

## POLICY

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Approved by: President Sabah Randhawa

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### See Also:

Document #	Document Title
	<a href="#">WWU Mission and Strategic Goals</a>
<a href="#">POL-U1600.02</a>	Ensuring Equal Opportunity and Prohibiting Discrimination and Retaliation
<a href="#">POL-U1600.05</a>	Implementing Affirmative Action Program
<a href="#">PRO-U1600.01A</a>	Requesting a Dual Career Assistance Appointment of Opportunity (DCA)
<a href="#">PRO-U1600.01B</a>	Requesting an Appointment of Opportunity (Non-DCA)

### **POL-U1600.01      REQUESTING AN EXCEPTION TO THE NORMAL COMPETITIVE SEARCH PROCESS (REQUESTING AN APPOINTMENT OF OPPORTUNITY)**

*This policy applies when seeking an exception to the general requirement for open, competitive searches. Non-competitive appointments may only be made under narrowly defined, limited and specific circumstances. Appointment options vary, depending on employment category. This policy outlines the ability to make an appointment request, and does not constitute a promise, real or implied, of employment at Western Washington University.*

#### **Introduction**

Western Washington University is an equal opportunity and affirmative action employer committed to assembling a diverse, broadly trained faculty and staff. In compliance with applicable laws and University policies related to equal opportunity and affirmative action (see [POL-U1600.02](#) and [POL-U1600.05](#)), and in furtherance of its commitment to fostering an environment that welcomes and embraces diversity, WWU does not discriminate on the basis of race, color, creed, religion, national origin, sex (including pregnancy and parenting status), disability, age, veteran status, sexual orientation, gender identity or expression, marital status or genetic information in its programs or activities, including employment, admissions, and educational programs.

Western has a long-established practice of filling the majority of employment openings by conducting open, equitable, and competitive searches. In limited circumstances, and with compelling justification, non-competitive appointments may be requested as an exception to the University's regular practice of conducting a competitive search. All relevant collective bargaining agreement or Professional Staff Employee Handbook and associated policy requirements must be met before an appointment of opportunity may be considered. Additionally, all such appointments must be compliant with the Vietnam Era Veterans' Readjustment Assistance Act, 38 USC § 4212, and the Code of Federal Regulations

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Title 41 Part 60-300.5, which requires that unless certain criteria are met, positions must be posted for the priority referral of protected veterans before a non-competitive appointment may be considered. This policy applies in the limited instances where a non-competitive appointment is requested to fill a position. The policy does not constitute a promise, real or implied, of employment with the University.

**NOTE:** With the exception of the requirements outlined in Section 4 of this policy, this policy does not apply to requests for non-permanent staff appointments that are reasonably anticipated to not exceed the limits outlined in the definition of “Temporary Staff Positions” (see Definitions section). Appointments anticipated to stay within the definition of “Temporary Staff Position,” whether filled competitively or as an exception to the normal competitive process, should follow the appropriate process as prescribed by Human Resources. Exception requests for all other positions (e.g., permanent or professional staff project positions) must follow the requirements of this policy.

### **Definitions:**

#### **Dual Career Assistance (DCA) Candidate:**

For purposes of this policy, a “DCA Candidate” is someone who is the partner or spouse of a Primary Employee, as these terms are defined in this policy.

#### **Partner or Spouse:**

For purposes of this policy, the term “partner or spouse” includes both marital and non-marital relationships.

#### **Primary Employee:**

For purposes of this policy, the term “primary employee” refers to an individual currently employed by Western who requests Dual Career Assistance consideration for their spouse or partner; or a primary candidate who at the time of offer, requests Dual Career Assistance consideration for their spouse or partner, and becomes an employee of Western.

#### **Professional Staff Project Position:**

For purposes of this policy, a professional staff position where the employee term of appointment is greater than 6 months or more than 50% full-time equivalent.

#### **Temporary Staff Position:**

For classified staff, a position that will work no more than 1050 hours in a consecutive 12-month period (from original hire date). For professional staff, an employee whose term of appointment is less than 6 months or less than 50% full-time equivalent.

#### **Within the University’s Organization:**

For purposes of this policy, an individual is considered to be within the University’s organization, if they are or have been a member of the Western community, as outlined only in the following instances:

- The individual is currently, or has been during the past 12 months, employed by Western Washington University on a temporary or permanent basis as classified staff, professional

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- staff, non-tenure track faculty, tenure track faculty, or an executive officer. This definition includes individuals who are currently on approved leave from such employee positions at the University.
- The individual is currently or has been during the past 12 months, an undergraduate or graduate Western student (any person who):
  - a) Has been formally admitted to the University;
  - b) Is enrolled in one or more classes at the University, including non-matriculated international students attending language institutes or foreign study programs;
  - c) Is participating in a certificate, degree, distance learning, or professional enrichment program, through extended education and summer programs;
  - d) Is participating in a University-sponsored study abroad program;
  - e) Was enrolled in a prior quarter or summer session at the University and is eligible to continue enrollment in the quarter or summer session that immediately follows;
- The individual is a student at another institution who is fulfilling their required internship in completion of their graduate program through internship employment opportunities at Western.
- The individual is a DCA Candidate as defined in the Definitions section of this policy.
- Other individuals who have rights to employment placement at Western (such as represented employees for whom the University has layoff or other contractual placement obligations, disabled employees with ADA placement rights, etc.).

### **Executive and Senior Management:**

As required by federal law (41 C.F.R. § 60-300.5), executive and senior management means an employee:

- a) Who is compensated on a salary basis at a rate of not less than \$455 per week, exclusive of board, lodging or other facilities; and
  - b) Whose primary duty is management of a department or area of the University; and
  - c) Who customarily and regularly directs the work of two or more other employees; and
  - d) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees are given particular weight.
1. **Approval Authorities for Appointments Requested under this Policy Include Initial Approval by the Relevant Vice President or Dean and, except for Vice President Appointments Described in Section 6 of this Policy, Final Approval by the Office for Civil**

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### **Rights and Title IX Compliance**

#### **2. Exceptions to the Search Process May Be Requested**

Generally, the University's practice is to fill employment openings by open, equitable, and competitive searches. However, an exception to the competitive process may be requested as provided in this policy and accompanying procedures. Non-competitive appointments are not otherwise permitted (except for specific temporary positions as more fully articulated in the Policy introduction).

The circumstances justifying the appointment of opportunity must be clear, documented, and present a compelling rationale. The benefit to the University by the opportunity appointment must outweigh the benefit of an open, competitive search and other options available, including filling the position on a temporary or project basis in conjunction with a competitive search to fill the position on a more long-term basis.

The justification and consideration of the request must take into account commitment to fulfilling Western's mission and strategic plan, as well as University policies with respect to equal opportunity and affirmative action. Additional factors that may be relevant include but are not limited to: unique qualifications of the proposed appointee; organizational considerations, to include consideration of existing employees who may be similarly situated with respect to the proposed appointee; emergency circumstances; budgetary considerations; retention of a valued employee; and/or support of current and prospective peers and leaders.

#### **3. Appointment of Opportunity Must Be Qualified for Position**

For all appointment of opportunity types, the request must demonstrate through a thorough evaluation process that the individual considered for appointment of opportunity, at a minimum, meets the required qualifications for the position.

#### **4. Additional Requirements May Apply**

All relevant collective bargaining agreement or Professional Staff Employee Handbook and associated policy requirements must be met before an appointment of opportunity may be considered.

Also, as required by 41 C.F.R. § 60-300.5, all employment openings must be listed with the appropriate employment service delivery system (ESDS) for priority referral of protected veterans, prior to proceeding with an appointment of opportunity, unless at least one of the following exception criteria is met:

- a) The position is executive and senior management; or
- b) The position will be filled from within the University's organization; or
- c) The position will last three days or less.

**NOTE:** These three criteria are taken directly from 41 C.F.R. § 60-300.5, which includes the

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definition of “executive and senior management.”

If one of the exception criteria is not met, the position must be posted with ESDS, and any applications received through the ESDS posting must be considered alongside the proposed appointee.

**5. Appointments of Opportunity are Not Permitted Once a Position Opening has Been Publicized to Potential Applicants Outside the University (with the Exception of Posting to ESDS for Priority Referral of Protected Veterans)**

**6. Vice Presidents Have Internal Candidate Appointment Authority**

Whether within or outside of their immediate area of responsibility, in consultation with CRTC, Vice Presidents may consider Western employees in filling professional staff positions prior to an external recruitment while maintaining their commitment to Western’s policies, including equal opportunity and affirmative action policies and procedures. A Vice President may choose to open a search to all qualified candidates after considering internal candidates or choose not to fill a position.

**7. Appointments of Opportunity Must Fall Within Specified Category**

In addition to meeting the requirements of Sections 1 through 5 above, appointments of opportunity must meet the criteria of one of the following categories:

A. Dual Career Assistance (DCA)

DCA appointments further Western’s commitment to recruiting and retaining highly qualified faculty and staff and strengthen the University’s capacity to meet institutional objectives. DCA is a process seeking employment opportunities for the spouse or partner of: 1) a primary candidate who requests DCA consideration at the time of offer, and becomes an employee of Western, or 2) an incumbent employee as a retention measure.

DCA appointments of opportunity may be requested by faculty, professional or classified staff, or executive officers. As a recruitment or retention measure, the spouse or partner may be appointed into a faculty, professional or classified staff, or executive officer position. See PRO-U1600.01A, Requesting a Dual Career Assistance (DCA) Appointment of Opportunity.

Academic appointments of DCA candidates may be part-time or full-time, and may be for non-tenure track or tenure track positions. Non-tenure track appointments can be commitments of varying lengths. Staff appointments of DCA candidates may be part-time or full-time, and may be permanent or of limited duration.

The University utilizes the following methods in order to consider requests for DCA appointments, which are more fully described in PRO-1600.01A, Requesting a Dual Career

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### Assistance (DCA) Appointment of Opportunity.

- The relevant Vice President or Dean has approved creating a new position to utilize the qualifications and occupational interests of the DCA candidate.

Or

- There is a new and vacant position available which responds to the common interests of the institution and the couple seeking DCA. Job postings are held open for five working days so that DCA candidates who are interested may apply (i.e., DCA posting period) before a broader competitive search process commences for the position.

**NOTE:** Positions that are excepted from being posted to the 5-day DCA posting period include: 1) executive officer positions; and 2) positions anticipated to be otherwise filled non-competitively (e.g., through another type of appointment of opportunity), and where a broader competitive recruitment, whether external or internal, is not intended to occur.

### B. Faculty and Staff Diversity Initiative

This is a narrowly tailored initiative that supports Western's mission and strategic goals related to accessibility, diversity, equity and inclusion and advancing inclusive success. This allows appointment of an individual into a faculty, professional or classified staff, or executive officer position. See PRO-1600.01B, Requesting an Appointment of Opportunity (Non- DCA).

The proposed hire must have a documented record of exceptional relevant accomplishments that demonstrate the ability to substantially promote the University's strategic vision, goals and/or objectives with respect to accessibility, diversity, equity and inclusion, including but not limited to the following:

- Advance inclusive success, through increased enrollment, retention, persistence, or graduation rates, while eliminating achievement gaps for students from diverse and historically under-represented socio-economic backgrounds.
- Foster a caring and supportive environment where all members are respected and treated fairly;
- Pursue justice and equity in policies, practices, and impacts;

### C. Exceptional Merit

This allows appointment of an individual into a faculty or professional staff position who is nationally and/or internationally recognized for outstanding achievement or exceptional merit in their area(s) of expertise. Such individuals have qualifications that are unique and

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exceptional and whose potential value to the University is great. See PRO-U1600.01B, Requesting an Appointment of Opportunity (Non-DCA).

### D. Professional Staff Project Appointment

This allows appointment of an individual into a professional staff project position for a period not to exceed one year. On limited occasions based on significant institutional need, the project appointment may be permitted for up to two years. In order to continue the position after the period of the project appointment, a competitive search must be conducted. On limited occasions, following the maximum 2-year project appointment, a permanent appointment may be permitted, in lieu of a competitive search, so long as the permanent appointment meets the conditions for one of the following as outlined in this policy: Dual Career Assistance appointment; Faculty or Staff Diversity Initiative appointment; Exceptional Merit appointment; Sponsored Program appointment; Critical Need appointment; or Vice President Internal Candidate Appointment Authority. See PRO-U1600.01B, Requesting an Appointment of Opportunity (Non-DCA).

### E. Sponsored Program Appointments

This allows appointment to fill a faculty, professional or classified staff, or executive officer position fully funded by a grant for the period of that grant funding. Requests for approval to continue the appointment should be submitted in advance as funding is renewed. See PRO-U1600.01B, Requesting an Appointment of Opportunity (Non-DCA).

### F. Critical Need Appointment

This allows appointment to fill a professional staff, executive officer, non-tenure track faculty or tenure-track faculty position in order to address a critical University need. A critical need appointment may be permitted only in those limited instances where: (1) conducting a timely competitive search would jeopardize the ability of the University or a division of the University to effectively carry out central operating functions; and (2) the relevant Vice President or Dean approves the appointment request as the appointment is in the best interests of the University. See PRO-U1600.01B, Requesting an Appointment of Opportunity (Non-DCA).