



Guideline 7: Employment Equity Plan



Human Resources
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INTRODUCTION

This Guideline is intended to provide clarification of the requirements of the *Employment Equity Act* related to the preparation and implementation of an employment equity plan. Separate Guidelines address related issues of consultation and collaboration with employee representatives (including bargaining agents) in this process, as well as the requirements to monitor, review and revise the employment equity plan.

Guidelines provide general direction and practical pointers which reflect best practices. They are not, however, a template: readers should consider the specific circumstances of their own organizations as they use the Guidelines. Other documents to consult include the *Act* and *Regulations*, as well as documents available from the Canadian Human Rights Commission (CHRC) relating to the audit process.

PART A: LEGAL FRAMEWORK

The main legal requirements regarding employment equity plans are contained in the *Act* itself. There are no regulations specifically relating to the contents of an employment equity plan. However, those *Employment Equity Regulations* pertaining to the **Workforce Analysis** (sections 6 and 7) and the **Employment Systems Review** (sections 8 to 10), in particular, will be relevant to aspects of the plan (such as measures to eliminate barriers and the setting of goals).

*Please refer to **Guideline 5: Workforce Analysis** and **Guideline 6: Employment Systems Review***

Preparing An Employment Equity Plan

An employer must prepare an employment equity plan which complies with the requirements described below. [Act, s. 10]

Consultation and collaboration

Preparation of the plan must take place in consultation with and with the collaboration of employee representatives. [Act, s. 15]

*“Representatives” means those persons designated by employees to act as their representatives or means bargaining agents where they represent the employees. Please refer to **Guideline 3: Consultation and Collaboration** for further*

information.

Positive policies and practices

The plan must set out the positive policies and practices that the employer intends to institute in the following one to three years to correct the under-representation of designated group members which has been identified in the workforce analysis. These positive policies and practices relate to:

- the hiring of designated group members;
- the training of designated group members;
- the promotion of designated group members;
- the retention of designated group members; and
- the making of reasonable accommodation for designated group members. [Act, s. 10(1)(a)]

The plan must also establish a timetable for the implementation of these positive policies and practices. [Act, s. 10(1)(c)]

Elimination of barriers

The plan must specify the measures the employer intends to take in the next one to three years to eliminate any barriers that have been identified in the employment systems review. [Act, s. 10(1)(b)]

The obligation to conduct an employment systems review to identify barriers is set out in s.9(1)(b) of the Act.

*Please refer to **Guideline 6: Employment Systems Review** for further information.*

The plan must also establish a timetable for the implementation of these measures. [Act, s. 10(1)(c)]

Short term numerical goals

The plan must contain short term numerical goals for the hiring and promotion of designated group members.

“Short term” means a period not less than one year and not more than three years [Act, s. 10(3)]

These goals must relate to a time period ranging from one to three years (“short term”).

The purpose of the goals must be to increase the representation of designated group members in each occupational group in the employer's workforce where under-representation has been identified.

“Occupational group” means one of the fourteen groups listed in Schedule II of the Employment Equity Regulations. This list is based on the National Occupational Classification (NOC).

The plan must specify measures the employer intends to take in each year, in order to meet its short term goals (where these goals relate to a period of more than one year). [Act, s. 10(1)(e)] If the employer's goals are annual goals, presumably this requirement will duplicate the other requirements for measures to eliminate barriers and positive policies. In other words, employers who have set goals for periods greater than one year are still obliged to work towards those goals each year.

Factors to consider

The employer must consider the following factors in setting short term numerical goals:

- the degree of under-representation of designated group members in each occupational group in the employer's workforce;
- the availability of qualified designated group members in the employer's workforce and in the Canadian workforce;
- the anticipated growth or reduction in the employer's workforce during the time period for the goals; and
- the anticipated turnover of employees in the employer's workforce during the time period for the goals. [Act, s. 10(2)]

“Canadian workforce” means all persons in Canada of working age who are willing and able to work.

Longer term goals

The plan must contain longer term goals for increasing the representation of designated groups in the employer's workforce. It must also contain a strategy for achieving these goals. [Act, s. 10(1)(e)] These goals do not have to be numerical, although they may be.

“Longer-term” means a period of more than three years.[Act, s. 10(3)]

Sufficiency of the plan

The plan must be such that it would result in reasonable progress toward employment equity, if it were implemented as it stands. [Act, s. 11] This should not be understood as meaning that an employer need not implement the plan. It simply represents a standard by which to judge whether the plan goes far enough or not, namely a standard of potential “reasonable progress.”

Implementing the Plan

The employer must make all reasonable efforts to implement the plan. [Act, s. 12(a)]

Monitoring, Reviewing, And Revising The Plan

The employer must also monitor the plan to ensure that reasonable progress is being made [Act, s. 12(b)]; and it must review and revise its plan, in consultation with, and with the collaboration of, employee representatives. [Act, s. 13 and s. 15] These requirements are the subject of a separate Guideline, and are not dealt with here.

*Please refer to **Guideline 9: Monitoring, Review and Revision** for a description of the legal requirements in relation to these matters.*

What The Employer Is Not Required To Do

Employment equity does not require employers to undergo undue hardship, to hire or promote unqualified persons, or to create new positions in their workforce in order to fulfil obligations under the Act. [Act, s. 6]

Moreover, no employer can be required, either by the Canadian Human Rights Commission, or by an Employment Equity Review Tribunal, to do any of the following in implementing employment equity:

- taking a measure which would result in undue hardship to the employer;
- hiring or promoting unqualified persons;
- creating new positions in its workforce;
- meeting a quota for the hiring and promotion of designated group members; and
- adopting a goal which does not take into account the four factors which are set out in section 10(2) of the Act. [Act, s. 33(1)]

“Quota” means a requirement to hire or promote a fixed and arbitrary number of persons during a given period.[Act. s. 33(2)].

Employment Equity Plan

PART B: PRACTICAL APPLICATION

Purpose of the Employment Equity Plan

An employment equity plan (“plan” hereafter) is the core of an employment equity program. The plan represents the critical link between analysis of possible shortcomings in human resources policies and procedures, and the creation of fair systems and a representative workforce. It is the document that actually represents the employer’s and employee representatives’ commitment on how the organization will move from “here” to “there.”

As such, the plan should:

- reflect the conclusions of the **Workforce Analysis** -- which determined by occupational group where there was under-representation of one or more designated groups – and the **Employment Systems Review**-- which identified policies and procedures which could act as unfair employment barriers to designated group members;
- set out goals, including a timetable for implementation, for making employment systems fair and neutral and the workforce more representative within a reasonable period of time;
- be “do-able”;
- include benchmarks that will permit assessments of success; and
- clearly indicate who is accountable and responsible for the implementation of the various components of the plan.

*Please refer to page 18 of this Guideline, “**The Sufficiency Of The Plan: What Is Reasonable?**” for a discussion of what is reasonable.*

Implementation of the plan must also be monitored, as required by the *Act*, to ensure that reasonable progress is being made.

*Please refer to **Guideline 9: Monitoring, Review and Revision** for further information.*

Structure Of The Plan

A plan may be a separate, free-standing document or a component of a broader document such as a business plan. If the latter approach is chosen, the employer should be able to extract the elements that comprise the employment equity plan when it is being audited.

Similarly, in terms of its organization, the plan may closely follow the sections of the *Act* and the relevant sections of this Guideline, or may be organized differently. If the latter is preferred, the employer should be able to explain how and where each statutory requirement in section 10 of the *Act* is reflected in its plan.

Elements Of The Plan

Elimination of barriers

Key to employment equity Under the *Act*, an overarching obligation is placed on employers to identify and eliminate barriers to the employment of designated group members. [Act, s. 5(a)] Identification of barriers takes place during the employment systems review. The findings of this review are critical in determining what measures should be included in the plan. In essence, the review identifies the problems and the plan provides solutions.

*Please refer to **Guideline 6: Employment Systems Review** for concrete examples of systems, policies and practices that may act as barriers, with suggestions for how these may be replaced or modified.*

Therefore, this aspect of the plan should flow directly from the employment systems review. It should specify:

- each system, policy, or practice that will be replaced or modified;
- where a system, policy, or practice is to be replaced, what will replace it or how the replacement will be developed;

KEY ELEMENTS OF AN EMPLOYMENT EQUITY PLAN

An employment equity plan should contain:

1. **Positive policies, practices and reasonable accommodations** to be instituted in the short term for the hiring, training, promotion and retention of designated group members.
2. **Short term measures** to be taken by the employer to eliminate employment barriers identified during the review of its employment systems, policies and practices.
3. **A timetable** for the implementation of the positive policies and practices and measures to eliminate employment barriers.
4. **Short term numerical goals** for the hiring and promotion of designated group members in each occupational category where under-representation exists.
5. **Longer term goals** for increasing designated group member representation, including a strategy for achieving those goals. These goals may be numerical, qualitative or both.

- where a system, policy, or practice is to be modified, what the modifications will be or how the modifications will be developed; and
- a timetable for each replacement and modification.

Any barriers identified should be removed as quickly as possible.

Positive policies and practices

Key to employment equity: Identifying and removing barriers to the employment of designated groups is the first step towards achieving employment equity. However, simply eliminating something, taking down a wall that has existed for some time, is not enough. It is only half the picture. The elimination of a barrier may be called a neutralizing measure to achieve equity. Also required are positive measures, to counteract the residual effects of that barrier which could still be evident, for example, in under-representation.

What are they? Positive policies and practices are those initiatives which help to create a respectful, responsive working environment for members of designated groups (and others) and to attract increased numbers of individuals from under-represented designated groups into the employer's workforce. They relate to the hiring, training, promotion and retention of designated group members. They relate as well to the provision of reasonable accommodation. In this Guideline, however, reasonable accommodation will be treated separately. Positive policies and practices go beyond the mere elimination of barriers. They replace barriers with policies and practices that actively promote a representative workforce.

Fair treatment for everyone: One aspect of positive policies and practices may be formal policies and procedures aimed at ensuring that people are treated fairly; for example, policies permitting flexible work arrangements, parental leave policies, measures to improve workplace accessibility, and sensitivity training. Although these sorts of policies and procedures are often of special significance for designated group members, they are generally of benefit to the entire workforce. They will tend to improve the workplace environment for everyone.

Treating Everyone Fairly

- *flexible work arrangements*
- *parental leave policies*
- *improving workplace accessibility*
- *sensitivity training*

Targetted or special measures A second aspect of positive policies and practices is targetted or special measures. These are initiatives aimed specifically at attracting, retaining, and promoting members of designated groups.

Targetted Measures

- *outreach programs*
- *mentoring programs*
- *internal networks*
- *bridging positions*
- *targetted training programs*

The objective of such initiatives is to address the ongoing effects of under-representation by ensuring that the organization:

- reaches out to and welcomes these individuals;
- supports them as they enter new occupations; and
- promotes the creation of a “critical mass” of designated group members in areas where they have traditionally had little representation.

There are many examples of targetted or special measures, and each employer should select and design measures that reflect the organization’s situation and needs. Options include:

- launching outreach efforts in schools or communities where members of under-represented designated groups are concentrated;
- organizing workplace activities to mark dates of special significance to designated group members (e.g., International Women’s Day, International Day for the Elimination of Racism);
- establishing internal mentoring and networking

Could include active participation in the co-op programs of universities and other educational organizations.

initiatives for designated group members;

- creating special training programs or bridging positions to prepare designated group members for non-traditional occupations; and
- deciding that, for a limited period of time, the applications of “qualified” or “qualifiable” candidates from under-represented groups will be given careful consideration for a certain percentage of new openings.

Special measures are measures which, for a limited time, use designated group status as one criterion among many for acceptance into training programs; or as one criterion among many in hiring or promotion decisions. The purpose of special measures is to establish a “critical mass” of designated group members in a workplace or an occupational group. While such measures must be carefully designed to ensure that they do not unduly exclude other candidates, they can play an important role in terms of making change self-perpetuating. In addition, they are supported by the *Canadian Charter of Rights and Freedoms* (s. 15(2)) and the *Canadian Human Rights Act* (s. 16).

Timetable: The plan should also contain a timetable for the implementation of every positive policy and practice. The timetable should ensure a smooth and continuous progression towards a representative workforce. Employers are cautioned against lumping target dates at the end of the period to which the plan relates. In particular, where a plan relates to more than one year, activities must be undertaken in each year. Steady progress should be ensured by the timetable.

Accommodation

Positive policy or practice The making of reasonable accommodation is a particular type of positive measure. Because it is so important, it is treated separately here.

*Please refer to **Guideline 6: Employment Systems Review** for concrete examples of reasonable accommodation.*

The plan should outline how the organization intends to ensure that the needs of applicants and employees

from the designated groups are reasonably accommodated.

What is accommodation? Accommodation means an exemption from or an adjustment to general policies and facilities for an individual with particular needs. It is provided when the policies or facilities in question are, broadly speaking, justifiable, but have an adverse impact on the members of some groups. For something to be justifiable, it must be clearly linked to the nature of the work performed or service provided by the organization.

Accommodation does not mean changing the essential duties of the job or position.

Undue hardship Under human rights law, accommodation must be provided up to the point of undue hardship. Factors that may contribute to undue hardship include insupportable costs, substantial disruptions of operations, and health and safety considerations. It is important to emphasize in this connection that the simple fact that accommodation involves some cost, disruption, or difficulty does not mean that “undue hardship” exists. It is only when some combination of these factors creates a burden which cannot be reasonably borne by the employer that the duty to accommodate is suspended.

Responsibility of bargaining agents Unions have a responsibility to facilitate reasonable accommodation. In particular, where certain provisions of a collective agreement create special difficulties for individuals from a designated group, bargaining agents must cooperate in efforts to address this difficulty. Let’s say, for example, that provisions related to shift-work acted as a barrier to persons with disabilities, because these individuals did not have access to special transit services during the night. Under such circumstances, the union would be expected to help modify the application of the provisions in question for the affected individuals. It should be noted that recent jurisprudence in the area of human rights supports this approach.¹

See **Guideline 3: Consultation and Collaboration** for a fuller discussion of responsibility of bargaining agents and the issue of seniority.

Requesting accommodation The onus for initiating the accommodation process rests on the person requiring accommodation. That individual is also

¹ See, e.g., Central Okanagan School District No. 23 v. Renaud, [1992] 2 S.C.R. 970 (S.C.C.)

expected to be reasonable in responding to proposals put forward by the employer and, where it is involved, the union. The employer and union should assess the specific needs of the individual and put forward options which respect his or her dignity and minimize his or her discomfort.

Suggestions In order to ensure that reasonable accommodation is provided, the plan might include:

- a written accommodation policy for the organization, if one does not already exist, or a process for developing such a policy;
- an outline of the procedures which individuals and managers should follow in making and responding to requests for accommodation, if such an outline does not exist, or a process for developing such an outline;
- a method for bringing the accommodation policy and procedures to the attention of all concerned; and
- funding mechanisms to ensure that the accommodation is not prevented or delayed by ambiguity as to the source of required resources.

The policy and procedures need not be long and detailed. All that is required is that they be sufficient to ensure that reasonable accommodation is provided when requested by individual applicants and employees from designated groups.

Timetable: The plan should also contain a timetable for the implementation of each activity or measure related to accommodation. As mentioned earlier, this timetable should ensure continuous and steady progress towards the goal of employment equity.

Short term hiring and promotion goals

Goals versus quotas The purpose of hiring and promotion goals is to serve as a tool for planning and evaluating employment equity measures. Unlike quotas, goals are based on rational considerations -- outlined below -- and do not automatically result in penalties if they are not met. However, as with any business goal, it is important to examine the factors at work and re-evaluate strategy if performance eventually falls short of expectations.

Goals are an indication of what the organization thinks it can and should achieve in terms of the representation in hiring and promotion of designated groups currently under-represented in the internal workforce.

Goals for each occupational category: Separate goals for hiring and promotion must be established for each designated group. The *Act* requires employers to set goals to increase representation of designated groups in each occupational group where under-representation has been identified. Normally this will mean a separate goal for each underrepresented designated group in each occupational group where under-representation has been identified. However, where occupational groups are very small, the only practical option may be to set joint goals for a combination of them, with the understanding that the objective is to improve designated group representation in each occupational group where under-representation exists.

Absolute goals or percentage goals: Hiring and promotion goals must be numerical and cover a period of one to three years, though annual goals are normal practice. They may be expressed either as absolute numbers or percentages. An example of the former would be: "we aim to hire five women into engineering positions over the next two years." An example of the latter would be: "we aim to have women account for 30 per cent of all hiring into engineering positions over the next two years."

Setting goals: These goals must, at minimum, reflect the results of the workforce analysis, the representation (“availability”) of qualified designated group members in the appropriate external workforce (or in the internal workforce in the case of promotional goals), and the requirement that the plan be sufficient to achieve reasonable progress towards a representative workforce. In the context of the reasonable progress requirement, it is important to consider statistical trends that might affect the impact of a goal over time (for example, particularly low retention rates for the designated group in question or particularly high or low rates of total hiring).

*Please refer to **Guideline 5: Workforce Analysis** for a consideration of what constitutes the appropriate external workforce for the purposes of comparison.*

Where goals are expressed as absolute numbers, they should also reflect anticipated changes in workforce size and anticipated turnover. For example, where an employer knows that a certain number of employees will be retiring within the year, or where specific downsizing or expansion is planned (such as the closing or opening of a branch operation), these factors would be taken into consideration in setting goals expressed as absolute numbers.

Promotion goals: Rates of promotion of designated group members are set based on their representation (“availability”) in those positions in the employer’s workforce which together constitute a reasonable “feeder group” for promotional opportunities in the organization. Promotion goals should not be below availability rates in the relevant internal feeder groups.

Sufficiency of goals: A percentage goal, e.g. a goal expressed as a percentage of all hires, should not be lower than the relevant external representation figure. In other words, employers should aim to achieve rates of hiring and promotion of designated group members which are at least on a par with their representation in the relevant external grouping, thus indicating the likelihood of barrier-free systems, policies and practices.

*Where little or no hiring is expected to take place, in situations of downsizing, for example, a percentage goal on a par with external representation would still be appropriate. It would apply only if there were **in fact** any new hires.*

Similarly, a goal expressed as an absolute number should, if converted to a percentage, also be at or above external representation figures.

It is recommended, however, that goals exceed the external representation figure, because this figure is inherently conservative. The external representation figures for the Employment Equity Occupational Groups (EEOGs) and the National Occupational Classification (NOC) four-digit unit groups only include persons who have had some work experience in the seventeen-month period prior to the Census. Therefore, these representation figures do not include all designated group members who may be qualified and potentially available to work. For example, they would not include those who have not yet entered the labour force or those who have become discouraged because of systemic or attitudinal barriers and have dropped out of the labour force. Thus, one would expect that in reality the availability of qualified designated group members is higher than that indicated by the external representation figures for the EEOGs and NOC unit groups. A “fair” employment equity plan would take this into consideration and set goals above such conservative representation figures.

It is essential that the external representation figures which are chosen for the purposes of comparison in establishing goals reflect, for example, the skill, education or experience actually required for the job. If no particular skill level or experience is required, the external representation figures could be based on the total population 15 years of age and over in the relevant recruitment area. On the other hand, if a particular skill or educational level is required for a job, but no experience is necessary, the external representation figures could be based on the population data by “Highest Level of Schooling” and “Major Field of Study” in the relevant recruitment area.

The appropriateness of the goal must be determined on a case-by-case basis, taking into account the considerations outlined above as well as the impact of the goal on members of groups that are not covered by it.

*Please refer to **Guideline 5: Workforce Analysis** for further information.*

In the case of persons with disabilities, it should be noted that data is currently available on the population aged 15 to 64 who worked anytime between 1986 and 1991.

*The **Browser and XV Software** contain data on the population aged 15 and over by highest level of schooling and major field of study.*

*Please refer to **Guideline 5: Workforce Analysis** for a fuller description of the Browser and XV Software.*

Measures each year Hiring and promotion goals should be accompanied by a description of the measures to be taken each year in order to achieve them. These measures are likely to overlap with elements of the plan required in connection with removal of barriers, positive policies and practices, and reasonable accommodation.

This requirement means that an employer who has set two- or three-year goals, must still implement specific measures each year, rather than leaving it all to the last year of the period covered by the plan.

Longer term goals

Purpose: The purpose of longer term goals is to require the employer to step back, away from immediate operational requirements, and to consider the broad picture. Where is the organization going, what are the industry trends, what are the global economic trends, and how do these relate to the implementation of employment equity in that particular workplace over the long term?

Qualitative or quantitative? Longer term goals may be numerical, qualitative, or both.

How long? Longer term goals lay out the organization's objectives over a period of more than three years (there is no maximum), with respect to increasing the representation of under-represented designated groups in its workforce.

Strategy: Longer-term goals should be accompanied by a description of the strategy for attaining them. Again, this strategy may overlap with elements of the plan outlined above.

For example, a longer term **numerical goal** could be to achieve equitable representation of designated groups in all management positions within five years.

Longer term **non-numerical goals** could include:

- the completion of building modifications to improve access for and accommodation of persons with disabilities;
- the establishment of an on-site day care facility; and
- achievement of a truly welcoming and hospitable work environment for designated groups.

The Sufficiency Of The Plan: What Is Reasonable?

Taken together, the elements of the plan described above must be capable of producing reasonable progress towards the implementation of employment equity. In other words, the plan as a whole must be sufficiently comprehensive and well-designed to result in the elimination of discriminatory employment barriers and the achievement of a more representative workforce within a reasonable period of time.

It is not possible to arrive at a definition of what constitutes "reasonable progress". There are no hard and fast rules about what must be done in all situations. The principle of "reasonableness" is the measuring rod in several key areas in the legislation. What constitutes "reasonable efforts" towards implementing the plan, or a "reasonable" recruitment area? What is the "appropriate" external workforce that should be used in the workforce analysis for purposes of comparison?

What is reasonable or appropriate will always vary from one situation to the next, because no two situations are ever identical. This is why it was not possible nor desirable to define "reasonableness" in the legislation itself. To define what is reasonable or appropriate would require a standard for each possible situation.

The principle of reasonableness is found in all areas of law. For example, in criminal law there is the necessity to prove guilt beyond a reasonable doubt. In tort law, a person is required to take reasonable care not to harm someone through negligence. What is reasonable care? It is the care a reasonable person in the circumstances would take. It has never been either possible or necessary to define satisfactorily in law what is reasonable without losing flexibility.

In implementing employment equity, what is reasonable will vary according to:

- the particular situation and circumstances of the employer;
- the industrial sector in question;
- the local, regional, national and global economies;
- the employer's past history;
- the kinds of barriers identified;
- the anticipated growth or reduction of the employer's workforce;
- the turnover of employees in the employees workforce;
- the internal and external availability of qualified designated group members;
- the degree of under-representation in each occupational group in the employer's workforce; and
- many other considerations.

Employers must use their own best judgement, made in good faith -- in collaboration with the employee representatives -- to assess what is reasonable. Ultimately, the employer and the Canadian Human Rights Commission will have to come to an agreement about what is reasonable.

The best strategy for ensuring compliance is to make an honest and thorough effort to implement the purpose clause of the *Employment Equity Act* when fulfilling the specific requirements of the *Act*.

Minimum Standard Employers may want to consider the following four factors which together constitute a bare minimum standard of reasonable progress:

1. The *Act* requires that employers achieve appropriate representation of designated group members. Employers must move towards this goal at an appropriate rate of progress.
2. In some cases, overall representation of designated groups in the workforce cannot be altered significantly in the short term, either because the employer is downsizing or not hiring at a rate that could significantly affect overall representation.
3. In such cases, where improvement in overall representation is evolving slowly, the actual rates of hiring and promotion of designated groups (often referred to as “flow data”) cannot be lower than external representation figures (sometimes referred to as “availability” data).² In most cases, they should exceed this level, particularly in situations of serious under-representation. This means that goals must be at levels that do not fall below external representation of the designated groups in the relevant occupational group and the relevant recruitment area; furthermore, they should normally exceed this level, to ensure progress in overall representation.
4. Finally, the plan must contain measures that are likely to achieve the results described in the above point 3.

*Please refer to “**Sufficiency of Goals**” on page 15 of this Guideline for additional information.*

² It should be noted that in the case of promotion goals, “availability” refers to internal representation in the relevant feeder groups.

These factors together constitute a minimum standard for measuring the sufficiency of the plan, i.e. whether the plan would represent “reasonable progress” if implemented. In other words, this represents a floor below which progress towards employment equity would not be taking place at a reasonable rate. The degree to which numerical goals should exceed the external representation rate (“availability”) will depend on the factors discussed above.

It should be pointed out that where actual rates of hiring and promotion fall below expected levels, based on external representation, this is an indication that barriers may continue to exist. Therefore, the focus of the inquiry should be to identify barriers that may continue to be responsible for the inadequate flow levels (rates of hiring and promotion).

Implementing The Plan

By law, the employer is required to make “all reasonable efforts” to implement the plan. Effective implementation of employment equity requires the support by all partners in the workplace.

*The Act requires that employers implement the employment equity plan in consultation with, and the collaboration of, employee representatives (which includes bargaining agents). Please refer to **Guideline 3: Collaboration and Consultation**, for further information in this regard.*

While one cannot over-generalize in this area – what will constitute reasonable efforts will vary from situation to situation -- some of the relevant considerations include:

- the degree to which various components of the plan have been implemented according to schedule;
- an indication of ongoing senior-level support, on the part of both the employer and union, for employment equity generally and, in particular, for implementation of all elements of the plan;

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- the setting up of a joint labour-management committee or forum;
- the establishment of clear lines of responsibility and accountability mechanisms for implementation;
- the devotion of adequate financial and human resources to facilitate implementation of each element of the plan;
- utilization of the expertise of employees – including those who are members of designated groups -- and external sources, such as HRDC Regional Workplace Equity Officers, community and advocacy organizations, employer associations, regional and national labour federations, government departments and agencies, and consulting firms; and
- the establishment of regular review mechanisms to ensure that, as much as possible, time frames are adhered to and goals are met.

A listing of HRDC Regional Workplace Equity Officers is contained under the tab entitled “Reference Documents” at the back of these Guidelines.

*For further information please refer to **Guideline 9: Monitoring, Review, and Revision.***

Full attainment of a plan’s qualitative and quantitative goals can be taken as evidence that all reasonable efforts have, in fact, been made, assuming the sufficiency of the plan in the first instance. Where goals have been missed, the employer should be able to show that this was the result of factors beyond its control; that is, all reasonable efforts to implement the plan, were made but the stated objectives were not achieved because of extenuating circumstances.

Monitoring Implementation Of The Plan

Monitoring the implementation of the plan on a regular basis is essential to its successful implementation, and is key in achieving reasonable progress towards employment equity. This area is the subject of a separate Guideline, and will not be dealt with here.

*For further information, please refer to **Guideline 9: Monitoring, Review and Revision.***

What The Employer Is Not Required To Do

While the full implementation of employment equity is the central purpose of the *Employment Equity Act*, there are limits to what the employer is required to do to achieve this purpose. In particular, the *Act* makes it clear that employment equity need not result in:

- undue hardship to the employer, which is most often associated with insupportable costs but may also stem from factors such as a substantial disruption of operations or a precipitous decline in productivity;
- the hiring or promotion of any individual who is not qualified to do the job in question (hiring and promotion goals, after all, reflect qualifications and eligibility); or
- the creation of any new position in the workforce.

The *Act* also prohibits directions of the Canadian Human Rights Commission or orders of the Employment Equity Review Tribunal that would produce any of the outcomes listed above; impose a quota; or establish hiring and promotion goals that do not take into account under-representation, availability, and expected turnover, growth and reduction in the workforce.