

	FGCU POLICY 1.009	Responsible Unit: Office of Institutional Equity and Compliance
	Equal Opportunity Waiver of Advertising	

A. POLICY STATEMENT

In support of Florida Gulf Coast University’s continued commitment to a diverse employee representation that is reflective of the applicable, qualified labor market, this Policy will be utilized to describe and define when an Equal Opportunity Waiver of Advertising (Waiver) may be justified or appropriate.

B. REASON FOR POLICY

The purpose of this Policy is to create a flexible hiring tool when there is a Compelling Need within the University. Such Compelling Need serves to justify the hiring of an individual to fill a position without an official Advertisement or recruitment for the position.

C. APPLICABILITY AND/OR ACCOUNTABILITY

This Policy is applicable to out-of-unit faculty, executive service, administrative and professional (A&P), and support personnel (SP) employees not governed by a collective bargaining agreement (CBA).

D. DEFINITION OF TERMS

1. *Advertisement*: Any announcement or message placed by the University on a website or in mass media to convey information about a new, vacant, or pending vacant position.
2. *Compelling Need*: A need that is integral to the function of a department within FGCU that is not likely to be filled using a traditional search.
 - a. Examples of a Compelling Need include:
 - 1) Any position in which an absence creates a health, safety, welfare, or federal or state compliance concern for the University;
 - 2) A position in which a time sensitive, time limited, business reason exists for which a level of expertise or uniqueness of skill necessary to fill the position is not likely to be found through a traditional search;
 - 3) The appointment is grant-funded and the appointee is named specifically in a grant;

- 4) The appointment fulfills a Dual Career Hire; or
 - 5) The appointment fulfills the University's Diversity and Inclusion mission and goals.
- b. Examples of needs that are not compelling are:
- 1) An OPS employee who has worked for a particular office for a specific period of time;
 - 2) The resignation of an individual; or
 - 3) The lack of desire to post a position.
3. *Dual Career Hire*: The hiring of a spouse or partner of an applicant for a position as part of the negotiation to hire the chosen applicant.
 4. *Position Description*: Reflects the purpose, responsibilities, accountabilities, knowledge, abilities, skills, and essential/marginal functions of a job.
 5. *Equal Opportunity Waiver of Advertising (Waiver)*: Authorization to hire an individual for a specified position without an Advertisement or recruitment.

E. PROCEDURES

1. The Waiver is coordinated by the Office of Institutional Equity and Compliance (OIEC) in collaboration with Human Resources (HR) and University departments/units making the hiring decisions.
2. A Waiver may be requested by the hiring official, the President, or applicable Vice President due to a Compelling Need.
3. Prior to the submission of a request for a Waiver by the hiring official, that hiring official must receive consent to proceed from his/her immediate supervisor.
4. The OIEC Director, or designee, with input from the Chief Human Resources Officer, or designee, will assess whether there is a Compelling Need. The memorandum and supporting documentation for the request for a Waiver must include, as applicable:
 - a. The employment circumstances that necessitate a Waiver;
 - b. The responsibilities of the recommended hire articulated in a Position Description that has been approved by HR;
 - c. An assessment and determination as to whether there may be other internal

employees who may be interested in or qualified for the position; and

- d. The vitae or resume of the candidate who may already have been identified with a description of the process used to locate him or her and an assessment and determination of how it was decided that the recommended hire is uniquely qualified to fill the position. The recommended hire must have the knowledge, skills, and abilities, as well as meet the minimum qualifications identified in the Position Description. Unique qualifications could be related to the department's specific need or the individual's specific expertise in a given area.
5. Once completed, the Request for Waiver of Advertising form, along with accompanying documentation, must be submitted to the OIEC Director, or designee, for approval.
6. If approved by the OIEC Director, or designee, and the Chief Human Resources Officer, or designee, the form and accompanying documentation will then be forwarded to the President or appropriate Vice President for final signature.
7. The offer of employment may not be made to the candidate until the request for a Waiver has been approved, as documented, with all the appropriate signatures of approval.
8. If the request for a Waiver is denied, the position must be recruited consistent with the HR Guidelines for Recruitment.

Related Information

FGCU Regulation 1.003, Non-Discrimination, Anti-Harassment, and Sexual Misconduct
FGCU Policy 1.006, Non-Discrimination, Anti-Harassment, and Sexual Misconduct

Authority

BOG Regulation 1.001, University Board of Trustees Powers and Duties

History of Policy

New 05/18/10; Amended 11/08/19

APPROVED

*s/Michael V. Martin
Michael V. Martin, President

November 8, 2019
Date