

August 20, 2004

Ms. Linda Cassidy
Chairperson - Equal Opportunities Committee
Union of Taxation Employees
319 City Line
St. John, New Brunswick
L2M 1N43

Dear Ms. Cassidy:

This is further to your request for clarification of section 15 of the *Employment Equity Act* and our conversation last spring concerning the level at which consultation must take place with union representatives.

You are correct to state that Section 15(2) requires meaningful consultation with bargaining agents in order to solicit their views on the development, implementation and revision of the employer's employment equity plan. They must also be consulted on the assistance they could provide with respect to communication and implementation of employment equity. As you know the inclusion of the bargaining agents is a specific requirement of a broader requirement to consult employee representatives who may or may not be union members.

Given the explicit reference in the Act, our audit assessment factor 11.1 states:

Where bargaining agents exist, the employer has invited them to provide their views on the development, implementation and revision of the employer's employment equity plan, and on the assistance they could provide with respect to communication and implementation of employment equity.

Where a plan involves national plans incorporating regional or sub plans we would expect the bargaining agents to be consulted on all levels of the plan. When we conduct an audit, it is with the bargaining agents - given the clear requirements of the Act — with whom we verify whether or not this consultation has taken place. If there are bargaining

agents at the local and/or regional level, they would have to be consulted; if they exist only at the national level it would be their responsibility to ensure local interests are covered to their satisfaction.

The employer may not meet its obligation by simply consulting with union members as an alternative unless the bargaining agent has delegated responsibility to his/her representative. Many prudent employers have established regional and national employment equity committees which include union members as well as the bargaining agents.

I hope this responds to your request. Do not hesitate to contact me if you require any further information or clarifications (613) 943—9070.

Yours sincerely,

Rhys Phillips
Director, Policy & Legislation
Employment Equity, Policy and
Outreach Branch