

**Florida International University**

**AFFIRMATIVE ACTION PROGRAM  
For  
PERSONS WITH DISABILITIES  
AND QUALIFIED COVERED VETERANS**

**October 1, 2005 - September 30, 2006**

## CONFIDENTIAL TRADE SECRET MATERIALS

This Affirmative Action Program contains confidential, trade secret and commercial information which is subject to the provisions 18 U.S.C. 1905. Chrysler Corp. v. Brown, 441 U.S. 281, 19 FEP 475 (1979). Furthermore, release of any trade secret, confidential statistical or commercial information would be arbitrary and capricious in violation of the Administrative Procedures Act ("APA"). See, e.g., CNA Financial Corp. v. Donovan, 830 F.2d 1132, 1144 and n. 74 (D.C. Cir.) cert. denied, 485 U.S. 977 (1988).

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Thus, the University wishes to make it clear that it does not consent to the release of any information whatsoever contained in this Affirmative Action Program under the Freedom of Information Act or otherwise. If the U.S. Government, or any agency or subdivision thereof, is considering breaching the conditions under which this Affirmative Action Program was loaned to such government, or is considering a request for release of this Program under the Freedom of Information Act, request is hereby made that the government immediately notify the General Counsel of the University of any and all Freedom of Information Act requests received by the government or any other contemplated release of this Program by the government which relates to information obtained by the government from the University.

# **Florida International University**

## **AFFIRMATIVE ACTION PROGRAM FOR PERSONS WITH DISABILITIES AND QUALIFIED COVERED VETERANS**

### **TABLE OF CONTENTS**

<b>Affirmative Action Plan for Workers with Disabilities and Qualified Covered Veterans</b>	<b>4</b>
<b>Chapter A. Policy Statement</b>	<b>5</b>
<b>Chapter B. Review of Personnel Processes</b>	<b>6</b>
<b>Chapter C. Physical and Mental Qualifications</b>	<b>8</b>
<b>Chapter D. Reasonable Accommodation to Physical and Mental Limitations</b>	<b>10</b>
<b>Chapter E. Harassment</b>	<b>12</b>
<b>Chapter F. External Dissemination of Policy, Outreach and Positive Recruitment</b>	<b>14</b>
<b>Chapter G. Internal Dissemination of Policy</b>	<b>16</b>
<b>Chapter H. Audit and Reporting System</b>	<b>17</b>
<b>Chapter I. Responsibility for Implementation</b>	<b>18</b>
<b>Chapter J. Training</b>	<b>23</b>
<b>Chapter K. Compensation</b>	<b>25</b>

## **Affirmative Action Plan for Persons with Disabilities and Qualified Covered Veterans**

The target veteran groups include:

- 1) Disabled Veteran;
- 2) Veterans who served on active duty in the Armed Forces during a war or in a campaign or expedition for which a campaign badge has been authorized;
- 3) Veterans who, while serving on active duty in the Armed Forces, participated in a United States military operation for which an Armed Forces Service Medal was awarded pursuant to Executive Order No. 12985;
- 4) Recently Separated Veterans.

## **Chapter A: Policy Statement**

### **41 C.F.R. §§ 60-250.44(a); 60-741.44(a)**

It is the policy of Florida International University and my personal commitment that equal employment opportunity be provided in the employment and advancement of special disabled veterans, veterans of the Vietnam era, and persons with disabilities at all levels of employment, including the executive level. Florida International University does not and will not discriminate against any applicant or employee because he or she is a special disabled veteran, veteran of the Vietnam era, or because of a physical or mental disability in regard to any position for which the applicant or employee is qualified. In addition, Florida International University is committed to a policy of taking affirmative action to employ and advance in employment qualified special disabled veterans, veterans of the Vietnam era, and individuals with disabilities. Such affirmative action shall apply to all employment practices, including, but not limited to hiring, upgrading, demotion or transfer, recruitment, recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship and on-the-job training. Decisions related to personnel policies and practices shall be made on the basis of an individual's capacity to perform a particular job and the feasibility of any necessary job accommodation. Florida International University will make every effort to provide reasonable accommodations to any physical and mental limitations of individuals with disabilities and to special disabled veterans.

Our obligations in this area stem from not only adherence to various state and federal regulations, but also from our commitment as an employer in this community to provide job opportunities to special disabled veterans, veterans of the Vietnam era, and persons with disabilities.

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(Signature)

Modesto A. Maidique

President

**Chapter B: Review of Personnel Processes**  
**41C.F.R. §§ 60-250.44(b); 60-741.44(b)**

To ensure that all personnel activities are conducted in a job-related manner that provides and promotes equal employment opportunity for all known covered veterans and employees and applicants with disabilities, reviews are periodically made of the University's examination and selection methods to identify barriers to employment, training, and promotion.

- 1) Florida International University periodically conducts a review of its employment processes to insure thorough and systematic consideration of the job qualifications of known covered veteran applicants and employees and applicants and employees with disabilities for job vacancies filled either by external hiring or internal promotions/transfers, as well as for all training opportunities available.

In order to determine whether an individual is qualified for a particular job, a close examination of the content of the job is made, as well as a review of the job qualifications of known special disabled veterans, Vietnam era veterans, and individuals with disabilities, both applicants and employees. In determining the qualifications of a covered veteran, consideration is given only to that portion of the military record, including discharge papers, relevant to the job qualifications for which the veteran is being considered. The following steps are in the review process.

- a) Limit the consideration of a covered veteran's military record to only the portion of that record which is relevant to the specific job qualifications for which the veteran is being considered.
- b) Ensure documentation is provided on personnel or application records of each known covered veteran or employee with a disability to include:
  - i) Promotions for which the employee was considered
  - ii) Training programs for which the employee was considered
- c) In each instance where a covered veteran or employee with a disability is rejected for employment, promotion or training, ensure a written statement for the reason for rejection is attached to the application form or personnel file. Ensure the statement includes a comparison of the qualifications of the covered veteran or applicant or employee with a disability with those of the person selected and a description of the accommodations

considered where appropriate. Ensure this statement is made available to the applicant or employee upon request.

- d) When accommodations were undertaken which made it possible to hire, promote, or train a covered veteran or applicant or employee with a disability, ensure a description of the accommodation is attached to the application form or personnel file.
- 2) The company insures that its personnel processes do not stereotype disabled persons or Vietnam Era Veterans in a manner that limits their access to jobs for which they are qualified.
- 3) The university will also examine and compare minimum medical requirements for entry to the actual duties and physical demands of each reviewed job classification.
- 4) The university will provide the examining physician with information about the work prospective employees will perform in the reviewed job classifications. Identify each physical requirement from the job analysis. Identify all related working conditions and hazards.
- 5) Provide the physician with any identified possible accommodations to disabilities.
- 6) Give the medical examination to applicants only after an offer of employment is made. Whenever an inquiry is made into an applicant's or employee's physical or mental condition or a medical examination is conducted for employment or due to a change in employment status, the information obtained is kept confidential, except as otherwise provided for in the regulations.

**Chapter C: Physical and Mental Qualifications**  
**41.C.F.R. §§ 60-250.44(c); 60-741.44(c)**

To insure that all physical and mental qualifications and requirements are job-related and promote equal employment opportunity for all known covered veteran and employees and applicants with disabilities, reviews are periodically made of the university's physical and mental qualifications and requirements as they relate to employment, training, and promotion.

- 1) The University's physical and mental job requirements are reviewed to determine whether or not they are job-related and consistent with business necessity and safe performance on the job.

Schedule for Review: Any previously reviewed classification will be reviewed again if there is a change in working conditions which affects the job's physical or mental requirements (e.g., new requirements, new equipment, etc.)

Listed below are the steps followed in conducting the physical and mental job requirements review for each job classification.

- a) A job analysis is conducted with subject-matter experts (personnel department staff, job incumbents, supervisors and/or trainers) using a methodology which addresses the content validity requirements of the Uniform Guidelines on Employee Selection Procedures, the requirements of the Americans with Disabilities Act (ADA), and the EEOC's Technical Assistance Manual for the ADA. The job analysis identifies the essential job duties, tasks, and responsibilities, as well as the knowledge, skills, and abilities, including physical and mental requirements, needed to perform them in an efficient and safe manner. Therefore, the updated job description, resulting from the job analysis, includes only those job requirements which are job-related, consistent with business necessity, and required for safe performance of essential job functions.
- b) Florida International University goes beyond this required step, however, and includes a procedure to minimize any adverse impact resulting from its physical and mental job requirements.
- c) We then modify the selection procedure to reduce the disqualifying impact, and/or we

develop a list of accommodations which can be made to the physical and mental limitations of an employee or applicant. Such accommodations may include providing assistive devices, removing architectural barriers, and/or restructuring work sites and job content. The list of accommodations is considered a starting point only, with the understanding that applicants and employees may bring to our attention additional accommodations which can be made on a case-by-case basis.

- d) Finally, we make the job analysis, the modified selection procedure, and/or the list of identified accommodations available to all members of management involved in the recruitment, screening, selection, and promotion process.

**Chapter D: Reasonable Accommodation to  
Physical and Mental Limitations  
41 C.F.R §§ 60-250.44(d); 60-741.44(d)**

As stated in its policy statement, Florida International University will make every effort to provide reasonable accommodations to any physical and mental limitations of applicants and employees with disabilities or who are special disabled veterans unless it can demonstrate that the accommodations would impose an undue hardship on the operation of business. Florida International University will confidentially review performance issues of employees with known disabilities to determine whether a reasonable accommodation is needed when: 1) the employee is having significant difficulty with job performance, and 2) it is reasonable to conclude that the problem is related to the known disability.

Employees may also contact the following at any time to request an accommodation:

Name: Dr. Bennie L. Osborne  
Title: Director, Equal Opportunity Programs  
Address: 11200 SW 8<sup>th</sup> Street  
Phone: (305) 348-2785  
Email: osborneb@fiu.edu

As part of the University's continuous review of physical and mental job requirements, after any barriers to employment of special disabled veterans, veterans of the Vietnam era, and individuals with disabilities are identified, a plan with goals is developed for making any reasonable accommodations to physical and mental limitations of employees and applicants. Such accommodations may include providing assistive devices, removing architectural barriers, and/or restructuring worksites and job content.

This list of possible accommodations which results from the job analyses and from consulting with employees and applicants is made available to all persons involved in the recruitment, screening, selection, and promotion processes.

If a covered veteran or employee with a disability is rejected for employment, promotion, or training, a written statement for the reason is required, part of which includes a description of the accommodations considered. This statement is reviewed by the Vice President and the Director and is available to the applicant or employee upon request.

When accommodations are undertaken which made it possible to hire, promote, or train a covered veteran or applicant or employee with a disability, a description of the accommodation is attached to the application form or personnel file.

In any instance where accommodations were not undertaken, but could have been, the Director is required to follow-up to determine why accommodations were not made and to identify and implement any corrective action needed to prevent future omissions.

When medical examinations are conducted, Florida International University ensures the physician understands the University's desire to eliminate all unnecessary or non job-related medical requirements. The physician is provided with a list of all identified accommodations to in order to assist in making reasonable accommodations where possible. See **Exhibit D-1** for a sample of the information provided our examining physicians.

**Chapter E: Harassment**  
**41 C.F.R. §§ 60-250.44(e); 60-741.44(e)**

Florida International University has developed and implemented a set of procedures to ensure that its employees who are disabled or Vietnam Era Veterans are not harassed due to those conditions. See Florida International University's anti-harassment policy below, which includes a section prohibiting harassment of individuals with disabilities or veterans of the Vietnam era.

**Accommodation of Employees with Disabilities**

**Purpose:**

To provide funds for departments, which hire disabled persons, for costs associated with providing reasonable accommodation.

**Policy:**

It is the University's long standing policy to employ qualified physically handicapped persons in a broad range of positions across the institution. On occasion, the nature of an individual's disability may require work site accommodation of their handicap.

In accordance with the Americans with Disabilities Act, the University will provide accommodations in the following areas: the application process, the work environment, the method of performing job duties, the enjoyment of equal benefits and privileges, the restructuring or reallocating of marginal job functions, the acquisition of equipment or devices, the modification of exams and training materials, and the provision of qualified readers or interpreters. Records will be maintained in the Office of Equal Opportunity Programs regarding requests for reasonable accommodation and the determination of each request.

A central University fund has been designated for use by departments in meeting reasonable costs associated with accommodation of handicapped employees. A University committee administers the funds. The committee membership includes the director, Equal Opportunity Programs (chair); director, Personnel; Director, Environmental Health and Safety; one disabled faculty or A&P staff member; and, one disabled USPS staff member. The committee meets on an as-needed basis, to make recommendations on funding requests. The Director, Equal Opportunity Programs, monitors expenditures from the fund, and ensures that adequate budget requests are submitted to enable the provision of recommended reasonable accommodations.

**Procedure:**

1. The requesting/employing department shall complete a Request for Use of Accommodation Fund form.
2. The form is forwarded to the Director, Office of Equal Opportunity programs.
3. Upon receipt of the request, the Director, Equal Opportunity Programs shall convene a meeting of the Committee for the purpose of considering the request.
4. The Director, Equal Opportunity Programs will communicate the Committee's decision and facilitate appropriate action.

**Chapter F: Outreach, Positive Recruitment, and External Policy Dissemination**  
**41 C.F.R. §§ 60-250.44(f); 60-741.44(f)**

Based upon the University's review of its personnel policies as described in Chapter B, the following activities will be implemented or continued to further enhance our affirmative action efforts. All activities are the responsibility of various areas within Human Resources to:

- 1) Inform the community at large of the University's commitment to engage in affirmative action to increase employment opportunities for qualified disabled veterans, veterans of the Vietnam era, and individuals with disabilities.
  
- 2) Initiate and maintain communication with organizations having special interests in, and that may assist in, the recruitment of special disabled veterans, veterans of the Vietnam era, and individuals with disabilities.
  - a) State employment security agencies, State vocational rehabilitation agencies or facilities, sheltered workshops, college placement officers, State education agencies, labor organizations and organizations of or for individuals with disabilities.
  
  - b) Social service agencies, organizations of and for individuals with disabilities, vocational rehabilitation agencies or facilities, veterans' service organizations which service disabled veterans or veterans of the Vietnam era, for such purposes as advice, technical assistance, and referral of potential employees.
  
- 3) Include workers with disabilities when employees are pictured in consumer, promotional, or help wanted advertising.
  
- 4) Provide information emphasizing job opportunities for special disabled veterans, veterans of the Vietnam era, and individuals with disabilities to Veterans Benefits Administration.
  
- 5) List with the State Employment Development Department all suitable job.  
This is an on-going activity. See **Exhibit F-3** for a listing of job opportunities reported to the South Florida Workforce Job Bank and/or America's Job Bank.

- 6) Send written notification of the University's affirmative action policy to all subcontractors, vendors, and suppliers requesting appropriate action on their part. This includes their obligation to annually file their EEO Reporting form and VETS-100 form.
  
- 7) FLORIDA INTERNATIONAL UNIVERSITY will also grant leaves of absence to employees who participate in honor guards for the funeral of veterans.

**Chapter G: Internal Policy Dissemination**  
**41 C.F.R. §§ 60-250.44(g); 60-741.44(g)**

In order to provide information, training, and counseling to gain positive support and understanding of the affirmative action program for special disabled veterans, veterans of the Vietnam era, and individuals with disabilities by employees, supervision, management, and employee organizations, Florida International University will implement or continue to implement the following internal dissemination procedures, all of which are the responsibility of the Director. The following policies and procedures are designed to foster support and understanding from Florida International University's executive staff, management, supervisor's, and other employees in an effort to encourage all employees to take the necessary actions to aid Florida International University in meeting its obligations.

- 1) Include the policy in the University's policy manual and other in-house publications. See **Exhibit G-1** for representative in-house publications.
- 2) Conduct special meetings with executive, management, and supervisory personnel to explain the intent of the policy and individual responsibility for effective implementation, making clear the President's attitude.
- 3) Schedule training sessions for all employees involved in recruiting, selection, promotion, and other related employment issues for special disabled veterans, veterans of the Vietnam era, and individuals with disabilities.
- 4) Discuss the policy thoroughly in both employee orientation and management training programs.
- 5) Include non-discrimination clauses in all union agreements, and review all contractual provisions to ensure they are non-discriminatory. See **Exhibit G-2** for copies of union agreements which include non-discrimination clauses.
- 6) With the University's harassment policy which includes protection from harassment on the basis of disability. See **Exhibit G-3** for a copy of the University's harassment policy.
- 7) When employees are featured in employee handbooks or similar publications for employees, include employees with disabilities. See **Exhibit G-4** for representative examples of such publications.

**Chapter H: Audit and Reporting System**  
**41 C.F.R. §§ 60-250.44(h); 60-741.44(h)**

Florida International University has developed and currently implements an audit and reporting system that addresses the following:

- 1) Measures the effectiveness of Florida International University's overall Affirmative Action Program and whether the company is in compliance with specific obligations.
- 2) Measures the degree to which Florida International University's objectives are being met.
- 3) Whether there are any undue hurdles for individuals with disabilities and Vietnam Era Veterans regarding university sponsored educational, training, recreational, and social activities.

## **Chapter I: Responsibility for Implementation**

**41 C.F.R. §§ 60-250.44(i); 60-741.44(i)**

As part of its efforts to ensure equal employment opportunity to special disabled veterans, veterans of the Vietnam era, and individuals with disabilities, Florida International University has designated specific responsibilities to various staff to ensure the AAP focuses on all components of the employment system. To that end, the President, Vice President, Director, and those employed as supervisors and managers have undertaken the responsibilities described below.

### **A. President**

The President of the University, Modesto A. Maidique, has ultimate responsibility for providing top management support for the University's AAP. He issues a policy statement annually to reaffirm the University's Equal Employment Opportunity Policy and to make known to all employees and applicants the commitment of Senior Management to EEO and affirmative action. Additional responsibilities include, but are not limited to:

- 1) Designate appropriate personnel with the responsibility for overseeing, administering, implementing, and monitoring Florida International University's AAP. Ensure that these personnel are identified in writing by name and job title.
- 2) Ensure that those designated personnel responsible for all AAP components are given the necessary authority and top management support and staffing to successfully implement their assigned responsibilities.
- 3) Impart the personal direction that insures total involvement and commitment to equal employment opportunity programs through Florida International University's AAP.

### **B. Vice President**

The Vice President for Human Resources, Vivian A. Sanchez, is responsible for overall supervision of the AAP. The Vice President ensures, through the Director and department managers and supervisors that all relevant policies and procedures are adhered to. Successful implementation of this program is a basis for evaluating the Human Resource Manager's effective work performance. The Director's responsibilities include, but are not limited to, the following:

- 1) Presenting all needed recommendations and procedural changes to Senior Management concerning EEO and affirmative action and ensuring that Senior Management is kept informed of the University's compliance status.
- 2) Maintaining Company-wide management support and cooperation for the University's AAP.
- 3) Collaborating with Senior Management on EEO and AAP issues.
- 4) Assisting line management in arriving at solutions to EEO/AA problems.
- 5) Reviewing results of audit and reporting systems to assess the effectiveness of the University's AA programs and to direct corrective actions where necessary.
- 6) Ensuring that the AAP is updated annually for all establishments.
- 7) Providing guidance to managers and supervisors in taking proper action to prevent employees from being harassed in any way, through one-on-one contact, training, and disciplinary action.
- 8) Providing guidance and direction to the Director.
- 9) Ensuring that relevant staff, (i.e., Director, managers, and supervisors) are aware that their work performance is being evaluated in part on the basis of their equal employment opportunity efforts and results.
- 10) Reviewing the qualifications of all employees to ensure equitable opportunity, based on job-related employment practices, is given to all for transfers and promotions.
- 11) Providing career counseling for employees.
- 12) Conducting periodic audits of:
  - a) Training programs and hiring and promotion patterns to remove impediments to the attainment of AAP goals and objectives.

- b) The University's sponsored educational, training, recreational, and social activities to ensure that all employees are encouraged to participate in accordance with policies on non-discrimination. Determine whether known special disabled veterans, veterans of the Vietnam era, and employees with disabilities have had the opportunity to participate in all Company-sponsored educational, training, recreation and social activities.
  
- 13) Reviewing all job descriptions and specifications to ensure they are free of discriminatory provisions and artificial barriers. Ensuring that all requirements are job-related, that they are realistic, and that they reflect the actual work requirements of the essential job duties.
  
- 14) Ensuring the University's VETS-100 form is filed annually with the Secretary of Labor.

### C. Director

The Director of Equal Opportunity Programs, Bennie L. Osborne, is responsible for ensuring that the directives of the President and Vice President are implemented. The Director's duties include, but are not limited to, the following:

- 1) Providing direction to the University's employees, as necessary, to carry out all actions required to meet the University's equal employment opportunity and affirmative action commitments.
- 2) Responsible for the design and effective implementation of the AAP at all establishments.
- 3) Developing, implementing, and maintaining audit and reporting systems to measure effectiveness of equal employment opportunity programs, including those that will
  - a) Indicate need for remedial action,
  - b) Determine degree to which goals and objectives have been obtained.
- 4) Advising management in the modification and development of the University's policies to ensure the enhancement of equal employment opportunity for all employees and potential employees within existing equal employment opportunity guidelines.
- 5) Identifying problem areas and establishing procedures, goals and objectives to solve these problems.
- 6) Providing guidelines in the development, preparation, and implementation of career counseling programs for known special disabled veterans, veterans of the Vietnam era, and employees with disabilities.
- 7) Conducting periodic audits to ensure all required posters and those advertising the University's equal employment opportunity policies and AAP, as well as the Invitation to Self-Identify for special disabled veterans, veterans of the Vietnam era, and individuals with disabilities, are displayed and that the University's equal employment opportunity and AAP policies are being thoroughly communicated.

- 8) Developing policy statements, affirmative action programs, internal and external communication techniques.
- 9) Assisting line management in arriving at solutions to problems.
- 10) Serving as the liaison between Florida International University and enforcement agencies.
- 11) Serving as the liaison between Florida International University and organizations and community action groups for special disabled veterans, veterans of the Vietnam era, and persons with disabilities, in addition to ensuring that representatives are involved in community service programs of local organizations for disabled veterans, Vietnam era veterans, and persons with disabilities.
- 12) Keeping management informed of the latest developments in the equal employment opportunity area.
- 13) Reviewing, reporting on, and updating the AAP annually in accordance with stated policy. Informing employees and applicants of significant changes.
- 14) Working closely with the Vice President and department managers and supervisors in coordinating the effective implementation of all identified affirmative actions.
- 15) Assisting in review and revision of all policies, procedures, and rules to ensure they are not in violation of federal or state laws and regulations.
- 16) Responsible for ensuring overall the University's compliance with the AAP.

**D. Deans, Directors, and Other Managerial Employees**

In their direct day-to-day contact with the University's employees, managers and supervisors have assumed certain responsibilities to help Florida International University ensure compliance with equal employment opportunity programs and effective implementation of the AAP. These include, but are not limited to the following:

- 1) Adhere to the University's equal employment opportunity policy.
- 2) Support and assist the Vice President and Director in developing, maintaining, and successfully implementing the AAP.
- 3) Complete progress reports regarding the status of affirmative action programs.
- 4) Take action to prevent harassment of employees placed through affirmative action efforts.
- 5) Assign employees to significant jobs that might lead to greater personal growth and value, and counsel them with respect to what is needed for upward mobility within the employment structure.
- 6) Ensure that all interviews, offers of employment and/or wage commitments are consistent with the University's policy.
- 7) Implement internal promotion and transfer of employees under their supervision consistent with AAP goals and objectives.
- 8) Assist in identifying problem areas and providing needed information for establishing and meeting department affirmative action goals and objectives.
- 9) Seek and share information on feasible accommodations which have been or could be made for known disabilities.

**Chapter J: Training**  
**41 C.F.R. §§ 60-250.44(j); 60-741.44(j)**

Florida International University trains all employees involved in any way with the recruitment, selection, promotion, disciplinary actions, training, and related processes of individuals with disabilities or Vietnam Era Veterans to ensure commitment to the University's stated Affirmative Action goals.

**Chapter K: Compensation**  
**41 C.F.R. §§ 60-250.21(i); 60-741.21(i)**

It is the policy of Florida International University that when offering employment or promotion to special disabled veterans, veterans of the Vietnam era, or individuals with disabilities, the amount of compensation offered will not be reduced because of any disability income, pension, or other benefit the applicant or employee receives from another source.