

Middle Tennessee State University

Policies and Procedures Manual

POLICY NO: 1:01:10

DATE: September 17,2002

SUPERSEDES POLICY NO: 1:01:10

DATE: January 14, 2002

SUBJECT: Equal Opportunity, Affirmative Action, Discrimination, and Nepotism

APPROVED: Dr. Sidney A. McPhee, President

I. Introduction

It is the intent of Middle Tennessee State University (MTSU) to fully comply with the Geier Consent Decree, Executive Order 11246, as amended; the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990; the Vietnam Era Veterans Readjustment Act of 1974, as amended; the Equal Pay Act of 1963, as amended; the Age Discrimination in Employment Act of 1967, as amended; the Age Discrimination Act of 1975; the Pregnancy Discrimination Act; applicable state statutes; and all regulations promulgated pursuant thereto. The University shall promote and insure equal opportunity for all persons without regard to race, sex, age, color, religion, national origin, disability status, or status as a qualified veteran with a disability or veteran of the Vietnam era.

It is the intent of MTSU that its campus be free of harassment as described in MTSU Policy I:01:22 and that it fully complies with the anti-harassment provisions of Titles VI and VII of the Civil Rights Act of 1964, as amended, Title IX of the Education Amendments of 1972, as amended, the federal and state constitution, and all other applicable federal and state statutes.

II. Statement of Policy

In accordance with the policy statement and letter of commitment from the President, set forth in Section I of the Affirmative Action Plan, MTSU shall not engage in practices which would discriminate against any individual or group for reasons of race, sex (except where sex is a bonafide occupational qualification), age, color, religion, national origin, disability, or veteran status (where the individual is a qualified disabled or veteran). MTSU will take affirmative action to ensure that applicants, employees, and students are treated in a nondiscriminatory manner. Such action shall include, but not be limited:

- Making employment decisions and providing educational opportunities, which further the principle of equal opportunity.
- Insuring that decisions are in accord with principles of equal opportunity by imposing only valid requirements for job, educational, and other opportunities; and
- Insuring that all decisions are implemented without prohibited discrimination.

Similarly, MTSU shall not, on the basis of a protected status, subject any student to discrimination under any educational program. No student shall be discriminatorily excluded from participation in or denied the benefits of any educational program on the basis of a protected status.

MTSU specifically finds that diversity of students, faculty, administrators and staff is a crucial element of the educational process and reaffirms its commitment to enhancing education through affirmative action to increase diversity at all levels.

It is the policy of MTSU to maintain a campus environment conducive to productive work and study for faculty, staff, and students. Therefore, sexual harassment, or other unlawful harassment on any basis, will not be accepted, condoned, or tolerated in the work place or educational setting. (See MTSU Policy No. I:01:22-Harassment: Sexual and Racial) and the MTSU brochure "No Sexual Harassment at MTSU."

III. Implementation

A. Administrative Responsibility

The President of MTSU shall be responsible for the developing and implementing the University's Equal Opportunity and Affirmative Action Program. The President shall ensure that plans are prepared and administered effectively within the time frame established. In compliance with Tennessee Board of Regents (TBR) Policy No. 5:01:02:00, the President shall:

1. Appoint an equal opportunity and affirmative action officer who will be responsible for promoting and assuring compliance with the Equal Opportunity and Affirmative Action Program of the TBR and MTSU; receiving and investigating complaints, as appropriate; reviewing the effectiveness of the program; and recommending improvements.
2. Insure that affirmative action plans are developed annually and implemented as a means of aggressively pursuing the principles of equal employment opportunity.
3. Insure that affirmative action goals and timetables are developed to correct problem areas and situations contributing to the under utilization, under representation, or inequitable treatment of protected class employees.
4. Provide positive leadership in the implementation of affirmative action programs on the campus and insure that appropriate attention is devoted to the program in staff and faculty meetings. This shall include informing all management officials and supervisors that their performance evaluation will be partially determined by the effectiveness of their participation in the equal opportunity programs and affirmative action plan and the Geier Consent Decree. (See Policy # IV:07:15 -- Performance Reviews).
5. Designate the Equal Opportunity and Affirmative Action Officer to be responsible for gathering and reporting of data related to the equal opportunity program and affirmative action plan.
6. Assure policies and procedures are instituted to deal with all forms of harassment, including a procedure for the EO/AA Officer to receive and investigate complaints and recommend necessary action to the President or Director.

7. Designate the EO/AA Officer as the Staff person responsible for the development and implementation of educational efforts regarding all types of harassment.

B. Supervisory Responsibility:

Each Vice President and other supervisory personnel shall:

1. Disseminate this policy to the employees in the offices and operations for which he or she has immediate responsibility.
2. Discuss this and other related policies directly with employees -- to answer questions about them, to support them, and to urge support and cooperation by employees.
3. Seek the assistance of the EO/AA Officer as necessary.

IV. Plan for Affirmative Action

The Affirmative Action Plan is designated to promote and insure equal opportunity at Middle Tennessee State University. Its goal is to insure additional efforts to recruit, employ, and promote qualified members of groups and persons formerly excluded, even where exclusion cannot be traced to particular discriminatory actions on the part of the employer. Further, it is the intent of the Affirmative Action Plan to overcome the effects of systematic institutional forms of exclusion and discrimination, which in practice tend to perpetuate the status quo. This plan requires that MTSU determine the underutilization of minorities and women, set goals and timetables for remedy of underutilization of same, and describe plans and procedures for correcting said underutilization of minorities and women. Minorities are defined for this purpose by the Department of Labor as American Indian or Alaskan Native, Asian, Black or African American, and Native Hawaiian or other Pacific Islander. In addition, for data collection purposes, provision shall be made to report the number of respondents who are Hispanic or Latino. Underutilization, for the purpose of this plan, is defined as "having fewer women or minorities in a particular job than would reasonably be expected by their availability." Goals will be established considering availability and the results of the utilization analysis. The University shall adopt the straight parity or any difference measure in compliance with regulations of the Office of Federal Contract Compliance Programs (OFCCP).

Specifically, percentage goals will be established by EEO-6 category and job group. Goals and objectives by organizational unit shall be established to correct identifiable deficiencies. Goals by organizational unit shall refer to action-oriented efforts rather than percentage goals. Where problem areas are identified by organizational units, the Affirmative Action Plan shall include a description of the efforts which the University has taken or will take to correct those problem areas in accordance with OFCCP requirement 41 CFR 60-2.13(d).

Utilization Analyses

A. An analysis of the utilization of minorities and women will be performed. This analysis will include, but not be limited to the following:

1. Ensuring that the EEO-6 Report is completed for all categories of employees (executive/administrative/ managerial, faculty, professional/non-faculty, clerical, technical/paraprofessional, skilled crafts, service maintenance).
2. Considering the number of women and minorities employed by EEO-6 category and job group and the reasons for any underutilization.

3. Comparing as necessary, the salaries and wages of men and women by job classification.

B. The following factors must be considered in establishing goals.

1. The percentage of minorities or women with requisite skills in the reasonable recruitment area, where "reasonable recruitment area" refers to the geographical area from which the contractor usually seeks or reasonably could seek workers to fill the positions in question; and

2. The percentage of minorities or women among those promotable, transferable, and trainable within the contractor's organization, where "trainable" refers to employees who could, with appropriate training, become promotable or transferable within the AAP year.

To determine the percentage in 60-2.14 (c)(2), MTSU will undertake one or both of the following steps:

■ Determine which job groups are "feeder pools" for the job group in question. The feeder pools are job groups from which individuals are promoted.

■ Ascertain which employees could be promoted or transferred with appropriate training.

IV. Personnel Action, Policies, and Procedures

The University will establish in reasonable detail and make available upon request the standards and procedures, which govern all employment, practices in the operation of the institution. Included in these standards and procedures shall be policies relating to the following:

A. Recruitment, Assignment, Transfer, and Promotion

1. Position announcements shall be distributed for consideration by all interested individuals. Announcements shall indicate the duties, responsibilities, and authorities of the positions and the minimum qualifications needed by the applicant. Announcements shall carry a filing date, the method of filing an application, and the person to whom the application is to be made.

2. Recruitment literature and vacancy announcements shall carry clear statements that the University is an equal opportunity/affirmative action employer and that positions are open to all applicants unless there is a bona fide occupational qualification requirement.

3. Recruitment literature and vacancy announcements shall be sent to all recognized sources of candidates according to the type of position and in ways designed to solicit and encourage applications from qualified minority and female applicants.

4. Recruitment sources and advertising media utilized shall include relevant minority and women's organizations and community agencies. Each applicant's qualifications shall be evaluated by comparing him or her with realistic job standards developed on the basis of work requirement.

5. For professional positions such factors as education, professional experience, scholarly achievement, leadership ability, understanding of problems with which the position is to deal, demonstrated drive, tact and initiative would be considered.

6. For non-professional positions such factors, as education, experience, and demonstrated ability will be considered, and appropriate skills tests will be utilized.

7. The receipts and disposition of all applications shall be recorded, and all applicants shall be informed as to when their application will become inactive.

8. Employee qualifications shall be evaluated against position requirements. Consideration shall be given to past performance and recommendations of colleagues and others in a position to evaluate potential performance.

9. All personnel involved in recruiting, screening, selection, and promotion of employees shall be carefully selected and trained to insure elimination of bias in all personnel actions.

10. If the use of any tests other than skills tests is contemplated in evaluating applicants or employees, they must be validated by a professional psychometrist prior to use as a screening device.

B. Compensation

1. Faculty, Administrative and Professional Staff: Faculty salaries shall be determined by earned degrees, experience academic rank, and other appropriate factors. Administrative and Professional staff salaries shall be determined by factors such as job responsibilities, level of training and experience, and demonstrated effectiveness.

2. Classified Staff: Job classifications and salary schedules will be established for clerical and supporting positions, The appropriate classifications and salaries shall be applied uniformly and equitably.

3. The average salaries of males and females within the same job classification shall be compared, and any noticeable discrepancies shall be analyzed to determine the reasons therefore. If differences cannot be accounted for in terms of relative merit and/or seniority, immediate action shall be taken to correct the discrepancy.

C. Training

1. When appropriate, training shall be provided to enable University personnel to increase their skill levels for more responsible positions. The University shall develop formal training programs to aid in the advancement of personnel.

2. The University shall consider the degree to which on-the-job training can be administered to minorities and women in job categories wherein they are underutilized, and where feasible, shall institute such training as a means of providing them with a greater opportunity for advancement.

D. Communication

1. Official equal opportunity signs shall be posted at appropriate places on campus and will be kept current.

2. The equal opportunity/affirmative action statement shall be placed on all appropriate university documents, including but not limited to stationary, bulletins, newsletter, contracts, purchase orders, advertisement, graduate and undergraduate catalogs, faculty, staff, and student handbooks, etc.

3. Recruitment sources, minority and women's organizations, community agencies and community leaders shall be notified periodically and in writing of the University policy on equal opportunity.

4. The equal opportunity/affirmative action policy shall be distributed to all employees of the University and discussed in orientation programs.

5. Equal opportunity/affirmative action shall be a topic of regular discussion by managers at staff meetings.

E. Discrimination Complaints

Employees and Applicants for Employment and Enrollment.

Complaints alleging discrimination on the basis of race, sex, age, religion, national origin, color, disability, or veteran status shall be addressed by the Director of Equal Opportunity and Affirmative Action.

Complaints may be filed by regular employees who are defined as administrators, faculty, (including full-time temporary, tenure track, or tenured faculty), professional, clerical/secretarial, technical/paraprofessional, skilled crafts and service/maintenance. Probationary employees are also included in this definition.

Students, graduate assistants, adjunct faculty, applicants for employment and enrollment, and temporary workers may file discrimination complaints with the Equal Opportunity and Affirmative Action Office.

F. Other Personnel Actions

All other personnel actions, i.e., discipline, discharge, layoff, demotion, etc., shall be conducted indiscriminately. The following criteria shall be applied without prohibited discrimination.

1. Establishment of testing criteria.
2. Establishment of evaluation criteria.
3. Establishment of professional qualifications (degrees, experience, etc.).
4. Establishment of criteria for promotion and tenure.

G. It is the policy of Middle Tennessee State University that neither its students nor its employees be discriminated against on the basis of that individual's sexual orientation. Such a policy helps ensure that only relevant factors are considered and that equitable and consistent standards of conduct and performance will be applied.

For the purpose of this policy, sexual orientation shall be defined as heterosexual, homosexual or bisexual status. A student who has an academic complaint involving discrimination based on his or her sexual orientation should contact the Office of the Vice Provost for Academic Affairs. All other student complaints involving sexual orientation should be directed to the Assistant Dean of Judicial Affairs.

Any individual who has an employment discrimination complaint based upon his or her sexual orientation should contact the University's EO/AA Compliance Officer.

This policy shall not be construed to (1) infringe upon the free exchange of ideas essential to the academic environment, (2) limit the freedom of religious association, or (3) establish a duty to

engage in affirmative action measures on the basis of sexual orientation. Further, this policy shall not be construed to require the compliance of external government agencies University programs governed by external government agencies in which non-discrimination does not include sexual orientation (i.e., ROTC), or programs that discriminate as a matter of policy. Notwithstanding the language set forth in this policy, eligibility of its employees for employment benefits is determined by the laws and regulations of the State of Tennessee, and is not affected by this policy.

H. Nepotism Policy

The State Legislature, the Tennessee Board of Regents, and the University have enacted provisions prohibiting nepotism practices. (See MTSU Policy IV:07:01)

Distribution of Affirmative Action Plan

Copies of the Affirmative Action Plan shall be distributed to all major organizational units. These units shall insure distribution to all personnel within the appropriate units who have responsibility for the implementation thereof. The Affirmative Action Plan shall also be made available upon request to any employee, applicant, recruitment source, minority and women organizations, and equal employment opportunity monitoring authorities.