Exceptions to Search

I. Introduction

The State University of New York (SUNY), Stony Brook University (the University) and the Research Foundation for SUNY (the Research Foundation), are equal opportunity and affirmative action employers\(^1\). The University prohibits discrimination on the basis of race, sex, sexual orientation, gender identity, religion, age, color, creed, national or ethnic origin, disability, marital status, genetic information, criminal conviction, domestic violence victim status, and/or military status. The University:

- seeks to attract and retain employees that share in the University's Mission;
- is committed to creating and maintaining an inclusive and diverse workforce, pursuant to SUNY and University polices, and in accordance with state and federal laws; &
- values the professional development and advancement of our current faculty and staff.

Generally, vacant positions will be appropriately advertised and posted through the Talent Management System. Searches must be conducted for all Research Foundation and State unclassified positions at the University. However, there are limited permissible exceptions to conducting searches which are described in this procedure.

Temporary appointments should not be considered as a conduit or stepping-stone to regular full-time employment without a search. Future searches and appointments for positions temporarily filled under the terms in this procedure are expected to be carried out in good faith and will be closely reviewed.

This document describes the circumstances when a request for an exception to search may be made, including the duration permitted (described in Section III), and the documentation that must accompany such a request (described in Sections II and III). All requests shall be directed to the Office of Diversity and Affirmative Action (ODAA) for consideration and response.

Exceptions to recruitment will exclude the following situations:

Reclassifications: are significant change in duties/responsibilities of the candidate within the existing position that result in a change of title of the employee. Reclassification will

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\(^1\) The Research Foundation of the State University of New York, a private nonprofit educational corporation, chooses personnel on the basis of ability without regard to race, color, religion, sex, age, national origin, disability, marital status, veteran status, or sexual orientation, in accordance with federal and state law.

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go through a classification/compensation process that will determine the appropriate title and compensation that the current incumbent is entitled to.

II. Documents that Must Accompany All Requests for an Exception to Search

A. Memorandum of justification from the supervisor requesting the appointment, which includes:
   1. Explanation detailing why an exception to search is being requested;
   2. Statement that the appointment does not present a conflict of interest, as prescribed by SUNY Policy 6001 or the Research Foundation’s Nepotism Policy (whichever is applicable); &

B. Signed statement from the division/unit head (Dean or Vice President, as appropriate) of how many exceptions to search have been requested of the total number of recruitments conducted during the previous two years.

C. Approvals from all relevant supervisors must be included, up to and including Dean, Provost, Vice President, Senior Vice President, Senior Executive Group for Veterans Home, or Executive Staff for Hospital.

III. When an Exception to Search May be Requested

A. Emergency
   1. An emergency is defined as an unforeseen situation necessitating the appointment of an employee in a critical position due to death, sudden or unexpected separation, or some other extraordinary situation.
   2. An emergency temporary hire, generally up to six months, may be permitted, if an open search is carried out before the end of the emergency employment period. An individual who has been appointed on an emergency basis will be eligible for continued employment in the position only if they are selected pursuant to the open search.
   3. The process to conduct a full search should begin at least three months prior to the end of the temporary appointment.

B. Appointment Pursuant to a Grant, Contract, or Endowment
1. Individual named in a grant or contract, appointed to a research position: An individual may be hired if specially named in a grant or contract, by name or position, and who is vital to the project with relevant approvals.²

2. Individual named in an endowment: A supervisor may hire an individual with funds from the revenue of an endowment fund specifically established for the employment of such an individual.

3. Positions filled pursuant to this subsection requires the following additional documentation:

   a. Award letter and selected pages from the applicable research grant, contract, appointment letter or endowment naming the individual to be employed.

C. Appointment of Opportunity: Exceptional Scholar, Artist or Applied Practitioner

1. An exception to search may be requested for a nationally or internationally renowned scholar, artist, or applied practitioner. A discipline may recognize many individuals within the field as exceptional. Nevertheless, the use of “appointment of opportunity” should be used sparingly.

2. Positions filled pursuant to this subsection requires the following additional documentation:

   a. Memorandum describing the accomplishments and the national and/or international reputation of the individual to be hired.

D. Visiting Scholar

1. An exception to search may be requested for a visiting scholar who will be temporarily employed by the University under the following circumstances:

   a. Visiting scholar: a specific scholar may be named on a grant or in another funding source; &

   b. Visiting research collaborator: a scholar currently on leave

² Post-Doctoral positions are limited in their duration, pursuant to the State, Research, and Stony Brook University title specifications.
from another institution or private agency.

2. Positions filled pursuant to this subsection do not require the submission of additional documentation.

E. Appointment Due to Student’s Change of Status

1. A graduate or undergraduate student who has recently completed their degree at the University and can no longer hold a restricted student status may be temporarily appointed to a position for the purpose of completing a specific project. Such an appointment may not exceed six months.

2. Positions filled pursuant to this subsection requires the following additional documentation:
   a. Request must state the student’s graduation date, a description of the project, explanation as to why the project cannot be completed by someone else, date of initiation of the project, and best estimation of its completion date.

F. Appointments Following an Internship, Apprenticeship, Fellowship or Other Training Program

1. Internship, apprenticeship, fellowship or other training program: Student interns or apprentices who have completed a formalized pre-approved internship, apprenticeship other training program at Stony Brook University may be considered for further employment. The internship, apprenticeship or training program must be reviewed with Human Resources and candidate selections must be pursuant to a search.

2. Positions filled pursuant to this subsection requires the following additional documentation:
   a. Request must explain the method of the selection of the candidate with details of the approved awards/program.

G. Definitions

1. Affirmative Action Program: a mandated report by the Office of Federal

3 Information regarding the University’s internship process can be found at: http://career.stonybrook.edu/employers/internships-coops-community-outreach/internships

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Contract Compliance Programs (OFCCP) that is used as a management tool to ensure equal employment opportunity. It is a set of specific results-oriented procedures that the University commits to apply to every good faith effort in the provision of opportunities in recruitment, selection, appointment, promotion, and training related employment areas.

2. **External Search**: the formal process of search, recruitment, and selection by public posting of available positions.

3. **Internal Search**: the formal process of search, recruitment, and selection by internal posting of available positions.

4. **Equal Employment Opportunity**: the concept of providing equal access to employment opportunities in compliance with federal and state laws. The University and the Research Foundation are equal opportunity and affirmative action employers. The University prohibits discrimination on the basis of race, sex, sexual orientation, gender identity, religion, age, color, creed, national or ethnic origin, disability, marital status, genetic information, criminal conviction, domestic violence victim status, and/or military status.

H. **Responsibilities**

1. **Hiring Department**
   a. Consider request and make sure that it complies with exceptions mentioned in this document.
   b. Ensure that appointment to state funded positions do not violate SUNY Policy 6001.
   c. Ensure that Research Foundation appointments do not violate the Research Foundation Code of Ethics and Nepotism Policy.
   d. Prepare appropriate documentation in support of exception request.

2. **Office of Diversity and Affirmative Action**

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4 The Research Foundation of the State University of New York, a private nonprofit educational corporation, chooses personnel on the basis of ability without regard to race, color, religion, sex, age, national origin, disability, marital status, veteran status, or sexual orientation, in accordance with federal and state law.
b. Monitor and evaluate utilization of exception to search requests.
c. Review and approve exception to search requests.
d. Provide consultation, guidance, and assistance to hiring departments with exception requests.