

UC Davis Policy and Procedure Manual

Chapter 380, Personnel--General

Section 10, Affirmative Action in Employment

Date: 3/11/05

Supersedes: 380-10, 9/17/98; and 380-11, 8/2/99

Responsible Department: Human Resources

Source Document: Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment

Exhibit A, Affirmative Action Responsibility

I. Purpose

This section contains the campus and UCDHS policy for carrying out the affirmative actions that are required of all federal contractors. Such actions are required with respect to:

- A. Race, color, religion, sex, or national origin (Executive Order 11246).
- B. Disability (Rehabilitation Act of 1973).
- C. Veterans (Vietnam Era Veterans' Readjustment Assistance Act).

Although Article 1, Section 31, of the California Constitution (Proposition 209) prohibits consideration of race, ethnicity, or sex in any governmental program, it permits action that must be taken to establish or maintain eligibility for any federal program, where ineligibility would result in loss of federal funds to the state. Thus, this policy complies with both federal and state law.

More information can be found in the Code of Federal Regulations, Title 41, Part 60. References to sections of the Code are given in square brackets.

II. Definitions

- A. Affirmative action program--the UC Davis Affirmative Action Personnel Program Plan, a management tool designed to ensure equal employment opportunity. It is published by the Offices of the Chancellor and Provost and is updated annually. It is consistent with all federal and state laws, executive orders, and regulations, and with the resolutions of the Regents. It is available at http://provost.ucdavis.edu/issue_affirmact.html#INTRO.
- B. Covered veteran--a disabled veteran, recently separated veteran, Vietnam-era veteran, or any other veteran who served on active duty in a war, a campaign, or an expedition for which a campaign badge has been authorized. [41 CFR 60-250.2]
- C. Person with a disability--a person who (1) has a physical or mental impairment that substantially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment. [41 CFR 60-741.2]

III. Policy

The following policies summarize UC's obligations under federal and state law.

A. Affirmative action

It is the policy of the University to undertake affirmative action, consistent with its obligations as a federal contractor, for minorities and women, for persons with disabilities, and for covered veterans. The University commits itself to apply every good faith effort to achieve prompt and full utilization of minorities and women in all segments of its workforce where deficiencies exist.

B. Nondiscrimination

It is the policy of the University not to engage in discrimination against or harassment of any person employed by or seeking employment with the University of California on the basis of

race, color, national origin, religion, sex, gender identity, pregnancy, physical or mental disability, medical condition (cancer-related or genetic characteristics), ancestry, marital status, age, sexual orientation, citizenship, or status as a covered veteran.

IV. Responsibility

The lines of responsibility for carrying out the affirmative action program are the same as the regular lines of responsibility used to manage and operate UCD. In no instance shall the responsibility for affirmative action be removed from this line of authority.

A. Officials

1. The Provost is the UCD Affirmative Action Officer and is responsible for carrying out the UCD affirmative action program. [41 CFR 60-2.17, 60-250.44, 60-741.44] The Provost has delegated some responsibilities to deputy affirmative action officers. See Exhibit A for information on how to contact these officials.
2. The Affirmative Action Unit Heads (generally deans and vice chancellors) are responsible for implementing the affirmative action program within their units and ensuring compliance with the law.
3. The deans assess and approve search plans and the interim and final recruitment reports. See the UC Affirmative Action Guidelines for Recruitment and Retention of Faculty (<http://www.ucop.edu/acadadv/fgsaa/affirmative.html>) and APM-UCD 500.

B. Committees

In order to carry out the affirmative action program successfully, many members of the campus community must be involved. Refer to the affirmative action program for a list of all the committees that bear special responsibility for affirmative action.

C. Department heads, managers, and supervisors

1. Each department head shall ensure that his or her department follows the law and policy on selection, retention, advancement, and development of employees, and on reasonable accommodation of persons with disabilities. He or she shall give training on affirmative action, nondiscrimination, diversity, and the Principles of Community, and monitor the efforts of managers and supervisors to carry out the affirmative action program.
2. Each manager or supervisor shall make a good faith effort to carry out the affirmative action program, to create a safe, comfortable, and positive environment for employees, and adhere to the UCD Principles of Community.

D. Personnel offices

The Office of the Vice Provost--Academic Personnel and the campus and UCDHS Human Resources offices conduct outreach efforts, develop and disseminate affirmative action goals, analyze data to measure progress towards those goals, and present training. They can also advise any member of the campus community on the areas of employment, outreach, training, resolution of complaints, and reasonable accommodation of disabilities.

V. Procedures for All Protected Groups

A. Personnel manuals and union contracts

UC personnel policies and union contracts require that all qualified applicants and employees receive an equal opportunity for recruitment, selection, advancement, and every other type of personnel action. Sections that contain specific information on the UC affirmative action program are listed after the name of each manual. See the affirmative action program for more detailed information.

1. Academic Personnel Manual
 - a. APM-035, Affirmative Action and Nondiscrimination in Employment.
 - b. APM-140, Non-Senate Academic Appointees/Grievances.
 - c. UCD-500, Academic Recruitment Guidelines.
 2. Personnel Policies for Staff Members
 - a. Policy and UCD Procedure 12, Nondiscrimination in Employment.
 - b. Policy and UCD Procedure 14, Affirmative Action.
 - c. Policy and UCD Procedure 20, Recruitment.
 3. UC-union collective bargaining agreements
Articles on management rights.
- B. Dissemination of the affirmative action program
1. The program is posted on the Web and made available in Shields Library, in staff and academic personnel offices, and in the offices of the Chancellor, Provost, and Affirmative Action Unit Heads.
 2. The program shall be discussed in new employee orientation, at training and management programs, at appropriate faculty development workshops, and at orientations for deans, department heads, managers, and supervisors. [41 CFR 60-250.4, 60-741.44]
 3. All recruitment materials, and all publications that contain general information and are available to applicants, beneficiaries, and the public, shall contain a statement that UCD is an equal opportunity/affirmative action employer. [41 CFR 60-1.41]
 4. All departments shall post the notice "Equal Employment Opportunity is the Law." It can be downloaded at http://provost.ucdavis.edu/issue_affirmact.html#INTRO. [41 CFR 60-1.42]
- C. Performance appraisals
- Performance appraisals of supervisors, managers, deans, and vice chancellors shall include an evaluation of their efforts to carry out the affirmative action program.
- D. Professional development
1. Many professional development programs can be used to address areas of underutilization. Examples of such programs include the faculty development programs and the Management Skills Assessment Program.
 2. Staff employees who wish to take courses to gain skills and prepare for positions where they are underrepresented in the workforce may apply to the affirmative action/equal employment opportunity fee assistance program. All career staff employees with one year of service are eligible. The fee assistance form is on the Web at <http://sdps.ucdavis.edu/download.htm>.
- E. Recordkeeping
- The office of record shall keep complaints about recruitment, personnel actions, and discrimination for the length of time specified in federal law [41 CFR 60-1.12, 60-250.80, 60-741.80]. See the UC Records Disposition Manual to determine the office of record for each type of record.

VI. Procedures for Minorities and Women

- A. Analysis and goal setting
1. The Office of the Vice Provost--Academic Personnel makes a workforce analysis and a utilization analysis by job group. It then identifies areas of under-representation and sets goals by organizational unit and job group. UCDHS Human Resources sets the goals for UCDHS staff employees.
 2. Twice a year, the academic goals are sent to the deans, who send them to their academic departments. The staff goals are sent to the department for each recruitment. Progress towards goals can be enhanced with special outreach efforts. The hiring authority must give his or her reasons for not interviewing or not selecting those candidates who are not hired.
- B. Review of personnel actions
- The Office of the Vice Provost--Academic Personnel analyzes data on the gender and ethnicity of employees affected by the following actions:
1. Promotions and merit increases.
 2. Separations.
 3. Professional development (staff employees).
- Campus and UCDHS Human Resources conduct ongoing analyses of the data as well.
- C. Annual review
- Each year after October 31, there is a review of goal achievement. The goals from the prior year are compared with the current year hires and personnel actions. The staff and academic personnel offices and the Office of Campus Community Relations meet with the Affirmative Action Unit Heads, as needed, to discuss progress, identify problems, and plan strategies to further goal achievement.

VII. Procedures for Persons with a Disability and Veterans

- A. Outreach efforts shall be made to reach and attract persons with disabilities and covered veterans. [41 CFR 60-741.44]
- B. The Office of the Vice Provost--Academic Personnel and Human Resources shall review personnel actions to assure that such actions are nondiscriminatory. They shall examine physical and mental requirements of jobs to ensure that they are job-related and consistent with business necessity and safe performance of the job. [41 CFR 60-250.44, 41 CFR 60-741.44]
- C. When considering a covered veteran for an employment opportunity, the portions of the military record (including discharge papers) that are not relevant to the qualification requirements of the job may not be considered. [41 CFR 60-250.21]
- D. Persons with disabilities and disabled veterans are considered qualified when they can perform the essential functions of a particular job, with or without reasonable accommodation. [41 CFR 60-250.2, 60-741.2]
- E. Reasonable accommodation is available to qualified employees and applicants with a disability. [41 CFR 60-741.44] See Personnel Policies for Staff Members, Policy and UCD Procedure 81, for more information.
- F. A pre-hire medical examination may be conducted after an offer of employment has been made but before the applicant has begun work. See Personnel Policies for Staff Members, UCD Procedure 21.D, Note 1. After hire, a medical examination may be conducted if it is job-related and consistent with business necessity. [41 CFR 60-250.23, 60-741.23]
- G. After a job offer has been made but before the applicant begins work, the applicant shall have

an opportunity to self-identify as a person with a disability or a disabled veteran in order to benefit from the affirmative action program. Providing the information is voluntary, and the information shall be kept confidential. If the applicant self-identifies, the hiring authority shall seek the advice of the applicant on appropriate accommodation. [41 CFR 60-250.42, 60-741.42]

VIII. Further Information

For more information, contact the officials and departments listed in Exhibit A.

IX. References and Related Policy

- A. Office of the President:
 - 1. Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment, and policy statements for University of California publications (http://www.hr.ucdavis.edu/Emp/SAAD/06_Resource).
 - 2. Guidelines for Academic and Staff Affirmative Action Compliance Programs for Minorities and Women, Individuals with Disabilities, and Covered Veterans (<http://www.ucop.edu/ucophome/coordrev/policy/5-12-00att.html>).
- B. Personnel manuals and union contracts (<http://manuals.ucdavis.edu>):
 - 1. Personnel Policies for Staff Members, UC Policy 12, 14, and 20; and UCD Procedures 12, 14, and 20.
 - 2. Academic Personnel Manual, Policies APM-035 and UCD-500.
 - 3. UC-union labor contracts, "Management Rights" articles.
- C. Executive Order 11246 (<http://www.dol.gov/esa/regs/statutes/ofccp/eo11246.htm>). Code of Federal Regulations, Title 41, starting with Section 60-1 (<http://www.gpoaccess.gov/cfr/index.html>).
- D. Section 503 of the Rehabilitation Act of 1973 is codified as United States Code, Title 29, Section 793 (<http://www4.law.cornell.edu/uscode/>). Code of Federal Regulations, Title 41, starting with Section 60-741 (<http://www.gpoaccess.gov/cfr/index.html>).
- E. Section 402 of the Vietnam-Era Veterans Readjustment Assistance Act of 1974, and portions of the Veterans Employment Opportunities Act of 1998 are codified as United States Code, Title 38, Sections 4211 and 4212 (<http://www4.law.cornell.edu/uscode/>). Code of Federal Regulations, Title 41, starting with Section 60-250 (<http://www.gpoaccess.gov/cfr/index.html>).
- F. California State Constitution, Article 1, Section 31 (Proposition 209), (http://www.leginfo.ca.gov/const/article_1).
- G. UCD Affirmative Action Personnel Program Plan (http://provost.ucdavis.edu/issue_affirmact.html#INTRO).
- H. UCD Policy & Procedure Manual, Section 380-15, Staff Complaints of Discrimination.
- J. UCD Principles of Community (<http://principles.ucdavis.edu/>).