

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, 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; Title VI of the Civil Rights Act of 1964 barring discrimination based on race and national origin; Title IX of the Education Amendments of 1972 barring sex discrimination; 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 and ADA Amendments Act of 2008, barring discrimination against qualified persons with disabilities; the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended by the Jobs for Veterans Act of 2002 (VEVRAA) barring discrimination against protected veterans, including disabled veterans; the Pregnancy Discrimination Act of 1978, barring discrimination against pregnant applicants and employees; the Equal Pay Act, barring wage differentials based on gender; the Genetic Information Nondiscrimination Act of 2008, barring discrimination against employees or applicants based on genetic information; 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. Discrimination is also prohibited against applicants or employees on the basis of sexual orientation, gender identity, and/or gender expression. 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 protected veterans, including disabled veterans.

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). Unless modified by the University's record retention schedule, these records should be maintained for three years in the department after the end of the fiscal year in which the records were created.

- Complete and submit recruitment details in a timely manner. Allow sufficient lead-time for publication of vacancy notices, the open period for receipt of applications, and for screening, interviewing and evaluating candidates, as well as necessary reviews and approval steps.
- Waivers of standard University posting and recruiting procedures must be approved in advance.
- Recruitments must evidence good faith efforts to attract women and minority applicants as well as individuals with disabilities and protected veterans. Details of recruitment advertisements must be developed and approved at the onset of the search process. Departments should review and, if appropriate, explore using affirmative action recruitment resources identified at <http://eop.ua.edu/resources.html>.
- Budgetary constraints do not lessen the obligation to engage in reasonable affirmative action efforts to identify and consider applicants who are qualified women, minorities, protected veterans or individuals with disabilities. If necessary, departments should seek assistance with recruitment costs and/or explore avenues of cost-sharing with other departments.
- All job announcements must include the statement **“The University of Alabama is an equal-opportunity employer (EOE), including an EOE of protected vets and individuals with disabilities”**. Use gender-neutral language in describing the position within the job announcement.
- Departments should review and adhere to the *Guidelines for Advertising Jobs* available at <http://hr.ua.edu/staff-recruitment-resources/advertising-your-job>.
- Take applications at face value. Applications should not be screened out based on speculations about individuals' interests (e.g., that the salary level would be unacceptable or that seemingly overqualified persons would be discontent in the job), or about their willingness to relocate.
- If factors such as interruptions in work history, specific skills or past duties, or reasons for leaving previous employment are critical to a candidate's consideration for the position, seek clarification with Human Resources.
- Candidates selected for interview and for hire must meet the stated minimum qualifications for the position.
- Interview and evaluate candidates based on job-related criteria only.
- Interviews should be structured and consistent in format to assure that candidates are evaluated on the same criteria.
- In interviewing, avoid asking questions that 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., then pose the actual question, 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. For more information on legal restrictions on employment application inquiries, see *EEOC Interview Guidelines* on the Hiring Manager Resources website at <http://hr.ua.edu/staff-recruitment-resources/hiring-manager-resources>.

- Inquiries that 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 accommodations for disabilities or religious practices without consultation and approval by the HR ADA Coordinator (see <http://hr.ua.edu/ada> for contact information) for disability accommodations and by the hiring departments HR Partner (see <http://hr.ua.edu/hr-partner-list-2>) for religious accommodations.
- (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 or their designee).
- For staff positions managed through the electronic recruitment system, an offer letter is generated and communicated to the hire through the system. All offer letters must contain the following paragraph: “The University’s program of affirmative action invites you to identify whether you are a covered veteran or an individual with a disability in order to receive the benefits of affirmative action. This information is used solely for affirmative action purposes and will not subject you to any adverse treatment. The self-identification forms may be accessed at <http://hr.ua.edu/policies-and-forms>.”
- The entry of accurate disposition codes is essential in documenting the reason why the applicant did not advance in the search process. As such, disposition codes should be entered into the electronic recruitment system at each stage of the hiring process by an individual that is familiar with the reason for which an applicant has or has not moved forward in the hiring process.
- For staff positions managed through the electronic recruitment system, applicants receive notification once their status is changed within the system. Unsuccessful applicants can view the status of their application at any time by logging in to the system applicant portal.

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.

AMERICANS WITH DISABILITIES ACT OF 1990 AND THE ADA AMENDMENTS ACT OF 2008

The American with Disabilities Act (ADA) and the ADA Amendments Act of 2008 (ADAAA) (collectively referred to as 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. The ADA further requires reasonable accommodations 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 permissible, followed by a list of non-permissible inquiries/actions under the ADA.

PERMISSIBLE Inquiries/Actions:

1. Asking an applicant about their ability to perform each function of the job as long as it is asked of all applicants.
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 they 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 and verified by the HR ADA Coordinator (see <http://hr.ua.edu/ada>), an interviewer can discuss with the applicant potential accommodations that would allow the applicant to perform the job function and what accommodations they prefer.
4. Seeking technical assistance from the HR ADA Coordinator (see <http://hr.ua.edu/ada>) to determine and evaluate potential accommodations.
5. Condition an offer of employment on the results of a medical examination provided that all hires 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 self or others.

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 when such a request is not applied to all applicants.
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).