



WEST VIRGINIA SECRETARY OF STATE

KRIS WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Higher Education Policy Commission TITLE-SERIES: 133-40
RULE TYPE: Procedural Amendment to Existing Rule: Yes Repeal of existing rule: Yes
RULE NAME: Equal Opportunity and Affirmative Action
CITE STATUTORY AUTHORITY: 18B-1-6

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/30/2025 5:00 p.m.

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Dr. Sarah Tucker
ADDRESS: 2001 Union Carbide Drive Building 2000
South Charleston, WV 25303
EMAIL: chancellor@wvhepc.edu

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:

Provide equal employment opportunities

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

Revisions are necessary to address recent changes in W.Va. Code by Senate Bill 474 which ends diversity, equity, and inclusion policies in higher education.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

N/A

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

N/A

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

N/A

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2025 Increase/Decrease (use "-")	2026 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

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

N/A

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

Yes

Cindy L Anderson -- 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 133
PROCEDURAL RULE
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION
SERIES 40
EQUAL OPPORTUNITY ~~and AFFIRMATIVE ACTION~~

§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 31, 2019.~~

1.4. Effective Date. — ~~December 1, 2019.~~

1.5. Repeal of Former Rule. -- Repeals and replaces Title 133, Series 40 which had an effective date of ~~November 7, 2013~~ December 1, 2019.

§133-40-2. General Policy.

2.1. It shall be the policy of 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 Commission considers race, color, religion, sex/~~gender~~, national origin, ~~ancestry~~, age, ~~blindness~~, disability, ~~pregnancy~~, genetic information, ~~sexual orientation~~, ~~gender identity~~, veteran or military status or other category that is protected under federal, State, or local anti-discrimination laws 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 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 encourage and support ~~voluntary affirmative action where necessary~~ equal employment opportunity to ensure that institutions 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 Commission premises, and any other persons or firms doing business with the Commission.

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

2.4. Each institution and the Commission shall take the initiative in developing or modifying their own plans to achieve compliance with the equal employment opportunity ~~and affirmative action~~ policy of the 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~~ their 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.~~