

MANAGING FACULTY SEARCHES

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Key Points to Remember

- **RECOGNIZE and Prevent Legal Risks**
- **ROUTINE and CONSISTENCY**– Develop and follow search procedures
- **REINFORCE** the university’s mission and standard of excellence in hiring decisions
- **RESOURCES** -- know where to go when you need help

Start at the Beginning – What Position Are You Filling?

- **The Job Description Should Drive the Search**
 - Identify the *essential functions and required qualifications* of the position, which then drives the advertising, interviewing, and hiring decisions.
 - Use of well-developed job descriptions and criteria give objective “yardsticks” against which to measure applicants, which may prevent or help defend allegations of discriminatory treatment.

Writing the Job Description

- **Remember: This is an important tool for hiring AND for long-term performance evaluation**
- Include:
 - Overall purpose of position
 - Essential functions and marginal or infrequent functions
 - Knowledge/skills/experience/credentials and personal qualifications required or preferred
 - Any unusual details of the job

Essential Functions

- *Identify criteria:*
 - *Excellence in teaching?*
 - *Excellence in scholarship?*
 - *How does service background count?*
 - *Will interdisciplinary work be expected?*
 - *Academic and Experiential Background*
 - *Status of Hire: Tenure track or other?*
 - *How do you measure “fit”?*

Conducting the Search

- Recognize that a faculty search is an exercise in public relations, investigation, writing, evaluation, and legal risk management.
- Poorly worded or misleading advertisements, or improperly handled interviews or follow up communications may adversely impact the university's reputation in the local community and the national/international academic community.

Advertising the Position

- The purpose of advertising is to reach the largest qualified audience (and to discourage those not qualified). Choose your words and publication sites accordingly.
- Avoid “red flag” descriptions of desired applicants (e.g., “young white male”).
- See Appendix C for sample advertisements at <http://tinyurl.com/AppendicestoPP>.

Items to Consider Including in Advertisements

- Position, Title, Rank, Tenure Status
- Overall Responsibility
- Summary of Essential Duties
- Degrees/Licenses Required or Preferred
- Experience/Particular Qualifications Required or Preferred
- Salary Range

Items for Advertisement (cont'd)

- Required Travel
- Description of the University (location, size, mission, student body)
- Equal Opportunity Employer
- Required application materials, closing date, and to whom sent
- Starting Date
- Particular Recruiting Information (e.g., encouragement of minority applicants)

Acknowledging Applications and Initial Screening

- Each application should be acknowledged promptly and candidates notified if additional information is needed.
- Candidates rejected after initial screening should receive prompt, brief written notice.
- If a candidate still under consideration has not completed standard institution application, s/he should do so at this stage, if required for faculty applicants.
- Acknowledgements can include required compliance notices (e.g., Campus Security Act).

Reference/Background Checks: An Important Step

- Use a standard reference checking procedure. Obtain consent & release from applicant (put in your application form).
- Best practice -- send a standard written request, including job description (see sample request in Appendix D at <http://tinyurl.com/AppendicestoPP>.) At the least, use a standard checklist of questions.

Reference and Background Checks (cont'd)

- Focus on position requirements and applicant's qualification and suitability for the position.
- Verify applicant's information re: credentials and prior employment.
- Always ask, "Would you rehire this person?" If no, ask why not. A refusal to answer speaks volumes!
- Does anyone NOT do background checks on faculty post-offer?

Questions to Avoid in Reference Checking

- Expunged Criminal History
- Medical Conditions and Prior Occupational Accidents
- Age, Race, Religion, Marital/Family Status
- NOTE: If you can't or shouldn't ask the applicant about it, you shouldn't ask a reference about it!

Conducting the Interview

- Job description should frame interview questions (essential functions and required/preferred knowledge, skills, and other qualifications).
- All committee members should prepare by reading relevant application materials.
- Best practice if questions are prepared in advance and are standard for all interviewees.

A Few Sample Interview Questions

- Why does this position interest you?
- Describe a situation the candidate would encounter in the position and ask how he/she would handle it.
- What qualities/skills make you the best person for the job? What would you need to work on to excel in the job?
- Describe your current/previous position and what you have learned from it that would contribute to your success in this position.

Avoid Topics That Could Lead to Claims of Discrimination

- Some general topics to eliminate:
 - Race
 - National origin
 - Disability
 - Age
 - Religion
 - Union membership and non-professional club membership
 - Military status
 - Arrest record
 - Financial status

Disability-Related Questions

- You MAY ask all applicants if they can perform the essential job functions with or without reasonable accommodation and you may ask them to demonstrate.
- You MAY NOT ask a candidate whether he/she has a disability or impairment that would affect job performance. Generally, you cannot ask whether a candidate needs assistance or accommodation in the job.

Disability-Related Questions (cont'd)

- BUT if an applicant indicates a need for accommodation in the application/interview process, you may inquire as to the needed accommodation and verify the disability.
- AND if a candidate has an obvious disability, or volunteers that he/she has a disability or needs an accommodation, you may inquire as to the accommodation needed.

Interview and Evaluation Documentation

- It is best to develop a standard format for documenting interviews.
- Develop a consistent ranking or set of quantitative evaluation criteria for all committee members to apply to all candidates.
- Criteria should be based on job description.

Communicating the Hiring Decision: Offers and Rejections

- Offer letters may legally bind the university and so must be carefully written.
- Need to document basis for salary or benefits or rank/title outside the typical range for the position, driven by unique circumstances (to justify and prevent or help defend unfair discrimination claim.)

Items to Consider Including in Offer Letter

- Offer of Position (specifying rank and tenure status, as applicable)
- Starting salary at the rate of ____ per hour or per month, rather than promising for a defined period
- Terms/conditions/benefits (enclose applicable handbook and reference University website for summaries of required disclosures and policies)
- Starting date and acceptance deadline
- *Where applicable*, clear statement that offer is contingent on job-related physical exam
- *Where applicable*, moving expense amount

Offer Letters (cont'd)

- Avoid terms like “permanent” or “career” or other terms that may imply fixed employment.
- Consider sending the original and an extra copy, with a place for the candidate to sign and date, “I accept employment on the terms outlined above.”
Candidate returns the signed copy.
- For non-tenure faculty positions, best to have each candidate fill out institution’s application, which may include employment-at-will language.

Rejection Letters

- Keep in mind that the manner in which an applicant is rejected can be the trigger for a lawsuit, so use care in drafting these letters.
- Provide a quick response and keep the letter brief and factual (*e.g.*, “*We have now completed the search process and, after careful consideration, have selected another candidate for the position. We thank you for your interest in W&L.*”)
- Avoid comparing the applicant’s qualifications with the person selected.

Record Keeping and Retention

- Keep all employment records (including application forms and materials) at least two years, under Title VII and ADA. [Use your institution's record retention schedule.] *If a lawsuit is filed, materials must be maintained until the case is resolved.*
- Best practice to inform applicants that their materials do not remain “active” after consideration for the position sought.
- For hired individuals, be consistent about which application materials will be retained after the two-year period.

Separate Maintenance of Medical Records

- Under ADA, all employee medical records (including those obtained as part of the application and hiring process) must be maintained separately from the rest of the personnel file and access must be strictly on a “need to know” basis. *(E.g., emergency health care providers, personnel responsible for evaluating requested accommodations.)*

Ideas for Promoting Faculty Diversity

- Recruiting and Outreach
 - Draft position descriptions to broaden the applicant pool (*e.g., avoid overly narrow criteria, consider possibilities for interdisciplinary work*)
 - Advertise in publications likely to reach out to minority, international, and women's groups
 - Make new contacts who may have leads on promising diverse candidates

- The Search Process
 - Broaden search committee membership to include members outside the department
 - Train search committees about the university's diversity goals and policies
 - Provide search committees with an overview of the law of discrimination and affirmative action and guidance in prudent hiring practices

- Creative Hiring and Incentive Programs
 - Bonus hires
 - Cluster Hiring
 - Partnerships with Other Institutions
 - Interdisciplinary/Joint Appointments

- Other Forms of Support
 - Mentorship Programs
 - Spouse and Partner Support
 - Personal Attention