

Regulatory Requirements for the Employee Selection Process

Due to Duke's status as a federal contractor, operations are subject to a broad range of regulatory guidelines. A subset of these guidelines stipulate how the employee selection process must work.

Individuals involved in the employee selection process must be cognizant of these requirements and should comply—in full—with such regulations.

The following sections answer common question about record keeping requirements for Duke searches:

What are my obligations as part of the employee selection process?

1. Don't discriminate.

Employment discrimination is illegal and generally results when a person is treated differently (usually less favorably) because of his or her race, color, religion, sex, sexual orientation, gender identity or national origin. In addition, employment discrimination can result when a neutral policy or practice has an adverse impact on the members of any race, sex, or ethnic group and the policy or practice is not job related or required by business necessity.

See 41 CFR §§ 60-1.4.

2. Include Equal Opportunity Employer Statement in all employment advertising.

Federal contractors are required to state in all solicitations or advertisements for employment that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity or national origin. The following is Duke's standard statement:

Duke University 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 aspires to create a community built on collaboration, innovation, creativity, and belonging. Our collective success depends on the robust exchange of ideas—an exchange that is best when the rich diversity of our perspectives, backgrounds, and experiences flourishes. To achieve this exchange, it is essential that all members of the community feel secure and welcome, that the contributions of all individuals are respected, and that all voices are heard. All members of our community have a responsibility to uphold these values.

3. Keep records.

Federal contractors are required to maintain any personnel or employment records made or kept by the contractor. Individuals involved in employee selection processes at Duke should maintain at least the following items:

- Job descriptions
- Job postings and advertisements
- Records of job offers
- Applications and resumes
- Interview notes
- Tests and test results
- Written employment policies and procedures
- Personnel files

As part of the application process, race, ethnicity, gender, veteran status, disability status, and internal/external status of every applicant (see section called “Who is considered an applicant?”) must be solicited and provided by way of self-identification. The options for these solicitations are as follows; all information must be provided via applicant self-identification:

Race (applicant can choose one or more):

- American Indian or Alaskan Native
- Asian
- Black or African American
- Native Hawaiian or Other Pacific Islander
- White
- Unknown
- Decline to Answer

Ethnicity (applicant can choose only one):

- Hispanic/Latino
- Non-Hispanic/Latino
- Unknown
- Decline to Answer

Gender (applicant can choose only one):

- Male
- Female
- Unknown
- Decline to Answer

Veteran Status:

Applicant can choose one or more of the following:

- Disabled Veteran
- Recently Separated Veteran
- Active Duty Wartime or Campaign Badge Veteran
- Armed Forces Service Metal Veteran

OR

Applicant can choose one of the following:

- I am a protected veteran, but I choose not to self-identify my classification.
- I am NOT a protected veteran.
- Decline to Answer

Disability Status (applicant can choose only one):

- Yes, I have a disability (or previously had a disability).
- No, I do not have a disability.
- Decline to Answer

Internal/External Status (applicant can choose only one):

- I am currently a Duke employee.
- I am NOT currently a Duke employee.
- Decline to Answer

At Duke, these records must be retained for a period of 3 years from the date of the making of the personnel record or the personnel action, whichever occurs later.

See 41 CFR §§ 60-1.12.

Who is considered an applicant?

An applicant is any individual that satisfies the following criteria:

1. The individual submits an expression of interest in employment.
2. The contractor considers the individual for employment in a particular position.
3. The individual's expression of interest indicates the individual possesses the basic qualifications for the position.
4. The individual at no point in the contractor's selection process prior to receiving an offer of employment from the contractor, removes himself or herself from further consideration or otherwise indicates that he or she is no longer interested in the position.

Records must be maintained for all individuals that meet these four criteria.

See 41 CFR §§ 60-1.3.

What are the relevant regulations?

While the regulations that apply to federal contractors are numerous, the following regulations most directly outline requirements that must be met during the selection process:

41 CFR §§ 60-1.3 - Definitions.

https://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=41:1.2.3.1.1#se41.1.60_61_13

41 CFR §§ 60-1.4 - Equal Opportunity Clause.

https://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=41:1.2.3.1.1#se41.1.60_61_14

41 CFR §§ 60-1.12 - Record Retention

https://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=41:1.2.3.1.1#se41.1.60_61_112

41 CFR §§ 60-1.41 - Solicitations or advertisements for employees.

https://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=41:1.2.3.1.1#se41.1.60_61_141

Guide for Small Businesses with Federal Contracts

<https://www.dol.gov/ofccp/TAGuides/sbguide.htm>