

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

FILED

APR 23 PM 3:23

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: University of WV Board of Trustees TITLE NUMBER: 128

RULE TYPE: Interpretative; CITE AUTHORITY 18B-1-6

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 9

TITLE OF RULE BEING AMENDED: Sexual Harassment

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON May 23, 1991 AT 5:00 p.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Jo Ann Raines, Public Information Officer

Central Office

State College & University Systems

1018 Kanawha Blvd., E., Suite 700

Charleston, WV 25301

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

TITLE 128
INTERPRETIVE RULE
UNIVERSITY OF WEST VIRGINIA
BOARD OF TRUSTEES
SERIES 9
POLICY BULLETIN NO. 9

TITLE: Sexual Harassment

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**UNIVERSITY OF WEST VIRGINIA
BOARD OF TRUSTEES
POLICY BULLETIN NUMBER 9**

The University of West Virginia Board of Trustees' revisions to Policy Bulletin No. 9 provide assurance for the dissemination of information relative to the grievance procedure for sexual harassment complaints. The revisions also establish procedures for the filing of sexual harassment cases involving the institutional president, define the list of perpetrators to include students, and subject those who have engaged in sexual harassment to expulsion.

TITLE 128
WEST VIRGINIA INTERPRETATIVE RULE
UNIVERSITY OF WEST VIRGINIA BOARD OF TRUSTEES
SERIES 9
POLICY BULLETIN NO. 9

TITLE: POLICY REGARDING SEXUAL HARASSMENT

Section 1. General

- 1.1 Scope - This interpretative policy defines sexual harassment, provides guidelines for filing sexual harassment complaints and explains what action will be taken against those found to have engaged in sexual harassment.
- 1.2 Authority - West Virginia Code 18B-1-6; a policy statement issued by the Office for Civil Rights of the U.S. Department of Education on the interpretation of the following: Title IX of the Education Amendments of 1972 and Equal Employment Opportunity Commission (EEOC) interpretative guidelines issued in March, 1980; and subsequent federal court decisions on the subject of sexual harassment. A policy statement issued by the Office for Civil Rights of the U.S. Department of Education's interpretation of Title IX of the Education Amendments of 1972 and Equal Employment Opportunity Commission (EEOC) interpretative guidelines issued in March, 1980.
- 1.3 Filing Date - (To be assigned)
- 1.4 Effective Date - (To be assigned)

Section 2. Sexual Harassment Policy

- 2.1 It is the policy of the ~~West Virginia Board of Regents~~ University of West Virginia Board of Trustees to maintain a work and educational environment free from all forms of sexual harassment of any employee, applicant for employment or student. Sexual harassment in any manner or form is expressly prohibited. It is the responsibility of ~~all colleges and universities~~ institutions and the ~~Board of Regents' Central Office~~ Central Office of the State College and University Systems to provide educational opportunities to create this free environment and to take immediate and

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appropriate corrective action when sexual harassment is reported or becomes known. Supervisors at every level are of primary importance in the implementation and enforcement of this policy.

Section 3. Sexual Harassment Definition

- 3.1 Sexual harassment is intended to be defined consistent with EEOC and United States Department of Education guidelines. Sexual harassment includes any unwelcomed sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:
- 3.1a Submission to such conduct is an explicit or implicit condition of employment;
 - 3.1b Submission to or rejection of such conduct is used as the basis for employment decisions; or
 - 3.1c Such conduct has the purpose or effect of:
 - 3.1c.1 Unreasonably interfering with an individual's work or educational performance; or
 - 3.2c.2 Creating an intimidating, hostile or offensive work or educational environment.

Section 4. Filing of Complaints

- 4.1 Each institution and the ~~Board of Regents' Central Office of the State College and University Systems~~ shall designate a formal grievance procedure for the handling of sexual harassment complaints and assure appropriate dissemination of information concerning it to faculty, staff, and students. Each campus shall designate (a) liaison person(s) who shall receive training in facilitating ~~the proper informal~~ resolution of complaints with the authority to ~~investigate conduct inquiries~~ and report to the ~~President appropriate supervisory authority.~~ In cases involving the

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President, the complaint shall be filed with the Chancellor of the University of West Virginia System.

- 4.2. Employees - Any employee who feels he or she is being sexually harassed should contact his or her immediate supervisor. If this is not appropriate, employees should report such alleged misconduct to other designated personnel within that organization. Supervisors are to make every effort to ensure that such problems are resolved promptly and effectively.
- 4.3. Students - Any student who feels he or she is being sexually harassed should contact the appropriate dean or other designated person of the ~~college or university~~ institution where he or she is a student.

Section 5. Action to be Taken Against Perpetrators

- 5.1 Any student, supervisor, agent or other employee who is found, after appropriate investigation, to have engaged in the sexual harassment of another employee or a student will be subject to appropriate sanctions disciplinary action, depending on the circumstances, up to and including termination. Depending on the circumstances, sanctions may include termination or expulsion.

FISCAL NOTE

As filed, Policy Bulletin No. 9 appears to have no financial impact upon the University of West Virginia System.