

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #5

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2013 OCT -7 P11 1:38

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: Higher Education Policy Commission TITLE NUMBER: 133

CITE AUTHORITY: West Virginia Code §18B-1-6(c)(3)

RULE TYPE: PROCEDURAL INTERPRETIVE

EXEMPT LEGISLATIVE RULE

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES NO

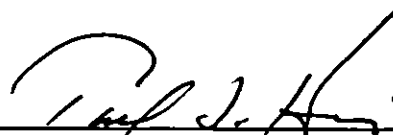
IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 40

TITLE OF RULE BEING AMENDED: Equal Opportunity and Affirmative Action

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS November 6, 2013.



Authorized Signature

**TITLE 133
PROCEDURAL RULE
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**

**SERIES 40
EQUAL OPPORTUNITY and AFFIRMATIVE ACTION**

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SECRETARY OF STATE

§133-40-1. General.

- 1.1. Scope. This rule establishes equal opportunity and affirmative action policy.
- 1.2. Authority. West Virginia Code §18B-1-6 and §18B-1B-5.
- 1.3. Filing Date. October 7, 2013.
- 1.4. Effective Date. November 6, 2013.

§133-40-2. General Policy.

- 2.1. It shall be the policy of the West Virginia Higher Education Policy Commission (Commission) and the West Virginia Council for Community and Technical College Education (Council) to provide equal employment opportunities to all qualified employees and applicants and to prohibit discrimination or harassment against any such individuals on the basis of protected characteristics. The Commission and Council consider race, color, religion, sex, national origin, age, disability, genetic information, sexual orientation, gender identity and veteran status as protected characteristics and will not permit discrimination or harassment against any employee or applicant for employment on the basis of any such characteristic. The Commission and Council will conform both to the letter and the spirit of the law and regulations with respect to prohibiting any such discrimination or harassment and will engage in affirmative action to employ, advance in employment and treat all qualified persons without discrimination in any employment practices.
- 2.2. The scope of this policy prohibiting discrimination and harassment extends, but is not limited to, the following: recruitment, employment, promotion, transfer, training, working conditions, wage and salary administration, benefits and the application of all other employment-related policies. These principles of non-discrimination and anti-harassment also apply to business relationships of the Commission and Council, such as the selection and treatment of independent contractors and personnel working on Commission and/or Council premises.
- 2.3. Under the Commission's and Council's additional authority to allocate

specified functions and responsibilities among the institutions within the jurisdiction of the Commission and Council, each institution shall accept primary and long-term responsibility for the development and implementation of equal employment opportunity and affirmative action policies consistent with the Commission's and Council's guidance and all applicable laws and regulations.

- 2.4. Each institution and the Commission and Council shall take the initiative in developing or modifying its own plans to achieve compliance with the equal employment opportunity and affirmative action policies of the Commission and Council as well as those of the state and federal governments. The president of each institution shall, through appropriate means, establish and maintain a positive program of equal employment opportunity and affirmative action within her/his jurisdiction in accordance with all laws and regulations applicable to the institution. The equal employment opportunity and affirmative action goals of the institution must be integrated into and consistent with other performance goals of the institution. The realistic goals and timetables of each institution shall be vigorously pursued to achieve a proportional representation of minorities and women in the workforce based on availability within the relevant workforce recruitment markets. The effective pursuit of affirmative action requires not only the adoption of an adequate plan, but also results-oriented procedures designed to ensure the involvement of managers at all levels of each institution. Institutional affirmative action plans shall be submitted to the Chancellors by July 1 of each year.
- 2.5. The Chancellors shall appoint an equal employment opportunity/affirmative action advisory council, to be known as the Chancellors' Equal Employment Opportunity Council, composed of at least one representative from each of the campuses or institutions. The Council will help to facilitate the achievement of equal employment opportunity/affirmative action goals and compliance across the institutions under the Commission's and Council's jurisdiction. Under the general direction of the Chancellors, the Council shall be responsible for, but not necessarily limited to, the following duties and responsibilities:
 - 2.5.1. Conducting periodic reviews of institutional equal employment opportunity/affirmative action plans and programs, while providing any assistance that may be required to improve programs and realize objectives.
 - 2.5.2. Consulting from time to time with the Chancellors and presidents of institutions and/or their designees on equal employment opportunity/affirmative action matters.

- 2.5.3. Reviewing copies of equal employment opportunity reports of all institutions submitted to federal authorities responsible for enforcement of laws and regulations and providing consultation to the Chancellor where appropriate or as requested.
- 2.5.4. Helping to assure that current information affecting equal employment opportunity/affirmative action is disseminated to institutions and their employees.
- 2.5.5. Conducting other advisory assignments as directed by the Chancellors.