



AFFIRMATIVE ACTION PROGRAM FOR INDIVIDUALS WITH
DISABILITIES AND FOR PROTECTED VETERANS

WESTERN KENTUCKY UNIVERSITY

AAP Year Date
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Western Kentucky University does not discriminate on the basis of race, color, national origin, sex, sexual orientation, disability, age, religion, or marital status in admission to career and technical education programs and/or activities, or employment practices in accordance with Title VI and VII of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Revised 1992, and the Americans with Disabilities Act of 1990.

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I. INTRODUCTION

Western Kentucky University (WKU) has developed an Affirmative Action Program (AAP) for Individuals with Disabilities and for Protected Veterans in accordance with U.S. Labor Department Office of Federal Contract Compliance Programs (OFCCP) regulations implementing Section 503 of the Rehabilitation Act of 1973, the Vietnam Era Veterans Readjustment Assistance Act of 1974 (VEVRAA), Americans with Disabilities Act of 1990 (ADA), the ADA Amendments Act of 2008 (ADAAA), and regulations at 41 C.F.R. § 60-741.44 and 41 C.F.R. § 60-250 published to implement and administer the Act as may be amended.

The AAP for Individuals with Disabilities and for Protected Veterans is organized into sections following the topics suggested by 41 C.F.R. § 60-741 and 41 C.F.R. § 60-250 as necessary components of an effective, results-oriented affirmative action program. The inclusive dates of this AAP are from August 31, 2008 to September 1, 2009. Overall responsibility for the administration of the university's equal employment opportunity and affirmative action programs is assigned to Western Kentucky University's Office of Equal Opportunity/Affirmative Action/University ADA Services and Human Resources Department.

II. DEFINITIONS

I. The following definitions are applicable to individuals with a disability in accordance with 41 C.F.R. § 60-741.2, as amended.

- A. "Disability" with respect to an individual, is a physical or mental impairment that substantially limits one or more major life activities of such an individual, a record of such impairment, or being regarded as having such impairment. For purposes of this part, an individual with a disability is substantially limited if the individual is likely to experience difficulty in securing, retaining or advancing in employment because of a disability.
- B. "Substantially limits" with respect to the major life activity of work means significantly restricted in the ability to perform either a class of jobs or a broad range of jobs in various classes as compared to the average person having comparable training, skills and abilities. The inability to perform a single, particular job does not constitute a substantial limitation in the major life activity of working.
- C. "Major Life Activities"
 - 1. In general, for purposes of paragraph (A), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.
 - 2. For purposes of paragraph (A), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive

functions.

3. "Life activities" may be considered to include communication, ambulation, self-care, socialization, education, vocational training, employment, transportation, adapting to housing and employment. For the purposes of Section 503 of the Vocational Rehabilitation Act of 1973, primary attention is given to those life activities that affect employment.
4. "Qualified individual with a disability" means an individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

II. The following definitions are applicable to Protected Veterans in accordance with 38 SCA 4212 and 41 C.F.R. § 60-250

- A. "Special Disabled Veteran" means:
 1. A veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans Affairs for a disability that is: (a) rated at 30 percent or more; or, (b) rated at 10 or 20 percent in the case of a veteran who has been determined under 38 USC 3106 to have a serious employment handicap; or
 2. A person who is discharged or released from active duty because of a service-connected disability.
- B. "Other Protected Veteran" means a person who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized under laws administered by the Department of Defense.
- C. "Recently Separated Veteran" means any veteran during the one-year period beginning on the date of such veteran's discharge or release from active duty.
- D. "Veteran of the Vietnam Era" means a person who: (1) served on active duty for a period of more than 180 days, and was discharged or released there from with other than a dishonorable discharge, if any part of such active duty occurred; (i) in the Republic of Vietnam between February 28, 1961, and May 7, 1975; or (ii) between August 5, 1964, and May 7, 1975, in all other cases; or (2) was discharged or released from active duty for a service-connected disability if any part of such active duty was performed; (i) in the Republic of Vietnam between February 28, 1961, and May 7, 1975; or (ii) between August 5, 1964, and May 7, 1975, in all other cases.
- E. "Protected Veteran(s)" means a veteran who is a "Special Disabled Veteran," a

“Veteran of the Vietnam Era,” an “Other Protected Veteran” and/or a “Recently Separated Veteran.”

III. STATEMENT OF POLICY

41 C.F.R. § § 60-741.44(a);-250.1

Western Kentucky University does not discriminate in employment opportunities or practices on the basis of race, color, religion, sex, national origin, age, disability or veteran status, or any other characteristic protected by law. Additionally, the university will take affirmative action to employ, advance in employment, and treat qualified individuals with disabilities and Protected Veterans without discrimination in all employment practices, such as recruitment, selection, promotion, demotion, transfer, reduction-in-force, termination, compensation, benefits and training. The university will assure employment decisions are based on valid job requirements, merit, qualifications and abilities of the employee or applicant, and that employment practices are administered without regard to disability or veteran status. All university departments have the responsibility to further the principles of equal employment opportunity and affirmative action.

Western Kentucky University invites individuals offered jobs and incumbent employees to self-identify as an individual with a disability or as a Protected Veteran through available self-identification forms or through notification of a supervisor or The Office of Equal Opportunity/Affirmative Action/University ADA Services. The self-disclosure of a disability or by an applicant or employee at the present, or any time in the future, is voluntary and refusal to provide the disclosure will not subject the individual to any adverse treatment. Employees and applicants with questions or concerns about any type of discrimination in the workplace are encouraged to bring these issues to the attention of their immediate supervisor, to The Office of Equal Opportunity/Affirmative Action/University ADA Services or to the President.

Employees can raise concerns and make reports without fear of reprisal, harassment, intimidation, threats, coercion or discrimination because they: (1) file a complaint with the university or with federal, state or local agencies; (2) assist or participate in any investigation, compliance review, hearing or any other activity related to the administration of the affirmative action provisions of VEVRAA or any other federal, state or local law requiring equal opportunity for veterans or individuals with disabilities; (3) oppose any act or practice made unlawful by VEVRAA or its implementing regulations, section 503 or its implementing regulations, or any other federal, state or local law requiring equal opportunity for veterans or individuals with disabilities; or, (4) exercise any other employment right protected by VEVRAA or its implementing regulations, section 503 or its implementing regulations, or any other federal, state or local law requiring equal opportunity for veterans or individuals with disabilities.

Western Kentucky University is committed to the specific and results-oriented procedures established by this AAP. These procedures and good faith efforts are designed to achieve the full representation of all university employees at all levels and in all parts of the workforce through affirmative action.

IV. REVIEW OF PERSONNEL PROCESSES

41 C.F.R. § § 60-741.44(b);-250.6(b)

Western Kentucky University assures that its personnel processes provide for careful, thorough and systematic consideration of the job qualifications of applicants and employees with known disabilities and for Protected Veterans for job vacancies filled either by hiring or promotion, and for all training opportunities offered or available. The university assures that its personnel processes do not stereotype individuals with a disability or Protected Veterans in a manner which limits their access to jobs for which they are qualified.

The university periodically reviews its processes and makes any necessary modifications to assure these obligations are carried out. The following procedures facilitate a review of the implementation of these requirements and are drawn from, among other things, Appendix C of Office of Federal Contracts and Compliance Program's Regulations implementing Section 503 of the Rehabilitation Act of 1973.

A. Recruitment

1. An applicant may voluntarily identify if they have a qualified disability or if they are in a Protected Veteran status as part of the employment application form. Individual demographic information is not shared with the hiring department or hiring manager during the hiring process. The self-disclosure of a disability by an applicant is voluntary and refusal to provide the disclosure will not subject the individual to any adverse treatment.
2. Applicants needing assistance with the application or interview may contact The Office of Equal Opportunity/Affirmative Action/University ADA Services or Human Resources Department and may also receive assistance from The Office of Equal Opportunity/Affirmative Action/University ADA Services or Human Resources Department staff if applying in person.
3. Job vacancies for non-faculty positions are advertised on the Western Kentucky University Online Employment Service web site and through the Kentucky Workforce Commission web site. Hiring departments may request that vacant positions be posted at no charge on "HigherEdJobs.com" and "Workplacediversity.com". A contract for discounted advertising prices has also been established with the "Chronicle of Higher Education" web site and hiring departments may elect to use and fund the cost of this additional advertising service.
4. The following statement is included on the application, "In compliance with the Americans with Disabilities Act (ADA), if accommodations are needed for the application process, please inform The Office of Equal Opportunity/Affirmative Action/University ADA Services at adacompliance@wku.edu or phone (270) 745-5121."
5. In determining the qualifications of a Protected Veteran, consideration is given only to the portion of the military record, including discharge papers, relevant to the job qualifications for which the veteran is being considered.

6. Pre-employment applicant questions will be based on job-related qualifications and requirements for the position, consistent with business necessity and the safe performance of the job, and will not screen out or tend to screen out qualified individuals with disabilities or Protected Veterans. The applicant questions will be documented in advance and asked of all applicants for a position.
7. A medical examination for employment in a position will only be performed if it is job-related and consistent with business necessity and safe performance of the job. The medical examination will be administered for all entering employees for such a position after an offer of employment has been made and prior to the actual start date of a new hire, regardless of disability.
8. Departments engaged in hiring new employees are required to document the disposition of applications in the applicant pools, which are reviewed and monitored by the Human Resources Department.

B. Employment

1. Incumbent employees may voluntarily identify a disability, with or without a request for a reasonable work accommodation, to their supervisor or The Office of Equal Opportunity/Affirmative Action/University ADA Services after the hire. Incumbent employees also may voluntarily identify a disability or Protected Veteran status by contacting the Human Resources Department.
2. A determination of what is a reasonable accommodation will be made on a case by case basis through an interactive process involving The Office of Equal Opportunity/Affirmative Action/University ADA Services or the appropriate manager and the employee. Incumbent faculty employees will consult with The Office of Equal Opportunity/Affirmative Action/University ADA Services Director about accommodation issues.
3. Medical information concerning individuals with disabilities or Protected Veterans will be used only to meet safety requirements and to make reasonable accommodations for a disability. Supervisors and administrators may be informed regarding only the nature of accommodations or restriction on work or duties (not the nature of the disability); first aid and safety personnel may be informed when and, to the extent appropriate, if the condition might require emergency treatment; and government officials investigating compliance with the EEO laws can be informed.

V. PHYSICAL AND MENTAL QUALIFICATIONS

41 C.F.R. § § 60-741.44(c);-250.6(c)

Western Kentucky University reviews all physical and mental job qualification requirements with management and supervisors and the appropriate representative of The Office of Equal Opportunity/Affirmative Action/University ADA Services to assure that to the extent qualification requirements screen out or tend to screen out qualified individuals with

disabilities or Protected Veterans in the selection process for employment or other changes in employment status such as promotion or training, that they are job-related and consistent with business necessity and the safe performance of the job. The schedule of the review is completed: (1) annually; (2) as new job qualification requirements are established; and, (3) when new equipment is installed. Military records will not be used by Western Kentucky University to discriminate against any Protected Veteran.

The university will assure that when a Protected Veteran is considered for employment opportunities, only the portion of the individual's military record, including his or her discharge papers, that is relevant to the requirements of the open position, will be considered.

VI. REASONABLE ACCOMMODATIONS TO PHYSICAL AND MENTAL LIMITATIONS

41 C.F.R. § § 60-741.44(d);-250.6(d)

Western Kentucky University will provide reasonable accommodation to the known physical or mental limitations of all otherwise qualified individuals with disabilities unless it can demonstrate that the accommodation would impose an undue hardship on the operation of business. Every good faith effort is made to provide reasonable accommodation as determined on a case-by-case basis. The university adheres to the Western Kentucky University System Policy *Civil Rights Protections and Compliance*, and associated Regulations, which includes definitions and procedures for accommodations. Additional rules and processes regarding faculty employees are provided in Western Kentucky University *Reinstatement of Faculty Member on Sick Leave or Leave Without Pay Related to a Disability*.

If an employee with a known disability is having significant difficulty performing his or her job and it is reasonable to conclude that the performance problem may be related to the known disability, the university confidentially notifies the employee of the performance problem and inquires whether the problem is related to the employee's disability. If the employee responds affirmatively, the university confidentially inquires whether the employee is in need of a reasonable accommodation. A reasonable accommodation is determined on an individual basis, and evaluates the requirements of the job and the particular disability of the employee or applicant. It also involves an assessment of the extent to which an accommodation can be made without causing an undue hardship, significant difficulty, or expense to the institution, as well as substantial disruption or fundamental alteration of the way a program is operated.

Accommodation also involves consideration of productivity, safety, and efficiency in the operation of the organization. Reasonable accommodation may include, but is not limited to: (1) making existing facilities used by employees readily accessible to and usable by individuals with a disability; and/or, (2) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training materials or policies, the provision of qualified readers or interpreters, alteration of workplace or removal of architecture barriers, reserved parking area, and other similar accommodations for individuals with a disability. When offering employment or promotion to individuals covered by this AAP, the amount of compensation offered may not be reduced because of any disability income, pension or other benefit that an applicant or employee receives from another source.

VII. HARASSMENT OR DISCRIMINATION

41 C.F.R. § § 60-741.44(e);-250.6(e)

Western Kentucky University will assure that its employees are not harassed or discriminated against because of a known disability or Protected Veteran status. The Western Kentucky University complaint and appeals procedure for faculty and staff are on The Office of Equal Opportunity/Affirmative Action/University ADA Services website link.

- A. Allegations of Discrimination or Harassment Discrimination complaints, which may allege that a person has been denied employment, a promotion or some other benefit or opportunity because of race, sex, color, national origin, religion, age, disability or veteran status, are subject to the procedures as set forth in The Office of Equal Opportunity/Affirmative Action/University ADA Services.

All employee complaints and grievances are viewed as employee relations issues. The Human Resources Department manages grievances from non-faculty employees. The Associate Vice President/Chief Diversity Officer manages grievances from faculty employees. Regardless of the origin of the complaint, responsible offices, the appropriate deans, department heads or directors, and other appropriate managers share all necessary information and are mutually cooperative throughout the process of investigating and resolving the complaint.

- B. Complaints Received by External Agencies

When an internal complaint is not resolved, employees may, at their discretion, seek assistance from state or federal agencies. Upon receipt of this type of complaint, the Chief of Staff/General Counsel and The Office of Equal Opportunity/Affirmative Action/University ADA Services will coordinate the resolution or disposition of the complaint with the appropriate office and the mutual cooperation of its dean, department head or director.

VIII. EXTERNAL DISSEMINATION OF POLICY, OUTREACH AND POSITIVE RECRUITMENT

41 C.F.R. § § 60-741.44(f);-250.6(f)

Western Kentucky University will undertake appropriate outreach and positive recruitment activities such as those listed below that are reasonably designed to effectively recruit and retain qualified individuals with disabilities or protected veterans.

- A. Dissemination of Policy

1. The Affirmative Action Program for Individuals with Disabilities and for Protected Veterans will be made available online at The Office of Equal Opportunity/Affirmative Action/University ADA Services web site and provided in print to be maintained in the Reserve Section of the Western Kentucky University Library.
2. The Equal Opportunity/Affirmative Action/University ADA Services statement, “Western Kentucky University is an equal opportunity, affirmative action employer committed to diversity”, will be incorporated into appropriate

employment and recruitment materials. Reference to this clause may be abbreviated “EO/AA/ADA” if space does not permit the entire statement.

3. Policy statements regarding individuals with disabilities and Protected Veterans will continue to be distributed with vacant job postings to local organizations and institutions on a regular basis.
4. A statement relating to the EO/AA/ADA policy is provided to all covered contractors and subcontractors as required by law under Section 503 of the Rehabilitation Act of 1973, as amended, and 38 USC 4212 (formerly 2012) of VEVRAA.

B. Outreach and Positive Recruitment

1. Human Resources will work with local organizations and institutions that have a special interest in employment of and accommodations for individuals with disabilities and for Protected Veterans to recruit and retain qualified individuals.
2. Human Resources will inform all major recruiting sources of its commitment to employ qualified individuals with disabilities and Protected Veterans. A list of all applicable employment openings is provided to the Kentucky Workforce Commission for inclusion on their web site.
3. Human Resources will include the EO/AA/ADA statement in all recruitment literature, employment promotional information, hiring and employment process training materials and on the Western Kentucky University Online Employment Service web site. Photographs of employees will include representation of women, minorities and individuals with disabilities when employees are featured in these publications.
4. Human Resources will work with organizations such as the Kentucky Rehabilitation Commission or the Kentucky Veterans Commission as needed for advice, technical assistance and referral of qualified applicants.

IX. INTERNAL DISSEMINATION OF POLICY

41 C.F.R. § § 60-741.44(g);-250.6(g)

Western Kentucky University recognizes that even a strong outreach program will be ineffective without adequate internal support from supervisory and management personnel and other employees who may have had limited contact with individuals with disabilities or with Protected Veterans in the past. To assure greater employee cooperation and participation in these efforts, the university will implement or continue to implement internal dissemination procedures, all of which are the responsibility of The Office of Equal Opportunity/Affirmative Action/University ADA Services, to communicate its obligation to engage in affirmative action efforts to employ and advance in employment qualified individuals with disabilities. The following procedures are designed to foster understanding, acceptance and support among university executives, management, supervisory and other employees and to encourage such persons to take the necessary actions to aid the university in meeting its obligations.

A. Dissemination of Policy

1. Each year the President will issue a memorandum reaffirming the EO/AA/ADA policy statement to all employees.
2. The Affirmative Action Program for Individuals with Disabilities and for Protected Veterans will continue to be reviewed annually and made available online at The Office of Equal Opportunity/Affirmative Action/University ADA Services web site and provided in print to be maintained in the WKU Library. University department heads and directors are encouraged to make all individuals involved in personnel decisions aware of these documents and their contents.
3. The Office of Equal Opportunity/Affirmative Action/University ADA Services will review this AAP with university executive staff and employees who work in appropriate The Office of Equal Opportunity/Affirmative Action/University ADA Services and Human Resources positions and outline each employee's responsibility to assist the university in meeting its objectives.
4. Managers and supervisors are informed about the university's EO/AA/ADA policy through dissemination of this AAP, presentations and meetings conducted by The Office of Equal Opportunity/Affirmative Action/University ADA Services, Human Resources and university-sponsored training seminars, which may include workshops on supervisory skills, the hiring process and job position descriptions.
5. Photographs and articles in employee handbooks and similar employee publications, whether in print or online, will continue to include representation of individuals with disabilities when employees are featured in same.
6. All university departments are provided guidance on posting the federally required EO/AA/ADA posters in locations viewable by employees and applicants.
7. The policies on equal employment opportunity and affirmative action are stated in the Western Kentucky University's, *Civil Rights Protections and Compliance* available on The Office of Equal Opportunity/Affirmative Action/University ADA Services web site.

B. Training

1. Hiring managers and supervisors are provided with online training materials, tools and resources on The Office of Equal Opportunity/Affirmative Action/University ADA Services web site to advance the university's commitment to equal opportunity, affirmative action and diversity, and to provide for fair, consistent and documented hiring decisions.
2. Training and counseling is available to all employees in order to gain positive support and understanding of this AAP for individuals with disabilities and for Protected Veterans. The university may conduct special seminars and

conferences to address topics pertinent to affirmative action, equal employment opportunity and ADA.

X. AUDIT AND REPORTING SYSTEMS

41 C.F.R. § § 60-741.44(h);-250.6(h)

Western Kentucky University periodically monitors all personnel activity, including referrals, selections, transfers, promotions, terminations and compensation to assure the policy of non-discrimination against individuals with disabilities and Protected Veterans is carried out. The Office of Equal Opportunity/Affirmative Action/University ADA Services and Human Resources will review the results of the monitoring system and periodically provide a written summary to executive management and department heads as necessary. Where the affirmative action program is found to be deficient, the necessary steps to bring the program into compliance are initiated.

XI. RESPONSIBILITY FOR IMPLEMENTATION

41 C.F.R. § § 60-741.44(i);-250.6(i)

A. Responsibilities of University Officials

1. The President of Western Kentucky University has overall responsibility for success of the university's affirmative action programs for individuals with disabilities and for Protected Veterans.
2. The President has delegated responsibility to administer and manage the university's equal employment opportunity and affirmative action programs to The Office of Equal Opportunity/Affirmative Action/University ADA Services and Human Resources.
3. The Office of Equal Opportunity/Affirmative Action/University ADA Services Director has been given top management support and staffing to administer all policies, processes and programs of this AAP, including the following:
 - a. Design and implement monitoring and reporting systems that will measure the effectiveness of the university's programs and indicate the need for remedial action when necessary;
 - b. Develop and implement effective recruiting programs for qualified individuals with disabilities and for Protected Veterans;
 - c. Develop training and provide resources to supervisors, employees and applicants in all matters concerning individuals with disabilities and for Protected Veterans;
 - d. Establish and monitor university policy concerning the handling of employee complaints for all employees, including individuals with a known disability or who are covered as a Protected Veteran, in a prompt and equitable manner; and,
 - e. Work with departments responsible for physical facilities and

transportation systems to assure they meet the Kentucky Accessibility Standards and ADA requirements for a workplace as they apply to a university.

4. The President has further delegated to all executives, deans, vice presidents, department heads, directors, supervisors and managers with the responsibility to share in all aspects of the administrative responsibilities for the implementation and monitoring of this AAP within their organizational units.

B. Responsibilities of Other University Offices

1. Western Kentucky University has instituted an ADA Policy Advisory Committee that meets periodically to discuss ADA issues and ways to enhance ADA-related communication and response. The Office of Equal Opportunity/Affirmative Action/University ADA Services web site provides a mechanism for reporting ADA issues and lists the name of the ADA Coordinator and contact persons for ADA issues and questions.
2. The Department of Purchasing is responsible for including EO/AA/ADA clauses in contracts awarded under government prime contracts and subcontracts, as appropriate under Section 503 of the Rehabilitation Act of 1973, as amended, 38 USC 4212 (formerly 2012) of the VEVRAA, and for obtaining the required certification from covered contractors, and subcontractors of their compliance in maintaining an AAP for individuals with a disability and Protected Veterans. A copy of the certifications or documentation of EO/AA/ADA clauses will be provided to The Office of Equal Opportunity/Affirmative Action/University ADA Services as requested for auditing purposes.

XII. TRAINING

41 C.F.R. § § 60-741.44(j);-250.6(j)

Western Kentucky University trains all personnel involved in the recruitment, screening, selection, promotion, disciplinary and related processes to assure that the commitments in the university's equal employment opportunity and affirmative action programs are implemented as to individuals with disabilities and Protected Veterans.