



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Community And Technical College Education TITLE-SERIES: 135-40

RULE TYPE: Procedural Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Equal Opportunity and Affirmative Action

CITE STATUTORY AUTHORITY: §18B-1-6 and §18B-1B-5

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 11/19/2018 4:00 pm

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Sarah Tucker

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Charleston, WV 25301

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PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

This policy prohibits discrimination and harassment, but is not limited to, the following: recruitment, employment, promotion, transfer, training, working conditions, wage and salary administration, benefits, discipline, promotion, transfer, layoff, termination processes and the application of all other employment-related policies.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

Removes the appointment of an EEO/AA Council. The responsibilities of this Council have been met by the negotiation of a group contract with a vendor, to conduct institutional workforce analysis and develop compliant EEO/AA plans for the Council and each of the community and technical college institutions.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None

B. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

None

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2018 Increase/Decrease (use "-")	2019 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Angela S Kerns -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 135
PROCEDURAL RULE
WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION

SERIES 40
EQUAL OPPORTUNITY and AFFIRMATIVE ACTION

§135-40-1. 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 21, 2013~~
- 1.4. Effective Date. -- ~~November 21, 2013~~

§135-40-2. General Policy.

2.1. It shall be the policy of the West Virginia Council for Community and Technical College Education (Council) ~~and the West Virginia Higher Education Policy Commission (Commission)~~ 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 Council ~~and Commission~~ considers ethnicity, marital status, race, color, religion, sex/gender, 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 Council ~~and Commission~~ 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, discipline, promotion, transfer, layoff, termination processes and the application of all other employment-related policies. These principles of non-discrimination and anti-harassment also apply to the selection and treatment of independent contractors, personnel working on Council ~~and/or Commission~~ premises and any other persons or firms doing business with the Council ~~and Commission~~.

§135-40-3. Institutional Responsibility.

3.1. Under the Council's ~~and Commission's~~ additional authority to allocate specified functions and responsibilities among the institutions within the jurisdiction of the Council ~~and Commission~~, 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.

3.2. Each institution and the Council ~~and Commission~~ 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 Council and Commission 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 pursuit and compliance across the institutions under the Council's and Commission'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 Chancellors 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.~~