



Full Name (Please Print) \_\_\_\_\_

### INTERN INFORMATION

Degree and Major \_\_\_\_\_ Minor \_\_\_\_\_

Graduation Date \_\_\_\_\_

Current Address: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Cell Phone \_\_\_\_\_ Land Phone \_\_\_\_\_

E-mail \_\_\_\_\_

### Where can we reach you *during your internship?*

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

E-mail \_\_\_\_\_

### Emergency Contact Information:

Full Name \_\_\_\_\_ Relationship \_\_\_\_\_

Home Phone \_\_\_\_\_ Cell Phone \_\_\_\_\_

Work Phone \_\_\_\_\_ E-mail \_\_\_\_\_

Complete Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_



Full Name (Please Print) \_\_\_\_\_

### EMPLOYER INFORMATION

Internship Position \_\_\_\_\_

Employer Name \_\_\_\_\_

Employer Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_ Hours per Week \_\_\_\_\_ Pay \_\_\_\_\_

E-mail \_\_\_\_\_

Start Date \_\_\_\_\_ End Date \_\_\_\_\_

Additional Information \_\_\_\_\_  
\_\_\_\_\_

### ACADEMIC CREDIT

Faculty Advisor \_\_\_\_\_

Department \_\_\_\_\_ Semester \_\_\_\_\_ Year \_\_\_\_\_

Credit Course \_\_\_\_\_ Number of Hours \_\_\_\_\_ Faculty \_\_\_\_\_

Credit Course \_\_\_\_\_ Number of Hours \_\_\_\_\_ Faculty \_\_\_\_\_

# EMPORIA STATE UNIVERSITY™

## CAREER SERVICES

### INTERNSHIP AGREEMENT BETWEEN STUDENT AND EMPORIA STATE UNIVERSITY

This contract is valid for only **one** term. Every term in which you work at an internship placement requires a new contract. Required **signatures really are REQUIRED.**

**In order to participate in an internship program at Emporia State University,  
I agree that I will:**

1. Gain approval from my faculty advisor before signing up for an internship. He/she will evaluate my readiness to begin this program.
2. Provide my faculty advisor with accurate and current employer contact information and descriptions of the jobs/projects I would like to have considered for internship recognition. He/she will judge the technical and quality content of any internship opportunities I consider.
3. Officially register for an internship course using my academic department's internship experience course number. Again, I know that I **MUST HAVE** prior approval of my faculty advisor.
4. Review my financial aid, scholarship, student loans, and health insurance to understand how this internship may impact my funding and coverage.
5. Maintain regular contact with my faculty advisor and fulfill all the departmental academic requirements. Most internship experiences will require submission of a complete report of activities and learning at the conclusion of each semester.
6. Facilitate the arrangements for a site visit by my faculty advisor at my work place, if a visit is requested or required. This may include coordinating a meeting with my work supervisor and faculty advisor.
7. Complete and return the evaluation forms that I receive from Career Services and or my faculty advisor.
8. When complete, return this signed contract, with a copy of the approved job description, including company and supervisor contact information, to Career Services.

**I also agree that:**

9. I have received a copy of Career Services handbook and understand the ESU guidelines on equal opportunity, affirmative action, sexual harassment, grievance procedures, and the Student Code of Conduct. As well as Principles for Employment Professionals, An Overview of EEO and Nondiscrimination, and A guide to affirmative action, reprinted from the National Association of Colleges and Employers (NACE).
10. I understand that the violation of any university policy or state/federal law will be grounds for termination from the program and possibly from the university.
11. I understand and accept all of the above conditions for my participation in the Internship Program at Emporia State University and will cooperate with the guidelines and procedures of Career Services.

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Signature

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Date

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Print Name

August 2006



**INTERNSHIP  
WAIVER OF LIABILITY**

I, \_\_\_\_\_, of the City of \_\_\_\_\_,

County of \_\_\_\_\_, State of \_\_\_\_\_, for and in consideration of my participation in the scheduled work experience program (internship or cooperative work term) sponsored by Emporia State University during the \_\_\_\_\_, 200\_\_\_\_, semester and which I freely and voluntarily accept to participate, do hereby expressly agree and understand not to hold Emporia State University, its Board of Regents, officers, administrators, employees, representatives, and/or other agents, and their heirs, successors, and assigns, liable in any way whatsoever for any injury, or damage, or loss of property sustained by me or persons other than myself, arising out of, or in connection with, or due to negligence, fault, or otherwise, during any part of my participation in the aforementioned program.

For the same consideration and without conflict with the foregoing, voluntarily and knowingly, I hereby release and discharge Emporia State University, its Board of Regents, officers, administrators, employees, representatives, and/or other agents, and their heirs, successors, and assigns, both in their official and individual capacities, jointly and separately, from any actions, causes of action, claims, demands, damages, costs, and expenses on account of or in any way growing out of any and all loss of personal property or injury, as the result of any accident, delay, or irregularity which may be caused either in whole or in part by any defect in any vehicle, airplane, vessel, or negligent operation thereof and through any act, error, or omission, or default of any company or person, or by reason of the conditions or use of any real or personal property while I am en route to, or from, or participating in the trip or program or occasioned by it.

I further promise to bind myself and all my heirs, administrator, and executors to indemnify and forever hold harmless Emporia State University, its Board of Regents, officers, administrators, employees, representatives, and/or other agents, and their heirs, successors, and assigns, against loss, damage, or expense from any and all claims, demands, actions, or causes of actions that may occur while en route to, or from, or participating in the trip or program or any activity relating to or occasioned by it.

I have read this release and understand all its terms and execute it voluntarily and with full knowledge of its significance.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.

\_\_\_\_\_  
Student Signature

\_\_\_\_\_  
Parent or Legal Guardian  
(if under 18 years of age)

# INTERNSHIP AGREEMENT BETWEEN STUDENT & EMPLOYER

Intern Name: \_\_\_\_\_

Title of Internship Position: \_\_\_\_\_

Duration of Internship: Start Date: \_\_\_\_\_ End Date: \_\_\_\_\_

Hours per Week: \_\_\_\_\_ Rate of Pay: \_\_\_\_\_

Employer/Company Name: \_\_\_\_\_

Company web site: \_\_\_\_\_ Company Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Name of Supervisor: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

Please list the main duties that the intern will perform and the approximate percent of time on each duty (formal job description may be attached in lieu of this information):

<u>Duty</u>	<u>% Time on Duty</u>
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____

Please list the work experiences that the intern will gain from your employment that will make the intern more marketable for future employment:

1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____

\_\_\_\_\_  
Supervisor Signature

\_\_\_\_\_  
Date





**International Student - Here on a F-1 Visa:**

Because the U.S. Citizenship and Immigration Service has certain rules that I must follow, I agree to:

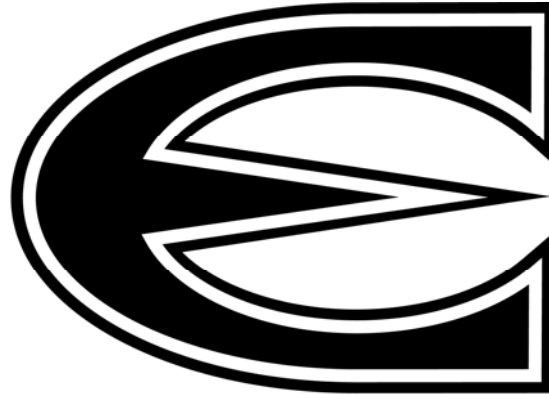
1. Have a preliminary conversation with the International Student Advisor so that we can review my USCIS work eligibility.
2. Bring this contract, AFTER it has been reviewed and signed by me, by my employer and by my faculty advisor to the international Student Advisor BEFORE I begin my internship assignment. This step is necessary so that the International Student Advisor may authorize my I-20 for curricular/optional practical training. I understand that my I-20 must be re-authorized for practical training every semester that I work.
3. Work no more than 20 hours per week during the academic terms. I understand that, upon training authorization from the International Student Advisor, I may be able to work full-time hours during semester breaks and the summer sessions.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**International Student Advisor:**

I have met with the above named student and **have** \_\_\_\_\_ / **have not** \_\_\_\_\_ authorized curricular / optional practical training.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



EMPORIA STATE  
UNIVERSITY™

## CAREER SERVICES HANDBOOK

### **Contents:**

- ESU- Equal Employment opportunity, Equal Educational Opportunity, and Non-Discrimination Policy
- ESU – Affirmative Action Plan
- ESU – Harassment and Discrimination Policy
- ESU – Grievance Procedures
- ESU – Student Code of Conduct
  
- NACE – Principles for Employment Professionals
- NACE – A guide to affirmative action
- NACE – An overview of EEO and Nondiscrimination



## **ESU POLICIES/PROCESS**

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### **Equal Employment Opportunity, Equal Educational Opportunity and Non-Discrimination Policy**

Emporia State University values and welcomes the benefits of diversity, and pledges to current and prospective students, faculty, staff, administrators, and the public that we expect and demand the worth and dignity of all people be recognized without regard to any classification that might preclude a person from consideration as an individual. The University regards inappropriate behavior, unfair treatment or harassment of any individual to be inconsistent with its goals of providing an atmosphere in which students, faculty, staff, and administrators may safely learn, work, and live.

Emporia State University is committed to equal employment opportunity, equal educational opportunity, and non-discrimination in the operations and administration of all University programs and services. All decisions with reference to employment (including, but not limited to, selection, discipline, promotion, or termination) and all decisions with reference to student status (including, but not limited to, admission, academic achievements, or discipline) will be made without regard to age, race, color, religion, gender, marital status, national origin, handicap or disability, status as a Vietnam Era Veteran, sexual orientation, or any other factors which cannot lawfully be considered, to the extent specified by applicable federal and state laws.

Students who feel they have been discriminated against on the basis of any item set forth in the Equal Employment Opportunity, Equal Educational Opportunity and Non-Discrimination Policy should contact the Vice President for Student Affairs or the Affirmative Action Officer. Staff, faculty, or members of the public should contact the Affirmative Action Officer.



## ESU POLICY

**3D.01 AFFIRMATIVE ACTION PLAN** (revised by Affirmative Action Officer 2/03; revised by Affirmative Action Officer 1/04)

### **3D.0101 POLICY STATEMENT**

It is the policy of Emporia State University to guarantee equal employment opportunity, equal educational opportunity and non-discrimination in the operation and administration of all of its programs and services. The University makes its decisions regarding the recruiting, employing, promoting, and processing of all personnel matters without discrimination on grounds of race, color, creed or religion, national origin, sex, sexual orientation, disability status, or other factors which cannot lawfully be considered.

The University also reaffirms its policy of non-discrimination in all of its relationships with its students and with the various publics which it serves. All of its programs, services, and benefits will be administered in a manner sensitive to the needs of its students and free of discriminatory practices on the basis of race, color, creed or religion, national origin, sex, sexual orientation, disability status, and other factors which cannot lawfully be considered.

All supervisory personnel shall endeavor to create and promote a working and learning environment that is free of unwelcome sexual advances, sexually or racially harassing language, and unwanted sexually suggestive remarks or any other sexually or racially harassing action. Similarly, employees are encouraged to develop respectful and harmonious working relationships with their fellow employees.

Emporia State University will intensify its effort to identify areas on campus in which women and minorities are underutilized. It will continue to make good faith efforts to eliminate factors which contribute to underutilization and to emphasize those factors which will permit its departments and schools to realize their goals and timetables. The University will act forthrightly and responsibly in making new appointments. As a public employer, each supervisor and administrator at Emporia State University has the duty and responsibility to adhere to the letter and spirit of the law in achieving this agency's affirmative action goals and shall encourage all staff to support the achievement of these goals.

Persons with questions concerning the policy may contact the Affirmative Action Officer.

### **Compliance with Laws**

Through the policies and programs set forth in this plan, Emporia State University strives to comply fully with all federal, state, and local laws relating to equal opportunity, equal employment opportunity, and affirmative action.

3-30

This plan specifically addresses Emporia State University's obligations under Title VI and VII, The Civil Rights Acts of 1964, as amended; Executive Order 11246, as amended, Revised Order No. 4; the Equal Pay Act of 1963, The Rehabilitation Act of 1973; The Americans with Disabilities Act of 1990; The Vietnam Era Veterans Rehabilitation Act of 1974; and Title IX of the Education Amendments of 1972.

### ESU Harassment and Discrimination Policies and Procedures

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Emporia State University seeks to create an atmosphere that recognizes and protects an environment of tolerance for all members of the university community. Federal law and university policy protect a number of groups from unlawful discrimination. The University makes all decisions with reference to employment status and student status without regard to age, race, color, religion, gender, marital status, national origin, disability status, veteran status, sexual orientation, or any other factors which cannot lawfully be considered, to the extent specified by applicable federal and state laws. Moreover, the University regards inappropriate behavior, unfair treatment, or harassment of any individual to be inconsistent with its goal to provide an environment in which students, faculty, unclassified professionals, classified employees, and other members of the university community can develop intellectually, professionally, personally, and socially. These policies and procedures extend to all University personnel operating in a University-sanctioned capacity, both on and off campus.

#### Sexual Harassment

Sexual harassment is a form of sex discrimination that is illegal under Title VII of the Civil Rights Act of 1964 for employees, under Title IX of the Education Amendments of 1972 for students, and under Kansas Law. Retaliation against an individual for making a complaint of sexual harassment is also considered to be sex discrimination and is therefore likewise illegal. No member of the university community shall engage in sexual harassment. For the purposes of this policy sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. submission to such conduct is made, explicitly or implicitly, a term or condition of employment
2. submission to or rejection of such conduct by an individual is used as a basis for employment decisions which affect that individual
3. such conduct has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment
4. such conduct is not legitimately related to the subject matter of a course. Sexual harassment encompasses any sexual attention that is unwanted. Examples of verbal or physical conduct that is prohibited include, but are not limited to:
  - direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendation;
  - direct propositions of a sexual nature;
  - a pattern of conduct causing discomfort, intimidation and/or humiliation that includes one or more of the following:
    - comments or gestures of a sexual nature;
    - sexually explicit statements, questions, jokes, or anecdotes;
    - unnecessary touching, patting, hugging, or brushing against a person's body;
    - remarks of a sexual nature about a person's clothing or body; or

- remarks about sexual activity or speculations about previous sexual experience.

### **Racial and/or Ethnic Harassment Racial**

Racial and/or Ethnic Harassment Racial and/or ethnic harassment is a form of discrimination that is illegal under Title VII of the Civil Rights Act of 1964. No member of the university community shall engage in racial or ethnic harassment. Retaliation against an individual for making a complaint of racial and/or ethnic harassment will be treated as a violation of the racial and/or ethnic harassment policy. For the purpose of this policy, racial and/or ethnic harassment is defined as ethnic slurs and other verbal or physical conduct relating to race, ethnicity, or racial affiliation that:

1. has the purpose or effect of creating an intimidating, hostile, or offensive work or academic environment;
2. has the purpose or effect of unreasonably interfering with an individual's work performance, academic performance, living environment, if residing in University housing, or participation in any university-sponsored activity;
3. otherwise adversely affects an individual's academic or employment opportunities; or
4. is not legitimately related to the subject matter of the course. Racial and/or ethnic harassment may be blatant or subtle. Examples of the conduct that is prohibited include, but are not limited to:
  - derogatory name calling or language based on cultural stereotypes;
  - incidents or behaviors which are derogatory to a racial or ethnic group; or
  - repeated ignoring or excluding of one's presence or existence in a University setting.

### **Other Harassment**

No member of the university community shall engage in harassment on the basis of age, color, religion, marital status, national origin, disability status, veteran status, sexual orientation, or on any other factor that violates state or federal discrimination law. For the purposes of this policy, such aforementioned harassment is defined as unwelcome verbal and/or physical conduct which:

1. has the purpose or effect of creating an intimidating, hostile, or offensive work or academic environment;
2. has the purpose or effect of unreasonably interfering with an individual's work performance, academic performance, living environment, if residing in University housing, or participation in any university-sponsored activity;
3. otherwise adversely affects an individual's academic or employment opportunities; or
4. is not legitimately related to the subject matter of the course.



## ESU Grievance Procedures for Faculty, Staff, and Students

Supervisors and administrators are obligated to report complaints of discrimination and/or harassment to the Affirmative Action Officer. In some instances the supervisor or administrator may have handled the complaint through the informal process; however the obligation to inform the Affirmative Action Officer still exists. Complaints must be filed within one year of the alleged behavior, are confidential, and will not be disclosed to anyone who does not have a need to know. Procedures for the resolution of complaints should be thorough yet expeditious to the extent possible. These procedures are specifically designed to process complaints which fall within the purview of the university's affirmative action and harassment and/or discrimination policies and which involve university personnel or students as principals. Complaints filed under these grievance procedures involve discrimination and/or harassment and shall not be used in addition to other existing university grievance procedures.

Emporia State University has an informal and formal means to resolve complaints of harassment and/or discrimination. Informal complaints may be reported either in writing or orally whereby a resolution is agreed upon by both parties through informal means. Formal complaints must be reported in writing and result in a formal investigation, as described below. All complaints of harassment or discrimination should be reported to the Affirmative Action Officer.

### A. Procedures

#### 1. Informal Resolution

- a. The individual making the complaint ("the complainant") should first discuss the allegation(s) with the individual(s) perceived as harasser(s). It is understood that in some circumstances this step would not be possible or advisable
  - b. If the discussion step does not lead to a resolution or the complainant elects not to exercise the first step, the complainant may elect to discuss the allegation(s) with the department chair or director (hereafter referred to as the "responsible administrator") supervising the faculty, staff, or student alleged to be engaging in the discriminatory or harassing behavior. For students, the responsible administrator would be the Vice President for Student Affairs.
  - c. The responsible administrator should conduct an inquiry into the matter. If a reasonable basis is determined, an attempt will be made to bring about a resolution to which both the complainant and the respondent(s) agree. If the responsible administrator is already aware of the behavior that is the subject of the complaint, the complainant should contact the Affirmative Action Officer. It is expected that informal resolution will be handled expeditiously and completed within a reasonable length of time. The Affirmative Action Officer is available for assistance in this process.

d. If a mutually satisfying resolution is not reached, a formal complaint may be filed to begin the Formal Resolution Process.

## 2. Formal Resolution

The complainant should file a complaint with the ESU Equal Opportunity Office. The complainant will complete a Formal Complaint form providing the basis of the alleged harassment and/or discrimination, a description of the incident(s) related to the alleged discrimination, and the remedy desired. The Affirmative Action Officer will conduct an interview with the complainant to clarify and get a thorough understanding of the complaint.

. The Affirmative Action Officer will meet with the respondent as soon as possible and give him/her a verbal explanation and a written statement of the complaint. The respondent will then have the opportunity to respond. The respondent will be cautioned about retaliation and a follow-up meeting to discuss his/her response will be scheduled. Following the initial meeting the respondent will have 5 working days to give his/her formal, written response to the complaint.

a. At the follow-up meeting with the respondent, the Affirmative Action Officer will review the respondent's written response and conduct an interview to clarify and get a thorough understanding of his/her response.

b. In addition to interviews with the complainant and the respondent, the Affirmative Action Officer may interview other parties who have specific knowledge about the alleged incident(s). Individuals who are interviewed will be informed that confidentiality must be maintained and the fact that an investigation is underway should not lead to any conclusions or assumptions.

c. The Affirmative Action Officer will meet with the Council to share the details of the complaint. The Council will be given a verbal explanation and written statement of the complaint, the response, and the findings of the Affirmative Action Officer's investigation. If the Council determines that sufficient evidence to warrant a hearing has not been provided, both parties will receive a letter stating the steps that were taken and the determination that was made. If the Council determines that sufficient evidence to warrant a hearing has been provided, both parties will receive a letter stating the steps that were taken, the determination, and the next steps to be taken in the process. The Affirmative Action Officer will meet with the Council to define the area of harassment and/or discrimination involved in the complaint and to clarify the review criteria for evaluation of evidence.

d. A time and place convenient for all concerned parties will be set for the hearing by the Affirmative Action Officer. Both the complainant and the respondent will have the opportunity to bring witnesses to testify. A list of witnesses and any other evidence needs to be submitted to the Affirmative Action Officer at least 5 working days before the hearing date. The complainant and the respondent have the right to invite another individual to serve as an advisor during the hearing. The advisor is present solely to advise the represented party. The advisor shall not directly address or communicate with the Council or other parties involved in the hearing, nor shall he/she speak on the behalf of the individual being advised.

e. The Affirmative Action Officer will facilitate the hearing. The complainant will present his/her testimony and/or evidence followed by the respondent. Council members have the right to question all parties involved, while the complainant and

respondent have the right to question witnesses. The complainant and respondent will both be given the opportunity to respond to comments made by the other.

f. Following the hearing the Council has 20 working days to submit a written report of its recommendation, signed by all members, to the Affirmative Action Officer. This report will include a recommendation concerning the disposition of the complaint. A Council member(s) may append to the report a dissent or non-concurrence with the majority opinion.

g. The Affirmative Action Officer will provide the report and recommendation made by the Council to the Vice President for Academic Affairs. Within 5 working days of receiving the report, the Vice President will consider the recommendations and communicate to the parties the action(s) to be initiated.

h. If either the complainant or respondent do not believe the resolution is satisfactory, a review may be requested. A written appeal of the final recommendation must be received in the President's Office within 30 days of the individual's receipt of the recommendation from the Vice President for Academic Affairs. The President will respond within 30 days after receiving the written appeal.

## **B. Confidentiality**

It is the responsibility of the Affirmative Action Officer and the responsible administrator, to whom a complaint is brought to maintain confidentiality while still allowing for an investigation, providing a remedy for individuals injured by discrimination or harassment, and allowing respondents to reply to complaints. Individuals involved in the investigation or hearing are also obligated to maintain confidentiality. The University cannot guarantee complainants, respondents, or witnesses absolute confidentiality because the University is obligated to investigate complaints.

## **C. Accommodations**

Reasonable accommodations will be made for persons with documented disabilities. Involved parties with disabilities should contact the Affirmative Action Officer at least 3 days prior to the hearing so that accommodations can be made during the process. Students may contact the Director of Disability Services and/or the Affirmative Action Officer at least 3 days prior to the hearing so that accommodations can be made. All communication between students, the Office of Disability Services, and the Affirmative Action Officer will be strictly confidential.

## **D. Retaliation**

Retaliation is generally any adverse action taken without legitimate reason as a result of involvement in an administrative review of a complaint of unlawful discrimination or harassment. It is a violation of Emporia State University's anti-harassment policies to retaliate against any individual involved in the complaint process. Appropriate sanctions will be imposed against persons who engage in retaliatory behavior. Respondents, complainants, witnesses, and other involved parties will be cautioned of inappropriate behavior in the form of retaliation.

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## Emporia State University Student Code of Conduct

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### Article III: Proscribed Conduct

In accordance with our Affirmation of Values, Emporia State University is:

- Committed to a positive, quality environment that nurtures academic and personal excellence in learning and teaching.
- Committed to recognizing the value of diversity and the respect for individual ideas, opinions, and experiences.
- Committed to academic and personal integrity.
- Committed to the open expression of ideas.
- Committed to collegial and shared governance.

*The Code shall apply to conduct that occurs on university premises, at University sponsored activities, and to off-campus conduct that adversely affects the University community and/or the pursuit of its objectives. Each student shall be responsible for his/her conduct. The Code shall apply to a student's conduct even if the student withdraws from the university while a disciplinary matter is pending. The Conduct Coordinator, in consultation with the Vice President for Student Affairs, shall decide whether the Code shall be applied to conduct occurring off campus on a case by case basis.*

*University disciplinary proceedings may be instituted against a student charged with conduct that potentially violates both the criminal law and this Code without regard to the pendency of civil or criminal litigation in court or criminal arrest and prosecution. Proceedings under this Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of the Vice President for Student Affairs and the Conduct Coordinator. Determinations made or sanctions imposed under this Code shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of University rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant.*

### Article IV: Misconduct

Consistent with our affirmed values, any student found responsible for committing the following misconduct is subject to the disciplinary sanctions outlined in Article VI:

1. Intentional disruption or obstruction of teaching, research, administrative proceedings or other university activities.
2. Failure to comply with a reasonable directive or request of university officials or law enforcement officers acting in performance of their duties.
3. Illegal or unauthorized possession or use of firearms, explosives, other objects or chemicals, when used in a dangerous or destructive manner.
4. Physical abuse, sexual violence or harassment, verbal abuse, written abuse, threats, intimidation, harassment, coercion and/or other conduct that threatens or endangers the safety of any person.
5. Hazing, which includes but is not limited to an act or acts which endanger the mental or physical health, welfare, or safety of a person, creates excessive fatigue, mental or physical discomfort, exposes a person to extreme embarrassment or ridicule, involves personal servitude, or substantially interferes with the academic requirement or responsibilities of a student, or the destruction or removal of public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or organization. The express or implied consent of the victim will not be a defense. Apathy or acquiescence in the presence of hazing are not neutral acts; they are violations of this rule.
6. Acts of dishonesty, including but not limited to the following:
7. Furnishing false information with the intent to deceive any University official, faculty, or office. (*A faculty member has primary jurisdiction over incidents occurring in a course which he/she teaches. Action through the Code regarding academic dishonesty will be considered secondary jurisdiction. All referrals for additional sanctions shall be sent to the Conduct Coordinator by the faculty member and will include pertinent information of the incident.*)
8. Forgery, improper alteration, or misuse of any university document, record, or instrument of identification.
9. Tampering with the election of any organization.
10. Misuse or destruction of computing facilities or an information technology resource which includes, but is not limited to: campus computing facilities, residence hall network ports, World Wide Web pages hosted on university web servers, internal or external network connectivity and access to other services and machines:
11. Unauthorized use, attempted unauthorized use, or failure to obey established policies of university computer systems, computer networks, computer software, data files, or other computing facilities.
12. Intentional disruption or obstruction of authorized usage.
13. Theft of or tampering with computer software or data files belonging to others. This shall include violations of copyright laws, trade secrets, and licensing agreements.
14. Impersonation of another person or an information technology resource via electronic media.
15. Attempted or actual theft of and/or damage to property of the university or property of a member of the university community or other personal or public property.
16. Unauthorized possession, attempted possession, duplication or use of keys to any university premises or unauthorized entry to or use of university premises.
17. Use, possession, attempted possession or distribution of narcotics or other controlled substances except as expressly permitted by law.
18. Use, possession or distribution of alcoholic beverages except as expressly permitted by law and university policy.
19. Violation of federal, state or local law on university premises or at university sponsored activities.
20. Failure to comply with official university or Regents policies, rules or regulations.

21. Abuse of the Student Conduct process including but not limited to:

- Failure to obey a request to appear for a meeting or hearing as part of the Student Conduct process.
- Falsification, distortion or misrepresentation of information before a hearing body.
- Disruption or interference with the orderly conduct of a Student Conduct Board proceeding
- Institution of a student conduct proceeding in bad faith.
- Interfering with an individual's proper participation in or use of the Student Conduct process.
- Attempting to influence the impartiality of a member of a hearing body prior to the conduct proceeding.
- Harassment and/or intimidation of a member of a hearing body prior to, during, and/or after a conduct proceeding.
- Failure to comply with the sanction(s) imposed under the Code.
- Influencing or attempting to influence another person to commit an abuse of the conduct process.

## Article V: Conduct Procedures

### **Complaints and Hearings**

- Any member of the university community may file a complaint against any student for misconduct.
- Complaints shall be prepared in writing and directed to the Conduct Coordinator responsible for the administration of the Code.
- Any complaint should be submitted as soon as possible after the event takes place, preferably within ten class days.
- Complaints must be filed within six months of the alleged incident.
- Complaints involving sexual and/or racial harassment, in consultation with the Conduct Coordinator, will be referred to the Office of Student Affairs and handled according to the Sexual and/or Racial Harassment Policy.
- The Conduct Coordinator may conduct an investigation to determine if the complaint has merit and/or if it can be disposed of administratively by mutual consent of the parties involved on a basis acceptable to the Conduct Coordinator.
- Such disposition shall be final and there shall be no subsequent proceedings.
- If the complaint cannot be disposed of by mutual consent and the Conduct Coordinator determines the complaint has merit, the complaint shall follow the process as outlined below.
- All complaints shall be presented to the accused student in written form.
- The accused student shall meet with the Conduct Coordinator in a preliminary conference to ensure that the student understands the conduct process and her/his due process rights. An advocate for the student shall be recommended during the preliminary conference. Failure to attend the preliminary conference will result in a hearing being scheduled. The accused student may request one change in the date and time of the informal conference by requesting it 24 hours prior to the scheduled conference.
- In conjunction with the informal conference, the Conduct Coordinator shall offer the accused student an opportunity to informally resolve the alleged violation.
- This will involve a review of the incident and discussion of the possible sanction(s), if the accused student accepts responsibility for the violation.
- If the student accepts the resolution offered by the Conduct Coordinator, the student and the Conduct Coordinator shall sign and date the informal resolution agreement, which shall include information regarding the misconduct for which the student has been found responsible and the resulting sanctions.
- A student has three class days from the date of signing the informal resolution agreement to reconsider the agreement and request a hearing.

- The outcome of an informal resolution cannot be contested after three class days have passed and there is no appeal.
- The outcome of a timely requested hearing shall replace any agreements made during the informal resolution.
- If the student does not accept the resolution offered by the Conduct Coordinator, including any resulting sanction, the case will proceed to a hearing.
- A hearing shall be scheduled no less than five nor more than 15 class days after the student has been notified. Time limits for scheduling of hearings may be adjusted at the discretion of the Conduct Coordinator.
- The hearing body shall be constituted as follows:
  - A pool of 10 members of the university community shall exist from which to constitute the body for each hearing. The pool shall consist of:
    - Four students selected through a process deemed appropriate by the Associated Student Government;
    - Four faculty members selected through a process deemed appropriate by the Faculty Senate; and
    - Two staff members, who shall be appointed by the Vice President for Student Affairs.
  - All hearing body members shall receive appropriate training from the Conduct Coordinator prior to hearing their first case.
  - A hearing body of five members shall be selected by the Conduct Coordinator from the pool to hear each case. The hearing body shall include two students, two faculty members, and one staff member.
  - Prior to the hearing, the complainant and accused shall have the opportunity to present information to the Conduct Coordinator requesting removal of one or more of the members of the hearing body for potential bias. If sufficient information is presented to the Conduct Coordinator to establish the potential bias, the Conduct Coordinator shall replace the hearing body member(s) for the case.
  - If a hearing body cannot be constituted from the existing pool of trained members, the Conduct Coordinator shall contact the Associated Student Government for additional students, the Faculty Senate for additional faculty members, or the Vice President for Student Affairs for additional staff members.
  - The hearing body shall, prior to the hearing, elect one member to serve as chair for the hearing.
  - The Conduct Coordinator shall serve in an advisory capacity to the hearing body during the hearing and subsequent deliberation and may serve as a facilitator during the hearing upon the request of the chair.
  - Hearings shall be conducted by a hearing body according to the following guidelines:
    - Hearings normally shall be conducted in private.
    - The Complainant, Accused Student and their advisors, if any, shall be allowed to attend the entire portion of the Student Conduct Board Hearing at which information is received, excluding deliberations. Admission of any person to the hearing shall be at the discretion of the hearing body and/or the Conduct Coordinator.
    - In hearings involving more than one accused student, the Conduct Coordinator may permit the hearings concerning each student to be conducted separately or jointly.
    - The Complainant and the Accused Student have the right to be assisted by an advisor they choose. The Complainant and/or the Accused Student is responsible for presenting his or her own information, and therefore, advisors are not permitted to speak or to participate directly in the hearing. A student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the Student Conduct Board Hearing because delays will not be allowed due to the scheduling conflicts of an advisor
    - The Complainant, the Accused Student and the Student Conduct Board may arrange for witnesses to present pertinent information to the Student Conduct Board. The University will, if reasonably possible, provide notice to potential witnesses who are members of the University community, and have been identified by the Complainant and/or Accused Student at least two weekdays prior to the Hearing. Questioning of witnesses and parties shall be conducted only by the Board. The Accused Student and/or

Complainant may direct questions to the chairperson to be answered by each other or by other witnesses, which the Board may, at its discretion, ask witnesses or the parties to the case. This method of questioning preserves the educational tone of the hearing and avoids an adversarial environment.

- Pertinent records, exhibits, and written statements (including student impact statements) may be accepted as information for consideration by a Student Conduct Board at the discretion of the chairperson
- All procedural questions are subject to the final decision of the chairperson of the hearing body.
- After the hearing, the hearing body shall determine, by majority vote, whether the student has violated each section of the Code that was included in the complaint filed against the student.
- The hearing body's determination shall be made on the basis of whether it is more likely than not that the Accused Student violated the Code.
- There shall be a single verbatim record, such as a tape recording, of all hearings before a hearing body. The record shall be the property of the university. The Conduct Coordinator shall designate what constitutes the official record.
- Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in Student Code proceedings.
- All participants are bound to confidentiality in accordance with local, state, and federal law, including but not limited to the federal Family Educational Rights and Privacy Act.

### **Sanctions**

- Listed in the order of severity, the following sanctions may be imposed upon the offenses contained in the Code:
- Warning: written notice that continuation or repetition of prohibited conduct may be cause for additional disciplinary action.
- Restitution: reimbursement or compensations for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.
- Disciplinary Probation: written reprimand for violation of specific regulations. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to be violating any institutional regulation(s) during the probationary period.
- Loss of Privileges: denial of specific privileges for a designated period of time.
- Discretionary Sanctions: work assignments, counseling, and service to the university or other related discretionary assignments.
- Residence Hall Suspension: separation of the student from the residence halls for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
- Residence Hall Expulsion: permanent separation of the student from the residence halls.
- University Suspension: separation of the student from the university and its events and activities for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
- Indefinite University Suspension: separation of the student from the university and its events and activities for a period of no less than five years before a review will be considered.
- More than one of the sanctions listed above may be imposed for any single violation.
- Other than indefinite university suspension, disciplinary sanctions shall not be made part of the student's permanent academic record, but shall become part of the student's confidential record.
- Upon graduation, to the extent allowed by law, the student's confidential record may be expunged of disciplinary actions other than university suspension or indefinite university suspension upon application to the Conduct Coordinator.

- To the extent allowed by law, cases involving the imposition of sanctions other than university suspension or indefinite university suspension shall be expunged from the student's confidential record five years after final disposition of the case.
- In each case in which a hearing body determines that a student has violated the Code, the sanction(s) shall be determined by the hearing body and imposed by the Conduct Coordinator.
- Severity of the violation and previous findings of responsibility for violations of the Code will be considered when determining appropriate sanction(s). University reserves the right to apply sanctions that are progressive in severity for repeated or numerous offenses. Students found responsible for three substantive offenses in conformity with the Code may be subject to Indefinite University Suspension as a result of progressive disciplinary sanctions.
- Following the hearing, the Conduct Coordinator shall advise the accused in writing within three class days of the determination and of the sanction(s) imposed, if any.
- Interim Suspension
- In certain circumstances, the Vice President for Student Affairs, or a designee, may impose a university suspension prior to the hearing before a hearing body.
- Interim suspension may only be imposed:
  - To ensure the safety and well being of members of the university community or preservation of university property. To ensure the student's own physical or emotional safety and well being; or
  - If the student poses a definite threat or disruption of or interference with the normal operations of the university. Students whose presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process may be immediately removed from the university.
- During the interim suspension, students shall be denied access to the university (including classes) and/or all other university activities or privileges for which the student might otherwise be eligible, as the Vice President for Student Affairs or the Conduct Coordinator may determine to be appropriate.
- A student shall not remain on interim suspension more than five (5) class days, except in rare circumstances as determined by the Vice President for Student Affairs.
- In consultation with the student, the Conduct Coordinator shall provide written notification to affected faculty members requesting that class absences occurring as a result of the interim suspension be excused if the hearing body determines the student not to be responsible for the alleged violation of the Code.

## **Appeals**

- A finding of responsibility by the hearing body or related sanction(s) may be appealed by accused students to the Appellate Board within five (5) class days of notice of the decision. Such appeals shall be in writing and shall be delivered to the Conduct Coordinator or his or her designee.
- Appeals shall be considered within five (5) class days of being delivered to the Conduct Coordinator or his or her designee.
- Except as required to explain the basis of new information, an appeal shall be limited to review of the verbatim record of the initial hearing and supporting documents for one or more of the following purposes:
  - To determine whether the original hearing was conducted fairly in light of the complaint and information presented, and in conformity with prescribed procedures
  - To determine whether the decision reached regarding the accused student was based on substantial information, that is, whether the facts in the case were sufficient to clearly and convincingly establish that a violation of the Code occurred.

- To determine whether the sanction(s) imposed were appropriate for the violation of the Code that the student was found to have committed.
- To consider new information, sufficient to alter a decision or other relevant facts not brought out in the original hearing, because the person appealing did not know or have reason to know such information and/or facts at the time of the original hearing.
- If the Appellate Board upholds an appeal, the matter shall be remanded to the original hearing body and Conduct Coordinator or a new hearing body, as decided by the accused student, for re-opening of the hearing to allow reconsideration of the original determination and/or sanction(s). *If an appeal is not upheld the matter shall be considered final and binding upon all involved.*
- In cases involving a sanction of University Suspension or Indefinite University Suspension, the accused student may appeal to the President within ten (10) class days of notice of the Appellate Board's decision to not uphold the initial appeal. Such appeals shall be in writing and shall be delivered to the Conduct Coordinator or his or her designee.
- The President shall consider the appeal within ten (10) class days of being delivered to the Conduct Coordinator or his or her designee.
- If the President upholds an appeal, she or he has the following options:
- The case may be remanded to the original hearing body and Conduct Coordinator or a new hearing body, following consultation with the accused student, for re-opening of the hearing to allow reconsideration of the original determination and/or sanction(s), or
- The President may invoke an appropriate sanction of her or his own.



*National Association of Colleges and Employers*

**PRINCIPLES FOR EMPLOYMENT PROFESSIONALS**

1. Employment professionals will refrain from any practice that improperly influences and affects job acceptances. Such practices may include undue time pressure for acceptance of employment offers and encouragement of revocation of another employment offer. Employment professionals will strive to communicate decisions to candidates within the agreed-upon time frame.
2. Employment professionals will know the recruitment and career development field as well as the industry and the employing organization that they represent, and work within a framework of professionally accepted recruiting, interviewing, and selection techniques.
3. Employment professionals will supply accurate information on their organization and employment opportunities. Employing organizations are responsible for information supplied and commitments made by their representatives. If conditions change and require the employing organization to revoke its commitment, the employing organization will pursue a course of action for the affected candidate that is fair and equitable.
4. Neither employment professionals nor their organizations will expect, or seek to extract, special favors or treatment which would influence the recruitment process as a result of support, or the level of support, to the educational institution or career services office in the form of contributed services, gifts, or other financial support.
5. Serving alcohol should not be part of the recruitment process.
6. Employment professionals will maintain equal employment opportunity (EEO) compliance and follow affirmative action principles in recruiting activities in a manner that includes the following:
  - a) Recruiting, interviewing, and hiring individuals without regard to race, color, national origin, religion, age, gender, sexual orientation, or disability, and providing reasonable accommodations upon request;
  - b) Reviewing selection criteria for adverse impact based upon the student's race, color, national origin, religion, age, gender, sexual orientation, or disability;
  - c) Avoiding use of inquiries that are considered unacceptable by EEO standards during the recruiting process;
  - d) Developing a sensitivity to, and awareness of, cultural differences and the diversity of the work force;

**e)** Informing campus constituencies of special activities that have been developed to achieve the employer's affirmative action goals;

**f)** Investigating complaints forwarded by the career services office regarding EEO noncompliance and seeking resolution of such complaints.

**7.** Employment professionals will maintain the confidentiality of student information, regardless of the source, including personal knowledge, written records/reports, and computer data bases. There will be no disclosure of student information to another organization without the prior written consent of the student, unless necessitated by health and/or safety considerations.

**8.** Those engaged in administering, evaluating, and interpreting assessment tools, tests, and technology used in selection will be trained and qualified to do so. Employment professionals must advise the career services office of any test conducted on campus and eliminate such a test if it violates campus policies. Employment professionals must advise students in a timely fashion of the type and purpose of any test that students will be required to take as part of the recruitment process and to whom the test results will be disclosed. All tests will be reviewed by the employing organization for disparate impact and job-relatedness.

**9.** When using organizations that provide recruiting services for a fee, employment professionals will respond to inquiries by the career services office regarding this relationship and the positions the organization was contracted to fill. This principle applies equally to any other form of recruiting that is used as a substitute for the traditional employer/student interaction.

**10.** When employment professionals conduct recruitment activities through student associations or academic departments, such activities will be conducted in accordance with the policies of the career services office.

**11.** Employment professionals will cooperate with the policies and procedures of the career services office, including certification of EEO compliance or exempt status under the Immigration Reform and Control Act, and will honor scheduling arrangements and recruitment commitments.

**12.** Employment professionals recruiting for international operations will do so according to EEO standards. Employment professionals will advise the career services office and students of the realities of working in that country and of any cultural or foreign law differences.

**13.** Employment professionals will educate and encourage acceptance of these principles throughout their employing institution and by third parties representing their employing organization on campus, and will respond to reports of noncompliance.

## **NACE - A guide to affirmative action**

by [Rochelle Kaplan](#)  
from the *Spring 2000 Journal*

**Q.** My boss just told me that my next five hires have to be Latinos or African Americans and preferably female. Can I hire individuals based on their race or gender?

**A.** Employers ask if they can restrict hiring and recruiting to individuals who fulfill their organization's diversity goals. College career services practitioners ask if they or faculty can refer only minority students at an employer's request. Everyone, it seems, wants to know if affirmative action in hiring still exists.

Although there are many industries and jobs in which most employees are white and male, the U.S. Bureau of Labor Statistics notes a growing number of women, African Americans, Latinos, Native Americans, and Asian Americans in the work force. While most human resources and career services professionals want to "do the right thing" both legally and ethically, many feel as if they are faced with conflicting messages. One message is that it is important and valuable to diversify the workplace. The other message is that discrimination in any form is illegal and unethical.

### **A Short History of Affirmative Action**

The *U.S. Constitution* and Title VII of the Civil Rights Act form the legal underpinnings of affirmative action. The *Constitution* states "no *state* [emphasis added] shall deny any person the equal protection of the law." In a recent decision, *Honadle v. University of Vermont*, the court restated this principle of constitutional philosophy saying, "The *Constitution* is both color blind and color conscious. To avoid conflict with the equal protection clause, a classification that denies a benefit, causes harm, or imposes a burden must not be based on race. In that sense, the *Constitution* is color blind. But the *Constitution* is color conscious to prevent discrimination and to undo the effects of past discrimination being perpetrated...Under some circumstances, to be color blind actually means to favor the group that has had and continues to have superior access to the opportunities for advancement in our society."

In essence, the *Constitution* prohibits a state school or governmental employer from discriminating in employment or programming based upon race, color, or national origin unless there is a compelling state interest to do so. Affirmative action programs that include preferential hiring or exclusive admissions programs are appropriate only if they are based upon a need to remedy the present effects of prior discrimination and if the affirmative action process is narrowly tailored to remedy the problem created by prior discrimination.

Title VII of the Civil Rights Act makes it unlawful for an employer "to fail or refuse to hire an individual because of that individual's race, color, sex...or national origin." In 1979, in *United Steelworkers v. Weber*, the U.S. Supreme Court stated that "race conscious employment decisions" do not violate Title VII if the purpose is to eliminate a "manifest racial imbalance" in traditionally segregated job categories as long as the plan does not "unnecessarily trammel" the interests of the white employees.

In 1986, in *Johnson v. Santa Clara County*, the U.S. Supreme Court provided further guidance. "Manifest imbalance," the court said, exists when work force statistics reflect a substantial—a statistically significant—under representation of qualified individuals from a gender, racial, or ethnic group as compared with the numbers of qualified individuals from these groups in the general labor market. Further, the court said that a plan that does not "unnecessarily trammel" a person's rights is one that:

- is remedial and temporary,
- does not employ set-asides or quotas,
- is intended to attain rather than maintain a balanced work force, and
- uses race or sex as only one factor among many in making the employment decision.

## EEOC and Affirmative Action

Two federal agencies monitor an employer's practices with regard to hiring: the Equal Employment Opportunity Commission (EEOC) and the Office of Federal Contract Compliance Programs (OFCCP).

EEOC regulations recommend that an employer take several steps to develop an affirmative action plan to meet U.S. Supreme Court standards. Those steps include:

- performing an analysis of the makeup of the employer's work force at all levels as compared to the qualified labor market;
- reviewing hiring, promotion, and other employment policies to determine if any have contributed to an imbalance; and
- changing practices and policies to neutralize any disparities.

Executive Order 11246 requires employers that do business with the federal government to take affirmative action in the hiring and promotion of minorities and women. OFCCP, the agency that audits the hiring and work force statistics, requires employers to develop a written affirmative action plan that includes goals and timetables designed to address any imbalances. Employers are also required to review all of their hiring, recruiting, and promotion programs to determine if they have had a discriminatory impact. Anti-harassment policies are also seen as a key component of affirmative action plans. A new OFCCP initiative is a review of compensation levels of women and minorities as compared to those of white men. None of the regulations published by the OFCCP or the EEOC mandate set-asides, quotas, or preferential or plus-factor hiring. Also, many of the federal and state agencies that grant business licenses to organizations require the development of affirmative action plans.

### Three Examples To Consider

While there have not been any recent U.S. Supreme Court cases addressing affirmative action in employment, there have been many lower court decisions over the past five years that address affirmative programs in hiring, layoffs, and promotions (on the employer side) and in scholarships and admissions programs (on the college side). Three cases handed down in 1999 address affirmative action in employment.

In the aforementioned *Honadle*, a white professor was denied a position in a public university. Instead, the university selected an Asian American based, in part, on its affirmative action plan. The court found that there was enough of a statistical imbalance in the work force to justify the selection under Title VII. However, the school's affirmative action plan also had to pass muster under the *Constitution* because the school is a public employer. This means that if the university engages in race-preferential hiring, the action must be based upon a compelling interest such as remedying past or present discrimination or a "gross disparity" in the numbers of underrepresented groups as compared to white employees. In this case, the university offered no proof that it was remedying discrimination, and so the court ruled against the university.

In *Hill v. Ross*, a university held a position open until a qualified female candidate applied. The court found that the action was not based upon the school's affirmative action plan, nor was it a remedy for current or past discrimination. Moreover, the statistical disparity between women in the work force and women at the university was insignificant.

Finally, in *Schurr v. Resorts International Hotel, New Jersey Casino Commission*, a white male and a black male applied for a technician's job. The Casino Commission had set a goal of 25 percent minorities for the "technician" classification; only 22.5 percent of Resorts' employees in this classification were minorities. The hiring manager believed that because there were two equally qualified applicants, he was obligated to hire the minority applicant. The court said an affirmative action plan must have a remedial purpose to be a valid defense to a discrimination charge. The evidence did not show a remedial purpose to the hiring, thus the employer could not use race as a factor in the hiring decision.

These recent cases underscore the following points:

- Affirmative action is an **inclusive** process, not an **exclusive** process. All employment programs—recruiting, hiring, internships, mentoring, promotion—must be designed to diversify the pool of candidates, workplace, job categories, managerial positions, etc., rather than establish quotas or preferential hiring.

- Should an employer want to use gender, ethnicity, or race as a plus factor in hiring, it needs evidence of prior job segregation, past or present discrimination, and a substantial imbalance in the work force that needs remedying. The fact that there has been a history of prejudice in the United States is not enough.
- If preferences are used, they must end when parity is reached. Parity is determined by comparing the number of people in the general population who are qualified for the program or job with the number who are actually in the program or job. A general population statistic is not sufficient.
- A position cannot be held open until an employer finds an individual of the “correct” race, gender, or ethnic background when there is a pool of qualified nonminority candidates to choose from.
- When an organization has seemingly neutral employment and selection practices that have a disparate impact on the hiring of women and minorities, the organization may have to change its employment criteria rather than create exclusive hiring programs to “fill the ranks.”

Thus, the answer to the recruiter’s question is, if the boss’s hiring edict is challenged by a rejected white male, it could be ruled invalid unless the hiring organization has a history of discrimination against Latinos, African Americans, and women, and hiring from special groups is the only way to remedy that discrimination, which is hard to prove.

The obligation of career services staff continues to be to provide full and equal opportunity to all students that attend the school and use the office. Career services practitioners are not responsible for monitoring an employer’s hiring practices.

Employers should draw applicant pools from the broadest sources the school has to offer.

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## **NACE** - *Legal Spotlight*

### **An Overview of EEO and Nondiscrimination**

**by Rochelle Kaplan  
NACE General Counsel**

Equal employment opportunity (EEO) and nondiscrimination are concepts that have become part and parcel of hiring and recruiting practices. Federal EEO laws and the state corollaries of these laws ensure that each person seeking employment is considered, for the most part, on individual merit and ability to perform the job. The laws are designed to encourage nondiscriminatory recruiting, interviewing, referring, and hiring.

These laws, however, do not eliminate all discrimination in employment. They only prohibit discrimination based upon a person's membership in a "protected class." A protected classification is a group that Congress determined needed special protection from discriminatory treatment in employment. The classifications were created on the basis that members of the selected groups had been subject to historical societal prejudice, under representation in the work force, stereotyping, or deprivation of economic or political power. Furthermore, Congress determined that persons serving in the military deserve protection because of their sacrifice for the country. These protected classifications are specifically mentioned in one of the federal or state employment laws that pertain to that group.

The federal EEO laws are Title VII of the Civil Rights Act, the Age Discrimination Act, the Immigration Reform and Control Act, the Uniformed Services Employment and Re-employment Rights Act, and the Americans With Disabilities Act. These laws established the following as protected classifications: race, color, religion, national origin, sex, and age over 40, disability, intending citizen, serving in the armed service or reserve units, and veteran. Some state laws have identified additional protected classifications, such as marital status, parenthood, and sexual orientation. If the state law provides protection to a group not mentioned in the federal law, the state's protection would apply to any employer operating in that state.

Only individuals within the protected group have a right to claim violations of the EEO laws (state or federal) pertaining to them. Even though someone in other groups—for example, smokers, students on nonimmigrant visas, transgender persons, or individuals under the age of 40—may believe they are being unfairly treated, they may have no legal recourse. Put another way, an employer may seek to exclude individuals from unprotected classifications from the hiring process. To illustrate: Being a smoker is not a protected classification under federal or state law. While excluding smokers from interviewing schedules or revoking a job offer once it is discovered that a person smokes may be unfair and not related to the job, it is not illegal discrimination under federal or state EEO laws. The individual would not have recourse under those laws.

A member of an unprotected group would have legal recourse only if the member could show that he or she also belongs to a protected class and that was the reason for the unfair treatment. For example, a student from Nicaragua with an F-1 visa might prove that the employer was practicing race or national origin discrimination by refusing to interview him.

Another legal recourse for a member of an unprotected group may be to prove a violation of his/her constitutional rights occurred under the 14th Amendment of the U.S. Constitution. This would involve showing that the employer's unfair treatment deprives the individual of equal protection under the law. The person has to show that a constitutionally protected right was being taken away from him or her. The right to have a job is not a constitutionally protected right nor is the right to engage in certain behavior, like smoking. Furthermore, such a claim is applicable only to a "public" employer that is a state, county, or local municipality, or a political subdivision such as a school district. If the public employer can show a reasonable, substantial, or compelling reason for refusing to hire the person, the individual will not be successful in his/her claim.

Congress can create additional protected classifications at any time by amending existing EEO laws to include the new group or by passing legislation to provide protection specifically to that group. An example of the former was the amendment to Title VII of the Civil Rights Act in 1978 to include pregnancy and pregnancy-related disabilities as part of the protected classification of sex. Examples of the latter include the passage of the Americans With Disabilities Act in 1990 creating the protected classification of disability, and the Uniformed Services Employment and the Re-employment Rights Act of 1994, which protects a person who performs duty voluntarily or involuntary in the uniformed services.

In summary, the EEO laws are vital to ensure nondiscrimination in hiring and have revolutionized recruiting and hiring practices. However, these laws do not eliminate, or make illegal, all forms of non-job related selection criteria. Only those selection criteria that relate to one of the protected groups are prohibited under the law.

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