



**Government of the Northwest Territories  
Affirmative Action Policy Review  
and Replacement with  
an Indigenous Employment Policy  
and an Employment Equity Policy**

**Union of Northern Workers Submissions**  
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**Submitted to:**

William McKay, Deputy Minister  
Jen Chiasson, Manager, Policy  
Department of Finance  
Government of the Northwest Territories  
Yellowknife, NT X1A 2P8

**Submitted by:**

Gayla Thunstrom, President  
Union of Northern Workers  
Suite 400, 4910 – 53 Street  
Yellowknife, NT X1A 1V2

[www.unw.ca](http://www.unw.ca)

<https://psacunion.ca/employment%20equity>

[thunstg@unw.ca](mailto:thunstg@unw.ca)

## Introduction

The Union of Northern Workers (UNW) is pleased that the Affirmative Action Policy is being reviewed and replaced. UNW represents approximately 5,400 Government of the Northwest Territories (GNWT) workers.

UNW views employment equity as a critical tool in combatting workplace discrimination. We understand that employment equity will not in itself eradicate all forms of discrimination or harassment from our members' workplaces, but proactive and preventative measures have clear advantages to addressing systemic employment discrimination over reactive processes. When direct and systemic employment barriers are removed, then all workers feel valued, included, and recognized for their abilities and contributions rather than judged based on intangible and inherent characteristics.

At the outset, it must be noted that unions play an important role because they bring perspectives of workers who may otherwise not have a voice in the development, implementation, monitoring and review of employment equity processes and plans in their workplaces. UNW takes its role seriously in critiquing the effectiveness of the current legislation. We reaffirm the need for a comprehensive legislative process to bring equity into the workplaces of all members we represent.

In addition to the consideration as outlined above it is critical that the recommendations of the Truth and Reconciliation Commission be implemented in terms of the decolonization of the public service. In order to ensure success of the new Indigenous Employment Policy and the Employment Equity Policy there needs to be a concerted effort and planning that normalizes reconciliation and the value of Indigenous knowledge and ways of being in the workplace.

The *Truth and Reconciliation Commission Call to Action # 57* outlines the following:

“We call upon federal, provincial, territorial, and municipal governments to provide education to public servants on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.”

In the thesis “Deconstructing Colonial Practices in the Federal Public Service,” Jolene Head, MA outlines how Reconciliation and decolonization efforts can be supported in the Federal Public Service. Many examples and parallels can be identified that are also applicable to the Government of the Northwest Territories.

Head discusses the importance of actions that support and create a “safe and inclusive environment for Indigenous public servants while also improving the relationship with Indigenous Peoples more broadly.” A careful review of her process and outcomes in the thesis are very worthy of consideration to support the success of the new policies that are being implemented.

For the Indigenous Employment Policy and the Employment Equity Policy to be effective and successful they must center around a decolonized approach to Indigenous employment and provide extensive programs to create a culturally relevant decolonized work environment wherever possible. To date, systemic barriers and highly colonized practices, and other factors have made the latter unattractive to pursue for most people.

The policy needs to focus on a number of actions that will result in placing Indigenous families at the center of the process while deciding if they will engage in the wage economy or a more traditional lifestyle to provide for their families. Currently, the highly colonized environment is not an attractive or welcoming space for Indigenous workers and concrete actions must be taken to remove systemic barriers to Indigenous employment that go beyond words in a policy.

We are pleased to provide the following responses to the questions in the discussion document for the Government of the Northwest Territories' Affirmative Action Policy and Employment Equity Review

## Questions About the Affirmative Action Policy

### **1. How do you think the current Affirmative Action policy is working, and what changes, if any, do you think are needed?**

According to the “Affirmative Action Review Discussion Guide”, the NWT government is unable to assess how effective the current policy is due to various initiatives. However, at minimum, the government should be able to assess whether there is under-representation of employment equity groups by conducting a workforce analysis and gain insight on barriers for equity groups through an employment systems review.

The discussion document states that the policy is only one factor among many including education, community of residence, positional requirements and accessibility of hiring practices. All these factors should be under the employment equity policy and examined as such to determine if they are workplace barriers for equity groups.

The policy must be part of a broader strategy or plan that brings departments together to take a more holistic approach to improving opportunities and retention for equity groups, rather than siloing all their problems.

In the first years of the life of the new policy, data collected through a thorough systems review should be used to inform and guide the broader strategy and approach.

For example, if education and qualifications, and access to childcare are identified as systemic barriers to equity hiring, a specific plan and order should be assigned to the Department of Education, Culture, and Employment to find solutions.

If lack of available or affordable housing is preventing someone from taking a position, that department is assigned to solutions.

It is also important to highlight that changing the terminology, reorganizing the categories, and calling it a new policy would not fix anything. The policy must be written in a way that ensures human resource teams are not just ticking the appropriate boxes on a checklist. It is about support and retention, not meeting quotas.

In fact, two of the toughest barriers many Indigenous people have faced in successfully obtaining employment with the GNWT have been artificial administrative barriers that the GNWT has self-imposed and qualifications for positions that are not bona fide requirements nor looking at equivalencies. For example, a casual Indigenous employee is able to perform the duties of the position however, when posted indeterminately they do not possess the “qualifications” and are screened out. This is especially relevant as the GNWT has advised that, *“Hiring as a casual, primarily is the mechanism that is used to bring Indigenous persons into the GNWT while we wait for a direct appointment into a term/indeterminate position.”*

One of the largest contributors to retention of Indigenous employees is the treatment they receive throughout the GNWTs colonial processes and procedures such as Duty to Accommodate and discipline which lacks recognition and respect of culture.

## **2. What do you think should be the main priorities and goals of the Affirmative Action policy?**

The purpose should be to have a program of proactive, positive measures designed to:

- increase Indigenous representation in the GNWT from those who are Dene, Metis and Inuit.
- increase the representation of people from the four “designated groups” in the workplace to a level that reflects their availability in the labour market;
- identify and eliminate artificial barriers in the workplace that prevent designated group members from accessing jobs, promotions, training, etc.

The priorities and goals should facilitate changing workplace culture and hiring practices so that members of equity groups get jobs they are qualified to do, and can fully contribute to the workplace. Employment equity recognizes that women, Indigenous peoples, racialized people, people with disabilities and more recently people from the 2SLGBTQIA+ community are often held back – not because they lack ability – but because of things that are unrelated to their ability. This includes racism, discrimination, bias, stereotypes, assumptions, and systems that were not designed inclusively.

The federal *Employment Equity Act* summarizes the purpose of employment equity initiatives as follows:

“The purpose ... is to achieve equality in the workplace so that no person shall be denied employment opportunities or benefits for reasons unrelated to ability and, in the fulfilment of that goal, to correct the conditions of disadvantage in employment experienced by [equity groups] by giving effect to the principle that employment equity means more than treating persons in the same way but also requires special measures and the accommodation of differences.”

Review of the following documents determine the best practices that may apply to the GNWT:

- a. Jolene Head, MA “Decolonizing the Federal Public Service”
- b. Many Voices One Mind: A Pathway to Reconciliation
- c. Knowledge Circle for Indigenous Inclusion (KCII)

## Questions About the Indigenous Employment Policy

### **3. The proposed Indigenous Employment Policy will prioritize “descendants of the Dene, Inuit, or Métis people, Indigenous to the present boundaries of the NWT”.**

This is not enough, due to the impact of colonization, residential schools and child welfare programs and policies referred to as the ‘sixties scoop’. There are many who have been disconnected through these processes who are descendants but were not born in or reside in the colonial boundaries of the NWT.

It is also important to recognize that the territory of the three identified groups extends beyond Canada’s definition of boundaries of the NWT and in fact there are folks living outside those boundaries that are of those nations and should also be considered priority for government employment due to their historical connection to the land and community.

#### **a. Is that definition sufficient?**

The definition is not sufficient as it is based on a colonial construct of ‘boundaries’ and not rooted in the historical context of the traditional territory of those descendants considered. Therefore, the definition should be inclusive of those that are able to link their relationship with the identified groups no matter where they live and circumstances.

Colonization, residential schools systems, and child welfare policies and programs known as the ‘sixties scoop’ or other colonial impacts must be considered in the application of the Indigenous Employment Policy. In order to achieve substantive equality, institutionalized racism must be acknowledged and dealt with so that reconciliation can be advanced in all levels of the GNWT.



**b. What groups, if any, do you think should be added or removed from this definition?**

The groups should remain the same in terms of the priority hiring policy however, a second level for Indigenous hiring priority should be created to include Indigenous applicants from other areas of colonial Canada. If the goal is to increase Indigenous representation, then consideration in the hiring policy needs to include 'southern' Indigenous applicants before non-Indigenous applicants.

**4. What impact will the proposed Indigenous Employment Policy have on the concerns you have identified with the current Affirmative Action policy?**

The approach suggested above would insert an additional level to the existing priority hiring policy that would prioritize hiring Indigenous people ahead of other equity groups and non-Indigenous northerners.

This may be a contentious approach for those that were born or have spent more than half their life in the North, but priority hire must go to Indigenous people first.

**a. Which of your concerns does the proposed policy address?**

The proposed hiring policy must go hand in hand with other measures to address systemic racism and colonial processes within the Government. These measures would include consultation and involvement of the UNW on the development of training for all staff on systemic racism, bias, anti-oppression training, decolonial approaches and indigenization of current policy.

**b. Which of your concerns are not addressed by the proposed policy?**

The Indigenous Recruitment and Retention Framework and Action plan identifies short, medium and long-term goals of the government to increase develop and maintain the number of Indigenous employees by:

- addressing bias, racism, and discrimination throughout the staffing process, resulting in improved cultural competency in the public service;
- encouraging and supporting Indigenous people to join and stay with the public service by fostering a culturally inclusive workplace that addresses bias, racism and discrimination, and that is free of harassment; and
- improving retention of Indigenous employees through professional development and career progression.

These broad goals will need to be developed in consultation and with the participation of the UNW in terms of training content and delivery to the workforce, annual review of statistics and progress towards the goals identified.

It is vital that all employees have basic anti-oppression training and that policies are reviewed and redeveloped using a decolonial approach with indigenization of policy at the forefront. it is imperative to do so for both short term and sustained success in recruiting and retaining an Indigenous workforce representative of the NWT.

A comprehensive program that focuses on recruitment and retention that goes beyond southern job fairs and focuses more on Northern development of skills resources should be implemented. This includes working with youth in high schools, through vocational training opportunities as well as University, College and Trades programming.

This program or department led by Indigenous staff, should be responsible for leading and upholding the work required to ensure the success of the Indigenous Employment Policy.

The GNWT should ensure that recruitment and retention contributes to a workplace based on the principles of diversity, equity and inclusion and support the successful transformation of the public service into a decolonized and Indigenized organization supporting a representative workforce. This can be done by implementing a Joint GNWT-UNW Recruitment and Retention working group whose sole purpose would be dedicated to breaking down barriers for Indigenous workers and ensure that measures are in place for the success of the Indigenous Employment Policies.

This Joint Working Group would:

- consist of an equal number of GNWT and Union Representatives (Deputy Minister & Executive Level)
- consider relevant and available aggregate/anonymized data regarding the Indigenous Employment Policy and the Employment Equity Policy.
- develop a list of comprehensive recruitment and retention recommendations including but not limited to embedding the principles of accessibility in job creation, hiring, onboarding, accommodation, offboarding, and supporting leadership development such as employer-sponsored training, career laddering, and upskilling.
- develop an agreed to Terms of reference including a process for alternating the chair and meet quarterly.
- gather all necessary data and information in advance of the Working Group's meetings.
- be responsible for engaging and consulting stake holders
- identify and recommend initiatives to address recruitment and/or retention issues for target professions.
- develop recommendations for education at post-secondary institutions.

## Questions About the Employment Equity Policy

### 5. The Employment Equity Policy will prioritize “Indigenous Canadians, racialized persons, persons living with disabilities, members of the 2SLGBTQQIA+ community and long-term northerners.”

#### a. Are we missing any other categories we should prioritize?

Yes, there are categories missing. The Employment Equity policy should also examine subgroups within equity groups.

The policy should include concepts of intersectionality to allow an examination of the unique experiences of workers who have intersectional identities. Intersectionality is a complex, cumulative way in which the effects of multiple forms of discrimination (such as racism, sexism, homophobia, ableism, transphobia, classism and more) combine, overlap, or intersect especially in the experiences of marginalized individuals or groups. (Source: Crenshaw, Kimberlé Williams. 1994. “Mapping the Margins”. In *The Public Nature of Private Violence*, ed. Fineman, M. and Mykitiuk, R New York: Routledge. Google Scholar.)

In other words, the combination of different types of discrimination produces unique and distinct forms of oppression that “intersect”, contributing to multiple grounds of discrimination at the same time.

An intersectional analysis is particularly important for women. As stated on the “Status of Women Council of the NWT”:

“Feminist intersectionality analyzes power and the ways in which systems, institutions, structures, socio-economic and political practices (historic and current) work together to create and reinforce conditions of inequality and disadvantage, and privilege and advantage based on social location and identity.

The goal of a feminist intersectional analysis is to understand power relations and systems of power that create barriers to women's equality so we can remove those barriers and redistribute power equitably. To create social change for girls and women, it is necessary to highlight the prevailing systems and structures that create and perpetuate barriers leading to marginalization and social exclusion."

There is a policy on "Equality of Men and Women in the Northwest Territories" dated 1998. Does this policy still exist and if so why?

Overall, equity groups that have historically faced disadvantages, and who continue to face disproportionate levels of unemployment, underemployment, and barriers in the workplace should be included in this policy.

**b. Are there any categories that you would remove from this definition?**

In the seminal Royal Commission Report, *Equality in Employment*, Judge Rosalie Abella stated at page 2:

"Equality in employment means that no one is denied opportunities for reasons that have nothing to do with inherent ability. It means equal access free from arbitrary obstructions. Discrimination means that an arbitrary barrier stands between a person's ability and his or her opportunity to demonstrate it. If access is genuinely available in a way that permits everyone who so wishes the opportunity to fully develop his or her potential, we have achieved a kind of equality. It is equality defined as equal freedom from discrimination.

Discrimination in this context means practices or attitudes that have, whether by design or impact, the effect of limiting an individual's or a group's right to the opportunities generally available because of attributed rather than actual characteristics. What is impeding the full development of the potential is not the individual's capacity but an external barrier that artificially inhibits growth.

It is not a question of whether this discrimination is motivated by an intentional desire to obstruct someone's potential, or whether it is the accidental by-product of innocently motivated practices or systems. If the barrier is affecting certain groups in a disproportionately negative way, it is a signal that the practices that lead to this adverse impact may be discriminatory.

*This is why it is important to look at the results of a system. In these results one may find evidence that barriers which are inequitable impede individual opportunity. These results are by no means conclusive evidence of inequity, but they are an effective signal that further examination is warranted to determine whether the disproportionately negative impact is in fact the result of inequitable practices, and therefore calls for remedial attention, or whether it is a reflection of a non-discriminatory reality. (emphasis added)*

In other words, employment equity is meant to remedy historical inequities for marginalized and under-represented communities. After much research and data analysis, Judge Abella concluded that four distinct equity groups were under-represented and historically disadvantaged in workplaces at that time and therefore, then recommended to include these specific groups only.

It is unclear whether “long-term northerners” are under-represented in the workplace. Data should be collected and analyzed to determine the representation of “long-term northerners” to determine if they should be included in the employment equity policy.

If they are not under-represented, then the question is why are they included in the employment equity policy if the purpose is to address marginalized and historically disadvantaged and under-represented groups? If they are not under-represented in the NWT government, but are to be included as a priority group anyway, then all other historically disadvantaged groups should be prioritized first.

**6. The term “long-term northerner” is currently defined as having lived half your life in the NWT.**

**a. Do you agree with this definition?**

No.

**b. If not, how should the definition be changed?**

This is problematic because of the over-simplification. It could be discriminatory if a person chooses to live in the NWT at an older age. It will take them longer to become a “long term Northerner” than someone who comes at a young age. There should be criteria for residency requirements (e.g. 1 year of residency similar to the funding requirements for education). Importantly, anyone who falls within this definition should still be considered only after the designated groups under the Indigenous Employment Policy and Employment Equity Policy.

## Questions About Applying the Indigenous Employment Policy and Employment Equity Policy

**7. The GNWT proposes that the Indigenous Employment Policy would be applied before the Employment Equity Policy (i.e. the terms of the policy will take precedence over the program and hiring Indigenous northerners would be prioritized over hiring individuals belonging to the categories identified in the Employee Equity Program).**

**a. Do you have any concerns with the proposed approach?**

Yes.

**b. If YES, how would you improve the proposed approach?**

The UNW agrees that the Indigenous Employment Policy should be applied first and foremost, and that the Employment Equity Program would be applied next to address under-representation in identified areas based on current statistical data from the NWT in each group. However the UNW recommends a third category comprising what is currently known as “Priority 2” hire: non-Indigenous residents that were born in the NWT or have lived more than half their life in the NWT.

The UNW has concerns about the definition “born in the NWT” without any qualifications. If we are to understand the purpose correctly, this is supposed to capture people who have connection, knowledge of, and bond with the north. Those who are born here, spend the first year of their life here, and then move away should not necessarily be given a golden ticket to a government job.



The order of operations in terms of hire that the UNW recommends is as follows:

- Those who are covered by the Indigenous Employment Policy
  - a. Priority 1 Indigenous from the Dene, Metis and Inuit;
  - b. Priority 2 Indigenous from other areas of Canada)
- Those who identify as a member of an equity group underrepresented in the Employment Equity Policy of the NWT
- Those non-Indigenous residents - “Resident Hire”

**8. How often would you expect to see reconsideration of the priority groups that are included in these policies?**

Once the Indigenous Employment Policy and the Employment Equity Policy are implemented, they should be reviewed and analyzed for progress on an annual basis in context and relationship with training and changes made to policies that impact hiring and retention.

A comprehensive review of both the Indigenous Employment Policy and the Employment Equity Policy should start in the fourth year of the plan to be reported on or before the fifth year for a full review of progress on the overall objectives of the policies.

**9. Are there any other considerations we should keep in mind that are not addressed in the questions above.**

Ongoing support for promotion and upgrading

It is important to support equity employees throughout their employment, not just at the point of hire. This includes removing barriers to obtaining higher and senior level positions such as mentoring, paid education and leave even if it is not directly related to the current position but does continue to support career within the GNWT.

### Consultation with bargaining agents and joint committees

The role of bargaining agents must be included in the policy. It should clearly outline the obligation for joint employment equity committees that meet regularly for meaningful consultation and collaboration. Meaningful consultations and collaboration must be defined in the to ensure that employers do not try to circumvent their obligations by minimizing their “consultation and collaboration” process.

The policy should allow for a complaint process by bargaining agents to ensure compliance with the policy. The following elements should be in the definition:

- Establishing joint employment equity committees;
- Employers and bargaining agents jointly review, prepare and develop, implement and revise together the employment equity initiatives and plans; and
- Employers and bargaining agents actively participate in all stages of the employment equity process from the start to continuous reviewing and monitoring progress.

Bargaining agents should be able to negotiate provisions in the collective agreement that would go above and beyond the provisions in the policy. The policy should be the floor and not the ceiling for employment equity initiatives.

### Employment Equity Process

The policy should clearly outline employment equity steps including the following:

#### Step 1: Self-Identification Surveys and Workforce Analysis

- Collection of workforce information through confidential and voluntary self-identification surveys
- Examination of the workforce in the labour market.
- Comparison of data from self-identification data from the labour market for the designated equity groups

### Step 2: Employment Systems Review

- Examination of policies and practices relating to hiring, promotion, training, career development, retention, etc. – to determine if there are barriers in place and how they might address those barriers.
- Note that an employment systems review looks critically at all employment systems, policies, and practices in order to identify barriers. Those can include written or unwritten policies and practices.
- A “barrier” means that there the policy or practice has a disproportionate negative impact on a designated group (i.e. systemic discrimination). These are usually unintended.

### Step 3: Employment Equity Plan

- Organizations must prepare a plan which addresses both the numbers (the representation rates) and the practices (the barriers identified from the systems review).
- The plan will include short term and long-term goals (not quotas) for workplace representation from each designated group, measures that will be taken to address barriers, and measures for accommodation.

### Step 4: Implementation and Monitoring of the Plan

- The plan should specify what, how, when, and who is responsible for the initiatives, include a matrix to measure outcomes, and have an accountability framework. It is important that there be accountability or consequences for meeting or not meeting the employment equity goals and outcomes.

### Step 5: Periodic Review and Revision

- Once the employment plan is expired, another analysis will be done of the organization’s progress and another plan created, and so on.

#### Ongoing: Communication and consultation/collaboration

- Throughout all of their work on implementing employment equity, the employer must share information with employees and work with unions and employees from the designated groups.

#### Data Collection

The process in how the labour market availability (LMA) for equity groups is calculated should be examined. It is currently likely based on census data that is collected every five years. Unfortunately, by the time we get the LMA for equity groups calculated, it is already outdated. Alternatives need to be examined to ensure that LMAs used will be relevant and up to date.

The Labour Force Survey (LFS) done by Statistics Canada annually provides timely information on employment statistics. It currently does not collect demographic data. The GNWT should lobby the federal government to collect equity statistics at the same time.

#### Creation of a Commission and Complaint process

Creation of a Commission to oversee both of the policies and their application. The Commission should be led by Indigenous Workers and provide regular review of statistics and reporting to the GNWT that is publicly available and transparent.

The policy should clearly outline a complaint process that bargaining agents or individuals can access if they feel the employer is not adhering to the employment equity policy.

A commissioner of employment equity who is objective, impartial and at arm's length of the government and employers should oversee the employment equity policy. This could be under the purview of the NWT Ombud or Human Rights Commission until such a commission is established.

Indigenous Employment Policy – addition to the NWT Ombud’s Office a department responsible for staffing review processes related to the policy. The role of the office would be to provide culturally safe, effective, and accessible services including a monitoring and auditing function to ensure compliance with the staffing procedures. In addition, persons who are unsuccessful in competitions would have appeal rights to have their staffing process reviewed. Those in unionized positions would be represented by the Union.

### Designated hiring vs preferred hiring

If there is under-representation of an equity group, then there should be designated (limited) hiring of that group. In other words, only candidates from that equity group that have under-representation would be considered for positions. If there are no qualified candidates, then the posting remains unfilled, the job is re-posted and there is an assessment of barriers for the equity group for that position. The position remains unfilled until a suitable candidate from the designated equity group(s) is found.

A preferential hiring occurs when there a job competition gives preference to one or more of the designated groups. Only after, if there are no successful candidates from that equity group, then other candidates can be considered.

By using this process, then hiring managers are required to ensure that they hire candidates from under-represented equity groups and revise their processes to remove barriers for them.

Of the two employment equity hiring practices designated and preferential, the UNW strongly supports the former. To fully address the employment equity situation the GNWT finds itself in, this would ensure that a representation of the territories is reflected in the representation of GNWT employees.

While preferential hiring is a way of attempting to address the inequity in employment, it can allow for a watered-down version. For example, currently the GNWT attempts to ensure representation of Indigenous People through a similar method of “priority” hiring. What occurs is that the goal is to find a successful “P1” candidate however, when none is found then the department can hire any suitable candidate. This allows for manipulation of the hiring practice whether consciously or not. In addition, as mentioned above, many times this is due to the “qualifications” of the positions.

### Joint Learning Program

Become a partner in the Joint Learning Program with the PSAC and Federal Government so that training and education on many topics including Employment Equity, Indigenous history, decolonization, etc can be jointly delivered by the parties to all government workers across the GNWT. The JLP has an extensive resource of material that is relevant to the workforce and to cultivating a work environment that is moving towards decolonization.

## Conclusion

Thank you for providing the opportunity to provide submissions on this very important review. As shown in our submissions, the current policy requires a major overhaul and not just tinkering with a few sections and definitions.

As a component of a large network of unions with extensive experience with employment equity in the federal public service, we have a unique perspective on the progress of employment equity initiatives. We look forward to further discussing our recommendations and would be pleased to provide you with further information or clarifications if required.