

HILLSBOROUGH

Community College 

SCREENING AND SELECTION COMMITTEE

RECRUITING AND INTERVIEWING

HANDBOOK

**Prepared By:
Employment Office
Office of Human Resources
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Federal and State Law
Governing
The Screening and Selection Process

College Policy on Discrimination:

Pursuant to Federal or State laws, The College shall not discriminate against any person because of race, color, creed, religion, age, disability, national origin, sex, marital status, veteran status, Union activities, or membership or non-membership in any organization. The College also prohibits discrimination on the basis of sexual orientation.

Major Federal Laws Addressing Recruitment and Employment

1964 CIVIL RIGHTS ACT

In 1964 Congress passed the Civil Rights Act, which was amended in 1972. Several titles were included that essentially forbid discrimination in such areas as education federally assisted programs, and the right to vote. Unlawful discrimination is defined as unfairness based on one or more of the following factors including race, color, sex, (including pregnancy, childbirth or abortion), national origin, religion, age and physical disabilities. Title VII deals specifically with employment practices and discrimination, making it illegal for an organization to:

1. Fail, refuse to hire, discharge an individual or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because of the individual's race, color, religion, sex, or national origin, or
2. Limit segregate or classify employees or applicants for employment in any way that would deprive, or tend to deprive, any individual of employment opportunities or otherwise adversely affect any employee's stature because of the individual's race, color, religion, sex, or national origin.

Covered under Title VII are all employers with more than 15 employees, labor unions engaged in an industry affecting commerce, and employment agencies that serve such industries. In 1972, coverage was broadened to include state and governmental agencies and education institutions.

AGE DISCRIMINATION IN EMPLOYMENT ACT

In 1967, Congress passed the Age Discrimination in Employment Act (ADEA), which parallels Title VII and prohibited job discrimination initially against workers between 40 and 65 years of age. The act was amended in 1978, raising the upper limit to 70 and eliminating mandatory retirement of federal workers.

ADEA considers unlawful any indication of age preference that would discriminate against the 40-70 age group. The law bans help wanted ads with age specifications such as "age 25 to 35," "young," and "recent college graduate." The law allows an age preference for the entire protected group, 40 to 70, but there cannot be an age specification within the protected group such as "age 45 to 55." A minimum age can be specified under 40 if it is job-related. Examples include "over 18" or "must be 21 years of age."

THE REHABILITATION ACT OF 1973 SECTION 504 THE AMERICANS WITH DISABILITIES ACT (ADA) 1990

The Rehabilitation Act of 1973, Section 504 governs programs and activities that receive federal financial assistance and requires that the covered employer make a reasonable accommodation for a worker's disability. The Americans with Disabilities Act (ADA) of 1990, amended 1992, protects disabled individuals from discrimination in employment and other major aspects of everyday life.

Title I of the ADA specifically addresses discrimination in employment. The act requires reasonable accommodation, which is modification or adjustment to the job, application process and modification to the work environment in order that a person with a disability can perform the essential duties of a position. The employer is required to take an objective look at the person's qualifications and how these qualifications match up with the job's essential requirements. No person can be denied employment if they can perform the duties of the job in question.

The only legal exception to these standards under federal laws (and generally state laws) is when the exception is a bona fide occupational qualification (BFOQ). For example, an employer does not have to hire an individual who cannot stand if standing is an essential part of the job.

Presidential Executive Orders (EO)

Presidential Executive Orders are directives generally dealing with contractors who do business with the government. Executive Orders have to force and effect of laws enacted by the Congress of the United States.

Executive Order 11246

Executive Order 11246, issued by President Lyndon B. Johnson in 1965, has been amended or superseded several times. It imposes obligation on governmental contractors to ensure nondiscrimination along the lines of the provisions for Title VII:

The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed and that applicants are treated during employment, without regard to race, color, religion, sex or national origin.

This EO covers all federal contractors who supply a service to a governmental agency and receive payments in excess of \$10,000 per year. It is the foundation of most affirmative action programs in the public and private sectors of the economy.

Florida State Statutes

The Florida Education Equity Act, Section 228.2001

The Florida Educational Equity Act, Section 228.2001 of the Florida Statutes became law in June 1984. This law prohibits discrimination on the basis of race, national origin, gender, disability, or marital status against a student or employee in the system of public education.

Each public educational institution is required to conduct a self-analysis and adopt a plan to ensure compliance with the Equity Act. Since 1985, Hillsborough Community College has annually published a report updating its plan. Hillsborough Community College has set goals for faculty, staff and students to correct any under representation that may exist as required by the act.

Florida Open Records and Public Meeting Law, Section 286.011

All meetings, notes and records of screening and selection committees are subject to the open records and meeting laws. Specifically:

- All meetings are open and any interested party may attend. This can include other applicants. However, meetings do not have to be announced publicly and in advance of meeting.
- All notes, records and scoring sheets are public records. Use of scoring sheets is recommended and the making of casual notes is discouraged. Records include paper records and files, electronic documents and videotapes of interviews.
- Each member is responsible for ensuring their notes and scores are given to the chairperson.
- The chair is responsible for preserving and forwarding all records to the Employment Office, Human Resources. The Employment Office will place the records in the recruiting file for that position and maintain the entire record for two years as required by State Statute.

- All recruiting records including applications, resumes, reference checks, records of meetings, scoring sheets, any interested party may review notes and videotapes. Copies may be made at a nominal cost.
- The timing of the request to review records must be reasonable and will be done under supervision.
- Requests to review past records should be directed to the Employment Manager, Office of Human Resources. Current records are in the possession of the Chair of the committee.

The Florida Immunity from Liability and Employer Presumption Against Negligent Hiring, Sections 768.095 and 768.096

The statutes of Florida provide for employers who disclose information about a former or current employee to a prospective employer upon request of the prospective employer or of the former or current employee are immune from civil liability for such disclosure or its consequences. This immunity does not exist if it is shown by clear and convincing evidence that the information disclosed by the former or current employer was knowingly false or violated any civil right of the former or current employee protected under chapter 760.

In a civil action under certain circumstances an employee's employer is presumed not to have been negligent in hiring if, before hire, the employer conducted a background investigation that did not reveal any information that reasonably demonstrated unsuitability of the prospective employee. The background investigation must include:

- Criminal background investigation from FDLE
- Reasonable effort to contact references and former employers
- Completion of a job application that includes specific information
- Written authorization and a check of the driver's license records if relevant
- Interview of the prospective employee.

Florida Records Retention Law

Sources: General Records Schedule GS1, State and Local Government Records, General Records Schedule GS5, University and Community College Schedule, March 1996.

The College must retain all records in conformance with the following:

Type of Record	Disposition
Applications for Employment (Not hired)	2 years after application deadline
Employee Eligibility Records	2 years after expiration of eligibility
Employment Examination Records	2 years after examination
Pre-Employment Records (Not Hired)	2 years after application deadline
Search Committee Records	2 years after position filled