



MEMORANDUM

TO: Deans, Vice Presidents, Senior Planning Group, Center Directors

FROM: Joann Mitchell, SVP for Institutional Affairs and Chief Diversity Officer
Laura Perna, Vice Provost for Faculty
Jack Heuer, Senior Vice President for Human Resources

Joann Mitchell
Laura Perna
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SUBJECT: Ensuring Compliance with Executive Order 11246, *as amended*

DATE: January 26, 2023

As a recipient of federal research grants, financial aid, and other funds, the University must comply with equal opportunity and affirmative action regulations outlined in Executive Order 11246, *as amended*. Among other things, materials that document the recruitment and selection process must be retained and available for review in the event of a compliance review. The U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) completed such a review of Penn in 2018. That review resulted in Penn being cited for technical deficiencies, including failure to retain search documentation, that were resolved by the execution of a Conciliation Agreement. During fiscal year 2018-19, the University was required to provide information about searches for designated positions and confirm that individuals involved in recruitment and selection for those positions had received training regarding University and federal recruitment policies, including recordkeeping. Penn successfully fulfilled the terms of the Conciliation Agreement.

Penn's Office of Audit and Compliance and Privacy (OACP) conducted a review last year to ensure that the corrective measures taken in fiscal year 2019 continued to assure the University's compliance with its own policies and the requirements of Executive Order 11246. When OACP replicated the type of spot checks and reviews that had been undertaken by OFCCP, similar issues were noted regarding missing documentation of search and selection processes. In addition, OACP found that some of the procedural changes necessitated by the transitions to Workday and Interfolio had not yet been reflected in University policies and procedures.

University policy requires that documentation of searches be retained for at least three years from the date the position was filled. This requirement applies to faculty and staff searches. In most instances, the information that must be retained is retrievable from Interfolio or Workday, including:

- Job posting as well as copies of any ads placed for the position
- All applications received for the position
- Name(s) and titles of the person making the hiring decision; in the event a search or consultative committee is used, the names and titles of the persons serving on the committee

- Notes that memorialize the rationale for decisions to narrow the pool at each stage of the process, including notes taken during interviews of candidates
- Brief statement of the reason the candidate was selected for hire (in the event a candidate rejects an offer or withdraws from a search, documentation regarding those decisions and the decision to offer the position to another candidate)
- Notes from reference checks performed.

Ideally, the documents should be preserved electronically in Workday or Interfolio. On the occasion when that is not done (e.g., an executive search firm has been retained), this documentation must be preserved with a clear indication of where those records have been stored and how they can be accessed. During OFCCP's audit, we discovered that several hiring officers (faculty and staff) who had made hiring decisions were no longer employed by Penn and the department did not have ready access to information documenting those searches.

Policy and protocol updates OACP had identified as being necessitated by transitions to Workday and Interfolio platforms have been made or are well underway. In addition, reminders and other notifications about records that must be retained and key steps in the hiring process – particularly for those who make hiring decisions infrequently – are being developed when appropriate. We also have identified opportunities to offer education and training regarding the hiring responsibilities of individuals who support recruitment and retention initiatives.

We greatly appreciate your assistance and support in ensuring that the University is in compliance with the letter and spirit of the regulations governing the recipients of federal funding. Please let us know if you have any questions or need additional information.

cc: Vice, Associate, and Assistant Deans for DEI
Staff Affirmative Action Compliance Offices
Diversity Search Advisors
Human Resources Council