

Prepared by the Vice President for Administration.
This is a new Administrative Procedure.

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EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION

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A9.895 EEO/AA GLOSSARY

1. Purpose

To provide a glossary of those terms commonly used in the Equal Employment Opportunity/Affirmative Action Program. The inclusion of a term does not mean that the University agrees with the definition which is provided. Rather the definition which is provided represents the University's understanding of the usage of the term by those external agencies and individuals concerned about matters.

2. Authority

Board of Regents Policy on Nondiscrimination and Affirmative Action (Section 1-5 of the Board of Regents Bylaws and Policies) and Executive Policy E1.202.

3. Glossary

- (1) AFFIRMATIVE ACTION. In employment law, specific actions in recruitment, hiring, upgrading and other areas which are designed and taken for the purpose of eliminating the present effects of past discrimination. One such effect is often underrepresentation of minorities or women. In that case, the estimated effectiveness of proposed affirmative actions is generally projected in "goals and timetables" (see also).
- (2) AFFIRMATIVE ACTION PLAN (AAP). The written plan by which a government contractor must set forth the specific affirmative actions by which it will eliminate and remedy past discrimination against or underutilization of minorities and women. The affirmative action plans of government contractors must contain "goals and timetables" (see also).
- (3) AFFIRMATIVE ACTION PROGRAM. Generally used interchangeably with affirmative action plan. However, a plan is the undertaking on paper; the program

consists of the actual, ongoing efforts.

- (4) AFFIRMATIVE RECRUITMENT. Special recruitment efforts undertaken to assure that qualified minorities and women are well represented in the applicant pools for positions in which they have been excluded or substantially underutilized. Such efforts may include contacting organizations and media with known constituencies of minorities or women, and similar actions. Open job-posting and advertising and "equal opportunity employer" statements may be necessary in many situations simply as a matter of nondiscrimination (see also), rather than as measures of affirmative recruitment.
- (5) APPLICANT POOL. All people who have applied for a particular job or group of jobs during one period of opening. The collection of candidates from which the selection or selections for available positions may be made.
- (6) DISCRIMINATION. In equal employment opportunity law, an act or acts the effects of which are adverse to the employment opportunities of one or more individuals because of his, her, or their race, color, religion, sex or national origin, or other factors which under particular laws may not be considered as a basis for employment actions. Unlawful discrimination generally may be either intentional or not.

Employment discrimination because of race, religion, color, sex, age, national origin, handicap, or veterans' status are all prohibited under federal laws. The coverage of marital status and ex-offenders is included in state but not federal law.

Discrimination includes exclusion, segregation, unequal treatment, and personnel practices that result in barriers to any of the above groups unless they are unavoidable business necessity.

- (7) DISCRIMINATION, AGE. Under the Age Discrimination in Employment Act of 1967, private employers may not discriminate against persons age 40 to 65. Discrimination in federal government employment on grounds of age is prohibited by Executive Order 11141; which does not specify the age group protected. Hawaii State law prohibits age discrimination in private

employment, with no specific protected age ranges.

- (8) DISCRIMINATION, REVERSE. The law contains no provision defining "reverse" discrimination. The term is used popularly in reference to exclusion of whites or males in favor of minorities or women. That is simply unlawful discrimination.
- (9) DISCRIMINATION, SYSTEMIC. The use of tests, job qualification, and other employment practices which have the unintended effect of excluding minorities or women, or limiting their employment opportunities, which are not manifestly related to job performance, and which do not have such adverse effect, without unreasonable burden on the employer.
- (10) EQUAL EMPLOYMENT OPPORTUNITY (EEO). A system of employment practices within an employing organization or generally under which individuals are not excluded from any participation, advancement, or benefits because of their race, color, religion, sex, national origin, or other factor which cannot lawfully be the basis of employment actions.

An employment system in which neither intentional nor unintentional discrimination operates. The purpose of affirmative action (see also) is to achieve equal employment opportunity.

- (11) EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC). The federal government agency mandated to enforce Title VII of the Civil Rights Act of 1964, as amended. The Commission has five members, each appointed to a five-year term by the President of the United States with the advice and consent of the Congress.
- (12) EXECUTIVE ORDER 11246. The Presidential executive order promulgated in 1965 which requires a non-discrimination clause covering employment in all contracts with the federal government for more than \$10,000. Employment discrimination by sub-contractors in non-construction contracts, and by contractors and sub-contractors in federally assisted construction contracts is also prohibited by the executive order. In 1967 Executive Order 11375 was issued, extending coverage of Executive Order 11246 to sex discrimination. The affirmative action requirements of Executive Order 11246 are detailed in Revised Order

No. 4 (see also) an implementing regulation of the U.S. Department of Labor.

- (13) EXECUTIVE ORDER 11375. See Executive Order 11246.
- (14) GOALS AND TIMETABLES. Numerical projections an employer makes of the representation minorities and women are likely to achieve in positions which they have been underutilized by .5 persons or more. (see also "Underutilization"). Faculty groups with a low turnover may have three-year goals but an annual review is necessary. Non-instructional groups must have annual goals and reviews. Separate male/female and minority/non-minority goals are required. Goals and timetable are not quotas (see also). However, the ultimate goal is full utilization of women and minorities, and the employer must apply good faith effort (see also) to assure that all aspects of the employer's affirmative action plan (see also) are made to work.
- (15) GOOD FAITH EFFORT. An employer's broad and active effort to assure that all aspects of its affirmative action plan work together as a whole. The projected results of such efforts are required, under Revised Order No. 4, to measured by goals and timetables. See also Revised Order No. 4 and Goals and Timetables.
- (16) JOB CLASSIFICATION, JOB TITLE. The specific position designation for jobs with certain functions and responsibilities. Examples: "Secretary I," "Clerk-Typist III," "Administrative Assistant," "Security Guard," "Assistant Professor." The term JOB TITLE is sometimes used interchangeably with JOB CLASSIFICATION, but the latter term implies a greater degree of analysis of particular jobs and of the methods by which job titles are assigned.
- (17) NONDISCRIMINATION. Equal employment opportunity as it was generally defined in the initial phase of development in the law of equal employment opportunity: Absence either of overt and intentional discrimination or affirmative action (see also) to eliminate the effects of past discrimination, whether intentional or not. The "Nondiscrimination Clause" required in federal government contracts has been expanded through later regulations (see Revised order No. 4) to include the requirement for written affirmative action plans with

goals and timetables (see also).

- (18) OFFICE FOR CIVIL RIGHTS (OCR). The office within the U.S. Department of Education (see also) which is responsible for carrying out U.S. Department of Education's responsibility as a compliance agency for the affirmative action provisions of government contracts with institutions of higher education.
- (19) REVISED ORDER NO. 4. The regulation of the U.S. Department of Labor which sets forth in detail the required contents of affirmative action plans (see also) to be developed and maintained by non-construction contractors with the federal government. Such plans must include a utilization analysis (see also) and projections of goals and timetables (see also).
- (20) U.S. DEPARTMENT OF EDUCATION. The department in the federal government which is primarily responsible for implementation of laws concerning education. In equal employment opportunity, U.S. Department of Education is designated under Revised Order No. 1 as the compliance agency responsible for assuring that government contractors in the field of higher education comply with the provisions of Revised Order No. 4 (see also) regarding affirmative action.
- (21) UNDERUTILIZATION. Having fewer minorities or women in a particular job classification than would reasonably be expected by their availability.
- (22) UTILIZATION ANALYSIS. An analysis conducted by an employer to determine whether or not minorities and women are employed in each major job classification (see Job Classification and Job Category) at a rate consistent with the availability of validly qualified minorities and women in the relevant labor market for the positions covered by each job category. A utilization analysis is required element of any affirmation action plan (see also) developed under Revised Order No. 4 (see also).
- (23) WORKFORCE ANALYSIS. The precise listing by salary range of total women and men, and of total minorities and non-minorities employed by each Department. A separate analysis is required for tenured faculty, non-tenured faculty, and for at least the following six

groups of non-instructional positions:

- (1) Executive/Managerial,
- (2) Professional Non-Faculty,
- (3) Secretarial/Clerical,
- (4) Technical/Paraprofessional,
- (5) Skilled Crafts,
- (6) Service/Maintenance.

Workforce analysis is one of three major components required in Affirmative Action Plans under Executive Order 11246 (see also) as amended, and applies only to male/female, and to minority/ non-minority.