NOTICE TO HIRING MANAGERS, SEARCH/SCREENING COMMITTEES, INTERVIEWERS AND SUPERVISORS

Persons involved in recruiting and selecting job applicants have critical responsibilities in fulfilling the University’s commitment to equal opportunity and affirmative action. This commitment requires certain actions and restraints on your part.

This information sheet highlights some of the important requirements, specific restrictions and frequent problems encountered in the hiring process for faculty and staff positions. Additional information and guidelines regarding recruitment and selection procedures are available from your division's Affirmative Action Coordinator, from the Office for Academic Affairs, or from the Department of Human Resources.

Generally, know that the University is subject to Title VII of the Civil Rights Act of 1964, barring employment discrimination based on race, color, religion, sex and national origin; the Age Discrimination in Employment Act of 1967, barring discrimination against persons 40 years of age or older; the Rehabilitation Act of 1973 and the Americans with Disabilities Act barring discrimination against qualified persons with disabilities; the Vietnam Era Veterans Readjustment Assistance Act of 1974, barring discrimination against special disabled veterans and/or Vietnam-Era veterans; the Pregnancy Discrimination Act of 1978, barring discrimination against pregnant applicants and employees; the Equal Pay Act, barring wage differentials based on gender, and the Immigration Reform and Control Act of 1986, barring employment of aliens without authorization to work while prohibiting discrimination against individuals (other than unauthorized aliens) on the basis of national origin or citizenship. In addition, as a federal contractor, the University is required to take affirmative action to recruit and employ qualified women, minority persons, individuals with disabilities and special disabled veterans and veterans of the Vietnam Era.

SPECIFIC CONSIDERATIONS

- Give early and careful thought to the duties and qualifications in the job description. These must be meaningful (specific), job-related, reasonable and nondiscriminatory. Revisions after the job has been announced may require the recruitment to be voided, re-opened or otherwise modified.
- Begin documentation early and keep all records (advertisement, applications, supporting materials, interview notes, score sheets and all related correspondence).
- Complete and submit recruitment plans in a timely manner. In addition to the lead-time for publication of vacancy notices, the open period for receipt of applications, and adequate time for screening, interviewing and evaluating candidates, also allow time for necessary reviews and approval steps.
- Waivers of normal posting and recruiting procedures must be approved in advance.
- Recruitments must evidence good faith efforts to attract women and minority applicants. A specific recruitment plan must be developed and approved at the outset of the search process.
- Budgetary constraints do not lessen the obligation to engage in reasonable affirmative action efforts to identify and consider qualified women and minority applicants. If necessary, departments should seek assistance with recruitment costs and/or explore avenues of cost-sharing with other departments.
- All job announcements must include reference to the University as an “equal-opportunity educational institution/employer”. Use gender-neutral language in describing the position.
- Take applications at face value. Applications should not be screened out based on speculations about individuals’ interest (e.g., that the salary level would be unacceptable or that seemingly overqualified persons would be discontented in the job), or about their willingness to relocate.
- Seek clarification, if such is critical to a candidate’s considerations (e.g., about interruptions in work histories, specific skills or past duties or reasons for leaving previous employment).
- Any placement goals (female or minority) currently assigned to the department, or to the unit of which the department is a part, should be considered in evaluating the composition of the applicant pool, determining number of interviews, and choosing among equally well-qualified candidates.
- Candidates selected for interview and employment must meet the stated qualifications for the position.
- Interview and evaluate candidates on the basis of job-related criteria only.
- Interviews should be as structured and consistent in format as possible to assure that candidates are evaluated on the same criteria.
- In interviewing, ask the question, not the stereotype. If it is relevant to know whether a candidate can meet specific work schedules, can travel, has relevant military experience, is capable or has experience performing specific job tasks, is bondable, or is able to submit proof of U.S. citizenship or authorization to work in the U.S., this is the question to be asked, rather than inquiring about religion, marital/parental status, military discharge, disabilities, conviction records or nationality. Further, the question(s) must be asked of all candidates, not just individuals of one sex, race, age group, etc.
- Inquires which are designed, or are likely, to elicit information about race, color, religion, sex, national origin, age, disability and marital/parental status must be conscientiously avoided unless based on a clear, bona fide job qualification.
- Do not refuse accommodation to disabilities or religious practices without consultation and approval by appropriate University officials.
- (For Staff Positions) Do not administer any test (written or task) or require any medical examination without prior coordination with the Department of Human Resources.
- No official offer of employment may be made before the finalist recommendation has been fully approved (normally by the appropriate Vice President).
- All unsuccessful applicants should be notified when the position has been filled (offered and accepted).

Nothing in this notice, the University’s employment procedures, or the law requires you to select any person who is unqualified. Rather, the intent of all these sources is just the opposite: that every qualified person receives full and fair consideration.
The American with Disabilities Act (ADA) prohibits employment discrimination against qualified individuals with disabilities. The ADA prohibits the use of qualification standards, employment tests, or other selection criteria that tend to screen out individuals with disabilities unless the standards are job-related, and it requires reasonable accommodation to the known physical or mental limitations of a qualified individual with a disability.

A “qualified individual with a disability” is an individual with a disability who can perform the essential functions of the job in question with or without reasonable accommodation.

Reasonable accommodation is any change or adjustment to a job or work environment that does not impose undue hardship on the employer and permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy the benefits and privileges of employment equal to those available to other employees (e.g., restructuring job tasks and modifying equipment, work schedules, employment examinations, training materials or policies).

INTERVIEWING UNDER THE ADA

The ADA has established guidelines as to what type of inquiries may be made at the pre-employment stage of the interview process. The following is a list of pre-employment inquiries/actions that are prohibited by the ADA, followed by a list of permissible inquiries/actions.

IMPERMISSIBLE Inquiries/Actions:
1. Asking whether an applicant has a disability.
2. Inquiring about an applicant’s worker’s compensation history or whether the applicant has ever filed a worker’s compensation claim.
3. Using an application form that makes inquiries into the medical history of a job applicant.
4. If a disability is visible, asking questions that “spotlight” the disability (e.g., the nature, prognosis, severity, cause or treatment of the disability).
5. Asking an applicant or employee how often the individual will require leave for medical or related reasons.
6. Requiring an applicant to take a pre-employment medical examination.
7. Administering a pre-employment test to an applicant with a disability in such a manner that it requires the use of the applicant’s impaired skills, unless the skills used in the test are necessary to perform the essential functions of the job.
8. Refusing to hire an applicant with a disability because the applicant’s disability prevents performance of the marginal or peripheral functions of the job being sought.
9. Refusing to hire an applicant because of the applicant’s relationship with another individual with a disability (e.g., refusing to hire an individual with a child or spouse with a disability based on the speculative belief that he/she will have to be absent to care for the child/spouse).

PERMISSIBLE Inquiries/Actions:
1. Asking an applicant about his/her ability to perform each function of the job.
2. If the applicant has a known disability (apparent or identified by the applicant) that could interfere with the performance of a job-related function, an interviewer may ask the applicant to demonstrate or describe how he/she would perform the function with or without reasonable accommodation.

3. Once a disability that could interfere with performance of a job function (essential or marginal) has been identified, an interviewer can discuss with the applicant potential accommodations that would allow the applicant to perform the job function and what accommodations he/she prefers.

4. Seeking technical assistance (Department of Human Resources and other institutional offices, rehabilitation agencies or disability organizations) to determine and evaluate potential accommodations.

5. Condition an offer of employment on the results of a medical examination provided that all entering employees in the same category are subjected to such an examination.

6. Refusing to hire an applicant with a disability if the individual's performance on the job would pose a significant risk to him/herself or others.