

Duke University and Duke Health
Affirmative Action Plan Program and Plan Introduction
Veterans and Individuals with Disabilities

2019

PROGRAM OVERVIEW

In March 1970, Duke adopted its first Affirmative Action Program for Equal Opportunity. President James T. Sanford (1969-1985) introduced the Program by noting that it “was something far beyond a necessary compliance with governmental policy.” Nearly five decades later, as the national climate and debate over affirmative action intensified on campuses, at the symposium titled “What Difference Does Difference Make?,” President Nannerl O. Keohane (1993-2004) remarked:

As the current backlash against affirmative action and minority recruitment in several parts of our country makes crystal clear, we have taken too much for granted. As a result, we have not yet made a compelling argument, both to skeptical folks on campus and to many in the world outside, for the importance—to learning—of multiple perspectives, different ideas and values on a university campus.

Under the leadership of current Duke President, Vincent E. Price, we remain committed to principles of fairness and equity that shaped our first Affirmative Action Program in 1970, with the inclusion of diversity as a key element in Duke’s strategic plan and the continuation of strategies to ensure that an inclusive community will anchor and guide us in the future. President Vincent E. Price reaffirmed this commitment by stating:

Over the past half century, Duke has taken decisive action to promote diversity on campus and to ensure the full opportunities of every student, faculty, and staff member to study or work here, regardless of their background. I am pleased to continue to affirm this commitment by working to build an even more inclusive university community.

With the 2019 update of the Equal Opportunity and Affirmative Action Program, Duke’s Office for Institutional Equity brings a set of opportunities and challenges to the members of the Duke. This program entails the following three publications as well as initiatives undertaken to advance diversity and inclusion throughout the University and Duke Health:

- “Duke University Affirmative Action Plan (Executive Order 11246) 2019”
- “Duke Health Affirmative Action Plan (Executive Order 11246) 2019”
- “Duke University and Duke Health Affirmative Action Plan for Veterans and Individuals with Disabilities (VEVRRA and Section 503 of the Rehabilitation Act) 2019”

Although each of these publications is a compliance document fulfilling part of the responsibilities of Duke as a federal contractor, in the words of a 1970 Trustees’ resolution, we adhere to a policy of equal employment opportunity “not solely because of a legal requirement, but because it is a basic element for human dignity.”

In addition to complying with federal regulations, these publications describe an affirmative action program as a management tool. They include those policies, practices, and procedures that we implement to ensure equal employment opportunity. The process for developing the Program allows us to engage in self-analysis to discover any barriers to equal employment opportunity. This process also serves as a guide in monitoring progress and developing policies and guidelines to enhance equity and inclusion in all sectors of employment at Duke.

The Affirmative Action Plans are widely distributed and available for review by contacting Duke's Office for Institutional Equity. A copy of each publication is also available within the reference section of the William R. Perkins Library. The publications are also shared with managers and senior administrators.

DUKE AFFIRMATIVE ACTION PROGRAM COMPLIANCE OBLIGATIONS

Federal Contractors that meet specified criteria are required to develop plans that detail the affirmative action program for each of its establishments. The Duke University and Duke Health Affirmative Action Program is prepared annually in accordance with Executive Order (EO) 11246, Section 503 of the Rehabilitation Act of 1973, and the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA) of 1972 and their implementing regulations in 41 CFR 60. The U.S. Department of Labor (DOL) has designated the Office of Federal Contract Compliance Programs (OFCCP) to administer and enforce each of the above. The Program's publications are not submitted to any specific government entity, but are retained on the premises for examination by the OFCCP, possibly other agencies, and for responding to compliance reviews and inquiries.

Executive Order 11246, as amended, prohibits federal contractors and subcontractors from discriminating in employment decisions based on race, color, religion, sex, sexual orientation, gender identity, or national origin. Executive Order 11246 also requires federal contractors to take affirmative action to ensure that equal employment opportunity is provided in all aspects of their practices. Additionally, federal contractors must monitor and examine employment decisions and compensation practices.

For the Duke University and Duke Health Affirmative Action Program 2019, compliance with 41 CFR 60-1 and 60-2 is satisfied by the publication titled "Duke University Affirmative Action Plan (Executive Order 11246) 2019" and the publication titled "Duke Health Affirmative Action Plan (Executive Order 11246) 2019." Compliance with 41 CFR 60-300 and 41 CFR 60-741 are satisfied by the publication titled "Duke University and Duke Health Affirmative Action Plan for Veterans and Individuals with Disabilities (VEVRAA and Section 503 of the Rehabilitation Act) 2019."

For veterans, federal contractors are required to establish hiring benchmarks and placement goals for each job group covered by the regulations above. For individuals with disabilities, federal contractors are required to conduct utilization analysis for each job group covered by the regulations above. Placement goals neither create quotas for specific groups nor are they designed to achieve proportional representation or

equal results. The goal-setting process in affirmative action planning is used to measure the effectiveness of good faith efforts and best practices.

The regulations stipulate that employers make good faith efforts to alleviate underutilization. Such efforts may include expanded efforts in outreach, recruitment, training, professional development opportunities, and other programs to increase the applicant pool of qualified individuals in groups covered by the regulations above. The actual selection decision should always be made on a nondiscriminatory basis. EO 11246 and its supporting regulations do not authorize the OFCCP to penalize contractors for not meeting goals. The regulations at 41 CFR 60-2.12(e), 60-2.15, and 60-2.30 specifically prohibit quotas and preferential hiring and promotions under the guise of affirmative action goals.

Supporting data and documents may be obtained, by request, at the Office for Institutional Equity.

EQUAL EMPLOYMENT OPPORTUNITY POLICY¹

Duke is an Affirmative Action/Equal Opportunity Employer committed to providing employment opportunity without regard to an individual's age, color, disability, gender, gender expression, gender identity, genetic information, national origin, race, religion, sex, sexual orientation, or veteran status. Duke also makes good faith efforts to recruit, hire, and promote qualified women, minorities, individuals with disabilities, and veterans.

In accordance with Title IX of the Education Amendments of 1972, Duke prohibits discrimination based on sex. Sexual harassment is a form of sex discrimination. Duke has designated a Title IX coordinator in the Office for Institutional Equity. The Office for Institutional Equity is located in Smith Warehouse, 114 S. Buchanan Blvd., Durham, North Carolina 27708. The Office telephone number is 919-684-8222. Questions or concerns regarding Title IX, harassment or discrimination may be directed to the Office for Institutional Equity.

COMMITMENT TO EQUAL OPPORTUNITY

Duke is an institution and community committed to the principles of excellence, fairness, and respect for all people. As part of this commitment, we actively value diversity in our workplace and seek to take advantage of the rich backgrounds and abilities of everyone. Our Equal Opportunity Policy affirmatively protects all Duke faculty, staff, and applicants, ensuring that employment decisions are based on individual merit, as opposed to stereotypes and biases. Duke's Policy applies to all personnel transactions including recruitment, hiring, appointment, and promotions. It also governs personnel actions such as determining compensation, layoffs, terminations, and benefits.

Providing equal protection in employment is only one aspect of achieving diversity at Duke. Because a variety of social and historical barriers have limited access to

¹ The first paragraph of this Policy is referred to as the "Equal Employment Opportunity Statement"

employment and advancement of certain groups, we make special efforts to identify, recruit, hire, and promote qualified people who are traditionally underrepresented in our workforce.

Duke's Equal Employment Opportunity Policy is an important part of compliance with federal and state laws and regulations. More importantly, this Policy guides us in our institutional commitment to diversity and fairness, and guarantees that every employee is welcome and free to contribute his or her talents to help Duke achieve excellence in all our endeavors.

DISSEMINATION

The Equal Employment Opportunity Policy is distributed to all members of the Duke community. Policy information is provided to new employees at orientation sessions and to union officials representing Duke employees. The Equal Employment Opportunity Statement is published in Human Resource Policy Manuals, the Faculty Handbook, the Staff Handbook, and is posted on bulletin boards throughout Duke. The Policy is discussed in management training programs and is described in various literature distributed by Duke. Nondiscrimination clauses are included in all union agreements and all such contractual provisions are reviewed to ensure that they are nondiscriminatory [41 CFR 60-300.44(f)(g) & 41 CFR 60-741.44(f)(g)].

Pursuant to regulations, all Duke purchase orders, leases, and contracts incorporate the following equal opportunity clause setting forth the Duke's expectations:

The contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, gender expression, national origin, disability or veteran status.

In addition, this contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. To the extent not exempt, this contractor or subcontractor shall also abide by the requirements of 29 CFR Part 471.

Publications and other Duke materials represent both minority and nonminority men, women, and persons with disabilities. Recruiting advertisements state that Duke is an Equal Opportunity/Affirmative Action Employer. An expanded statement to convey Duke's commitment to diversity and inclusion is included in documents and

position announcements: *Duke is an Affirmative Action/Equal Opportunity Employer committed to providing employment opportunity without regard to an individual's age, color, disability, gender, gender expression, gender identity, genetic information, national origin, race, religion, sex, sexual orientation, or veteran status. Duke also makes good faith efforts to recruit, hire, and promote qualified women, minorities, individuals with disabilities, and veterans.*

Where applicable, Duke publications contain an alternative format statement. In addition, individual entities have formulated statements that go beyond the minimal requirements to express the value of diversity and inclusiveness and to invite individuals with diverse backgrounds to consider employment at Duke.

The OFCCP “Pay Transparency” notice and the federal and state labor law notices, in English and Spanish, are prominently posted at multiple locations around Duke. These labor law notices include equal employment opportunity, family and medical leave, federal minimum wage, OSHA, polygraph protection, and USERRA.

All notice and poster locations are reviewed annually by the Office for Institutional Equity. Department managers are supported in acquiring posters and in communicating with their staff regarding the regulations, employee rights and process for bringing forth workplace concerns. See Appendix H for a photograph of bulletin boards with federal and state notices.

IMPLEMENTATION

Every member of the Duke community is encouraged to participate wholeheartedly in the effort to ensure not only that our workplace is free from unlawful and unconscionable discrimination and harassment, but also that we respect and celebrate diversity. Managers and supervisors have particular responsibility in making personnel decisions for achieving our institutional equal opportunity goals.

The Office for Institutional Equity implements and monitors the Duke Equal Employment Opportunity Policy throughout Duke University and Duke Health, and is responsible for developing the Duke University and Duke Health Affirmative Action Program on an annual basis. The implementation process also includes a systematic review of staff and faculty recruitment, hiring, and other personnel activities to examine patterns and trends. Duke’s Office for Institutional Equity provides guidance and assistance to administrators and faculty across all management entities in implementing the Program and complying with legal obligations.

Under the auspices of the President, the Office for Institutional Equity provides institutional leadership in enhancing respectful, diverse, and inclusive work and learning environments for the Duke community. These programs and services uphold values of equity and diversity, as well as support compliance efforts in the areas of equal opportunity, affirmative action, and harassment prevention.

ENFORCEMENT

As Chief Executive Officer of Duke, the President has the legal responsibility for compliance with the equal employment opportunity laws. The Provost, the Chancellor for Health Affairs, the Vice Presidents, and other senior officers are all responsible to the President for implementing the Duke Equal Employment Opportunity Policy within their administrative areas. Deans, directors, chairpersons, and managers of the various schools, departments, and programs all work to administer and manage personnel activities within their areas to ensure full implementation of the Policy. The Office for Institutional Equity has the responsibility for addressing all violations of the Policy, and allegations of discrimination and harassment.

THIS PUBLICATION

This publication is titled “Duke University and Duke Health Affirmative Action Plan for Veterans and Individuals with Disabilities (VEVRAA and Section 503 of the Rehabilitation Act) 2019” (the “Plan”) and is part of the Duke Affirmative Action Program 2019 in accordance with regulatory requirements outlined at:

- 41 CFR 60-1, Obligations of Contractors and Subcontractors, and
- 41 CFR 60-2, Affirmative Action Programs.

The Plan is a compliance document fulfilling part of the responsibilities of Duke University as a federal contractor. In addition to complying with federal regulations, the annual updates to the Plan allow it to be used as a management tool for the Institution. It includes those policies, practices and procedures that we implement to ensure equal employment opportunity. The Plan serves as a guide in monitoring progress and developing initiatives to enhance equal opportunity, and sustaining diversity and equity efforts in all sectors of employment at Duke. The process for developing the Plan allows us to engage in self-analysis for discovering any barriers to equal employment opportunity.

RELEVANT FEDERAL LAWS AND REGULATIONS

Rehabilitation Act of 1973

Section 503 of the Rehabilitation Act of 1973 prohibits discrimination and requires employers with federal contracts or subcontracts that exceed \$10,000 to take affirmative action to hire, retain, and promote qualified individuals with disabilities. All covered contractors and subcontractors must also include a specific equal opportunity clause in each of their nonexempt contracts and subcontracts.

Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA)

This Act prohibits federal contractors and subcontractors from discriminating in employment against veterans. It also requires that these contractors take affirmative action to recruit, hire, promote, and retain veterans. To help prevent discrimination, this Act requires contractors to set hiring benchmarks, collect data, invite candidates to self-identify, and incorporate an equal opportunity clause. Despite its name, this statute

is no longer limited to veterans from the Vietnam Era. It includes 1) disabled veterans, 2) Armed Forces service medal veterans, 3) recently separated veterans, and 4) other protected veterans who served during a war or in a campaign or expedition for which a campaign badge has been authorized. New veterans' categories and definitions were implemented as a result of 41 CFR Part 60-300, Final Rule. For purposes of collecting and reporting, these will be aggregated under the category of protected veterans. These categories are defined in Appendix A.

Final Rule for Veterans and Individuals with Disabilities

On September 24, 2013, the OFCCP published a Final Rule that makes changes to the regulations implementing Section 503 of the Rehabilitation Act of 1973, as amended (Section 503) at 41 CFR 60-741 and to the regulations implementing the Vietnam Era Veterans' Readjustment Assistance Act, as amended (VEVRAA) at 41 CFR Part 60-300. These new regulations became effective on March 24, 2014. The Final Rule strengthens and expands federal contractor's obligations to recruit, train, hire, and promote protected veterans and individuals with disabilities. The Final Rule also establishes an annual hiring benchmark for veterans and a utilization goal for individuals with disabilities. The ruling also expanded data collection, reporting, and auditing obligations.

Americans with Disabilities Act of 1990 (ADA)

The ADA is a wide-ranging civil rights law that prohibits discrimination based on disability. Disability is defined by the ADA as "a physical or mental impairment that substantially limits a major life activity."

The OFCCP has coordinating authority under Title I of the ADA, which prohibits job discrimination against qualified individuals with disabilities by employers with 15 or more employees. The Equal Employment Opportunity Commission (EEOC) has primary authority for enforcing the ADA.

Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)

Uniformed Services Employment and Reemployment Rights Act clarifies and strengthens the Veterans' Reemployment Rights Statute. USERRA is intended to minimize the disadvantages to an individual that occur when that person needs to be absent from civilian employment to serve in the military.

Jobs for Veterans Act (JVA)

The JVA, added to VEVRAA, requires employers with federal contracts of \$150,000 or more to provide equal opportunity and affirmative action for recently separated veterans (extending coverage from one year to three years), all disabled veterans, veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized, or any other veteran who served on active duty and received an Armed Forces Service Medal pursuant to Executive Order 12985 (61 FR 1209).

Americans with Disabilities Act Amendments Act of 2008 (ADAAA)

The ADAAA amends both the ADA and the Rehabilitation Act (Section 504) in a manner that significantly expands disability protection for students, employees, and the public at large diagnosed with a physical or mental impairment. Congress significantly expanded what constitutes a major life activity and conveyed its disagreement with judicial interpretation of the phrase “substantially limits.”

The ADAAA also expanded the previously existing definition of major life activities with the following additions: eating, sleeping, standing, lifting, reading, bending, concentrating, thinking, communicating, and the operation of a major bodily function. In addition, it precluded an organization from considering the impact of “mitigating measures” such as hearing aids, other technology, reasonable accommodations, learned behavior or adaptive neurological modifications or other such interventions—with the exception of ordinary eyeglasses or contact lenses—in determining whether an individual’s impairment is covered by the ADAAA. It also requires an impairment that is episodic or in remission to be considered a disability if it would substantially limit a major life activity when active.

RESPONSIBILITY

The Office for Institutional Equity is responsible for developing, on an annual basis, the Duke University and Duke Health Affirmative Action Plan for Veterans and Individuals with Disabilities (VEVRAA and Section 503 of the Rehabilitation Act) and overseeing the implementation of related programs at Duke. Duke’s Office for Institutional Equity also provides guidance and assistance to administrators, faculty, and staff across all management entities in complying with the legal requirements and Duke’s commitment to the core values of diversity and inclusion.

Designation for responsibility for the implementation of the Plan are detailed below, in Tables 1 (Duke), 2 (Duke University), and 3 (Duke Health):

Table 1. Designation of Responsibility – Duke

University Compliance Officer	Benjamin D. Reese, Psy.D. Vice President for Institutional Equity and Chief Diversity Officer ben.reese@duke.edu
Affirmative Action Program Administrator	Inderdeep Chatrath, Ph.D. Assistant Vice President Equal Opportunity & Affirmative Action Programs inderdeep.chatrath@duke.edu
Title IX Compliance Officer	Jayne Grandes, J.D. Director Title IX Compliance jayne.grandes@duke.edu
Human Resources Officer	Kyle Cavanaugh Vice President for Administration kyle.cavanaugh@duke.edu
Disability Management System	Leigh Fickling, J.D. Executive Director, Disability Management System leigh.fickling@duke.edu

Table 2. Designation of Responsibility – Duke University

	Faculty	Staff
Arts & Sciences	Sandy Connolly Vice Dean, Finance and Administration sandy.connolly@duke.com	Kimberley Harris Director, Academic Human Resources Services & Assistant Vice Provost kimberley.harris@duke.edu
School of Medicine	Annette Whitesell Director, Faculty Appointments Office annette.whitesell@duke.edu	Betsy Hames Associate Dean & Chief Human Resources Officer betsy.hames@duke.edu
Divinity School Fuqua School of Business Nicholas School of the Environment Pratt School of Engineering Sanford School of Public Policy School of Law School of Nursing	Deans or Designated Staff	Deans or Designated Staff

Table 3. Designation of Responsibility – Duke Health

Divisions	Responsible Person
Duke Clinical Labs	Rita Winsor Division Chief HR Officer rita.winsor@duke.edu
Duke HomeCare & Hospice	Amanda Parrish Chief HR Officer amanda.parrish@duke.edu
Duke University Hospital	Deborah Page Chief HR Officer deborah.page@duke.edu
Duke Raleigh Hospital	Alyson Parker Gordon Chief HR Officer alyson.gordon@duke.edu
Duke Regional Hospital	Dexter Nolley Chief HR Officer dexter.nolley@dm.duke.edu
Duke Primary & Specialty Clinics	Elizabeth Long Divisional Chief Operating Officer long0046@mc.duke.edu
Patient Revenue Management Organization	Janice Powell Divisional Chief HR Officer powel060@mc.duke.edu