

The best way to protect yourself from discrimination and from complaints is to know and respect **The Saskatchewan Human Rights Code.**



## Policy on Equity Programs

“...every person is free and equal in dignity and rights...”  
(Section 3, *The Saskatchewan Human Rights Code*)

### 1. Introduction

The purpose of this policy is to outline the Commission’s approach to equity programs and to set out the requirements for approval of equity programs under section 55 of *The Saskatchewan Human Rights Code*.<sup>1</sup> Section 55 authorizes the Commission to approve **voluntary programs** designed to prevent, reduce or eliminate disadvantages experienced by groups of individuals because of a prohibited ground of discrimination.<sup>2</sup> The Commission may approve programs undertaken to improve opportunities in the areas of public services, accommodation, employment or education. Nothing done for the purposes of an approved program is a violation of the *Code*.

### 2. Explanation of Terms

In this policy, a program approved under section 55 is referred to as an **equity program**. An organization or institution with an approved program is referred to as an **Equity partner**.

<sup>1</sup> See Appendix for full text of section 55. Equity programs may be approved by the Commission under section 55, or negotiated in settlement of a human rights complaint, or ordered by a court.

<sup>2</sup> The prohibited grounds of discrimination, listed in section 2(m.01) of *The Saskatchewan Human Rights Code*, are religion, creed, marital status, family status, sex, sexual orientation, disability, age, colour, ancestry, nationality, place of origin, race or perceived race, and receipt of public assistance

The group an equity program is designed to benefit is called an **equity group**. Employers, educators and service providers can use many strategies to advance equality of opportunity, including accommodating and implementing reasonable and justifiable measures.

- **Accommodating measures** means the removal of barriers to equal benefit and participation. The duty to accommodate applies to all persons covered by human rights legislation whether or not they have an approved equity program, and to all prohibited grounds of discrimination. General human rights law requires accommodating measures; therefore, they do not require Commission approval.
- **Reasonable and justifiable measures** are actions, policies or decisions that take a prohibited ground of discrimination into account in order to reduce disadvantages experienced because of that ground. Such measures may apply to members of one or more equity groups.

### 3. The Potential Range of Equity Programs

The Commission’s approach to equity programs is based on flexibility, accessibility and accountability, and as such encourages new and creative strategies. Partners must make a commitment to the objectives and principles outlined in section 4 of this policy, and to fulfill the requirements outlined in section 5.



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This commitment will be a condition of Commission approval, which will take effect when the Commission and the partner sign an Equity Partnership Agreement.

Without limiting the nature of requests brought to it for approval, the Commission intends equity programs to include the following possibilities.

- (1) Broad initiatives designed to address widespread patterns of disadvantage experienced by one or more equity groups. Typically, programs involve many components and many strategies for reaching equality goals.
- (2) A single strategy or limited range of actions intended to benefit one or more equity groups. For example, an employer may simply wish to hire preferentially, without developing a comprehensive program that addresses training, retention and other issues. Initiatives of this kind may be dealt with under section 56 of the *Code*.<sup>3</sup>
- (3) Contracts entered by government or businesses on a preferential basis in order to achieve the goals of section 55 of the *Code*.
- (4) Joint initiatives undertaken by trade unions and employers to promote employment opportunities for equity groups.
- (5) Initiatives undertaken to improve housing accommodation or public services to members of equity groups.

#### 4. Principles and Objectives

The Commission asks all equity partners to make a commitment to the following principles and objectives.

- (1) To support the fundamental objectives set out in section 3 of *The Saskatchewan Human Rights Code*; that is,
  - (a) to promote recognition of the inherent dignity and the equal inalienable rights of all members of the human family; and
  - (b) to further public policy in Saskatchewan that every person is free and equal in dignity and rights and to discourage and eliminate discrimination.
- (2) To support the principle that cultural diversity is a fundamental human value.
- (3) To support the principle of equality of opportunity.
- (4) To foster the full potential of all individuals and promote their contribution to the creation of a prosperous, harmonious and inclusive society.
- (5) To improve opportunities for equity groups in the areas of employment, education, accommodation or public services.
- (6) To recognize the reality that individuals may experience disadvantage because of more than one prohibited ground of discrimination. Further, to consider whether additional measures are advisable where individuals face multiple barriers because they belong to more than one of the four original equity groups: Aboriginal people, people with disabilities, visible minorities and women in underrepresented occupations.
- (7) To support the establishment of links and partnerships between equity initiatives in employment, education and public services.

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<sup>3</sup> See Appendix for full text of section 56.



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**5. Approval Requirements**

Equity partners are also asked to meet the following requirements.

- (1) The program must be designed to prevent, eliminate or reduce disadvantages related to a prohibited ground of discrimination.
- (2) The program must improve opportunities in services, facilities, accommodation, employment or education.
- (3) Except where the Commission recognizes in this policy (as amended from time to time) that a group experiences disadvantage in Saskatchewan, the partner will illustrate that it is appropriate to designate a group as an equity group for the purposes of section 55 of the Code.
- (4) The partner must illustrate the existence of disadvantage within its own organization – both at the initial approval stage and in periodic progress reports – for the equity groups addressed by its program.
- (5) The partner will undertake to implement its section 55 program in a fair and reasonable manner that takes into account the relevant interests of all persons affected by the partner's actions.
- (6) The partner agrees that no person shall be laid off, terminated or demoted in order to implement a section 55 program.
- (6) Where a partner employs unionized employees, the partner will obtain the trade union's support for the equity program and will ensure the trade union's ongoing involvement in the program's implementation.

If the partner is unable to obtain trade union support, the Commission may approve the partner's program if the partner demonstrates that it has made concerted efforts to obtain

trade union support and that Commission approval of the partner's program will advance the purposes of section 55 of the Code.

- (8) The partner acknowledges that approval of an equity program does not authorize the breach of a collectively bargained agreement.
- (9) The partner supports the sharing of information and resources among equity partners and other community partners.
- (10) To ensure public accountability, the partner will keep monitoring reports in the format set by the Commission (for internal monitoring or if ever called upon by the Commission), and will submit a one page summary to the Commission on an annual basis.
- (11) The partner undertakes to maintain transparency of programs and accountability for special measures approved under section 55 of the Code.

**6. Equity Groups**

Because the Commission's mandate is to protect the human rights of all Saskatchewan residents, it has been careful to require statistical or other evidence of significant, widespread disadvantage before designating equity groups.

To date, the Commission has approved equity programs for four groups:

- Aboriginal people,
- people with disabilities,
- visible minorities, and
- women.

These groups have been denied equality of opportunity and benefit in important areas of public life.



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The Commission also recognizes the reality that some individuals experience discrimination for more than one reason. One kind of disadvantage can intersect with and compound the negative effects of another. The Commission will therefore ask all partners – even those choosing to focus on one equity group – to consider whether additional special measures are advisable where individuals face multiple barriers because they belong to more than one of the four original equity groups.

Further, the Commission may approve any equity program that addresses disadvantages experienced by at least one equity group. It will consider approvals linked to any of the prohibited grounds of discrimination, so long as an applicant fulfills the requirements of section 55: evidence of disadvantage; evidence that disadvantage is related to the prohibited ground of discrimination; and evidence that the proposed program is likely to reduce disadvantage.

The Commission does not wish to impose onerous or unnecessary requirements upon potential partners. If the Commission itself has already noted that a group experiences disadvantage in a particular context, a partner will not be required to illustrate this fact. With a new group or in a novel context, however, the Commission will ask the partner to provide a rationale for the requested approval.

### **7. Parameters and Long-Term Goals**

The fundamental goals of equity programs can be expressed as principles of fairness and inclusion. Equity in employment means a representative workforce that mirrors the working age population in all occupations and at all levels, and supportive work environments that promote the participation of all groups. Equity in education requires an inclusive educational system that provides equality of benefit to all students.

Partners need concrete, measurable goals and ways of assessing progress towards them. Goals may be quantitative or qualitative.

Where disadvantage can be expressed in numerical terms, the parameters for special measures will typically reflect the extent of disadvantage.

In the employment area, numerical indicators are readily available. The Commission looks at Statistics Canada data to develop a picture of Saskatchewan's working age population. Because one goal of employment equity is simply a workforce that mirrors the community as a whole, this picture also constitutes the program's long-term goals. Qualitative goals include subjective factors such as job satisfaction and positive working relationships.

Aboriginal people, visible minorities and people with disabilities often experience systemic disadvantage in the educational system; students may also experience disadvantage because of gender. Quantitative indicators of success could include graduation rates and the representation of equity group members in teaching and non-teaching positions. Qualitative indicators might include the educational experience of equity groups, or success at overcoming racism and other obstacles. The Commission has not established numerical goals for educational initiatives, but wishes to do so in consultation with educational partners.

With regard to new equity groups or novel situations, the Commission will ask potential partners to suggest appropriate parameters or limits for the use of special measures. Where the Commission itself provides parameters for special measures, partners will not be asked to propose them.

### **8. Progress Reports**

The Commission asks partners to keep periodic statistical and narrative reports, in order to assess progress and ensure public accountability of equity programs if ever called upon.



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Partners are asked to attend an annual equity employer’s forum and to provide a one-page report to the Commission capturing one equity initiative implemented in the year that was notably successful.

**Adopted by the Saskatchewan Human Rights Commission on December 10, 2014.**



**APPENDIX – Excerpts from Sections 55 and 56 of The Saskatchewan Human Rights Code**

**Programs, orders or approval of by commission**

**55** (1) On the application of any person or on its own initiative, the commission may approve or order any program to be undertaken by any person if the program is designed to prevent disadvantages that are likely to be suffered by, or to eliminate or reduce disadvantages that are suffered by, any group of individuals when those disadvantages would be or are based on or related to the race, creed, religion, colour, sex, gender identity, sexual orientation, family status, marital status, disability, age, nationality, ancestry or place of origin of members of that group, or the receipt of public assistance by members of that group by improving opportunities respecting services, facilities, accommodation, employment or education in relation to that group or the receipt of public assistance by members of that group.

(2) At any time before or after approval to a program is given by the commission, or a program is ordered by the commission or the court, the commission may:

- (a) make inquiries concerning the program;
- (b) vary the program;
- (c) impose conditions on the program; or
- (d) withdraw approval of the program as the commission thinks fit.

(3) Nothing done in accordance with a program approved pursuant to this section is a violation of the provisions of this Act.

**Reasonable and justifiable measures**

**56** (1) Subject to subsection (2), it is not a contravention of this Act for a person to adopt or implement a reasonable and justifiable measure:

- a) Designed to prevent disadvantages that are likely to be suffered by, or to eliminate or reduce disadvantages that are suffered by, any group of individuals if those disadvantages would be or are based on or related to one or more prohibited grounds; and
- b) That achieves or is reasonably likely to achieve that object.

(2) If a program has been approved or ordered pursuant to section 55, a measure mentioned in subsection (1) must comply with the terms and conditions of that program.

Saskatchewan Human Rights Commission  
 Suite 816, Sturdy Stone Building  
 122 – 3rd Avenue North, Saskatoon SK S7K 2H6  
**PHONE** 306-933-5952  
**FAX** 306-933-7863

**TOLL FREE**  
 1-800-667-9249

**EMAIL** shrc@gov.sk.ca  
**WEB** www.saskatchewanhumanrights.ca