



Ohio Administrative Code

Rule 3359-38-01 Affirmative action policy and program.

Effective: February 24, 2020

(A) Statement of policy.

(1) The university of Akron is an equal education and employment institution operating under nondiscrimination provisions of Title 41, Ohio Revised Code; Titles VI, VII of the Civil Rights Act of 1964, as amended; and Title IX of the Educational Amendments of 1972, as amended; Executive Order 11246, as amended; Vocational Rehabilitation Act section 504; Vietnam Era Veterans' Readjustment Act, as amended; Age Discrimination in Employment Act of 1967, as amended; Title II of the Genetic Information Nondiscrimination Act of 2008; and Americans with Disabilities Act, as amended as related to admissions, treatment of students, programs and activities, and employment practices.

(2) It is the policy of this institution that there shall be no unlawful discrimination against any individual in employment or in its programs or activities at the university of Akron because of race, color, religion, sex, sexual orientation, gender identity or expression, age, national or ethnic origin, disability, status as a parent during pregnancy and immediately after the birth of a child, status as a parent of a young child, status as a foster parent, military status, genetic information, or status as a veteran. The university of Akron prohibits sexual harassment of any form in all aspects of employment and in its programs and activities and prohibits discrimination on the basis of sexual and racial or ethnic orientation in employment and admissions.

(3) The university affirms that judgments about admissions, education and personnel evaluations at the university of Akron are based on merit, qualifications and performance and not on attributes unrelated to academic or job performance.

(4) This nondiscrimination policy applies to all students, faculty, staff, employees and applicants for employment and applicants for admission to the university and its programs and activities.

(5) All faculty and staff members involved in making personnel recommendations will make



affirmative efforts to recruit, employ and promote qualified women and minority group members especially in those categories where an underutilization of such members has been identified.

(6) This policy is an expression of its highest governing body and chief executive officer. By promulgating this program, the president of the university announces a firm and continuing commitment to equal opportunity and affirmative action for members of protected groups and assumes primary responsibility for its implementation.

(7) To the extent consistent with state and federal laws and regulations, nothing herein shall be construed to modify or impair the operation of the retirement policy and rules for the implementation thereof as established by the board of trustees of the university of Akron from time to time.

(B) Laws and regulations governing equal employment opportunity.

(1) The Equal Pay Act of 1963 requires every employer to pay employees equal pay for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or a differential based on any other factor other than sex. It is currently administered by the "Equal Employment Opportunity Commission" (EEOC).

(2) Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin in all programs or activities which receive federal financial aid. Employment discrimination is prohibited if a primary purpose of federal assistance is provision of employment (apprenticeship, training, work study or similar programs) or if program beneficiaries suffer unequal treatment because of hiring or assignment of counselors, trainers, faculty or others in organizations receiving federal funds. Title VI is administered by the office of civil rights, United States department of education.

(3) The Civil Rights Act of 1964, Title VII makes it an unlawful employment practice for employers, employment agencies and labor organizations to discriminate in the various aspect of employment on the basis of race, color, religion, sex or national origin. Title VII is administered by the EEOC.



(4) The Rehabilitation Act of 1973 (sections 503 and 504) prohibits job discrimination on the basis of a physical or mental handicap, provided the applicant is otherwise qualified for the position. Also, employers are required to actively recruit qualified handicapped persons as part of an established affirmative action program. The act is administered by the United States department of labor.

(5) Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 prohibits discrimination against any person because he or she is a disabled veteran of the Vietnam era. Employers are required to take affirmative action to enhance veteran's employment opportunities.

(6) Executive Order 11246 as amended seeks to promote and insure equal opportunity for all persons without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin of employees or persons seeking employment with government contractors. The order is administered by the "Office of Federal Contract Compliance Program" (OFCCP), United States department of labor. It is this order that mandates that affirmative action programs be described in written plans with specific goals and timetables for recruiting, hiring and upgrading blacks, other minorities and women.

(7) Title IX of the Education Amendments of 1972 prohibits sex discrimination in the programs and activities of any educational institution that receives federal assistance. Title IX is administered by the office of civil rights, United States department of education. The university of Akron does not discriminate on the basis of sex in any of its education programs and activities and is required by Title IX not to discriminate in such a manner. Questions regarding Title IX may be referred to the university's Title IX coordinator or to the United States department of education, office for civil rights. Information regarding Title IX, including the contact information for the Title IX coordinator and deputy Title IX coordinators, can be found on the university's Title IX website located at: <http://www.uakron.edu/title-ix>.

(8) The Age Discrimination in Employment Act as amended makes it unlawful for employers, employment agencies, and labor organizations to discriminate against persons forty years of age and over in any area of employment because of age.

(9) Immigration Reform and Control Act of 1986 (with certain exceptions) makes it an unfair immigration-related employment practice to discriminate against any individual (other than an



unauthorized alien) with respect to the hiring or recruitment or referral for a fee of the individual for employment or the discharging of the individual from employment because of such individual's national origin, or in the case of a citizen or intending citizen, because of such individual's citizenship status. The act is administered by the United States department of justice.

(10) State law against discrimination, section 4112.02 of the Revised Code, prohibits discrimination in Ohio by reason of age, sex, disability, color, religion, national origin, military status, or ancestry in housing, public accommodation and employment in terms similar to those contained in federal statutes. This law is administered by the Ohio civil rights commission.

(11) Americans With Disabilities Act, effective July 26, 1992, has the purpose of providing a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities. It extends federal civil rights protection in several areas to qualified people who are considered disabled. The act prohibits covered entities from excluding people from jobs, services, activities, or benefits based on disability and provides penalties for discrimination.

(12) The Uniformed Services Employment and Reemployment Rights Act (USERRA), subject to eligibility criteria, has the purpose of ensuring that members of the uniformed services are entitled to return to their civilian employment upon completion of their service.

(13) Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA) protects applicants and employees from discrimination based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral and other aspects of employment.

(C) Affirmative action program.

(1) Dissemination and implementation.

(a) Information about the affirmative action program will be provided at each orientation meeting for new academic and new nonacademic personnel being employed for all levels of service.

(b) In order to provide upward mobility for minorities, women, persons with disabilities, and veterans, the university of Akron periodically reviews its workforce to determine whether such



employees are given equal opportunity for promotion.

(c) To assure optimum communication, interpretation, and implementation of the university's EEO program at all levels of supervision and to all employees, recruiting sources, community agencies, contractors providing goods and services, and the general public, the following steps are undertaken.

(i) Definition of the existence of the university of Akron's written affirmative action program is made available to all employees, and they will be periodically reminded of this program by:

(a) Distribution of the document entitled "Affirmative Action at The University of Akron" to new employees and thereafter through annual reminders to all faculty and staff personnel.

(b) Description of the equal employment opportunity policy by publication or references in issues or reissues of faculty and staff manuals which will be reviewed periodically.

(c) Periodic publication of the university's equal employment opportunity policy, related programs, and activities by articles or news releases in local newspapers as well as in university publications; and

(d) Discussions and explanations at supervisory level conferences and meetings of collegiate faculty and staff members.

(ii) Academic and administrative employment opportunities are publicly announced on university bulletin boards and job opportunity bulletins. These opportunities for employment are also posted in a conspicuous and highly frequented location within the department or office where the vacancy exists. Employment and recruiting sources listing job vacancies at the university of Akron will be reminded of the equal employment opportunity policy. Public employment agencies will be contacted initially, and only when qualified applicants cannot be found will private agencies charging a client fee be contacted.

(iii) Notices informing applicants and employees of statutes and regulations noted in this policy will be posted on bulletin boards in locations where job interviews and related matters are conducted. All advertisements, notices, and responses to inquiries about positions will prominently contain the



statement: "The University of Akron is an Equal Education and Employment Institution."

(iv) Contractors, subcontractors, and vendors providing goods and/or services to the university of Akron will be notified verbally and in writing of the university's equal employment opportunity policy and affirmative action program. External contractors shall reciprocate by informing The university of Akron's office of contract compliance in writing of their willingness to meet all applicable equal opportunity and affirmative action obligations. Also, building construction and renovation must include reasonable accommodations for disabled persons.

(v) The university of Akron shall operate an office of affirmative action/equal employment opportunity with an affirmative action/equal employment opportunity director appointed by the president. The office shall have at least one full-time staff member and a full-time secretary. The office shall be responsible to the board of trustees through the president and the constituent groups making up this university for implementation of this affirmative action program.

(a) The affirmative action/equal employment opportunity director is responsible for coordinating and monitoring all components of the affirmative action plan and is the university officer responsible for sanctioning and monitoring compliance with the affirmative action/equal employment opportunity component of employment processes.

(b) The office of affirmative action/equal employment opportunity shall issue a yearly report on the university's progress in its affirmative action program in accordance with the office of the federal contract compliance guideline 602.21a8. This report shall be made available to the university's board of trustees, president, faculty, support staff, student body, and other parties who may have an interest or who should be advised of its content. This report shall contain such information as comparative numbers of females and minorities as well as comparative wages, salaries, and compensation. The annual report of the affirmative action/equal employment opportunity director shall be available within forty-five days of the beginning of the academic year.

(c) The affirmative action/equal employment opportunity office shall have the authority to distribute The university of Akron's official policy of equal employment opportunity in accordance with the office of federal contract guideline 60.2.21.



(vi) The university of Akron shall maintain an affirmative action commission, which shall serve as a continuing review panel on the status of protected class members of the university.

The affirmative action commission shall be appointed by the president annually and shall include adequate representation of teaching personnel, administrative personnel, civil service personnel, and students at the graduate, professional, and undergraduate. The president shall insure that minorities, disabled persons, women, and part-time personnel are represented on the commission. The activities of this commission shall be supported by the affirmative action/equal employment opportunity director and staff. The activities of this commission include, but are not limited to:

(a) Annual review of the affirmative action plan and publication of the results of such review.

(b) Hearing and investigating grievances, complaints, and allegations of violations of the plan and recommending remedies thereto.

(c) Making recommendations to university persons with personnel authority through the affirmative action/equal employment opportunity director regarding individual relief, implementation, enforcement, and improvement of the plan.

(vii) The university of Akron shall not subscribe to, require, or encourage its faculty or non-teaching members to subscribe to any insurance plan which:

(a) Does not insure equal benefits to women faculty and staff members or their spouses or survivors;
or

(b) Take a position on pregnancy, maternity, or abortion coverage contrary to the office of federal contract compliance guideline 60.20.3c (copy is available in the affirmative action/equal employment opportunity office) or Title VII of the 1964 Civil Rights Act.

(viii) Minority, female, and disabled employees will be afforded full and complete opportunity and will be encouraged to participate in all university-sponsored educational, training, recreational, and social activities and will have equal access to university facilities. Also, building construction and renovation must include reasonable accommodations for handicapped persons. The university shall



not knowingly rent to or allow use of university facilities, patronize or use the facilities of any off-campus organization that has an invidiously discriminatory pattern or practice involving either membership or employment. Discriminatory patterns include, but are not limited to, those organizations whose membership or employment is closed to women and/or members of minority groups.

(2) Recruitment, training, promotion, and retention.

With these affirmative action commitments, it is necessary to review the total utilization of minority, female, veterans, and disabled group employees and to develop specific steps to accomplish necessary training where there are deficiencies. In all personnel practices of this university, every person with personnel authority and responsibility must:

- (a) Base employment decisions solely upon the individual's qualifications and/or performance in the event of employment. If employment testing is used as a criterion for selection, appropriate guidelines will be followed to assure validity, objectivity, reliability, and compliance with law.
- (b) Insure that every full-time vacancy is communicated to the affirmative action/equal employment opportunity office prior to the announcement and publication of the job opening.
- (c) Record employees by job classifications with identification of minorities, disabled persons and females.
- (d) Record the turnaway rate for all applicants, and meet with interviewers and supervisors to determine turnaway causes to develop remedies for affirmative action deficiencies.
- (e) Insure personnel services and benefits for eligible employees are provided on a nondiscriminatory basis. These services and benefits include, but are not limited to: compensation, fringe benefits, transfers, university-sponsored training, education, tuition assistance, and all other similar services and benefits administered by the university.
- (f) Determine that appointments, retention, promotion, tenure, and termination are based solely on the individual's qualifications and performance and on a nondiscriminatory basis.



- (g) Project collegiate equal employment opportunity goals with target dates and develop collegiate affirmative action programs.
- (h) Establish nondiscriminatory criteria for the large number of men and women who are employed on the faculty and staff at the university of Akron on a part-time basis.
- (i) Allow sufficient time off for childbearing to women at the university of Akron whether faculty, staff, student, or administrator and regardless of marital status. Mandatory leave should not be stipulated by the university; and the length of leave should be based on a bona fide medical need related to pregnancy or childbirth.
- (j) All employees shall be eligible for parental leave and shall be allowed to return to their original position or position of like status and compensation.
- (k) Base all appointments and promotions at the university of Akron upon consideration of qualifications and merit. Policies or practices which prohibit or limit simultaneous employment of two or more members of the same family and which have an adverse impact upon one sex or the other are not consistent with Executive Order 11246. Relationships by marriage or family will neither be an advantage nor deterrent in the process of evaluation and selection for appointment and promotion.

Faculty and staff members in a supervisory capacity should neither formally initiate, participate in the process nor render the final decision on personnel matters involving members of their immediate families. Definition of "immediate family" is as follows: spouse, child, father, mother, sister, brother, grandparents, grandchild, brother-in-law, sister-in-law, mother-in-law, father-in-law, legal guardian or other person who may legally stand in place of a parent.

(3) Student body.

- (a) Undergraduate and graduate admission policies shall be administered consistent with the objectives of the university of Akron's affirmative action plan and the Educational Amendments Act of 1972. If the proportion of minorities, women and disabled persons admitted to the university of



Akron falls below a desirable ratio range, the university will actively recruit to correct this deficiency.

(b) All scholarships, fellowships and other allowances for students as well as any other funds administered directly by the university of Akron personnel or other facilities shall be administered in a manner nondiscriminating to minority groups, women, disabled persons and shall be consistent with the objectives of the affirmative action plan. Married women shall be eligible for financial support on the same basis as married men. Pregnancy shall not be considered an impediment to women's qualification for financial assistance (however, financial assistance would not continue during the period of maternity leave). The university of Akron shall review its scholarship, fellowship, award, loan and grant programs for full- and part-time students to insure consistency with the spirit, aims and specific goals of its affirmative action plan.

(c) Teaching and/or research fellowships and assistantships available to graduate students as teaching employees of the university of Akron shall be administered in accordance with the university's affirmative action program.

(d) Counseling services shall be staffed by men and women who have the expertise to deal with the special needs of minority groups.

(4) Goals and timetables.

(a) To reaffirm its commitment to the spirit and intent of affirmative action, the university of Akron annually updates its goals and timetables for faculty and staff.

(b) With regard to academic personnel, the goal shall be to increase and maintain the number of minority persons and women on the faculty and administration in a proportion reasonably equal to the number of doctorates and other appropriate qualifications in the field. Here the goal will be to reduce underutilization to a level where qualified minority, women, and disabled applicants are represented within the university in proportion reasonably equal to their availability in the general or specialized job market.

(c) For purposes of this plan, underutilization is defined as having fewer minorities, disabled persons or persons of either sex in a given job classification than would reasonably be expected by their



availability in the appropriate job market.

(d) Those employing units having no minority persons, women, or disabled persons bear an especial obligation in this affirmative action plan. Where underutilization has been determined and a vacancy exists, a thorough documentation of an energetic and systematic search for women and minorities will be filed with the affirmative action/EEO office. Further, each unit will be reviewed to ensure fair and equitable treatment of handicapped and veteran employees and applicants for employment.