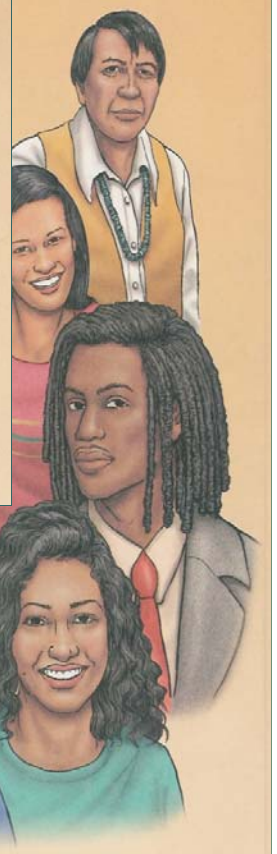


# Affirmative Action Plan



**Southern West Virginia  
Community and  
Technical College**

September 2013

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**WV Higher Education Policy Commission Members**

*Revised June 2016*

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Vice Chairman

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Mrs. Shawn R. Williams

**Southern West Virginia Community and Technical College**

**Board of Governors**

*Revised 07/01/2015*

wood, Chair

mond, Vice Chair

## **EQUAL OPPORTUNITY STATEMENT**

In accordance with Title IX of the Educational Amendments of 1972, Title I of the Americans with Disabilities Act, 42 U.S.C. (Supp. IV 1992) and other regulations, the Higher Education Policy Commission, Southern West Virginia Community and Technical College's Board of Governors, and each institution will enunciate the following equal opportunity nondiscrimination policy in all major publications reaching prospective students, faculty, staff and the general public.

It is the policy of Southern West Virginia Community and Technical College to provide equal opportunities to all prospective and current members of the student body, faculty, and staff on the basis of individual qualifications and merit without regard to race, sex, religion, age, national origin, veteran's status or handicap.

This non-discrimination policy also applies to all educational programs, to admission, employment and other related activities covered under Title IX which prohibits sex discrimination in higher education.

Southern West Virginia Community and Technical College also neither affiliates with nor grants recognition to any individual, group, or organization having policies that discriminate on the basis of race, sex, religion, age, national origin, veteran's status or handicap. Inquiries regarding compliance with Title I and Title IX may be directed to:

Patricia Clay, Affirmative Action Officer  
Southern West Virginia Community & Technical College  
P.O. Box 2900  
Mount Gay, WV 25637-2900.  
Phone: (304) 792-7032.

## Introduction

Dear Friend:

Southern West Virginia Community and Technical College provides opportunities for students as an educational institution. Likewise, the College provides opportunity for employees and prospective employees.

The employment policies and procedures of the College are designed to ensure lawful personnel practices and to promote excellence in every area of endeavor.

All persons involved in personnel actions at Southern West Virginia Community and Technical College are expected to be familiar with and to follow the approved policies and procedures.

Any person who believes he/she is the subject of discrimination under the banner of policies and procedures herein may file complaint using the grievance procedures referenced in this plan.

Sincerely,

Robert E. Gunter, Ed.D  
President



# **1.0 Reaffirmation of Southern West Virginia Community and Technical College Equal Employment Opportunity Policy and Affirmative Action Plan Title 128 - Series 45**

## **1.1 Text of Nondiscrimination Law, Guidelines, and Executive Orders**

One of the first steps in combating discrimination is to understand the equal opportunity laws and regulations which protect citizens. Cited below are summaries of major laws and executive orders on which the policies of the Southern West Virginia Community and Technical College Affirmative Action Plan are based.

- 1.1.1** The West Virginia Human Rights Act of 1967 as Amended -- It is the public policy of the State of West Virginia to provide all of its citizens equal opportunity for employment, equal access to places of public accommodations, and equal opportunity in the sale, purchase, lease, rental, and financing of housing accommodations of real property. Equal opportunity in the areas of employment of all persons without regard to race, religion, color, national origin, ancestry or blindness. Equal opportunity in housing accommodations of real property is hereby declared to be a human right or civil right of all persons without regard to race, religion, color, national origin, ancestry, or blindness. The denial of these rights to persons by reasons of race, religion, color, national origin, ancestry, sex, age or blindness is contrary to the principles of freedom and quality of opportunity and is destructive to a free and democratic society.

The Commission address is:

Executive Director, West Virginia  
Human Rights Commission  
1321 Plaza East  
Charleston, WV 25311-1400

- 1.1.2** Title VI of Civil Rights Act of 1964 -- prohibits discrimination against students or others on the grounds of race, color, or national origin by all institutions receiving federal monies by grant, loan or contract. Employment policies and practices are exempt. It is administered by the:

Office of Civil Rights  
U.S. Department of Health & Human Services  
Washington, D.C. 20201  
and regional offices

- 1.1.3** Title VII of Civil Rights Act of 1964 as Amended by the Equal Employment opportunity Act of 1972 -- prohibits discrimination in employment (including the hiring, promotions, fringe benefits, training and all other conditions of employment) on the basis of race, color, religion, national origin or sex.

Guidelines in Discrimination Because of Citizenship--Interpretative statements by the Equal Employment Opportunity Commission on November 19, 1973, related to federal regulations (Part 1606 of Chapter XIV, Title 29) and to Supreme Courts decisions, hold that discrimination on the basis of citizenship is not per se national origin discrimination and thus does not violate Title VII of the Civil Rights Act. Guidelines for Making Accommodations of Special Religious Holidays--Recognizing that some employees may observe religious holidays not included on the list of College recognized holidays, the College, in accordance with legal guidelines, will consider such needs by granting reasonable time off to employees as long as it does not cause undue operational problems and hardships within the department.

Time off granted to employees for observance of special days shall be charged to annual leave. The Civil Rights Act of 1964 as amended is administered by the:

Equal Employment Opportunity Commission  
1800 G. Street, N.W.  
Washington, D.C. 20506  
and regional EEOC offices

- 1.1.4** Title IX of the Education Amendments of 1972 (Higher Education Act) -- prohibits sex discrimination against students or others in education programs or activities. Patterned after Title VI of the Civil Rights Act, Title IX states, "No person... shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance." Unlike Title VI, Title IX also covered the employment practices of educational institutions. It is administered by the:

Office of Civil Rights  
Department of Health and Human Services  
Washington, D.C. 20201

- 1.1.5** Executive Order 11246 as Amended by 11375 - prohibits discrimination in employment (including hiring, up-grading, salaries, fringe benefits, training and other conditions of employment) on the basis of race, color, religion, national origin or sex by institutions with federal contracts of over \$10,000.

Executive Order 11246 embodies two concepts: nondiscrimination and affirmative action. Non-discrimination requires the elimination of all existing discriminatory conditions, whether purposeful or inadvertent. A contractor (college or university) must carefully and systematically examine all of its employment policies to be sure they do not, if implemented as stated, operate to the detriment of any persons on grounds of race, color, religion, sex or national origin. A contractor also must ensure that the practices of those responsible in matters of employment, including all supervisors, are non-discriminatory. Affirmative Action requires that a contractor do more than ensure employment neutrality with regard to race, color, religion, sex and national origin. As the phrase implies, affirmative action requires the employer to make additional efforts to recruit, employ and promote qualified members of groups formerly excluded, even if that

exclusion cannot be traced to particular discriminatory actions on the part of the employer. The premise of the affirmative action concept of the Executive Order is that unless positive action is undertaken to overcome the effects of systemic institutional forms of exclusion and discrimination, a benign neutrality in employment practices will tend to perpetrate the status quo indefinitely. The order is administered by the:

Office of Civil Rights  
U.S. Department of Health and Human Services  
Washington, D.C. 20201

Guidelines on Discrimination Because of National Origin implementing the requirements of Executive Order 11246 effective February 20, 1973, require that positive action be taken to ensure equal employment opportunities for members of various religious and ethnic groups primarily, but not exclusively of, Eastern, Middle, and Southern European Ancestry such as Italians, Greeks, Slavs, Jews and Catholics. The guidelines are administered by the:

Director  
Office of Federal Contract  
Compliance for Equal Employment Opportunity  
U.S. Department of Labor  
Washington, D.C. 20201

- 1.1.6** Equal Pay Act of 1963 as Amended by Education Amendment of 1972 (Higher Education Act) -- forbids pay differential on the basis of sex where work is substantially equal in terms of skill, effort and responsibility and is performed under similar working conditions. The Education Amendments of 1972 extended the Equal Pay Act's sex discrimination provision to include executive, administrative and professional workers. Enforcement:

Wage and Hour Division  
Employment Standards Administration  
U.S. Department of Labor  
Washington, D.C. 20201

- 1.1.7** Title VII (Section 799A) and Title VII (Section 845) of the Public Health Service Act -as amended by the Comprehensive Health Manpower Training Act and the Nurse Training Amendments Act of 1971, prohibit (a) sexually discriminatory admission of students to federally assisted health personnel training programs, and (b) sexually discriminatory practices affecting employees who work directly with applicants or students in such programs. It is administered by the:

Office of Civil Rights  
U.S. Department of Health and Human Services  
Washington, D.C. 20201

- 1.1.8** Age Discrimination in Employment Act of 1967 -- prohibits discrimination in advertising, hiring, testing, promotions and all terms and conditions of employment, on the basis of age against anyone at least 40 years old. It is administered by the:

Wage and Hour Division

Employment Standards Administration  
U.S. Department of Labor  
Washington, D.C. 20201

- 1.1.9** Title I of the Americans with Disabilities Act, 42 U.S.C. (Supp. IV 1992) prohibits employment discrimination on the basis of disability. The ADA protects a qualified individual with a disability from discrimination in job application procedures; hiring; advancement; discharge; compensation; job training; and other terms, conditions, and privileges of employment. To be protected by the ADA, a person must meet the definition of the term “qualified individual with a disability” as defined by the Act and implementing regulations.

## **1.2 Equal Opportunity Policy of Southern West Virginia Community and Technical College Employment and Related Functions**

Southern West Virginia Community and Technical College, recognizing that equality of opportunity is a fundamental goal in a democratic society, shares the responsibility for achieving that equality. The College, therefore, commits itself, morally and legally, to take affirmative action to recruit and employ the best qualified faculty and non-faculty candidates and to ensure that all present faculty and non-faculty members receive education, training, compensation, promotion, tenure, transfer and all other benefits of employment without regard to race, color, age, religion, sex, national origin, veterans status or handicap, except where sex is a bonafide occupational qualification.

The Equal Opportunity-Affirmative Action Plan is a reaffirmation of the College's intention to achieve, through good faith efforts and within reasonable time periods, a representation of minorities and women in each major job classification which reflects the current availability and merit of such individual aimed at reducing any under-representation and under-utilization of minorities and applicants for employment at any college location.

In addition, Southern West Virginia Community and Technical College strives to provide educational opportunities for minorities and women in the undergraduate student body which reflects the interest, individual merit and availability of such individuals. The College attempts to ensure equality of opportunity and treatment in all areas related to student admissions, instruction, accommodations, financial assistance programs, employment, placement and other services without regard to race, color, age, religion, sex, national origin, veterans status or handicap.

The College neither affiliates knowingly with nor grants recognition to any individual, group or organization having policies which discriminate on the basis of race, color, age, religion, sex, national origin, veterans status or handicap.

Southern West Virginia Community and Technical College expects its suppliers and contractors to ensure maximum opportunity for the participation of minorities and females. Each contractor is expected to have and follow an affirmative action program that is in accordance with Federal and State regulations.

# AFFIRMATIVE ACTION PLAN

## 1.3 Affirmative Action Plan

In cooperation with the office of the President, the Affirmative Action office has major responsibility for monitoring the effectiveness of the Equal Opportunity - Affirmative Action policies of Southern West Virginia Community and Technical College and ensuring compliance with these provisions.

To accomplish equal opportunity employment at Southern West Virginia Community and Technical College, the following recruitment, selection, hiring and personnel policies and practices shall be adhered to by all employing units.

### 1.3.1 Recruitment and Selection

1. All position vacancies will be reviewed and evaluated by the Human Resources Office and approved by the President's Office prior to recruitment. Affirmative Action Goals and Timetables will be reviewed prior to advertisement.
2. All recruitment literature, letters and position announcements will carry clear statements of the Equal Opportunity Policy and will be distributed to recognized sources of minority groups and women applicants.
3. Job announcements proclaiming Southern West Virginia Community and Technical College as an "Equal Opportunity Employer-Affirmative Action Employer" will be placed in professional journals, newspapers and other media without regard to race, color, age, religion, sex, national origin, or disability specification in listings.
4. Letters of confirmation will be acquired from recruitment sources, i.e., private and public employment agencies, stating that applicants are referred to Southern West Virginia Community and Technical College without regard to race, color, age, religion, sex, national origin, or disability.
5. The Human Resources Office will place all advertisements. Advertisements will stipulate a closing date which allows interested persons adequate time to apply, or state that applications for the vacancy will be accepted until the position is filled. The advertisement must state the minimum requirements for the position and inform applicants of the process by which they may apply.
6. All recruitment literature and announcements covering job openings will be advertised locally in area newspapers and posted with the Job Services Office.
7. The technical and management positions will be advertised in newspapers outside Southern's service area. In addition, administrative and difficult to fill

faculty positions will be advertised nationally (i.e., trade publications or professional journals). All announcements will be forwarded to state employment agencies, higher education institutions and may be forwarded to technical schools, rehabilitation institutes, and/or other organizations.

8. The Director of Human Resources will post position announcements covering all position vacancies for a minimum of five work days for the benefit of Southern West Virginia Community and Technical College employees seeking promotional and transfer opportunities. Current employees who meet minimum qualifications will be given preference over applicants from outside. If the position is filled from within, no advertisement will be placed in the press.
9. Selection decisions will be made and position openings for staff positions will be filled no sooner than seven (7) work days after the opening has been listed on the job announcement bulletin board. Where external and extensive recruitment is involved, a reasonable closing date for the receipt of applications must be determined by the Human Resources Administrator.
10. Management personnel responsible for recruitment are urged to seek assistance of current minority and women staff members in the pursuit of minority and female applicants.
11. Any resumes or applications received by management personnel or others are to be forwarded to the Human Resources Office. All resumes and employment applications are to be properly accepted, recorded, and responded to by Human Resources.
12. Any prospective candidates recruited directly by the employing supervisors must be referred to the Human Resources Office for the appropriate pre-employment evaluations.
13. The hiring practices of the institution are in compliance with Title 133, Series 39 Procedural Rule of the Higher Education Policy Commission, Section 5.1, which states "Pursuant to W. Va. Code 18B-7-1(d), non-exempt classified employees who apply for and meet the minimum qualifications as determined by the institutional human resources director or other designee of the president for a posted non-exempt position within an institution and are currently employed at the institution shall be hired into the posted position prior to hiring someone from outside the institution."

### **1.3.2 Screening, Selection, and Interviewing**

#### **1.3.2(A) The Screening Committee**

1. A screening committee will be used to recommend candidates for interview. The screening committee will be selected by the Human Resources Administrator or

her/his designee.

2. The Human Resources Administrator or her/his designee will pre-screen applications to determine those that meet the minimum qualification for the position. The screening committee will receive only applications for candidates who meet minimum qualifications for the posted job.
3. Every attempt will be made to obtain screening committees made up of persons who have legitimate interests in the position being filled. For example, in the selection of a faculty member, it is important to include on the search committee a number of persons in the discipline subject area. Persons outside the discipline will be included on the committee to the extent that is appropriate.
4. The hiring supervisor will participate on the screening committee to provide technical, job specific, or other information to the committee. If the committee votes in order to nominate finalists, the supervisor shall be included in the voting.
5. Other constituencies may be added to screening committees as needed and appointed by the President (i.e. community representatives, additional faculty and staff, etc.).
6. The President will serve as Screening Committee Chairperson for Vice Presidential searches and participate in the screening process for Associate Vice President vacancies.
7. Key administrative positions (Vice Presidents and Executive Vice Presidents) who report directly to the President, and which are vital to obtainment of the Institutional mission, are employed solely at the will and pleasure of the President. These positions have no policy, nor statutory protections as those provided for faculty and/or classified staff employees. Because of this fragile employment relationship, the President may interview additional qualified candidates chosen from the applicant pool.
8. Listed below is the recommended structure of screening committees. Appointments will include members representing at least three of the four campus locations.

#### **Administrative, Managerial, or Professional Vacancy**

Vice President appointed by President

Associate Vice President Appointed by Executive Vice President

2-3 persons appointed by President or his designee from peers  
and/or college community

1 Faculty member

1 Classified Staff member

Other constituencies as needed (i.e. community members, Board of  
Governors members, additional faculty and staff, etc.)



### **Faculty Vacancy:**

Division Chair (from Division where vacancy exists)

3-4 Faculty from same discipline or division

1 Faculty member at large

1 Classified Staff member

### **Classified Staff Vacancy:**

Immediate Supervisor

3-4 Classified Staff with legitimate interest and/or subject matter  
speciality

1 Faculty member

1 Classified Staff member

### **1.3.2(B) The Screening Process**

1. The Human Resources Administrator or her/his designee will convene the first screening committee meeting to deliver the committee's charge and to provide explanation of the process about to be undertaken.
2. The Human Resources Administrator or her/his designee, will assist the committee in selection of a committee Chairperson. The Chairperson is responsible for following policy, coordinating the application evaluation process, assuring all document and forms are completed and signed by all committee members, and ensuring all folders, applications, resumes, cover letters, transcripts, notes, etc. are given to the hiring supervisor.
3. The screening committee has the responsibility of evaluating applications for the position utilizing the specific requirements of the job announcement. If additional information is needed for screening purposes, the committee refers to the job description provided by Human Resources. When relatively equally qualified women or minority applicants are available, they will be given priority if the institution has determined that women and minorities are underutilized in that job class.
4. A final Narrative Screening Committee Report signed by each member of the screening committee shall be submitted to the hiring supervisor with all applications received. The report shall contain the committee's recommendation of qualified applicants to be interviewed by the supervisor. The screening committee will recommend 2 to 3 names to the hiring supervisor. A detailed reason why the candidates were selected for interview must be included on the form.
5. When relatively equally qualified women or minority applicants are available, they will be given priority.
6. All persons recommended by the screening committee for clerical/secretarial position

vacancies must be tested. (See 1.3.3) The hiring supervisor must complete the Request for Testing Form and forward to Human Resources before candidates are called for interviews.

7. Records of selection decisions and actions will be kept a minimum of two years by the Human Resources Department.

### **1.3.2(C) Interviewing and Hiring**

1. The hiring supervisor will interview the candidates recommended by the screening committee. The hiring supervisor has the option to ask the screening committee to participate in the interviews. No offers of employment will be extended by the hiring supervisor.
2. The supervisor will recommend the top candidates to the Vice President for his/her respective area. If the applicant referred by the supervisor proves unsuitable, the Vice President may request to review the applications of other qualified candidates from the application pool.

If additional applicants are not available, or also prove unsuitable, the supervisor and/or Vice President may initiate a new search. If approved, a new "Request to Advertise for Personnel" must be completed, approved, and submitted to Human Resources.

3. The Vice President has the option to either interview the candidates, or to review the screening committee's report, interview assessment of the supervisor, reference evaluations, etc. and recommend the candidate of choice to the President. The recommendation will be made using a "Request for Personnel Action/Appointment" form.
4. Prior to the employment offer being made, the President may choose to meet with the candidate of choice. If the recommended candidates prove unsuitable, the President may initiate a new search.

Upon the President's approval of the Request for Personnel Action Form, Human Resources will contact the candidate and make the offer for employment. Offers for employment may only be made by a representative of Human Resources.

### **1.3.3 Pre-Employment Testing**

1. Standardized and college job-related tests will be administered by the Human Resources Office to provide an indication of an applicant's potential. Test scores serve as only one component of the total selection assessment process.

2. Pre-employment testing, when applicable, will be administered for applicants who have been selected for interview by the screening committee.
3. Tests shall be administered only by the Human Resources Office to ensure that the scores and other indices are professionally interpreted and applied in accordance with legal requirements. No pre-employment test may be given by any other unit of the College.
4. Any minimum test score requirements are specified in the job description. There shall be no passing or failing grades assigned on any pre-employment test unless scores are specified in the job description.

#### **1.3.4 Reference Evaluation**

Oral, written, or telephone reference checks concerning an applicant shall be made with former employers, schools, and others before recommendation of a candidate is made to the Vice President for approval. Reference evaluations must be done prior to making an offer of employment. Reference evaluations are conducted by the hiring supervisor. The supervisor may request technical assistance in conducting reference evaluations from the Human Resources Office. Reference evaluations are to be documented in writing and submitted to the Human Resources Office with the Narrative Screening Committee Report.

References can be checked before or after the interviews take place. A reference evaluation must be conducted on the candidate of choice.

#### **1.3.5 Placement, Referrals, and Selection Standards**

1. Referrals must be forwarded to the Human Resources Office for assessment. Human Resources will consider referrals based on individual ability, background, experience, and the extent to which the person meets the specific requirements of the job.
2. The Human Resources Office shall use a qualitative and quantitative assessment approach in evaluating applicants. No single evaluative factor can be decisive in determining the suitability of candidates for referral to employing College supervisors.
3. All selection and promotion decisions shall be based solely upon an individual's qualifications for the position and/or West Virginia Code § 18B-7-1(d).
4. Selection standards for the recruitment and selection of faculty shall include, but not be limited to, educational attainment, scholarly achievements, experience, leadership and management ability where appropriate, technological ability and other related criteria.

5. Selection qualifications for classified positions shall be established in the appropriate job announcement and the job description for each position. Job descriptions shall be reviewed prior to advertising a vacant position and/or annually for all positions.
6. When an offer of employment is made and two or more candidates possess relatively equal qualifications, the person who will contribute most to achieving Affirmative Action objectives will be hired.

### **1.3.7 Promotion Criteria**

1. Faculty promotion criteria shall include, but not be limited to, effectiveness and excellence in teaching, scholarship, service, professional stature, and other criteria established by the institutional Board of Governors and/or the Higher Education Policy Commission. (Consult the Southern College Policy (SCP) Manual and West Virginia Higher Education Policy Commission Procedural Rule Series 9).
2. Criteria for promotion or merit salary increases for classified staff are available in accordance with the West Virginia Higher Education Policy Commission Procedural Rule Series 8.
3. In no case will promotion be denied or granted because of race, sex, age, color, religion, national origin, veteran's status, or handicap.

### **1.3.8 Equal Pay for Equal Work**

Employees performing essentially equal work shall receive equal treatment regarding pay and other compensation. Salaries shall not differ because of race, sex, age, color, religion, national origin, veteran's status, or handicap.

To promote salary equity in all staff (non-teaching) ranks and job classifications, the Human Resources Administrator and the Affirmative Action Officer shall:

1. Continue to develop and revise job specifications that are strictly job-related and clearly define all the major duties and responsibilities of the job;
2. Maintain a manual accessible to all job applicants and employees listing all job classifications and performance specifications;
3. Develop and evaluate all position descriptions and job specifications for new positions before an opening is posted; and
4. Consult with Wage and Hour office of the U.S. Department of Labor to ensure that the requirements of the Equal Pay Act of the Fair Labor Standards Act are met.

### **1.3.9 Other Continuing Goals**

Southern West Virginia Community and Technical College shall strive to increase the participation of minorities and women at all levels of the college's governance structure. Attention is given to affirmative action in the appointment or recommendation of employees to committees within Southern's governance structure, as well as statewide or community representation by Southern employees.

#### **1.3.10 Employee Performance Rating Program**

At least once annually, a supervisor will review with each subordinate his or her job description and select key result areas on which the employee's performance is appraised.

Performance evaluation results for each employee will be used by the supervisor for job performance; counseling; transfer; promotion; and discharge recommendations; employee training and development; and in ways that will maximize employee potential. The original evaluation form will be sent to the Human Resources Office for placement in individual personnel files.

### **1.4 Equal Opportunity for Students**

#### **1.4.1 Student Admission**

1. Special efforts are being continued to recruit minorities, particularly Black Americans.
2. All persons involved in reviewing student applications are kept aware of the College's equal opportunity policies regarding admissions and those admission regulations in Title IX of the Education Amendments of 1972 and in Title VII (Section 799A) and Title VIII (Section 845) of the Public Health Service Act which prohibits discrimination in admissions based on sex.
3. The College's Equal opportunity policy is emphasized in all information and publications sent to prospective students.
4. In so far as possible, any admission committees shall include minority and women faculty.
5. All students are advised that the full range of opportunities at Southern is open to them without regard to race, sex, age, color, religion, national origin, veteran's status, or handicap.
6. A range of counseling services is available through the Student Services Counseling Program.

#### **1.4.2 Student Financial Assistance**

1. All financial aid, i.e., scholarships, fellowships, work study programs, field experience programs, and similar intern or practitioner training arrangements, is provided on an equal opportunity basis.
2. Eligible minority and women students are encouraged to participate in scholarship, loan, and work study programs as appropriate.

#### **1.4.3 Student Support Services**

1. The College continues to encourage minority and women faculty, staff and students provide supportive services for minority and women students by serving as advisors, tutors, and informal resource personnel.
2. The College appoints minorities and women to the Student Services staff who are sensitive to the needs and problems of minorities and women.

#### **1.4.4 Student Employment Services on Campus**

1. All students are considered for employment on campus without regard to race, sex, age, color, religion, national origin, veteran's status, or handicap and in a manner prescribed in the Affirmative Action Plan for non-teaching staff.

### **1.5 Other Affirmative Action Imperatives: Faculty and Non-Faculty**

1. The College repudiates persons discriminating against others for any of the following and similar reasons when used as a basis for rejecting appointment, promotion and/or increased compensation:
  - a. The use of general assumptions of comparative employment characteristics, e.g., women have higher turnover rates than men," "men do not do well in clerical jobs," "men have small parental responsibilities," "women cannot supervise men (or women)."
  - b. The use of stereotyped characterizations of minorities and sexes, e.g., "women do better in clerical or intricate-type work activities," or "women have much higher rates of work absences.
2. The College accepts women applicants for all jobs. Jobs that involve lifting, night work, hazardous activity, or similar type work activity are not restricted to any gender. Gender may only be considered when sex is clearly a bonafide occupational qualification and is documented in the job description.
3. The College provides equal treatment of sexes and minorities in respect to fringe benefits.

4. All training and leave opportunities for education and development of personnel are made available on an equal opportunity basis.
5. All leave policies are equitably administered according to established policies in West Virginia Higher Education Policy Commission Procedural Rule Series 38.

## **1.6 Amending Procedures**

Any amendments and changes to the Equal Employment Opportunity Policy and the Affirmative Action Plan may be proposed to the President by administrative management, faculty, staff, and students. Amendments and changes also may be recommended in accordance with Executive Order 11246 by the Chief, Contract Compliance Branch, Office of Civil Rights, U.S. Department of Health and Human Services.

## **1.7 Noncompliance**

It is understood that each College unit shall be in violation of both federal and state laws if its responsible academic, administrative, and staff members fail to carry out the provisions of the program.

## **1.8 Penalties and Discipline**

Any College employee found to be engaging in discriminatory practices against other employees or applicants shall be subject to disciplinary action as outlined in the Faculty Handbook, Classified Employees Handbook, and/or the Southern College Policy (SCP) Manual.

## **1.9 Complaint Procedure**

Any employee or student who believes that the College's stated policy of nondiscrimination has been violated, can seek redress through College grievance procedures for employees or students. For employees, these procedures are contained in W.Va. Code §29.6A, etal. For students, grievance procedures are contained in the College Catalog.

If the employee or student remains dissatisfied with the decision of the Hearing Evaluator, he or she may contact the specific agencies responsible for enforcing the particular equal rights law or regulation in question. The relevant agencies and their addresses are listed in this Affirmative Action Plan.

### **1.9.1 Appeal Procedures for Applicants**

1. Any College job applicant or candidate who has a question or complaint about

equal employment rights should write to the Human Resources Administrator. The Human Resources Administrator will conduct an investigation, review the appropriate documentation, and develop a recommendation regarding the complaint for the President's review.

2. The President will respond to the complaint. If the individual does not accept the decision of the President, he/she may contact the specific agencies responsible for enforcing the particular equal rights law or regulation in question.



## **2.0 Dissemination of the Equal Employment Opportunity Policy and Affirmative Action Policy**

### **2.1 Internal Dissemination of Policy and Procedure Statements**

**2.1.1** A copy of the Southern West Virginia Community and Technical College Equal Opportunity Policy and Affirmative Action Plan is available in the Library at each campus location, the office of the Campus Manager on the Logan and Williamson Campus, in the office of the Director of the Boone/Lincoln and Wyoming/McDowell Campuses, in the President's office and the Human Resources Office. Copies of the plan are distributed to all supervisory employees. An electronic copy of the plan will be available on the college's web sit at <http://www.southernwv.edu/jobs>.

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**2.1.2** The President appoints an Equal Opportunity-Affirmative Action Committee to examine the program for effectiveness and compliance and to recommend to the President amendments in the Affirmative Action Plan. The College-wide Executive Council is the Equal Opportunity-Affirmative Action Committee.

**2.1.3** The President holds regular meetings with the President's Cabinet to review the Southern West Virginia Community and Technical College Equal Opportunity-Affirmative Action Plan. Cabinet members, in turn, meet with management employees and those responsible for employment decisions to insure full understanding of the Southern West Virginia Community and Technical College Equal Opportunity-Affirmative Action Plan, as well as of the specific requirements of Executive Order 11346 and other State and Federal regulations.

**2.1.4** Human Resources Conducts training for management personnel on the Equal Opportunity Affirmative Action Plan and hiring practices.

**2.1.5** Southern West Virginia Community and Technical College publishes information about its Equal Opportunity-Affirmative Action Plan in student and employee related publications.

**2.1.6** Employee organizations, the Southern West Virginia Community and Technical College Staff and Faculty Councils and other employee organizations are kept informed of their responsibility to adopt and practice nondiscrimination policies as prescribed by law. The Vice President for Finance reviews contractual and governing provisions to ensure they are nondiscriminatory and that a nondiscrimination clause is included in all agreements.

### **2.2 External Dissemination of Policy and Procedure Statements**

- 2.2.1** Building contractors, and subcontractors and unions providing manpower for all contracted Southern West Virginia Community and Technical College construction work are informed of their obligations to adhere to the principles of nondiscrimination and equal employment opportunity as prescribed by law.
- 2.2.2** The West Virginia State Division of Purchasing notifies vendors and prospective vendors of products and services to Southern West Virginia Community and Technical College of the Equal Opportunity-Affirmative Action Plan and that such vendors are required to adhere to the policies and practices of nondiscrimination and equal employment opportunity.
- 2.2.3** Prospective employees are informed of the Southern West Virginia Community and Technical College Equal Opportunity-Affirmative Action Plan by a statement of the policy and Affirmative Action Plan by which is stated on each Application for Employment.

## **3.0 Responsibility for Implementation**

### **3.1 Policy**

The responsibility for ensuring equal employment opportunity within the entire College organization rests with the President as the chief executive officer and on her/ his cabinet, the associate vice presidents and/or directors of all campuses, centers, and departments.

#### **3.1.1 Chief Equal Opportunity Officer**

The President of the College is the College's Equal Employment Opportunity Officer. The President is responsible for ensuring the establishment, maintenance, coordination, and implementation of a positive, continuing program to promote equal employment opportunities throughout the entire College organization. The President is also responsible for compliance with the requirements of Title IX of the Education Amendments of 1972.

The President and the President's Cabinet:

1. Provide the leadership and support of the cause of affirmative action throughout the college, community and elsewhere.
2. Evaluate the progress of all groups, departments and units in implementing the Affirmative Action Plan in meeting goals and timetables.
3. Maintain an active and effective Equal Opportunity Affirmative Action Committee to assist in the revision, updating, and monitoring of the Affirmative Action Plan.
4. Conduct affirmative action meetings with the President's Cabinet as required.
5. Review the actions, periodic reports, and affirmative action recommendations prepared by the Human Resources Administrator.
6. Monitor the appointment, promotion, tenure, transfer and termination recommendations made by employing management personnel to ensure compliance with the Affirmative Action Plan.
7. Ensure cabinet members evaluate management personnel in part on the basis of their equal employment opportunity efforts and results.

#### **3.1.2 Special Assistants**

Persons designated by the President from time to time shall assist her/him in discharging responsibilities as the Chief Equal Opportunity Officer.

### **3.1.3 President's Cabinet, Division Chairs, Directors, and Area Heads**

Each Cabinet member, division chair, director, area head, and any other individual supervisory authority has the immediate responsibility of carrying out the Affirmative Action Plan in their areas of responsibility.

### **3.1.4 Affirmative Action Officer**

The Affirmative Action Officer is designated by the President to assist primarily in developing, implementing and maintaining the College's Policy of equal employment opportunity and monitoring the procedures which constitute the Affirmative Action Plan.

The Affirmative Action Officer:

1. Provides assistance to all employing officers in implementing the Affirmative Action Plan and in appraising the effectiveness of the programs;
2. Maintains effective liaison with civil rights groups, community groups, and organizations and communicates to them the College's Affirmative Action Plan and its progress;
3. Audits periodically the Southern West Virginia Community and Technical College job profile and employment, promotion, and training practices as they relate to equal employment opportunity.
4. Provides supervisory and managerial personnel with resource materials to assist in the development of training programs.
5. Assists employees in developing their potential through the career counseling programs; and
6. Assists in the distribution and communication of the Equal Employment Opportunity Policy and Affirmative Action Plan and is responsible for posting nondiscrimination posters as required.

## **3.2 Equal Opportunity Affirmative Action Committee**

### **3.2.1 Structure**

The Executive Council is designated by the President as the Equal Opportunity-- Affirmative Action Committee. The Committee consists of members of the administration, staff, faculty, and non classified employees.

### 3.2.2 Charge and Organization Chart

In carrying out its charge of recommending to the President policies and procedures which will further Southern's commitment to equal opportunity employment and education, the Committee:

1. Studies federal and state laws and regulations and amendments governing equal employment opportunity;
2. Attends special affirmative action seminars and meetings;
3. Reviews proposed changes in College policies and procedures recommended by the Cabinet, directors, unit heads, women and minority groups, employee organizations, and others;
4. Reviews compliance audits conducted by federal and state compliance officers;
5. Monitors, audits, and coordinates the College's Affirmative Action Plan;
6. Provides technical assistance in developing goals, timetables, and other responsibilities as requested;
7. Guides faculty and staff employees in bringing complaints into the established college complaint process,
8. Advises the President on the College's compliance with the regulation of Title IX of the Education Amendments of 1972; and
9. Performs other duties as assigned.

## **4.0 Work Force Analysis of Minority and Women Employees**

### **4.1 Work Force Analysis**

- 4.1.1** The Work force analysis includes all personnel on the Southern West Virginia Community and Technical College payroll as of June 2016. Information on sex, race, and/or ethnic background is reported for all individuals.

## **5.0 Utilization Analysis and Goals and Timetables**

### **5.1 Utilization Analysis: Faculty**

#### **5.1.1 Estimation of Labor Pool Parameters: Sex Distribution**

Southern West Virginia Community and Technical College looks to the national pool of qualified individuals in making faculty appointments. Publications consulted: 1990 Special Occupation Tabulation from the U.S. Census Bureau. The Census Occupation Codes listed (from 113-154) are under the subheading "Teachers, Postsecondary" so these statistics include a mix of faculty, some of whom hold doctoral degrees and some who hold masters. Since the size of the faculty were grouped by division and utilization was determined for sex and racial characteristics for the entire division, a grouping by discipline would be virtually useless as most disciplines employ few faculty members.

In so far as possible, the College has attempted to extrapolate sex and racial characteristics for individuals holding a master's degree in so much as this is the minimum degree usually required for appointment to faculty positions at Southern. Occupational program faculty requirements may substitute relevant experience in lieu of a master's degree or less.

### **5.2 Utilization Analysis: Non-faculty**

Southern West Virginia Community and Technical College recruits employees from a wide variety of labor markets depending upon the job classification involved. The labor market areas range from the Logan, Mingo, Boone, Wyoming, Cabell, and Kanawha counties in West Virginia areas to regional areas of varying size and, in some cases, to national markets.

Southern West Virginia Community and Technical College has utilized the 2001 state and county census data to analyze the sex and race characteristics of the labor market. (West Virginia Bureau of Employment Programs. Affirmative-Action Information 2001.

### **5.3 Goals and Timetables**

**5.3.1** Southern West Virginia Community and Technical College pledges every good faith effort to achieve prompt and full utilization of minorities and women in job categories and areas where the analysis presented in Section 4.0 indicates under-utilization.

**5.3.2** Goals and timetables to remedy underutilization of minorities and women are set forth in Tables 5.1, 5.2 and 5.4. When positions are advertised, females and minorities are encouraged to apply.

**5.3.3** The Affirmative Action Plan provides for technical assistance, support services and

monitoring and audit procedures designed to aid employing supervisors in achieving the goals of the plan.

Although underutilization appears in the Health professions (one minority female), service maintenance (seven white females), and professional non-faculty (two minority females). Although we have under utilization, the opportunity for hiring in these areas is expected to diminish due to a state mandated 3.4% budget cut for fiscal year 2002- 2003, and anticipated budget cuts and increased insurance costs for 2003-2004.

Given these restraints, any opportunity for hiring or replacing current staff will be contingent on available funds. Southern West Virginia Community and Technical College will make conscientious efforts to recruit qualified minority and females for every position filled during the life of this plan.

- 5.3.4** The goals and timetables will be reviewed annually and revised to fit more accurate analysis of the potential work forces, applicant flow and turnover rates.



## **6.0 Analysis of Problem Areas**

### **6.1 Key Areas of Underutilization**

Minority groups are underutilized in:

- I. Faculty - Departments  
Underutilized by one minority female in health professions..
  
- II. Non-Instructional Units  
Underutilized by two minority females in professional non-faulty and seven white females in service maintenance.

### **6.2 Recruiting Problems**

Because of the College's limited ability to establish competitive salary levels, the College continues to experience difficulty in attracting minority candidates for all positions.

The College will exert maximum good faith efforts to identify and appoint minority group faculty members, especially blacks, to faculty positions. Experiences in recent years, however, are not encouraging. Recruiting and retaining minority faculty members will be an exceedingly difficult goal to reach.

The lack of suitable affordable housing has been a problem in recruiting women and minorities from outside the local area. The lack of diversity in the communities of our service area affects the institutions ability to recruit and retain minority faculty and staff. Lack of available jobs for spouses also has an inhibiting effect on recruiting minority professionals. Although making improvement, historic poor quality of the secondary education system in the colleges service district has been a detriment to recruiting minorities with children.

The entry salaries on the salary schedule for our state mandated classification system are extremely low. The College has experienced denial of job offers to candidates who are currently on public assistance due to the fact that the net take home and benefit package offered was less than they received on public assistance.

The existence of minorities with appropriate qualifications in our immediate labor pool is limited.

## **7.0 Development and Execution of the Equal Opportunity Policy and Affirmative Action Plan**

### **7.1 Job Description Analysis**

- 7.1.1** The Affirmative Action Officer and Human Resources Administrator in cooperation with vice presidents, directors, and supervisors conduct annual detailed analysis of specific non-faculty positions and recommends to the President's Office any indicated changes in position classification.
- 7.1.2** The President's Cabinet is responsible for accurately describing all professional and faculty positions in a way that educational and experimental qualifications do not arbitrarily discriminate against minority groups of women.

### **7.2 Positive Action to Insure Equal Opportunity and Nondiscrimination**

1. The President is responsible for ensuring that the staff of the Office of Human Resources is soundly trained in the principles of personnel management, thoroughly conversant with the requirements of the Equal Employment Opportunity Policy and Affirmative Action Plan, and is sensitive to the particular problems of minority groups and women.
2. Pre-employment tests, if any, are administered and interpreted only by the Human Resources Office. The tests given are constantly reviewed to determine their validity as true measures of entrance qualifications, as well as to determine whether such tests systematically exclude particular minority groups of women.
3. The Human Resources Administrator is responsible for seeking job referrals for non-faculty jobs from the State and Federal Employment Services and minority groups and women applicants.
4. The Affirmative Action officer is responsible for ensuring that the staff of the office of Human Resources, as well as staff in other sensitive areas, include members of minority groups and women.
5. The Vice President for Student Services is responsible for making special efforts to bring minority students and women students into the undergraduate student bodies, as well as to ensure that student selection procedures do not discriminate by reason of race, sex, color, etc.
6. The Vice President for Student Services maintain advising and counseling services that pay particular attention to the problems of minority students and women.

7. The Executive Vice President Chief Academic Officer is responsible for ensuring that minority and women faculty members are given equal opportunity and consideration for promotion. The Division Chairpersons are responsible for developing professional evaluations of the performance of faculty members and counseling with faculty members on probationary appointment regarding the evaluations in order to aid their career development. Particular attention is paid to evaluation and counseling minority and women faculty members.
8. The Human Resources Administrator is responsible for ensuring that minority and women non-faculty employees are given equal opportunity for promotion. Job openings are posted in a location available to all employees. The Human Resources Administrator makes available career development counseling, especially for minority and women employees. Career Counseling is also available through the office of the Career Development Director.

## **8.0 Internal Audit and Reporting Systems**

### **8.1 Reports**

The Affirmative Action Officer (AAO) is responsible for monitoring and auditing the Equal opportunity Policy and Affirmative Action Plan. The AAO conducts periodic review and evaluation sessions with management personnel to ensure that these policies and programs are being carried out.

- 8.1.1** The Human Resources Administrator prepares for the College bi-annual Higher Education Staff Information Report, (formerly EEO-6), which is filed through the Integrated Post Secondary Data System (IPEDS) with the Equal Employment Opportunity Commission in Washington, D.C., as required by law.
- 8.1.2** Each division chairperson is required to give particular attention to the Affirmative Action Plan when making recommendations for promotion and tenure.

### **8.2 Audits**

- 8.2.1** The President's Office reviews the annual salary analysis as an audit of nondiscrimination in the college salary structure.
- 8.2.2** The President's Office makes occasional intensive audits of sensitive areas or of areas where questions have been raised through other reports and audit procedures. If necessary, a special committee may be appointed to review the employment practices of a college unit or department.

## **9.0 Equal Employment Opportunity-and Affirmative Action Plan Sex Discrimination Guidelines, Job Policies and Practices**

Southern West Virginia Community and Technical College does not discriminate against employees on the basis of sex. In accordance with Executive Order 11375 and Title IX, the College provides equal employment opportunity for any available job that a person is qualified to perform regardless of sex.

No distinction based on sex is made regarding wages, insurance, pensions and similar fringe benefits. Women are not denied the right of employment on the basis of the number of hours required for a job, the stipulated time of employment, and the nature of the job. Marital status is not a factor in the employment and advancement of either men or women.

Women are not penalized in their conditions of employment because they require time away from work due to pregnancy. See Procedural Rule, Higher Education Policy Commission, Series 38 on Employee Leave, under Section 5.9. The policy states "Disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth and recovery therefrom shall be, for all job-related purposes, temporary disabilities and shall be treated the same as any other illness or disability would be treated for sick leave entitlement. For this reason, employees shall be entitled to sick leave for their disabilities related to pregnancy or childbirth on the same terms and conditions as they or other employees would be entitled for other illnesses and disabilities." The same criteria shall be used in the case of another type of off-the-job illness or disability.

When accumulated sick leave is exhausted, the employee may elect, if necessary, to use accumulated annual leave, apply for catastrophic leave benefits, or take a leave of absence without pay and be reinstated in the same or an equivalent job upon returning to work. A leave of absence without pay will be granted automatically when all sick leave has been consumed and the employee's attending physician certifies that a disability exists.

Parental Leave or Family Medical Leave benefits will be granted as required by procedural rule, state, and/or federal statute.

There is no stated or implied rule against the consideration of more than one member of the same family for employment within the same unit of the college which would tend to limit opportunities available to women more than to men. In accordance with the policy statement of the American Association of University Professors on "Faculty Appointment and Family Relationships," faculty members should neither initiate or participate in institutional decisions involving a direct benefit (i.e. leave of absence) to members of their immediate families. A spouse may not supervise or evaluate a spouse or other relative defined as a child, brother, sister, mother, father, mother-in-law, father-in-law, uncle, aunt, or first or second cousin, nephew or niece.

Nothing in these guidelines is to be interpreted to mean that differences in capabilities for job assignments do not exist among individuals and that such distinctions may not be recognized by the employer in making specific assignments. The purpose of these guidelines is to ensure that such distinctions are not based arbitrarily upon the sex of the employee or applicant.

# **10.0 Revised Affirmative Action Regulations for Employment and Advancement of the Disabled**

## Definitions

"Acts" mean the Rehabilitation Act of 1973, Public Law 93-112, as amended by the Rehabilitation Act Amendments of 1974, Public Law 93-516; Sections 503 and 504 and the Americans With Disabilities Act of 1990.

"Affirmative action clause" means the contract provisions set forth in 60-741.3 of Supplement X of the Federal Regulations and Employment Practices of Colleges and Universities.

"Agency" means any contracting and/or compliance agency of the government.

"Person" means any natural persons corporation, partnership or joint venture, unincorporated association, state or local government, and any agency, instrumentality or subdivision of such a government.

"Qualified disabled individual" means a disabled individual as defined in 60-741.2 of Supplement X of the Federal Regulations and Employment Practices of Colleges and Universities who is capable of performing a particular job, with reasonable accommodation to his or her disability.

Additionally, "Disability" means, with respect to an individual --

1. a physical or mental impairment that substantially limits one or more of the major life activities of such individual;
2. a record of such an impairment; or
3. being regarded as having such an impairment.

"Recruiting and training agency" means any person who refers workers to any contractor or subcontractor, or who provides and supervises apprenticeship or training for employment by any contractor or subcontractor.

"Secretary" means the Secretary of Labor, U.S. Department of Labor.

## **10.1 Purpose**

To Affirm the College's previous commitment to the principles of equal employment opportunity for the disabled and to set forth the required action to be taken by the College and its managers in implementing it's affirmative action goals.

The College will focus its major concern and action in providing equal opportunities to all qualified persons with severe disabilities who retain sufficient work capacity to be occupationally productive and contributive to the goals of the College.

## **10.2 Legal Basis**

**10.2.1** In accordance with Public Law 93-516, as amended, and otherwise known as the Rehabilitation Act of 1973 and The Americans with Disabilities Act, the College, as a government contractor, agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled individuals without discrimination based upon their mental or physical impairments in all employment practices such as the following: employment; upgrading; demotion and transfer; recruitment and advertising; layoff or termination; rates of pay and other forms of compensation; and selection for training including outreach and position recruitment programs.

### **10.2.2 Nondiscrimination Under Federal Grants**

No otherwise qualified individual in the United States, as defined herein, shall solely, by reason of his or her impairments, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

## **10.3 Legal Definition of Disabled Individual**

**10.3.1** The regulations define the term disabled individual as any person who:

1. Has a physical or mental impairments which substantially limits one or more of such person's major life activities (life activities may be considered to include communication, ambulation, self care, socialization, education, vocational training, employment, transportation, adaptation to housing. However, under the Acts, primary attention is given to those life activities that affect employability.
2. Has a record of such impairments meaning that an individual may be completely recovered from a previous physical or mental impairment(s); or
3. Is regarded as having such impairments referring to those individuals who are perceived as having a disability whether an impairment exists or not but who, because of attitudes or for any other reason, are regarded as disabled.

**10.3.2** A disabled individual is substantially limited if he or she is likely to experience difficulty in securing, retaining, or advancing in employment because of a disability.

**10.3.3** Based on the definition herein, the disabled applicant, as with all applicants, must possess sufficient work capacity to match the essential job functions and requirements consistent with his or her interests, capabilities and limitations.



**10.3.4** In terms of employment selection or promotion, a qualified disabled individual means a disabled individual who is capable of performing a particular job with reasonable accommodation to his or her disability.

#### **10.4 Southern West Virginia Community and Technical College Affirmative Action Clause for the Employment of the Disabled**

Southern West Virginia Community and Technical College will include the following affirmative action clause in each of its covered government subcontracts (and modifications, renewals or extension thereof if not included in the original contract).

##### Affirmative Action for Disabled Workers

1. The College will not discriminate against any employee or applicant for employment because of physical or mental disabilities in regard to any position for which the employee or applicant for employment is qualified. The College agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled individuals without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.
2. The College agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Acts.
3. In the event of the College's noncompliance with the requirements of the clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Acts.
4. The College agrees to post in conspicuous places, available to employees and applicants for employment, notice in a form to be prescribed by the Director of the Office of Federal Contract Compliance Programs of the U.S. Department of Labor. Such notices will state the College's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.

#### **10.5 Applicability of the Affirmative Action Program Requirement**

**10.5.1** The Affirmative Action Program will be reviewed and updated periodically. If there are any significant changes in procedures, rights, or benefits as a result of the updating, those changes will be communicated to employees and applicants for employment.

**10.5.2** Disabled identity. Contractor Liability and Inspection of Affirmative Action Plan.

1. The College will invite all applicants and employees who believe themselves covered by the Acts and who wish to benefit under the affirmative action program to identify themselves. This invitation will state that the information is voluntarily provided, that it will be kept confidential, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with the Acts and its regulations. If an applicant or employee so identifies himself or herself, the College would also seek the advice of the applicant or employee regarding proper placement and appropriate recommendation. An acceptable approach for such an invitation is set forth in Appendix B of the regulations. (For the full text of appendix B, see Supplement X (SPP-AFF-5-d) in the Federal Regulations and Employment Practices of Colleges and Universities.) Persons who believe themselves to be disabled within the meaning of the law or who are uncertain about their coverage may voluntarily contact the office of Human Resources. This contact will be kept confidential.
2. An employee may inform the College at any time of his or her desire to benefit under the program.
3. The College is obligated to take affirmative action with respect to those applicants or employees about whose disability it has actual knowledge, although the college is not obligated to search the medical files of any applicant or employee to determine the existence of a disability.
4. The full affirmative action program will be available for inspection by any employee or applicant for employment upon request. The program generally is available at the Human Resources Office and in the office of the appropriate campus director or manager from 8:00 am to noon and from 1:00 to 4:30 p.m. Monday through Friday.

## **10.6 Affirmative Action Policy Practices and Procedures**

### **10.6.1 General Requirements**

The College, as a government contractor, will take affirmative action to employ and advance in employment qualified disabled individuals at all levels of employment including, but not limited to, the following: hiring, upgrading, promotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.

### **10.6.2 Recruitment Procedures**

The College will continue to enlist the assistance and support of all recruitment sources including the state employment services rehabilitation agencies, professional association, and educational facilities serving disabled individuals.

### **10.6.3 Job Posting**

1. Nonfaculty - The College will continue to list its nonfaculty job vacancies internally and with local and state employment offices and rehabilitation agencies. The Vice President for students will ensure that disabled student worker applicants are given an equal opportunity to be placed in unclassified part-time student jobs which are not centrally administered by the Office of Human Resources.
2. Faculty - The Human Resources Administrator will ensure that appropriate recruiting sources are contacted to reach qualified persons and academic associations comprised of persons with varying degrees of impairments.
3. The College will continue its contacts with social, professional, veterans, and disabled organizations for such purposes as advice, technical assistance, and referral of potential employees.

### **10.6.4 Reemployment Preference to Employees Who Become Disabled On-the Job or off-the Job Illness or Injuries**

Present employees or former employees returning from a medical leave of absence with a work disability will be given preference for re-employment consideration in other College position openings consistent with their capabilities and limitations provided they meet the minimum qualifications to perform the duties of the new position.

### **10.6.5 Promotion Opportunities**

The College will encourage disabled persons already employed to seek promotional opportunities through the established open promotion system. The College will consider qualified disabled persons for employment or promotion without regard to physical or mental impairment(s) that do not or will not affect their employability in suitable jobs.

### **10.6.6 Proper Consideration of Qualifications**

The College will review its personnel processes to determine whether present procedures assure careful, thorough, and systematic consideration of the job qualifications of known disabled applicants and employees for job vacancies filled either by hiring or promotion and for all training opportunities offered or available. To the extent that it is necessary to modify personnel procedures, the College will include the development of new procedures for this purpose in its affirmative action program. These procedures must be designed so as to facilitate a review of the implementation of this requirement by the College or the Government. The following is a set of procedures which the College will use to meet the above requirements:

1. The application or personnel form of each known disabled applicant will be annotated to identify each vacancy for which the applicant was considered. The form must be quickly retrievable for review by the Department of Labor and College officials for use in investigations and internal compliance activities for a period of two years.
2. The personnel or application records of each known disabled employee will include:
  - a. The identification of each promotion for which the disabled employee was considered, and
  - b. The identification of each training program for which the disabled employee was considered.
3. In each case where a disabled employee or applicant is rejected for employment, promotion, or training, a statement of the reasons will be appended to the personnel file or application form. This statement will include a comparison of the qualifications of the disabled applicant or employee and the person selected, as well as a description of the accommodations considered. This statement will be available to the applicant or employee concerned upon request.
4. Where applicants or employees are selected for hire, promotion, or training and the College undertakes any accommodation which makes it possible to place a disabled individual on the job, the application form or personnel record will contain a description of that accommodation.

#### **10.6.7 Physical and Mental Qualifications**

1. The College will adhere to a schedule for the review of all physical or mental job qualification requirements to ensure that, to the extent qualification requirements tend to screen out qualified disabled individuals, they are job-related and consistent with business necessity and safe performance of the job.
  - a. Nonfaculty - For nonfaculty positions, the office of Human Resources, through its job evaluation program and in conjunction with hiring authorities, will justify every physical qualification in each position for which the disabled person is being considered.
  - b. Faculty - The Division Chairperson, in conjunction with the Affirmative Action Officer and Human Resources Administrator, will mutually determine the physical qualification standard for each academic position.
2. Evaluation of Applicants for Employment and Employees Being Considered for Promotion

In the screening of all applicants and promotional candidates, all job qualification requirements must be job-related and all information obtained from medical examination required of all applicants and pre-employment inquiries must be used in accordance with only job-related standards.

3. Documentation of Actions

Each recommending officer will document job-related reasons for eliminating any qualified disabled person for employment or advancement consistent with reasons of business necessity and safe performance of the job. Employing supervisors must forward the nonfaculty rejection documentation memorandum to the Affirmative Action officer, with a copy to the Human Resources Administrator. Copies of documentation memoranda pertaining to faculty should also be forwarded to the responsible Division Chairperson.

4. Confidential Use of Medical Examination Information

- a. In the absence of a re-employment physical examination program, supervisors and managers are urged to obtain information on applicants and employees from their local physician or other medical authorities regarding any functional limitations or restrictions on the work or duties of disabled individuals. In all instances where medical information requested by supervisors and managers, an authorization for release of such information will be obtained from the applicant or employee.
- b. First aid and safety personnel will be informed, where and to the extent appropriate, if the condition might require emergency treatment.
- c. Government officials investigating compliance with the Acts will be informed.

**10.6.8 Accommodation to Physical and Mental Limitations of Employees**

In considering business necessity and financial cost and expenses, to the extent possible, the College will eliminate any physical or other barriers that prevent or impede the employment or advancement of handicapped individuals.

**10.6.9 Other Continuing Goals**

The College will seek professional guidance as needed from state, local or area rehabilitation agencies and from any of the College's faculty members experiences in the evaluation and/or placement of disabled individuals.

**10.6.10 Internal Dissemination Policy**

In order to ensure greater employee cooperation and participation, the College will:

1. Publish its policy on the disabled in employee handbooks, policy manuals, and through relevant College media.
2. Conduct special meetings with executive, management, and supervisory personnel to explain the intent of the policy and individual responsibility for effective implementation, making clear the College policies.
3. Discuss the policy thoroughly in both employee orientation and management training programs.
4. Notify campus and other relevant employee organizations that they are committed to support affirmative action to employ and advance in employment physically and mentally disabled individuals.
5. Include nondiscrimination clauses in all contractual provisions to ensure they are nondiscriminatory.
6. Include articles on accomplishments of disabled workers in College publications.
7. Post the policy on bulletin boards including a statement that employees and applicants are protected from coercion, intimidation, interference, or discrimination for filing a complaint or assisting in an investigation under the Acts.
8. Feature disabled employees in employee handbooks or similar publications.
9. Any employee or applicant wishing to review the plan should contact the office of Human Resources.

#### **10.6.11 Responsibility for Implementation**

The President will have the overall responsibility of ensuring that the College's obligations are met. The President will be assisted by the Human Resources Administrator and other designees who will provide technical assistance in the overall program to management personnel.

The President's Cabinet and subsequent management personnel will be directly responsible for implementing the program.

In taking affirmative action, the College will apply the following measures to ensure compliance with regulations:

1. Policy statements, affirmative action programs, and internal and external communication techniques will be provided to all management personnel who will be directly responsible for implementing the affirmative action program.

1. The work performance of each member of the President's Cabinet and their designees will be evaluated on the basis of their affirmative action efforts and results, as well as other criteria.
2. Management personnel and their designees are obligated to prevent harassment of employees placed through affirmative action efforts.
2. Identify problem areas in conjunction with line management and known disabled employees in the implementation of the affirmative action efforts and results.
3. The Affirmative Action Officer and other designees as determined by the President will serve as liaison between the College and enforcement agencies.
4. The Affirmative Action officer and other designees as determined by the President will serve as liaison between the College and organizations of and for disabled persons and arrange for the active involvement by College representatives in the community service programs of local organizations of and for the disabled.
5. The Affirmative Action Officer will keep College managers informed of the latest developments in the affirmative action area.

#### **10.6.12 Development and Execution of Affirmative Action Programs**

1. Job qualification requirements covering the functional characteristics of each position will be made available to all members of management involved in the recruitment, screening, referral, selection, and promotional process.
2. The College continually will evaluate the total selection process including training and promotion to ensure freedom from stereotyping disabled persons in a manner which limits their access to all jobs for which they are qualified.
3. All personnel involved in the recruitment, screening, referral, selection, promotion, disciplinary, and related processes will receive training sessions as needed to ensure that the commitments in the College's affirmative action program are implemented.
4. The college will continue to participate in programs with rehabilitation facilities and schools which specialize in training or educating disabled individuals.

#### **10.7 Determination of Disability**

1. Any disabled individual filing a complaint with the Director of the Office of Federal Contract Compliance Programs will submit with his or her complaint a signed statement specifying the disabling impairment(s) or situation. If the Director of the Office of Federal Contract Compliance Programs determines that

further documentation is necessary, he or she may require the complainant to provide additional information.

2. The College, in requiring a determination of an applicant's or employee's disability, may require the applicant or employee to provide medical documentation of the impairments or may require the applicant or employee to undergo a medical examination at the College's expense.
3. Any determination of disability must meet regulation requirements and must be for the purpose of affirmative action and proper job placement. Information obtained will not be used to exclude or otherwise limit the employment opportunities of qualified disabled individuals.
4. All medical documentation required will be based upon the American Medical Association's "Guides to the Evaluation of Permanent Impairment", provided that the "Guides" will be used only to determine the existence of impairment without regard to the degree of impairment.

## **10.8 Listing of Employment Openings**

The College will continue to request state employment security agencies to refer qualified disabled individuals for consideration.

## **10.9 Complaint Procedure**

Any applicant, employee, or student who believes his or her rights have been violated under Sections 503/504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 may seek redress through the applicable College Grievance Procedure immediately following the alleged date of violation. Complaints to enforcing agencies must be made not later than 180 days from the alleged date of the violation.

### **10.9.1 Grievance Procedure for Covered Employees**

Grievances regarding any aspect of this policy are to be filed in accordance with the time lines and procedures outlined in the Grievance Procedure contained in WV Code §29-6A.

The college will adhere to the requirements of the grievance procedure outlined in statute, culminating in a decision by the President. If the grievant does not accept the decision of the president, he/she may appeal the decision to the WV Education and State Employee's Grievance Board.

If the employee remains dissatisfied with the decision of the WV Education and State Employees Grievance Board, he or she may appeal the decision to the appropriate circuit court or contact the:

Director of the Office of Federal Contract

EEOC



Compliance Programs  
U.S. Dept. of Labor  
Washington, DC 20210

1000 Liberty Ave.  
Room 2038-A  
Pittsburgh, PA 15222

### **10.9.2 Appeal Procedures for Applicants**

1. Any College job applicant or candidate who has a question or complaint about equal employment rights should write to the Human Resources Administrator. The Human Resources Administrator will conduct an investigation, review the appropriate documentation, and develop a recommendation regarding the complaint for the President's review.
2. The President will respond to the complaint. If the individual does not accept the decision of the President, he/she may contact the specific agencies responsible for enforcing the particular equal rights law or regulations in question.

The full text of the Rehabilitation Act of 1973 may be reviewed in the Human Resources Office. Information covering the specific responsibilities and obligations of the College and the Office of Federal Contract Compliance Programs, U.S. Dept. of Labor in responding to inquiries, complaints, investigations, hearing, and other ancillary matters are contained in the Acts.

### **10.10 Recordkeeping**

1. The College will maintain, for a period of not less than one year, the records regarding complaints and actions taken and such employment or other records as required by the Director of the Federal Contract Compliance Program.
2. Failure to maintain complete and accurate records as required or failure to update annually the affirmative action program as required constitutes noncompliance with the obligations under the affirmative action clause and is a ground for the imposition of appropriate sanctions.

### **10.11 Access to Records of Employment**

The College will permit access during normal business hours to its books, records, and accounts pertinent to compliance with the Acts and all pertinent rules regulations for the purposes of complaint investigations and investigations of performance under the affirmative action clause of the College. Information obtained in this matter will be used only in connection with the administration of the Acts.

### **10.12 Effective Date**

The regulations were reviewed and updated to become effective September 2013.



# Appendix