



Diversity and the Law: 2021

Sample Target of Opportunity Policy for Students¹

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This document provides illustrative, adaptable policy language that can advance DEI goals in ways that are less likely to implicate the strict or heightened scrutiny reflected in federal non-discrimination law standards that apply to race- and ethnicity- (strict), as well as to sex- and gender- (heightened) conscious policies and practices. It is most relevant to institutions of higher education that maintain holistic review admission processes within their operations.

This target of opportunity policy overlays and applies in the undergraduate recruitment, admission (to the University and to a major), financial aid and scholarship, and experiential learning program processes, as well as in [all or specify fields] graduate recruitment, admission and scholarship, research support and experiential learning processes (enrollment/learning processes). The policy makes target of opportunity considerations and actions available to recruit, yield and support the success of students who can especially advance priority mission-driven educational goals, affording the institution and its academic units the flexibility to expeditiously recruit and retain individuals who might otherwise be beyond reach, unavailable or more difficult to recruit, yield and retain—whether due to student concerns about affordability and welcomeness at the University, competition of other institutions, or extent of institutional investment in student success.

The University's mission requires broadly diverse, equitable and inclusive academic, co-curricular, and research endeavors in which individuals of many perspectives, experiences, areas of knowledge, and talents engage creatively to achieve excellence in educational and research experiences and outcomes for all of the institution's students and in its contributions to society. This target of opportunity policy furthers the benefits of educational diversity, equity, and inclusion as critical to excellence in the academic and research program, with fealty to legal requirements. In accordance with federal and state² law and University policies, the University is committed to equitable and inclusive, non-discriminatory enrollment/learning processes, including under this target of opportunity policy.

How To Use The Target of Opportunity Consideration In Enrollment/Learning Processes

This policy applies to the following circumstances and in the following manner:

The University aligns the continuum of enrollment/learning processes to leverage their cumulative impact to assemble and support the success of an undergraduate class and each discipline's graduate students. We seek to enroll and retain students who, as individuals and members of our community, will benefit from and contribute to the richness of the academic and research program and its contributions to society. In all of our enrollment/learning processes, every applicant's many academic, experiential, talent, personal, and other qualities, qualifications and anticipated contributions to the University community and society, as well as the extent to which the applicant is likely to grow in our programs, are always considered, as a whole. The University's high standards of excellence are applied in this holistic review, which considers the context of extent of opportunities and challenges that each individual has experienced, whether they have made the most of their circumstances, and other indicia of their character and promise. In our community, character includes considerations of empathy for others, kindness, ethical conduct, leadership in many settings (formal and informal), and an openness to learning about and desire to advance an equitable society.

² This example form does not address state law requirements. Each institution should customize the form to suit its unique processes, as well as its state, local and institutional laws, and policies.

Some individuals may be identified in enrollment/learning processes who, not only fulfill those standards, but are expected to be able to uniquely or especially advance the University's priority mission-driven goals—overall or in a particular discipline of need or interest at the institution. That determination of special ability to contribute is based on particular accomplishments or promise included in the target of opportunity criteria.

1. Target Of Opportunity Criteria include one or more of the following:

a. Evidence of Academic Distinction. In addition to the University's or department's standard measures of academic achievement and readiness, the applicant demonstrates academic promise overall or in the field of their intended study—all considering the context of the applicant's circumstances—as evidenced by:

- being the recipient of a top academic prize (e.g., national science or mathematics medal, junior poet laureate, early career research award) or equivalent based on an individual's circumstances (e.g., the child of migrant workers who designs a solar powered chile roaster to cook lunch in the fields for migrant workers)³
- having a record of innovative research, scholarship or teaching of substance that would especially enrich the academic or research environment and/or advance the field (even if not well-funded or recognized by traditional sources and expanding the boundaries of a field by reflecting minoritized perspectives),
- other notable accomplishments or promise.

b. Evidence of Deep Knowledge and Ability to Elevate Others' Knowledge of—or Commitment and Passion to Ameliorate—Issues of Race and Gender Inequities in Society, and other Matters of Social Justice. Regardless of the applicant's own race, ethnicity, gender, religion or other identities, the applicant demonstrates one or more of the following strengths that provide diversity-associated educational benefits to all students at the University, enhance an equitable learning community and society, and advance the academic mission of the University:

- brings knowledge, expertise, experience, however obtained, that would elevate broader understanding regarding issues affecting minoritized groups at the institution, in a field, or in society (including, e.g., minoritized races, ethnicities, genders, religions, socio-economic backgrounds, etc.) and would especially enrich the academic program, research environment and/or advance the field;
- demonstrates an authentic action-backed commitment to ameliorating the causes of inequity and harm burdening individuals from minoritized groups, whether through service, study, research or teaching focus, or other means;
- has a study, research or teaching focus on the subject matter of inequities and harm burdening minoritized groups—and related effects on equitable opportunities in society;
- has a strong record of identifying and eliminating systemic barriers and developing more welcoming and inclusive climate and culture for people from minoritized groups;
- has meaningful experience working, learning, or living in an environment in which the identities that are minoritized and the identities that are in the dominant norm are the opposite of their position in society at large (e.g., students who have attended a “majority-minority” school—

³ See Brief of the Massachusetts Institute of Technology, Stanford University, IBM, DuPont, and NACME in *Grutter v. Bollinger*, 539 U.S. 306 (2003); *Gratz v. Bollinger*, 539 U.S. 244 (2003) at <https://www.findlawimages.com/efile/supreme/briefs/02-241/02-241.mer.ami.mit.pdf>.

whatever their own race or ethnicity—will have a counter-society experience of value that would expand perspectives at the University);

- has a strong record of providing opportunities for peers, students and/or colleagues to gain meaningful experience engaging in broadly diverse teams, enhancing their cross-identity understanding, learning, research or other personal and work outcomes;
- has a study, teaching or research focus on effective inclusive pedagogy for all students (including those of minoritized groups or with minoritized perspectives), and/or has a strong record of employing effective pedagogy or otherwise demonstrating inclusive conduct for all students and colleagues in learning and work settings.

These criteria consider the applicant’s knowledge and expertise, commitment, and/or inclusive conduct/record, not other characteristics. A record of service, activities, research, writing, or other evidence is required to assess each individual for satisfaction of one or more of these criteria. Application and interview questions, as well as recommendations, that reveal these qualities are critical.

2. Consideration of Target of Opportunity Criteria.

Aid. In addition to awarding other financial aid and scholarships in the relevant enrollment processes for prospective and admitted students, target of opportunity criteria may be used, with or without an additional application, to provide additional financial support (layered on top of other aid or scholarship funding as a supplement to increase the amount or other benefits of an award—or to access funding to make additional numbers of awards possible).

Recruitment. In addition to filling the identified number of available positions and providing the standard programming and amount of associated financial support in recruitment programs (dinners, paid campus visits, bridging programs, etc.) target of opportunity criteria may be used, with or without a separate application, to provide additional programming and/or financial support for recruitment (to create additional positions in existing programs—and/or to increase the scope or quality of, and financial support associated with, existing programming for some students).

Admission and Experiential Learning. Target of Opportunity criteria also may be used, with or without an additional application, to make additional offers of admission to the University, majors, or a graduate program, above the baseline identified number; or to make additional positions and associated support available for participation in an experiential learning program (including, e.g., research opportunities), above the baseline identified number of positions and amount of support.

The following opportunities are available, and requirements apply.

a. Full application process.

Under this policy, target of opportunity criteria may be “plus criteria,” among the many qualifications considered, in any full enrollment/learning process without involving the [specify relevant office, e.g., Office of Provost].

b. Additional financial, research or other support and programming for recruitment.

Additional offers of admission to the University, a major or a graduate program.

Additional positions and support for participation in experiential learning programs.

Target of opportunity criteria may be considered to justify these additional opportunities and support, without a further process. Approval of the additional support, programming and/or positions/opportunities, after confirmation of available funding (which may be provided by the Provost, a dean or other source), and approval of the desired additional applicants, after confirmation that the applicants meet at least one target of opportunity criterion, must be obtained from the [specify relevant office, e.g., Office of Provost]. Use this form [insert URL].

Once fully approved, the enrollment/learning process may be completed without further involvement of the [specify the relevant office, e.g., Office of Provost].

c. Advice.

The [specify the relevant office, e.g., Office of Provost] will consult with the [insert names of the relevant offices covering Equity and Diversity, HR, and Legal] for advice in applying this policy.

d. Complete process.

This policy overlays and applies to all enrollment/learning processes, allowing target of opportunity criteria to be factored into opportunities that are available and decision-making. This policy comprises part of all relevant processes from the start. Thus, applying and acting on this policy does not constitute a change in any enrollment/learning process being employed.

“Minoritized” people or groups, as used in this policy, mean those whose identities (and related customs and/or experiences) that are not included in the dominant “normative” identities at the institution, in a disciplinary department or field, and/or in society. Such identities may relate to race, ethnicity, gender, religion and more. Minoritized people or groups are considered, in effect, as “other” and experience exclusion (even if that is not the intent). People and groups may be marginalized in their experience at the institution or in a department—regardless of their compositional representation at the institution or department—but they are also often not well represented.

“Minoritized” perspectives (including focus of study and research/scholarship) are those that do not reflect dominant norms in the department or field. Those whose perspectives and work are within the dominant norm at the institution or in a department or field may be incentivized to maintain the status quo; and that can cause stagnation in a field. Broad and diverse perspectives—dominant and minoritized—are critical for growth, innovation, and excellence in fields. Some political perspectives may be minoritized. Regardless of political perspective, however, the institution’s mission requires recruitment and retention of students who are committed to conduct, climate and culture that include a broadly diverse student body and academic community and enable all talent to thrive.