

NON-DISCRIMINATION

Human Resources Management
Policies and Procedures Manual
UNC Health Care System

Issued by:
Director of Human Resources
Chapter 2

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1. AFFIRMATIVE ACTION

From The Executive Director's Statement on Affirmative Action:

"Consistent with its standards of excellence in patient care, research, and teaching, the UNC Health Care System shall exert strong efforts to provide caring consideration and fair treatment for all employees and applicants for employment. To this end the UNC Health Care System, through its line management and the staff services of the UNC Health Care System's Human Resource Services Department / Affirmative Action Office will guard against policies, practices, and personnel actions which may result in unfair treatment."

Affirmative Action/EEO Plan The UNC Health Care System's Affirmative Action/EEO Plan is produced and evaluated annually. This Plan details the responsibilities of all State personnel with regard to Affirmative Action. The Plan evaluates the UNC Health Care System's performance in Affirmative Action/EEO efforts for the calendar year while setting new goals for the coming year. All employees have access to this Plan, as well as the identities and locations of the Equal Employment Opportunity Officer and those who make up the Affirmative Action/EEO Committee.

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2. AIDS (HIV) INFECTIONS

The UNC Health Care System shall not discriminate against any applicant or employee who has or is suspected of having AIDS or HIV infection. The UNC Health Care System recognizes that an employee with AIDS or HIV infection may wish to continue working. As long as an infected applicant or employee is able to satisfactorily perform the duties of his or her job and there is no medical evidence indicating that the applicant's or employee's condition is a health threat to him or herself, coworkers, or the public, the employee shall not be denied employment.

Further Information For further information, see the HBV/HIV Infections Policy, [Chapter 10](#).

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3. EQUAL EMPLOYMENT OPPORTUNITY

The UNC Health Care System is an equal opportunity employer. As such, UNC Health Care System offers equal employment opportunities without regard to race, color, religion, sex, national origin, age, or disability. To extend these opportunities, the UNC Health Care System shall:

- recruit, hire, train, and promote persons in all job classifications without regard to race, color, sex, religion, national origin, age, disabilities or political affiliation/influence.
- Base selection, hiring, and promotion decisions upon valid requirements and criteria which are related and necessary to perform the work;
- Administer all personnel actions including compensation, benefits, tuition assistance, training, transfers, reduction-in-force, terminations, and promotions objectively, without regard to race, color, religion, sex, national origin, age, or disability.

Reasonable Accommodation UNC Health Care System will provide reasonable accommodations to qualified individuals with known disabilities unless such accommodations would pose an undue hardship. Reasonable accommodations will be made to allow individuals to participate in the application process, perform essential job functions, and enjoy equal benefits and privileges of employment. Individuals with disabilities are responsible for requesting reasonable accommodations and providing medical documentation appropriate to verify the existence of the disability and to identify and assess potential reasonable accommodations. Requests should be directed to the EEO Officer.

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- Reporting** Discrimination on the basis of race, color, religion, sex, national origin, age, or disability is a violation of law and the UNC Health Care System policy. Unlawful discrimination will not be tolerated. Any UNC Health Care System employee who believes that he or she has been the subject of discrimination or who believes he or she has witnessed unlawful discrimination must immediately contact his/her supervisor or the Director of Employee Relations or the EEO Officer. If unlawful discrimination has occurred, appropriate disciplinary action up to and including termination of employment will be taken.
- Retaliation** Retaliation against any employee or applicant who reports or makes a charge of discrimination, or who participates in any manner in an investigation or proceeding, is prohibited and will not be tolerated.
- Resolution** An employee may seek resolution by contacting his/her supervisor or the Director of Employee Relations or the EEO Officer. An employee may also utilize the formal grievance procedure (see Grievance & Alternative Dispute Resolution Policy, [Chapter 12](#)).
- EEO Training** A variety of training tools and workshops are available for employees and supervisors.

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4. UNLAWFUL HARASSMENT

Reporting Harassment of an employee in the work place by supervisory personnel, coworkers, or non-employees on the basis of race, color, religion, sex, national origin, age, or disability is a form of discrimination that violates the law and UNC Health Care System policy. It is prohibited and will not be tolerated.

Any UNC Health Care System employee who believes that he or she has been unlawfully harassed or believes he or she has witnessed unlawful harassment must immediately report the perceived harassment to his/her supervisor or the Director of Employee Relations or the EEO Officer. If supervision is perceived to be involved in harassing conduct, employees should contact the Director of Employee Relations or the EEO Officer directly. All reports of harassment will be investigated. The investigation will not be conducted by any person perceived to be involved in harassing conduct. If unlawful harassment is found to have occurred, appropriate disciplinary action up to and including termination of employment will be taken.

Retaliation Retaliation against any employee who reports perceived harassment, or who participates in an investigation as a witness or in any other capacity, is prohibited and will not be tolerated.

**Sexual Harassment
Definition** Sexual harassment is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term of condition of an individual's employment
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual;
Or
- When such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

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Other types of unlawful harassment Other conduct which can be unlawful harassment includes verbal, nonverbal, or physical conduct that shows aversion, denigration, or hostility because of race, color, religion, national origin, gender, age, or disability and that either:

- Creates an intimidating, hostile, or offensive working environment;
- Unreasonably interferes with an individual's work; or
- Adversely affects an individual's employment opportunities.

Resolution Employees are encouraged to seek resolution by contacting their supervisor or the Director of Employee Relations or the EEO Officer. An employee may also utilize the formal grievance procedure (see Grievance & Alternative Dispute Resolution Policy, [Chapter 12](#)).

Harassment Prevention A variety of training tools and workshops are available for employees and supervisors.

Counseling Special support/counseling is available to employees who have been subject to harassment. Assistance is provided through the EEO Officer and the Employee Assistance Program.

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5. SEXUAL ORIENTATION

Discrimination and harassment based on an employee's sexual orientation is prohibited. An individual who believes that he or she is being discriminated against or harassed, or who wants further information about such discrimination may contact the Director of Employee & Management Services at 6-2261 and/or the Affirmative Action/EEO Officer or Human Resource Services Director at 6-7071.

6. SUMMARIES OF APPLICABLE LAWS AND POLICY GUIDELINES

THE CIVIL RIGHTS ACT OF 1964

Title VII of the Civil Rights Act of 1964 makes it unlawful for an employer to discriminate in hiring, firing, compensation, terms, conditions, or privileges of employment on the basis of race, color, religion, sex, or national origin.

In addition, it is unlawful to discriminate on any of these five bases in selection for apprenticeship, training, or retraining programs or to limit, segregate, or classify employees in ways that may deprive them of employment opportunities or adversely affect their status as an employee. It is also illegal to indicate preference or to discriminate based on race, color, religion, sex, or national origin in advertisements relating to employment.

Exceptions Wage differences are permitted when based on merit, seniority, and quantity or quality of production. The law makes exceptions for discrimination resulting from a bona fide occupational qualification. Such exception, however, is applicable only to discrimination based on religion, sex, or national origin. Title VII does not recognize occupational qualification based on race or color as bona fide.

Recruiting and Hiring A basic procedure for recruiting and selecting employees that does not intentionally or inadvertently screen out minority group members is essential.

Hiring Standards and Requirements Special attention should be given to hiring standards that reflect the norm of a community's predominant group. The hiring unit must be prepared to demonstrate that its hiring standards do not automatically screen out applicants whose speech, dress, and personal work habits differ from those of the predominant group. It must be able to demonstrate that any employment tests or other job screening standards that are used, such as possession of a high school diploma, are reasonable measures of successful job performance. Hiring requirements not directly related to job performance, such as a height requirement in a position where height is not directly related to performance, are discriminatory.

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EMPLOYMENT CONDITIONS The law against employment discrimination extends to virtually every aspect of the employer-employee relationship, including discrimination with respect to compensation, terms, conditions, or privileges of employment.

Wages Discrimination with respect to compensation covers a variety of practices, such as: starting rates or merit increases based on race, color, sex, religion, or national origin rather than qualifications or performance, and different treatment of employees with respect to overtime pay opportunities when based on race, color, sex, religion, or national origin.

Training and Promotion Employees of similar capabilities must be offered the same opportunities for training, promotion, transfer, and apprenticeship programs.

Discriminatory Environment Title VI and Title VII of the 1964 Civil Rights Act require an employer to maintain a working environment free of racial, sexual, or ethnic intimidation. This requirement includes positive action when necessary to redress or eliminate employee intimidation.

If harassment of an employee by co-workers or a supervisor occurs, management is obligated to attempt to remedy the situation. Management must take steps to ensure that a strong non-harassment policy is observed at all levels.

Work Assignments It is unlawful to give employees a disproportionately large share of the less desirable assignments or less favorable hours on the basis of race, color, sex, national origin, or religion.

Facilities Facilities must be open on an integrated basis to all employees.

Employer Reprisal The 1964 Civil Rights Act prohibits taking reprisals against employees who initiate, testify, or participate in proceedings (as allowed under the Act) against the employing institution.

NATIONAL ORIGIN DISCRIMINATION Discrimination on the basis of the physical, cultural, or linguistic characteristics associated with a national origin group is prohibited. Job requirements such as fluency in English must be shown to be accurate measures of job performance and must fairly assess educational credentials from foreign institutions. In addition, a working environment must be maintained that is free from ethnic slurs, jokes, or other verbal or physical behavior that unreasonably interferes with an employee's work performance.

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RELIGIOUS DISCRIMINATION Reasonable accommodation must be made to the religious needs of employees where such accommodations do not create undue hardship on the UNC Health Care System. Religion is defined to include all aspects of religious observance, practice, and belief, such as:

- grooming habits,
- Sabbath observance,
- observance of mourning, or
- prohibition of medical examination.

Reasonable accommodation may include practices such as prayer breaks, shift swaps, flexible scheduling, or change of job assignments which may differ from the employer's or the potential employer's requirements regarding schedules or other business-related conditions.

SEX DISCRIMINATION Hiring standards are not permitted that prohibit women from:

- carrying or lifting weights in excess of set limits,
- working during certain night hours,
- working more than a specified number of hours per day or week, or
- working for set time periods before or after childbirth.

Rules that limit or restrict employment of married women but are not applicable to married men are not permitted. An employment policy that excludes applicants or employees (married or otherwise) due to pregnancy is not permitted.

THE CIVIL RIGHTS ACT OF 1991

Strengthens and reaffirms provisions set forth in the Civil Rights Act of 1964.

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THE AGE DISCRIMINATION IN EMPLOYMENT ACT

The ADEA law forbidding employment discrimination on the basis of age applies only to individuals age 40 and above. It is unlawful to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment, because of such individual's age.

THE AMERICANS WITH DISABILITIES ACT (ADA)

Under the ADA, a disabled person is anyone who:

- has a physical or mental impairment which substantially limits one or more major life activities;
- has a record of such an impairment; or
- is regarded as having such an impairment.

The ADA prohibits discrimination based on disability. An employer cannot remove from consideration or dismiss an otherwise qualified disabled applicant or employee on the basis of the disability alone.

An employer is expected to offer reasonable accommodation to the disabled individual. This may include:

- modification of employee facilities to provide ready accessibility and usability to such a person;
- job restructuring (reassigning nonessential duties and/or using part-time or modified work schedules);
- acquisition or modification of equipment or devices;
- provision of readers or interpreters; and/or
- other similar actions.

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Adjustments must be made for the known limitation of otherwise qualified disabled applicants and employees, unless a particular adjustment or alteration is demonstrated to impose undue hardship.

Also covered under the ADA, with regard to equal jobs or benefits, is any individual who is known to have a relationship or association with a disabled individual.

The UNC Health Care System's Affirmative Action/EEO Officer handles all ADA cases. She can be contacted at 6-0698.

**Provisions Relative to
Communicable and
Infectious Diseases**

People who are infected with a communicable or infectious disease, including Acquired Immune Deficiency Syndrome (AIDS) are disabled if the disease results in an impairment that substantially limits one or more major life activities. All of the policies that apply to people with disabilities also apply to people with communicable and infectious diseases.

North Carolina law permits an employer to fail to hire, transfer, promote, or to discharge a disabled person if the person has a communicable disease that would disqualify a non-disabled person from similar employment. However, such action may be taken only if the continuation by the employee poses a significant risk to the employee, co-workers, or the public, or if the employee is unable to perform the normally assigned duties of the job. There must be documentation of consultation with private physicians and/or public health officials in arriving at this decision. In the absence of a medically documented health hazard to other persons, concern for other employees who may fear working with the infected co-worker must never be the basis for the decision.