

ETHICS TIP!

Favoritism in Hiring: Is Favoritism Fair?

Favoritism in hiring is unfair and against University policy. In today's world where jobs are few and far between it is even more egregious to be unfair in hiring. Hiring friends and acquaintances is unethical at best. And, when a department manager or supervisor feels pressure to hire from those above them, it can make for an uncomfortable work-place.

Pat, a department MSO, and Chris, a staff manager are talking about filling an open position funded by a research grant. Pat wants to know if the job has yet been posted through HR. Chris looks a bit embarrassed and mentions that there might be a little problem. The Principal Investigator (PI) of that grant seems to have someone in mind for the job: the Department Chair's wife.

So, Pat inquires of Chris – "You did tell the PI that here at UC there must be an open recruitment for a career position like this, must be posted and opened to the current employees as well as the public, right?" Chris responds that he's feeling pressure from the PI, and that he already feels like he's on the PI's "list" for complaining about a student hire last quarter. Chris indicates that he's just going to go ahead and process the paperwork for the Chair's wife, to avoid any further rapture from the PI. Pat wonders out loud to Chris: "but what about the other staff in that lab that might be qualified, do you think they might gripe about it – after all, it is a pretty high-level job." Chris responds that "yes," the staff probably would gripe, but he could deal with that rather than dealing with an angry PI. Chris continues – "The PI owes the Chair a favor, and I'd rather alienate some junior-level researchers than have the PI on my back. Maybe the Chair's wife is the right person for this job. We'll just have to arrange the paperwork so that there aren't any questions about favoritism or phony requirements."

Pat begins to consider some ethical questions here, and the correct response is at the end of this story. Which UC Standards of Ethical Conduct Apply (Standards listed at the end).

- A. It's unfair for Chris to bypass the appropriate channels to fill an open position. (1. Fair Dealing)
- B. Hiring for University jobs must follow relevant laws and University procedures regarding open recruitment. (4. Compliance with

- Applicable Laws and 5. Compliance with Applicable University Policies and Procedures)
- C. Giving a job as a favor is not an appropriate use of University resources. (10. Use of University Resources), or
 - D. All of the above.

Neither Pat nor Chris knows whether the Department Chair's wife is actually qualified for the open position. Regardless, they should approach this situation with some awareness of the ethical standards that apply to such issues.

Bypassing the normal recruitment process is unfair to both internal staff seeking promotional opportunities and outside candidates looking to work for the University. Failing to go through the formal application process violates UC policies that require open recruitment in most cases, and may also violate federal regulations. Furthermore, by using a job for personal benefit (to do a favor), the PI is violating Standard 10, (so are Pat and Chris, if they go along with the PI's plan). A University position is a resource and should be allocated to the best qualified candidate in a pool of qualified applicants. The correct answer to this dilemma is "D, All of the Above."

Standards of Ethical Conduct

Adopted by The Regents of the University of California, May, 2005

Purpose

Pursuit of the University of California mission of teaching, research and public service requires a shared commitment to the core values of the University as well as a commitment to the ethical conduct of all University activities. In that spirit, the *Standards of Ethical Conduct* are a statement of our belief in ethical, legal and professional behavior in all of our dealings inside and outside the University.

Applicability

The *Standards of Ethical Conduct* apply to all members of the University community, including The Regents, Officers of The Regents, faculty and other academic personnel, staff, students, volunteers, contractors, agents and others associated with the University. Organizationally, the *Standards* apply to campuses, the National Laboratories, the Office of the President, the Division of Agriculture and Natural Resources, campus organizations, foundations, alumni associations and support groups.

1. Fair Dealing

Members of the University community are expected to conduct themselves ethically, honestly and with integrity in all dealings. This means principles of fairness, good faith and respect consistent with laws, regulations and University policies govern our conduct with others both inside and outside the community. Each situation needs to be examined in accordance with the *Standards of*

Ethical Conduct. No unlawful practice or a practice at odds with these standards can be justified on the basis of customary practice, expediency, or achieving a "higher" purpose.

2. Individual Responsibility and Accountability

Members of the University community are expected to exercise responsibility appropriate to their position and delegated authorities. They are responsible to each other, the University and the University's stakeholders both for their actions and their decisions not to act. Each individual is expected to conduct the business of the University in accordance with the *Core Values* and the *Standards of Ethical Conduct*, exercising sound judgment and serving the best interests of the institution and the community.

3. Respect for Others

The University is committed to the principle of treating each community member with respect and dignity. The University prohibits discrimination and harassment and provides equal opportunities for all community members and applicants regardless of race, color, national origin, religion, sex, gender identity, pregnancy, physical or mental disability, medical condition (cancer-related or genetic characteristics), ancestry, marital status, age, sexual orientation, citizenship, or status as a covered veteran. Further, romantic or sexual relationships between faculty responsible for academic supervision, evaluation or instruction and their students are prohibited. The University is committed to creating a safe and drug free workplace. Following is a list of the principal policies and reference materials available in support of this standard:

- *The Faculty Code of Conduct*
- *Academic Personnel Policy Manual*
- *The Faculty Handbook*
- *Personnel Policies for Staff Members*
- *Policies Applying to Campus Activities, Organizations and Students*
- *Policy on Sexual Harassment and Procedures for Responding to Reports of Sexual Harassment*
- *University policies on nondiscrimination and affirmative action*
- *Campus, laboratory and Office of the President Principles of Community*

The University's health sciences enterprises are committed to the ethical and compassionate treatment of patients and have established policies and statements of patient rights in support of this principle.

4. Compliance with Applicable Laws and Regulations

Institutions of higher education are subject to many of the same laws and regulations as other enterprises, as well as those particular to public entities. There are also additional requirements unique to higher education. Members of the University community are expected to become familiar with the laws and regulations bearing on their areas of responsibility. Many but not all legal

requirements are embodied in University policies. Failure to comply can have serious adverse consequences both for individuals and for the University, in terms of reputation, finances and the health and safety of the community. University business is to be conducted in conformance with legal requirements, including contractual commitments undertaken by individuals authorized to bind the University to such commitments.

The Office of the General Counsel has responsibility for interpretation of legal requirements.

5. Compliance with Applicable University Policies, Procedures and Other Forms of Guidance

University policies and procedures are designed to inform our everyday responsibilities, to set minimum standards and to give University community members notice of expectations. Members of the University community are expected to transact all University business in conformance with policies and procedures and accordingly have an obligation to become familiar with those that bear on their areas of responsibility. Each member is expected to seek clarification on a policy or other University directive he or she finds to be unclear, outdated or at odds with University objectives. It is not acceptable to ignore or disobey policies if one is not in agreement with them, or to avoid compliance by deliberately seeking loopholes.

In some cases, University employees are also governed by ethical codes or standards of their professions or disciplines - some examples are attorneys, auditors, physicians and counseling staff. It is expected that those employees will comply with applicable professional standards in addition to laws and regulations.

6. Conflicts of Interest or Commitment

Employee members of the University community are expected to devote primary professional allegiance to the University and to the mission of teaching, research and public service. Outside employment must not interfere with University duties. Outside professional activities, personal financial interests, or acceptance of benefits from third parties can create actual or perceived conflicts between the University's mission and an individual's private interests. University community members who have certain professional or financial interests are expected to disclose them in compliance with applicable conflict of interest/conflict of commitment policies. In all matters, community members are expected to take appropriate steps, including consultation if issues are unclear, to avoid both conflicts of interest and the appearance of such conflicts.

7. Ethical Conduct of Research

All members of the University community engaged in research are expected to conduct their research with integrity and intellectual honesty at all times and

with appropriate regard for human and animal subjects. To protect the rights of human subjects, all research involving human subjects is to be reviewed by institutional review boards. Similarly, to protect the welfare of animal subjects, all research involving animal subjects is to be reviewed by institutional animal care and use committees. The University prohibits research misconduct. Members of the University community engaged in research are not to: fabricate data or results; change or knowingly omit data or results to misrepresent results in the research record; or intentionally misappropriate the ideas, writings, research, or findings of others. All those engaged in research are expected to pursue the advancement of knowledge while meeting the highest standards of honesty, accuracy, and objectivity. They are also expected to demonstrate accountability for sponsors' funds and to comply with specific terms and conditions of contracts and grants.

8. Records: Confidentiality/Privacy and Access

The University is the custodian of many types of information, including that which is confidential, proprietary and private. Individuals who have access to such information are expected to be familiar and to comply with applicable laws, University policies, directives and agreements pertaining to access, use, protection and disclosure of such information. Computer security and privacy are also subject to law and University policy.

Information on the University's principles of privacy or on specific privacy laws may be obtained from the respective campus or laboratory information privacy office.

The public right to information access and the individual's right to privacy are both governed by state and federal law, as well as by University policies and procedures. The legal provisions and the policies are based upon the principle that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person, as is the right of individuals to privacy.

9. Internal Controls

Internal controls are the processes employed to help ensure that the University's business is carried out in accordance with these *Standards*, University policies and procedures, applicable laws and regulations and sound business practices. They help to promote efficient operations, accurate financial reporting, protection of assets and responsible fiscal management. All members of the University community are responsible for internal controls. Each business unit or department head is specifically responsible for ensuring that internal controls are established, properly documented and maintained for activities within their jurisdiction. Any individual entrusted with funds, including principal investigators, is responsible for ensuring that adequate internal controls exist over the use and accountability of such funds. The University has adopted the principles of internal controls published by the Committee of Sponsoring Organizations (COSO) of the Treadway Commission.

10. Use of University Resources

University resources may only be used for activities on behalf of the University. They may not be used for private gain or personal purposes except in limited circumstances permitted by existing policy where incidental personal use does not conflict with and is reasonable in relation to University duties (e.g. telephones). Members of the University community are expected to treat University property with care and to adhere to laws, policies and procedures for the acquisition, use, maintenance, record keeping and disposal of University property. For purposes of applying this policy, *University resources* is defined to include but not be limited to the following, whether owned by or under the management of the University (for example, property of the federal government at the National Laboratories):

- Cash, and other assets whether tangible or intangible; real or personal property;
- Receivables and other rights or claims against third parties;
- Intellectual property rights;
- Effort of University personnel and of any non-University entity billing the University for effort;
- Facilities and the rights to use of University facilities;
- The University's name;
- University records, including student and patient records; and
- The University information technology infrastructure.

11. Financial Reporting

All University accounting and financial records, tax reports, expense reports, time sheets and effort reports, and other documents including those submitted to government agencies must be accurate, clear and complete. All published financial reports will make full, fair, accurate, timely and understandable disclosures as required under generally accepted accounting principles for government entities, bond covenant agreements and other requirements. Certain individuals with responsibility for the preparation of financial statements and disclosures, or elements thereof, may be required to make attestations in support of the *Standards*.

12. Reporting Violations and Protection from Retaliation

Members of the University community are strongly encouraged to report all known or suspected improper governmental activities (IGAs) under the provisions of the *Policy on Reporting and Investigating Allegations of Suspected Improper Governmental Activities (Whistleblower Policy)*. Managers and persons in supervisory roles are required to report allegations presented to them and to report suspected IGAs that come to their attention in the ordinary course of performing their supervisory duties. Reporting parties, including managers and supervisors, will be protected from retaliation for making such a report under the *Policy for Protection of Whistleblowers from Retaliation and Guidelines for Reviewing Retaliation Complaints (Whistleblower Retaliation Policy)*.