



August 6, 2010

File: 20507

The Honourable Stockwell Day
President of the Treasury Board
House of Commons
Ottawa, Ontario
K1A 0A6

Dear Minister:

I am writing to express concern about the recently announced review of the *Public Service Employment Act*, and to request clarification of your government's intentions as they pertain to employment equity within the federal public service.

The Canadian Labour Congress (CLC) agrees that legislation should be subject to periodic review. It is our understanding the scheduled five-year review of the *Public Service Employment Act* is already underway. Is it your government's intent to conduct this review separately or are you seeking to incorporate specific aspects into the current review process?

The CLC believes any legislative review should allow for input from concerned stakeholders, operate with transparency, and ultimately be designed to improve the legislation's effectiveness in meeting its desired goals – to make sure that the federal public service reflects the rapidly changing diversity of the Canadian population and to help eliminate systemic barriers to public service employment for qualified members of underrepresented groups.

According to your colleague, Minister Jason Kenney, this review was triggered by a report of a single job competition that was designated for qualified applicants from particular equity-seeking groups.

We are gravely concerned that a policy review could be initiated based on a single complaint that may not be informed by the rationale for designated recruitment measures.

It is our understanding that such measures are quite rare, occurring in less than two per cent of federal service job competitions. They are employed when all other efforts to address systemic discrimination have failed.

Furthermore, the public announcement issued by Treasury Board on July 22, 2010 implied that merit is not part of employment equity principles. This is not correct – the principle that hiring is to be based on merit and qualifications is enshrined in the legislation. To say otherwise promotes misconceptions that do a great disservice to Canada's efforts to redress systemic discrimination.

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For nearly 25 years, the *Employment Equity Act* and its regulations have clearly stated that federally-regulated employers must correct systemic disadvantages in their workplace experienced by members of designated groups. There is no confusion that employment equity means more than treating people in the same way. It sometimes requires special measures to correct systemic inequity, such as designated job postings.

While Canada's Charter of Rights and Freedoms (S.15) clearly defines everyone's equality of rights, it also states that this "does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged" (S.15.2). Employment equity measures, including designated recruitment measures designed to end systemic discrimination are recognized by the Charter of Rights and Freedoms. No review can alter this.

Since the *Employment Equity Act* was passed, successive federal governments have not made enough strides to ensure its workforce is reflective of the diversity of Canada's population. According to the 2007 report of the Senate Standing Committee on Human Rights, aptly titled "Employment Equity in the Federal Public Service: Not There Yet":

- there is an under-representation of women and racialized people in executive positions;
- the gap for racialized workers is widening as racialized people become a greater and greater share of the Canadian population;
- women are over-represented in the temporary employment category;
- persons with disabilities are not being hired at rates that reflect their availability in the workforce;
- Aboriginal peoples are not represented broadly throughout the public service, but instead are clustered in a few departments;
- although the *Public Service Employment Act* allows for the inclusion of employment equity considerations in the merit criteria, most departments are not utilizing this tool;
- there is a large "drop-off rate" for racialized applicants (a gap between the numbers applying and the numbers getting jobs) despite the fact that most of these applicants are highly educated.

The Senate Committee recently published their second report, pointing out the government's failure to implement any of the recommendations from its first report, in 2007. The Committee reiterated the pressing need for concrete action with thirteen updated and detailed recommendations for change.

Clearly, there is much work to be done.

What is unclear is whether your request for a review of the *Public Service Employment Act* will bring us closer to a public service that reflects Canada's diverse population and a human resource process that ensures meritorious applicants from under-represented groups can gain meaningful access to federal public service jobs?

We urge you to clarify your government's intentions in calling for a review particularly as it relates to the pending parliamentary review of the *Public Service Employment Act*.

We believe it is critically important your government respond to the recommendations in the Senate Standing Committee on Human Rights reports (2007 and 2010) on Employment Equity in the Federal Public Service.

We do hope that you, as President of the Treasury Board, and Minister Kenney address the erroneous information contained in your release and subsequent media reports that impugn employment equity programs and perpetuate the damaging myth that employment equity and merit cannot co-exist.

Sincerely,

A handwritten signature in black ink, appearing to read 'KVG', with a long horizontal line extending to the right.

Kenneth V. Georgetti
President

cc: Jason Kenney, Minister
CLC Executive Council