amended.

6.10.3 All Line Managers are responsible for the implementation of the Employment Equity Policy and Plan and as stipulated in their respective annual Performance Agreements and Job Descriptions which is to include an Employment Equity Key Performance Area.

7. Disputes

7.1 Section 20 (g) of the Employment Equity Act, provides guidelines regarding dispute resolution relating to the interpretation of the EE Plan. These disputes must be reported immediately for the speedy resolution thereof. The following dispute resolution procedure must be followed regarding the interpretation and implementation of this Employment Equity Policy. All other grievances or complaints related to human resource matters and conditions of service should be directed to the HR Department for resolution.

7.1.1 A complaint must be submitted to the OIC in writing to assess whether the complaint is related to the EE Policy. If not, the matter should be referred to the Human Resources.

7.1.2 The complaint should be referred to relevant Dean/Executive Director via the OIC. The relevant head shall provide feedback in writing to the complainant via the OIC within five working days of receipt of the complaint.

7.1.3 If the complainant is not satisfied, they may request that the OIC refer the matter in writing to the Vice-Chancellor or the Vice-Chancellor's Nominee within two working days for review. The Office of the Vice-Chancellor, via the OIC, shall provide feedback to the complainant and the head, in writing within five working days from receipt of the referral.

7.1.4 Should the complainant remain unsatisfied with the outcome, they may choose to refer the matter to the Ombud for review within seven working days.

7.1.5 Should the matter remain unresolved, it may be handled in accordance with the appropriate procedures (depending on the nature of the dispute) set out in the Employment Equity Act and Labour Relations Act, as amended, respectively.

7.2 All disputes relating to the University's employment equity plan must be handled in accordance with the dispute resolution procedure as set out above before either party has recourse to the Centre of Conciliation, Mediation and Arbitration.



8. Monitoring and Evaluation

The OIC and its duly delegated Policy Owner is responsible for conducting a comprehensive review of this policy at a minimum of every three years or as required, to stay current with applicable legislation and University strategic objectives.