

**EQUAL OPPORTUNITY POLICY
AND
AFFIRMATIVE ACTION PLAN**

Shepherd University

**REVISED
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SHEPHERD UNIVERISTY
EQUAL OPPORTUNITY POLICY and AFFIRMATIVE ACTION PLAN

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PREFACE

The goal of Shepherd University's *Equal Employment Opportunity Policy and Affirmative Action Plan* is to create desired changes in the representation and status of qualified minorities, females, and disabled persons in the institution. Additionally, the *Plan* is designed to incorporate an equal opportunity/affirmative action mechanism into the operational structure of Shepherd University.

I. SUMMARIES OF APPLICABLE NONDISCRIMINATION LAWS, GUIDELINES AND EXECUTIVE ORDERS

In combating discrimination and the potential continuing effects of past discrimination, one of the first steps is to understand the equal opportunity laws and regulations which protect citizens. Cited below are summaries of major laws, guidelines, and executive orders on which the policies of the Shepherd University *Equal Employment Opportunity Policy and Affirmative Action Plan* are based.

EMPLOYMENT

West Virginia Human Rights Act of 1967 as Amended is the public policy of the State of West Virginia to provide all of its' citizens equal opportunity for employment and equal access to places of public accommodations without regard to race, religion, color, national origin, ancestry, sex, sexual preference, age, handicap or familial status. Non-discrimination also extends to conditions of hiring, tenure, compensation, training, etc. The West Virginia Human Rights Act is administered by the West Virginia Human Rights Commission, 1321 Plaza East Room 108A, Charleston, WV, 25301-1400.

Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, prohibits discrimination in employment (including the hiring, upgrading, salaries, fringe benefits, training and all other conditions of employment) on the basis of race, color, religion, national origin, or sex. It is administered by the Equal Employment Opportunity Commission, 1801 L Street, NW, Washington, DC, 20507.

Executive Order 11246, as amended by Executive Order 11375 in 1967, prohibits discrimination in employment (including the hiring, upgrading, 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 over \$10,000 over a 12-month period. Executive Order 11246 embodies two concepts: Nondiscrimination and Affirmative Action.

Nondiscrimination requires the elimination of all existing discriminatory conditions, whether purposeful or inadvertent. A contractor (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 person on the grounds of race, color, religion, sex, sexual orientation, or national origin. A contractor also must ensure that the practices of those responsible in matters of employment, including all supervisors, are nondiscriminatory.

Affirmative Action requires that a contractor do more than ensure employment neutrality with regard to race, color, religion, sex, sexual orientation and national origin. 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, benign neutrality in employment practices will tend to perpetuate the status quo indefinitely.

Executive Order 11246, effective February 20, 1973, requires 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 Office of Federal Contract Compliance Programs, US Department of Labor, 200 Constitution Ave, NW, Washington, DC, 20210.

Equal Pay Act of 1963, as amended by Education Amendment of 1972 (Higher Education Act), prohibits discrimination in salaries (including almost all fringe benefits) on the basis of sex. Employees performing essentially equal work receive equal pay and other compensation. Salaries do not differ because of any difference in race, color, age, religion, sex, sexual orientation, or national religion, disability, or familial status. The Equal Pay Act is administered by the Equal Employment Opportunity Commission, 1801 L Street, NW, Washington, DC, 20507.

Public Law 93-516, as amended and otherwise known as the Rehabilitation Act of 1973, states that government contractors must agree to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals with disabilities without discrimination based upon their mental or physical impairment(s) in all employment practices, such as 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.

The regulations define the term 'disabled individuals' as any person who: (1) has a physical or mental impairment(s) which substantially limits one or more major life activities, including communication, ambulation, self-care, socialization, education, vocational training, employment, transportation, or adapting to housing – especially those life activities that affect employability; (2) has a record of such impairment(s), even if they are completely recovered from a previous physical or mental impairment(s); or (3) Is perceived by employers or supervisors as having such impairment(s), whether or not such impairment(s) exists.

The successful disabled applicant, as with all applicants, must possess sufficient work capacity to match the job duties and requirements consistent with his or her interests, capabilities, and limitations. The Rehabilitation Act is administered by the Office of Federal Contract Compliance Programs, Department of Labor, 200 Constitution Ave, NW, Washington, DC, 20210.

Age Discrimination in Employment Act (ADEA) makes it illegal for employers to discriminate against any person on the basis of their age exceeding 40 years. Administration of the Act originally was the responsibility of the Wage and Hour Division of the Department of Labor, but in July 1979, this responsibility was transferred to the EEOC.

Accommodations of Special Religious Holidays - Recognizing that some employees may observe religious holidays not included on the list of Shepherd University recognized holidays, the University, 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 division or unit. Time off granted to administrators and classified employees for the observance of special days shall be charged to annual leave or to accumulated compensatory time off credits.

EMPLOYMENT AND ACCESS TO PROGRAMS

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin by educational programs receiving federal funds. This legislation provides coverage for students and others, and it relates directly to the availability of activities, services and curriculum to all persons affiliated or seeking affiliation with the institution. It is administered by the Office of Civil Rights, US Department of Education, 400 Maryland Ave., SW, Washington, DC, 20201-1100.

Title IX of the Education Amendments of 1972 (Higher Education Act) prohibits sex discrimination against students or others in educational programs or activities. Patterned after Title VI of the Civil Rights Act, Title IX states that 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. It is administered by the Office of Civil Rights, US Department of Education, 400 Maryland Ave., SW, Washington, DC, 20201-1100.

Title XII (Section 799a) and Title VIII (Section 845) of the Public Health Service Act, as amended by the Comprehensive Health Manpower Training Act and the Nurse Training Amendments Acts of 1971, prohibit sexually discriminatory admission of students to federally assisted health personnel training programs and sexually discriminatory practices affecting employees who work directly with students or prospective students in such programs. It is administered by the Office of Civil Rights, US Department of Education, 400 Maryland Ave., SW, Washington, DC, 20201-1100.

Immigration Reform and Control Act of 1986 protects an alien lawfully in the United States and legally employable under Immigration and Naturalization Service regulations in the same manner as United States Citizens from discrimination in employment and equal opportunity to programs.

Americans With Disabilities Act, Title I, covers employment provisions prohibiting discrimination in any terms or conditions of employment for qualified individuals with a disability.

II. EQUAL OPPORTUNITY POLICY OF SHEPHERD UNIVERSITY

Shepherd University, recognizing that equality of opportunity is a fundamental goal in a democratic society, shares the responsibility for achieving that equality. Shepherd University, therefore, commits itself, morally and legally, to take affirmative action to recruit and employ excellent faculty and non-faculty candidates and to insure 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, sexual orientation, physical disability, ancestry, familial status, or ethnicity or national origin, except where a bona fide occupational qualification exists.

This *Equal Opportunity Policy and Affirmative Action Plan* is a reaffirmation of Shepherd University'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 individuals and the University's capability to attract them. Shepherd's *Equal Opportunity Policy and Affirmative Action Plan* is aimed at reducing any under-representation and under-utilization of minorities and women.

The seven race/ethnic categories as defined by the Equal Employment Opportunity Commission are defined as follows:

- **White (not Hispanic or Latino):** A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.
- **Black or African American (not Hispanic or Latino):** A person having origins in any of the black racial groups of Africa.
- **Hispanic or Latino:** A person of Cuban, Mexican, Puerto Rican, south or Central American, or other Spanish culture or origin regardless of race.
- **Asian (not Hispanic or Latino):** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- **Native Hawaiian or Other Pacific Islander (not Hispanic or Latino):** A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- **American Indian or Alaska Native (not Hispanic or Latino):** A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
- **Two or More Races (not Hispanic or Latino):** All persons who identify with more than one of the above five races.

Shepherd University strives to provide educational opportunities for minorities and women in the student body, which reflect the interests, individual merit and availability of such individuals. The University 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, disability, color, age, religion, sex, sexual preference/orientation, ancestry, ethnicity, blindness, familial status, or national origin.

SHEPHERD UNIVERSITY POLICY OF NONDISCRIMINATION

Shepherd University provides opportunity 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, ethnicity, religion, age, national origin, handicap, or sexual preference/orientation. The University neither affiliates knowingly with, nor grants recognition to, any individual, group, or organization having policies that discriminate on the basis of race, color, age, religion, sex, national origin, handicap, ethnicity, or sexual preference/orientation as defined by applicable laws and regulations.

Shepherd University is required by Section 904, Title IX, Education Amendments of 1972, not to deny admission on the ground of blindness or severely impaired vision; by 45 CFR 84, Subpart E, Section 84.42, and by Section 504 Rehabilitation Act of 1973, not to deny admission on basis of handicap; by 45 CFR 90, 91 not to discriminate on basis of age; and by 45 CFR 86, Subpart C, Section 86.21, not to deny admission on basis of sex. By Title VI of the Civil Rights Act of 1964, no person shall be subjected to discrimination on the grounds of race, color, disability or national origin. Shepherd University is an Equal Opportunity/Affirmative Action employer in compliance with Title VII of the Civil Rights Act, West Virginia Human Rights Act, Title IX (Education Amendments of 1972), Section 504, Rehabilitation Act of 1973, and other applicable laws and regulations. This *Equal Opportunity Policy and Affirmative Action Plan* is published under the authority of the Code of West Virginia, Chapter 18B(1)6-7.

III. RESPONSIBILITY FOR IMPLEMENTATION

The responsibility for ensuring equal opportunity within the entire Shepherd University organization rests with the President as Chief Executive Officer and his/her delegates, the vice presidents, deans, and unit heads.

CHIEF EQUAL OPPORTUNITY OFFICER

The President of Shepherd University is the Chief Equal Opportunity Officer. The President is responsible for ensuring the establishment, maintenance, coordination and implementation of a positive, continuing program to promote equal opportunities throughout the entire University organization.

THE PRESIDENT AND THE PRESIDENT'S STAFF

1. Provide the leadership and support of the cause of affirmative action throughout the University community and elsewhere.
2. Evaluate the progress of all groups, departments and units in implementing the *Equal Opportunity Policy and Affirmative Action Plan* and in meeting goals and timetables.
3. Conduct equal opportunity/affirmative action meetings with vice presidents, deans and unit heads as required.
4. Review the actions, periodic reports and affirmative action recommendations prepared by the unit heads.
5. Require the documentation of recruitment and selection efforts.
6. Monitor the appointment, promotion, tenure, transfer, and termination recommendations made by employing supervisors and directors to ensure compliance with the *Equal Opportunity Policy and Affirmative Action Plan*.
7. Evaluate supervisors in part on the basis of their equal employment opportunity efforts and results.
8. Take action to prevent harassment of employees placed through affirmative action efforts.

SPECIAL ASSISTANCE

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

VICE PRESIDENTS, DIRECTORS, DEANS AND UNIT HEADS

Each vice president, director, dean, unit head and all other individuals with supervisory authority have immediate responsibility for carrying out the *Equal Opportunity Policy and Affirmative Action Plan* in the areas in which they have responsibility. Each administrator identifies problem areas and develops goals and timetables consistent with federal requirements and with the provisions contained within the *Equal Opportunity Policy and Affirmative Action Plan*.

The Director of Affirmative Action is designated by the President to assist primarily in developing, implementing and maintaining the Shepherd University policy of equal opportunity and the procedures that constitute the *Equal Opportunity Policy and Affirmative Action Plan* for non-faculty employees.

DIRECTOR OF AFFIRMATIVE ACTION

1. Provides direct assistance to all employing officers in implementing the *Equal Opportunity Policy and Affirmative Action Plan* and its' progress.
2. Audits periodically the Shepherd University job profile and employment, promotion and training practices as they relate to equal employment opportunity.
3. Provides supervisory and managerial personnel with resource materials to assist in the development of training programs.
4. Assists employees in the development of their potential through the staff education program.
5. Assists in the distribution and communication of the *Equal Opportunity Policy and Affirmative Action Plan* and is responsible for posting non-discrimination policy posters as required.

IV. AFFIRMATIVE ACTION PLAN: FACULTY (INSTRUCTIONAL STAFF)

Faculty or instructional staff includes all full-time and part-time employees whose specific assignments customarily are made for the purpose of conducting instruction, research or public service as a principal activity, and who hold academic rank titles of professor, associate professor, assistant professor, instructor, lecturer, or the equivalent of any one of these academic ranks. The department chairs are assigned as delineated in the *Faculty Handbook*. This category does not include student teaching assistants or research assistants.

In cooperation with the Office of the President and the Vice President for Academic Affairs, the Director of Affirmative Action has major responsibility for monitoring the effectiveness of the Equal Opportunity/Affirmative Action policies of Shepherd University and ensuring compliance with these provisions.

FACULTY RECRUITMENT AND SELECTION

1. All faculty recruitment efforts begin with the submission of a *Permission to Recruit* Form.
2. The Director of Affirmative Action will consult whenever possible with the chair of each faculty search committee. The content of the session will include appropriate procedures, legal restraints and expectations, options available for the search, and answer committee questions.
3. Once the position announcement is produced and approved by the President, the approval of the Director of Affirmative Action will be required for the wording as it relates to the Equal Opportunity/Affirmative Action rules and regulations. The Director of Affirmative Action will oversee the distribution of the announcements to assure the maximum publicity among minority populations. All applications for employment come to the Office of Human Resources.
4. Recruitment literature, letters and position announcements carry clear statements of the Equal Opportunity Policy and are distributed to recognized sources of minority and women applicants.
5. Announcements of all faculty position openings are disseminated as widely as possible by deans and the Vice President for Academic Affairs. The requirements for each position are fully and accurately described. Shepherd University accepts applications only for posted openings.
6. Those responsible for recruitment may contact directly colleges and universities with predominately minority and female students for the purpose of recruiting candidates from doctoral and other programs.
7. All resumes and employment applications of qualified persons are properly accepted and recorded by the Office of Human Resources.
8. Selection standards for the recruitment and selection of faculty include, but are not limited to, educational attainment, scholarly achievements, experience, leadership and management ability where applicable, appropriate knowledge of technology ability, emotional stability and maturity and other related criteria.
9. All selection decisions are based upon an individual's qualifications for the position. When two or more candidates possess relatively equal qualifications and abilities, the person who will contribute most to achieving Affirmative Action objectives will be hired.

10. The chair of the search committee will keep the Director of Affirmative Action informed as to the progress of the committee.
11. The President has the right to reserve faculty positions for the purpose of hiring qualified women and minorities.
12. In interviewing applicants, the Guide to Pre-Employment Inquiries of the West Virginia Human Rights Commission is to be followed.
13. In considering applicants, there is to be no discrimination on the basis of race, sex, color, religion, national origin, age, physical or mental disability, sexual preference/orientation, ethnicity, blindness or familial status. Minority race members and women are to be given preference where their qualifications are judged equal to all others and where their hiring will contribute to the Affirmative Action Goals set forth in this plan. If qualified minority race members or women applicants are interviewed and not hired, written justification is to be submitted to the Director of Affirmative Action and Vice President for Academic Affairs.
14. The search committee chair should keep a record of personnel decisions and actions. Keep the vitae of all applicants whether or not you interview the applicant. These materials should be returned to Human Resources at the end of the hiring process. Affirmative Action entails making a positive search for applicants who are women and/or minority races. The only proof of making this search is the written Affirmative Action application forms that have been completed by women and members of minority races.
15. It is the responsibility of the search committee to make a hiring recommendation to the VPAA and to the President. No employee may start work without approval from the West Virginia State Budget Office in Charleston.
16. Unless waived by the President due to some extraordinary circumstance, all new regular full-time faculty are hired through these procedures.
17. Affirmative Action procedures for the filling of part-time, temporary and adjunct faculty positions do not include national dissemination of position opening notifications. Affirmative Action procedures, other than following the policy of non-discrimination are not necessarily followed in the filling of part-time, temporary and adjunct faculty.

PROMOTION CRITERIA

Faculty promotion criteria include, but are not limited to, effectiveness and excellence in teaching, research and scholarship, service, professional stature, and other criteria as determined by the President. See the applicable Shepherd University *Faculty Handbook* for details. In no case can promotion be denied or granted because of race, color, age, religion, sex, national origin, ethnicity, sexual preference/orientation, disability or familial status.

Each dean or the Vice President for Academic Affairs is responsible for assistance in career development, such as career counseling of faculty members, in order to maximize the potential of minorities and women in service at faculty rank.

AFFIRMATIVE ACTION GRIEVANCE PROCEDURES FOR FACULTY AND FACULTY APPLICANTS

Faculty may file a grievance under West Virginia Code 29(6A)l. Faculty may pursue internal resolution of problems by consulting with the Director of Affirmative Action and/or the supervisor of the offending employee.

APPLICANTS FOR FACULTY POSITIONS

Applicants for employment who believe they have a grievance with regard to alleged discrimination against them should contact the Shepherd University Director of Affirmative Action. If necessary, the Director of Affirmative Action will take the problem to the President of Shepherd University.

V. AFFIRMATIVE ACTION PLAN: NON-FACULTY (NON-INSTRUCTIONAL STAFF AND STUDENT EMPLOYEES)

Non-faculty or non-instructional staff includes executive, administrative and managerial positions if their principal activity is administrative and professional non-faculty, clerical/secretarial, technical/paraprofessional, skilled crafts and service/maintenance categories.

In cooperation with the Office of the President, the Director of Affirmative Action has major responsibility for monitoring the effectiveness of the Equal Employment/Affirmative Action policies of Shepherd University and ensuring compliance with these provisions.

To accomplish equal opportunity employment at Shepherd University the following recruitment, selection, hiring, and personnel policies and practices shall be adhered to by all employing units.

AFFIRMATIVE ACTION HIRING PROCEDURES FOR SUPPORT STAFF

1. Notify the Director of Affirmative Action of all job openings prior to commencing the search for applicants. Submit to the Director of Affirmative Action a job description, a list of minimum and desired qualifications, a *Permission to Recruit Form* containing a description of the working conditions, salary, and a plan for Affirmative Action recruiting. Universities enrolling primarily minority race students may be included in the dissemination of position opening notifications for executive positions. In all notifications and paid advertising for applicants, insert the statement that Shepherd University is an Affirmative Action/Equal Opportunity Employer. All recruiting for support personnel is to originate in the office of the Director of Affirmative Action. Shepherd University accepts applications only for posted openings. Shepherd University has the right to advertise certain positions only on campus. All applications for employment come to the Office of Human Resources.
2. All persons who are qualified for a position and who make application are asked to complete Affirmative Action forms, to include a confidential sheet to be returned directly to the Director of Affirmative Action.
3. In interviewing, the Guide to Pre-Employment Inquiries of the West Virginia Human Rights Commission is to be followed.
4. In considering applicants, there is to be no discrimination on the basis of race, color, age, religion, sex, sexual preference/orientation, or national origin, handicap, blindness, ethnicity, or familial status. Minority race members and women are to be given preference where their qualifications are judged equal to all others and where their hiring will contribute to the Affirmative Action goals set forth in this plan. Acceptance of applications for support staff personnel must continue for a period of at least 10 days.
5. The supervisor or search committee chair must keep a written record of personnel decisions and actions, and justifications, and must keep the vita of all applicants. These materials must be submitted to Human Resources at the end of the hiring process. Affirmative Action entails making a positive search for applicants who are women or minorities. The only proof of making this search is the written Affirmative Action application forms that have been completed by women and members of minority races.

6. Affirmative Action procedures for the filling of part-time positions, and some staff positions do not include national dissemination of position openings. Affirmative Action procedures, other than the policy of non-discrimination, are not necessarily followed in the filling of temporary, casual, and student positions, but all such hiring is made without discrimination.
7. Any prospects recruited directly by the employing supervisors must be referred to the Director of Affirmative Action for appropriate pre-employment evaluations prior to any employment decision by the supervisor.
8. Directors, managers, professional staff members and others with the responsibility of making hiring decisions should attempt to identify prospective minority and women applicants while attending professional meetings and conventions.
9. The qualifications of each job applicant and each employee under consideration for a promotion or demotion are compared to the qualifying standards appropriate to the position and to other candidates. Records of such evaluations are maintained in the Human Resources Office.
10. Records of personnel decisions and actions are to be kept for a minimum of three years by the Director of Human Resources.

APPLICANTS FOR NON-FACULTY POSITIONS

Applicants for employment who believe that they have a grievance with regard to alleged discrimination against them should contact the Shepherd University Director of Affirmative Action. If necessary, the Director of Affirmative Action will take the problem to the President of Shepherd University. See Part VII of this plan.

EMPLOYEE PERFORMANCE RATING PROGRAM

Consistent with Board of Governors policy, staff employees will have their job performance evaluated during the probationary period and at least once annually thereafter. A performance appraisal will be between the employee and the employee's supervisor. The appraisal interview with the employee will be accomplished for the purpose of clarifying job understanding and expectations, improved performance, improved communications, performance counseling, goal setting and development. Annual performance appraisals will be done institution-wide prior to annual notices of salary. The performance appraisal results will be used as a factor to be considered in employee transfer, promotion, retention, and demotion determinations

VI. AFFIRMATIVE ACTION PLAN: STUDENTS

In cooperation with the Office of the President, the Director of Affirmative Action has major responsibility for monitoring the effectiveness of the Equal Employment/Affirmative Action policies of Shepherd University and ensuring compliance with these provisions.

EQUAL OPPORTUNITY FOR STUDENTS

Admissions – Special efforts are made to recruit minority students. All persons involved in reviewing admissions applications are kept aware of the University Equal Opportunity policies. The Equal Opportunity policies are stated on the applications for admission and in the University catalog. All students are advised that the full range of opportunities at Shepherd University are open to them without regard to race, color, age, religion, ethnicity, sex, sexual preference/orientation, national origin, handicap or familial status. The student handbook carries this notification.

Special Services – Counseling and tutoring services are open on a non-discriminatory basis, and special effort is made to encourage use of the services by eligible minority race students.

Student Financial Aid and Student Employment – All employment opportunities and student financial aid are administered on a non-discriminatory basis.

Student Housing – All Shepherd University owned housing is available to all students without regard to race, color, age, religion, ethnicity, sex, sexual preference/orientation, national origin, or blindness. On-campus housing is available to persons with disabilities.

Students with Disabilities – Class scheduling takes into account the need to periodically schedule all required courses in buildings that are accessible to the disabled.

Title IX – Nondiscrimination on Basis of Sex – The University fully met the Title IX self-report requirements in the Spring of 1976. The review included an examination of both facilities and University procedures. Student members made up about half of the committee that wrote the self-evaluation of Title IX in athletics. Board publicity was given to the University policy and procedures for presenting student grievances.

In accordance with Section 86.8(b), Title 45, Subtitle A Part 86, of the Code of Federal Regulations, the University gives notice of the procedure of bringing grievance under Title IX, Education Amendments of 1992.

- A student grievance in relation to student programs and services is to be directed to the Dean of Students.
- A student grievance in relation to the instructional program is to be directed to the Vice President for Academic Affairs Office (extension 5176).
- A student request for a waiver of a specific component of the instructional program should be directed to the Admissions and Credits Committee (c/o Office of the Registrar, extension 5463).

VII. APPEAL PROCEDURES FOR EMPLOYEES, APPLICANTS, AND STUDENTS

Any person who believes that the Shepherd University stated policy of non-discrimination has been violated can seek redress through University procedures. Grievances should be resolved at the lowest administrative level for the purpose of securing equitable solutions to the problems which may from time to time arise and affect University employees and students.

Employees, including student employees, and enrolled students may appeal administrative decisions, which are believed to be out of compliance with the provisions of this EEO/AA Plan by contacting, personally or in writing, the Director or Manager or other administrator who made the decision for the purpose of explaining the complaint. If the individual does not feel that the complaint has been adequately addressed, the complaint should be referred to the next level administrator. Appeals in this manner may be advanced up to, and including, the University President.

A complainant may at any time seek the assistance of the Director of Affirmative Action for assistance with a complaint.

STATUTORY APPEAL PROCEDURES FOR COVERED EMPLOYEES INCLUDING STUDENT WORKERS

Separate from the ordinary campus processes for dispute resolution, some complaints related to employment may be covered by the State Employee Grievance Procedure.

GRIEVANCE TIMELINES UNDER WV CODE § 6C-2-1 et. Seq.

Applicable to all grievances initiated after 7-1-07

The following chart outlines the statutory deadlines for both grievant and grievance evaluators in processing grievances under the West Virginia Public Employees Grievance Act. When calculating the number of days, Saturdays, Sundays, official holidays and any day the employee's work place is legally closed by authority of the Chief Administrator due to weather or like cause are not counted. Also, the day a grievance or appeal is filed, or the day a hearing ends or decision is rendered, is not counted as a day for computing the days left until the next action must take place. The intent of the law is that all parties receive complete workdays to accomplish the actions required by them under the statute. Failure to comply with these time limits may mean that a grievance is dismissed or a default judgment is rendered against the employer.

LEVEL ONE – Chief Administrator

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|---|---|
| 1. Filing of written grievance and request or conference or hearing with the Chief Administrator. | Within 15 days of grievable act occurring or date when grievant became aware of the grievable act. |
| 2. Chief Administrator holds conference or hearing and issues written decision. | Conference or hearing is within 10 days of grievance being filed. Written decision is rendered within 15 days of conference or hearing. |

[An employee must start their grievance at Level 1 unless the Chief Administrator agrees to skip Level 1 and go to either Level 2 or 3 directly, OR employee may file directly at Level 3 if the grievance involves discharge from employment, a suspension without pay, or a demotion or reclassification which results in a loss of compensation or benefits.]

LEVEL TWO – Alternative Dispute Resolution

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| 1. Continuance by grievant of level one decision with three choices: a) mediation; b) private mediation; c) Mediation-Arbitration (decision is binding in this choice). | Within 10 days of grievant receiving the written decision from Level 1. |
| 2. Board acknowledges request and assigns an Administrative Law Judge for choices (a) and (c) to schedule mediation.
(b) Parties must agree to mediator in writing. | a. and c. Within 20 days of the request.
b. Private mediator to schedule with 20 days of written request. |
| 3. Level two decision issued. | Within 15 days of mediation agreement. |

LEVEL THREE - Adjudication

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| 1. If alternative dispute resolution was unsuccessful at level two, grievant may file a written appeal with employer and the Board requesting a hearing and adjudication on the grievance. | Within 10 days of grievant receiving level two report of unsuccessful alternative dispute resolution. |
| 2. Level three hearing scheduled by Administrative Law Judge. | Within a reasonable time in consultation with the parties. |
| 3. Decision by Administrative Law Judge. | Within 30 days of end of hearing. |

APPEAL PROCEDURES FOR EMPLOYMENT APPLICANTS

Any job applicant or candidate who has a complaint about equal employment rights should write to the Director of Affirmative Action.

1. If the complaint is directed to the Director of Affirmative Action, he/she shall make an investigation into the matter and respond to the complainant within a period of two weeks.
2. If the complainant is dissatisfied with the response received from the Director of Affirmative Action, he/she may appeal the matter to the President within one week after the date the response is mailed.
3. In the case of a complaint made directly to the President, or in the case of an appeal to him from the response of the Director of Affirmative Action, the President shall investigate the matter, or have it investigated, and respond to the complainant within a period of two weeks from the date of the complaint or appeal.

VIII. AFFIRMATIVE ACTION PLAN: DISABLED PERSONS

POLICY

Shepherd University will not discriminate against qualified persons with disabilities at all levels of employment, including, but not limited to the following: hiring, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship.

RECRUITMENT PROCEDURES

Shepherd University will continue to enlist the assistance and support of all recruitment sources including the state employment services.

JOB POSTINGS

1. **Non-faculty** - Shepherd University will list its non-faculty job vacancies internally and with local and state employment offices in the labor pool area. Deans and directors 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.
2. **Faculty** - Faculty search committees and individual recruiters will ensure that appropriate recruiting sources are contacted to reach qualified persons and academic associations comprised of persons with varying degrees of impairments.

REEMPLOYMENT PREFERENCE TO EMPLOYEES WHO BECOME DISABLED THROUGH ON-THE-JOB ILLNESSES OR INJURIES

Present employees or former employees returning from a medical leave of absence with a work disability will be given preference for reemployment consideration in other position openings consistent with their capabilities and limitations.

PROMOTION OPPORTUNITIES

Shepherd University will encourage persons with disabilities already employed to seek promotional opportunities through the established open promotion system.

Shepherd University will provide employees with disabilities with career and promotional counseling services where indicated.

Shepherd University will use appropriate media to indicate its commitment in employing persons with disabilities.

Shepherd University will consider qualified persons with disabilities for employment or promotion without regard to physical or mental impairment(s) that may not or will not affect their employability in suitable jobs.

PROPER CONSIDERATION OF QUALIFICATIONS

Shepherd University 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 with by hiring or promotion, and for all training opportunities offered or available. To the extent that it is necessary to modify personnel procedures, Shepherd University will include the development of new procedures for this purpose in its Affirmative Action program. The procedures must be designed so as to facilitate a review of the implementation of this requirement by Shepherd University.

Where applicants or employees are selected for hire, promotion or training and Shepherd University undertakes any accommodation which makes it possible to place an employee with disabilities on the job, the application form or personnel record will contain a description of that accommodation.

PHYSICAL AND MENTAL QUALIFICATIONS

Shepherd University 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 individuals with disabilities, they are job-related and are consistent with business necessity and the safe performance of the job.

1. **Non-faculty** - For non-faculty positions, the Office of Human Resources will justify through its job evaluation program, every physical and mental qualification in each position for which the person with disabilities is being considered.
2. **Faculty** - The Vice President of Academic Affairs, and Deans, will determine the mental and physical qualification standards for each academic position.

EVALUATION OF APPLICANT FOR EMPLOYMENT AND EMPLOYEE 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 examinations and pre-employment inquiries be used in accordance with only job-related standards.

DOCUMENTATION OF ACTIONS

Each employing officer will document **job-related** reasons for the elimination of any qualified person with disabilities for employment or advancement consistent with reasons of business necessity and the safe performance of the job. Employing supervisors must forward the non-faculty rejection documentation memorandum to the Director of Affirmative Action. Copies of documentation memoranda pertaining to faculty should be forwarded to the responsible dean or director.

CONFIDENTIAL USE OF MEDICAL EXAMINATION INFORMATION

Pre-employment medical examinations, if conducted, shall be in accordance with Section 84.14 of 45 CFR 84. The results of any such examination shall also be treated in accordance with said section.

ACCOMMODATION TO PHYSICAL AND MENTAL LIMITATIONS OF EMPLOYEES

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

COMPENSATION

In offering employment or promotions to individuals with disabilities, the amount of compensation offered will not be reduced because of any disability income, pension or other benefit the applicant or employee receives from other sources.

PROFESSIONAL CONSULTATIONS

Shepherd University will seek professional guidance as needed from local, state or area rehabilitation agencies and from any of the institution's faculty experienced in the evaluation and/ or placement of individuals with disabilities.

RESPONSIBILITY FOR IMPLEMENTATION

The President will have the overall responsibility of ensuring that Shepherd University obligations are met. The President will be assisted by the Director of Affirmative Action and other designees who will provide technical assistance in the overall program.

DETERMINATION OF DISABILITY

Shepherd University, in requiring a determination of employee's disability, may require said employee to provide medical documentation of the impairment(s) or, in the alternative, may require the employee to undergo a medical examination at the institution's expense.

LISTING OF EMPLOYMENT OPENINGS

Shepherd University will continue to request state employment security agencies to refer qualified individuals with disabilities for consideration.

APPEAL PROCEDURES FOR COVERED EMPLOYEES INCLUDING STUDENT WORKERS

1. If an employee or student has a question, problem, charge or complaint regarding Equal Opportunity rights, the employee is urged to begin the appeal at the place of origin, which is usually at the department level. The appeal will be presented to the department chairperson or unit supervisor immediately upon the occurrence of the complaint.
2. If the employee or student is dissatisfied with the decision of the department chairperson or head, appeal can be made directly to the dean or director.
3. If the employee or student is dissatisfied with the decision of the dean or director, the matter can be appealed to the President by writing a summary of the case and requesting an appointment, with a copy to the Director of Affirmative Action.

4. The President may hold an informal hearing or may arrange for the appeal to be reviewed by a special committee that will present its findings and recommendations to the President, who will render a decision on the appeal.

APPEAL PROCEDURE FOR APPLICANTS

1. See Part VII, page 16.

IX. AFFIRMATIVE ACTION PLAN: DISABLED AND VIETNAM ERA VETERANS

PURPOSE

This plan implements the amendments of the Vietnam Era Veterans Readjustment Act of 1974 requiring Shepherd University or federal contractors to take Affirmative Action to employ and advance in employment disabled veterans and veterans of the Vietnam Era. The law is administered by the Office of Federal Contract Compliance Programs, US Department of Labor.

EFFECTIVE DATE

These regulations become effective within 120 days of the commencement of any contract after July 26, 1976.

APPLICABILITY

1. **Disabled Veterans** - This Affirmative Action plan covers any qualified disabled veteran of any war who is receiving disability compensation and who is capable of performing a particular job with reasonable accommodation to his or her disability rated at 30 percent or more. The plan also covers a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty.
2. **Vietnam Era Veterans** - This Affirmative Action plan covers any qualified person: a. who served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964, and May 7, 1975, and was honorably discharged from the service during that period, and b. who was so discharged within 48 months preceding the alleged violation of the Act, the Affirmative Action clause and/or the regulations pursuant to the Act.

The above coverage extends to all persons seeking or involved in full-time and part-time employment.

IMPLEMENTATION RESPONSIBILITY

President's Office - Ultimate responsibility for implementation of the Affirmative Action Plan for Disabled Veterans and Veterans of the Vietnam Era rests with the President through his or her staff.

Vice Presidents, Dean and Directors – Have direct responsibility for the implementation and enforcement of the commitments of the Affirmative Action Plan for Disabled Veterans and Veterans of the Vietnam Era in their respective groups. The Director of Affirmative Action will be responsible for assisting administrators in fulfilling their responsibilities.

Other Managers and Supervisors - All managers and supervisors are responsible for implementing the compliance program at their respective levels.

REQUIRED AFFIRMATIVE ACTION POLICY, PRACTICE, AND PROCEDURES

RECRUITMENT PROCEDURES

Shepherd University will continue to enlist the assistance and support of all recruitment sources including the state employment services, state Veterans Administration Office, rehabilitation agencies, veterans groups, professional associations, and educational facilities serving individuals with disabilities.

JOB POSTINGS

1. **Non-faculty** - Shepherd University will list its non-faculty job vacancies internally and with local and state employment offices.
2. **Faculty** - Faculty search committees and individual recruiters will ensure that appropriate recruiting sources are contacted to reach qualified persons and academic associations comprised of persons with varying degrees of impairments including disabled veterans.
3. Shepherd University will continue its contacts with social, professional and veteran's organizations and organizations representing the disabled for such purposes as advice, technical assistance and referral of potential employees.

PROMOTION OPPORTUNITIES

Shepherd University will encourage qualified disabled veterans and veterans of the Vietnam Era already employed to seek promotional opportunities through the established open promotion system.

Shepherd University will provide employees with disabilities with career and promotional counseling services where indicated.

Shepherd University will use appropriate media to indicate its commitment in employing disabled veterans and veterans of the Vietnam Era.

Shepherd University will consider disabled veterans for employment or promotion without regard to physical or mental impairment(s) that may not or will not affect their employability in suitable jobs.

PROPER CONSIDERATION OF QUALIFICATIONS

Shepherd University will review its personnel processes to determine whether present procedures assure careful, thorough and systematic consideration of the job qualifications of known disabled veteran applicants and Vietnam Era applicants and employees for job vacancies filled with by hiring or promotion, and for all training opportunities offered or available. In determining the qualifications of a covered veteran, the University will consider only that portion of the military record, including discharge papers, relevant to the specific job qualifications for which the veteran is being considered. To the extent that it is necessary to modify personnel procedures, Shepherd University will include the development of new procedures for this purpose in its Affirmative Action program.

Where applicants or employees are selected for hire, promotion or training and Shepherd University undertakes any accommodation which makes it possible to place a covered disabled veteran on the job, the application form or personnel record will contain a description of that accommodation.

PHYSICAL AND MENTAL QUALIFICATIONS

Shepherd University 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 veterans, they are job-related and are consistent with business necessity and the safe performance of the job.

1. **Non-professional** - For non-professional positions, the Office of Human Resources will justify through its job evaluation program, every physical and mental qualification in each position for which the disabled veteran is being considered.
2. **Professional and Faculty** - The President, Vice President for Academic Affairs or Provost will determine the mental and physical qualification standards for each academic position.

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

The President, Vice Presidents, or Directors will obtain appropriate medical information on applicants and employees from their local physicians or other medical authorities regarding any functional limitations or restrictions on the work or duties of disabled individuals being considered for non-faculty positions.

Where medical information is needed to evaluate disabled individuals being considered for faculty positions, such information will be obtained through the Office of Vice President for Academic Affairs.

In all instances where medical information is requested, an authorization for the release of such inquiries will be kept confidential except that:

1. Medical information may be reviewed by the physician's staff or the University health service for medical guidance and interpretation;
2. Supervisors and managers may be informed by the President, Vice Presidents, or Directors regarding accommodation;
3. First aid and safety personnel will be informed, where and to the extent appropriate, if the condition might require emergency treatment;
4. Government officials investigating compliance with the Act will be informed.

ACCOMMODATION TO PHYSICAL AND MENTAL LIMITATIONS OF EMPLOYEES

In considering business necessity and financial cost and expenses, to the extent possible, Shepherd University will eliminate any physical or other barriers that prevent or impede the employment or advancement of a disabled veteran.

COMPENSATION

In offering employment or promotions to disabled veterans and veterans of the Vietnam Era, the amount of compensation offered will not be reduced because of any disability income, pension or other benefit the applicant or employee receives from other sources.

PROFESSIONAL CONSULTATIONS

Shepherd University will seek professional guidance as needed from local, state or area rehabilitation agencies, veteran's groups, veteran's coordinator, and from any of the institution's faculty experienced in the evaluation and/or placement of covered veterans.

LISTING OF EMPLOYMENT OPENINGS

Shepherd University will continue to request state employment agencies to refer qualified disabled veterans and veterans of the Vietnam Era.

COMPLAINT PROCEDURE

Any applicant or employee covered within the legal definition of a disabled veteran or veteran of the Vietnam Era who believes his or her rights have been violated under the Act is urged to seek redress through the University's appeal procedure immediately following the date of the alleged violation, but not to exceed 180 days from the date of the alleged violation. If there has not been a resolution of the complaint under the University's appeal procedure satisfactory to the complainant within 60 days of the filing date, the complainant may contact the local veteran's employment representative to have the complaint referred to the Department of Labor or designated agency.

APPEAL PROCEDURES FOR COVERED EMPLOYEES INCLUDING STUDENT WORKERS AND DISABLED VETERANS

1. If an employee or student has a question, problem, charge or complaint regarding Equal Opportunity rights, the employee is urged to begin the appeal at the place of origin, which is usually at the department level. The appeal will be presented to the department chairperson or unit supervisor immediately upon the occurrence of the complaint.
2. If the employee or student is dissatisfied with the decision of the department chairperson or head, appeal can be made directly to the appropriate Vice President.
3. If the employee or student is dissatisfied with the decision of the dean or director, the matter can be appealed to the President by writing a summary of the case and requesting an appointment, with a copy to the Director of Affirmative Action.
4. The President may hold an informal hearing himself/herself or may arrange for the appeal to be reviewed by a special committee that will present its findings and recommendations to the President, who will render a decision on the appeal.
5. Any employee or student has the option of contacting the agency responsible for the enforcement of the particular equal rights law or regulations in question. All of the relevant agencies and addresses are listed in pages 3-7 of this Affirmative Action Plan.

APPEAL PROCEDURES FOR EMPLOYMENT APPLICANTS

1. See Part VII, page 16.

AVAILABILITY OF FULL TEXT OF THE LAW

The full text requiring Affirmative Action under the amendments to the Vietnam Era Veterans Readjustment Assistance Act of 1974 may be reviewed in the Federal Regulations and Employment Practices of Universities.

Information covering the specific responsibilities and obligations of the University and the Office of Federal Contract Compliance Programs, US Department of Labor, in responding to inquiries, complaints, investigations, hearings and other ancillary matters are contained in the Act.

RECORD KEEPING

Shepherd University will maintain, for a period of not less than one year, records regarding complaints and actions taken and such employment or other records as required by the Director of the Office of Federal Contract Compliance Programs.

ACCESS TO RECORDS OF EMPLOYMENT

Shepherd University will permit access during normal business hours to its places of business, books, records and accounts pertinent to compliance with the Act, and all pertinent rules and regulations for the purposes of performance under the Affirmative Action clause of Shepherd University. Information obtained in this matter will be used only in connection with the administration of the Act.

ANNUAL PROGRAM REVIEW AND PROGRAM INSPECTION BY APPLICANTS AND EMPLOYEES

The Affirmative Action program will be reviewed and updated bi-annually by the University's Equal Opportunity/Affirmative Action committee in cooperation with its Directors, Vice Presidents and the President. Emphasis will be on developing solutions to problems, particularly accommodation requirements.

The full Affirmative Action program is available for inspection by applicants in the Office of the President, Director of Affirmative Action, Vice President, Chairpersons, Deans, and Directors during regular work hours and in the Shepherd University Library. Employees also may review the plan in the office of their administrative head during regular hours.

X. AFFIRMATIVE ACTION PLAN: NON-DISCRIMINATION ON THE BASIS OF SEX

Shepherd University does not discriminate against employees on the basis of sex. In accordance with Executive Order 11375, Shepherd University provides for Equal Employment Opportunity to 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 penalized in their conditions of employment because they require time away from work on account of childbearing. The Shepherd University BOG Policy 10, under the title, "Sick and Emergency Leave," states the policies governing leave for pregnancy, miscarriage, abortion, childbirth and recovery there from. These, for all job-related purposes, are:

"Temporary disabilities shall be treated the same as any other off-the-job illness or disability would be for sick leave entitlement. For this reason, employees shall be entitled to sick leave for their disabilities related to pregnancy and childbirth on the same terms and conditions as they or other employees would be entitled for other illnesses and disabilities. In determining whether an employee is unable to work because of a disability related to pregnancy or childbirth, the same criteria shall be used as would be used in the case of another type of off-the-job illness or disability."

The employee may elect, if necessary, to take family/medical leave (12 weeks leave without pay), or presidential-approved leave without pay (1 year). Personal leave of absence without pay may be requested when all personal leave has been utilized.

Nothing in the guidelines is to be interpreted to mean that differences in capabilities for job assignments do not exist among individuals and that such distinction 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.

NOTIFICATION OF SHEPHERD UNIVERSITY POLICY WITH REGARD TO NON-DISCRIMINATION ON THE BASIS OF SEX

Shepherd University is required by Title IX, Higher Education Amendment of 1972, not to discriminate on the basis of sex in its educational program, employment program, activities and admissions.

Any complaint of non-compliance with Title IX and any grievance brought under the terms of Title IX should be communicated to The Director of Human Resources.

The complete Shepherd University self-evaluation with regard to Title IX Education Amendments of 1972, Non-discrimination on Basis of Sex, is in a document that is kept on reserve in the Shepherd University Library. It carries a statement of our policy with regard to nondiscrimination, as well as a statement of our commitment to this concept.

The self-evaluation was carried out according to the guidelines in 45 CFR 86, and covers policy and procedure with regard to admissions, student and non-student employment, student activities, the educational program, student services, and athletics.

Shepherd University had no difficulty with meeting the requirements of the Title IX law prior to the July 21, 1976 deadline.

SHEPHERD UNIVERSITY POLICY ON SEXUAL HARASSMENT

Sexual harassment is prohibited sex discrimination under Section 703, Title VII, Civil Rights Act of 1964. It is contrary to the policies of Shepherd University for any employee to sexually harass another employee or student of the University by: (a) making unwelcome sexual advances, or request for sexual favors, or other verbal or physical conduct of a sexual nature as a condition of the employees continued employment, or a student's progress toward completing course requirements; or (b) making submission to or rejections of such conduct the basis for employment decisions or academic process decisions; or (c) through such conduct creating an intimidating, hostile or offensive working environment for an employee or unreasonably interfering with a student's educational process.

Any University employee who has been found by the University, after appropriate investigation, to have sexually harassed another employee or student of the University will be subject to appropriate sanctions depending on the circumstances, up to and including termination. Any student who is found guilty of sexual harassment will be subject to the established student disciplinary process as outlined in the Student Handbook.

The University recognizes that the question of whether a particular action or incident is a purely personal, social relationship without a discriminatory effect requires a factual determination based on a thorough investigation of the alleged action or incident. The University recognizes the delicate situation of faculty whose presentations of subject matter may unavoidably broach topics with implied or explicit sexual overtones. Given the nature of this issue, the University recognizes also that false accusations of sexual harassment can have serious effects on innocent women and men.

SHEPHERD UNIVERSITY PROCEDURES IN SEXUAL HARASSMENT COMPLAINTS

Response to sexual harassment complainant and the complaints are to be speedy and confidential. However, the University recognizes the right of the accused to a fair review. The steps in the procedure of processing sexual harassment complaints are as follows:

How does one lodge a sexual harassment complaint?

Informal Resolution of Sexual Harassment Complaints

Informal resolution of complaints, when possible, can be an effective way of correcting misconduct. The process is as follows:

1. A victim or third party submits a complaint to any Sexual Harassment Policy & Action Team member. An initial meeting between the team member and complainant takes place. All options are explained by the team member.

2. If the Informal Resolution option is chosen, the complainant may:
 - a. Opt for a meeting with the alleged harasser and team member. All parties are permitted to bring support persons (friend, family member, colleague). The team member can limit the number of support persons present to a reasonable sum. More than one team member may be present. The team member will serve as mediator, listening to all views and establishing a resolution document or mediation agreement as appropriate.
 - b. Opt for the team member to meet with all parties separately. The team member listens to all views, presents views, presents views of opposing parties to each other, and establishes a resolution document or mediation agreement as appropriate.
3. The resolution document or mediation agreement may include a “no-contact arrangement” and other provisions. The outcome of the informal resolution should meet the satisfaction of all parties to the extent possible. If the complainant is not satisfied, the team member will review other options available.
4. Records, including the resolution document, are submitted to the office of Ombudsperson for filing.
5. The team member follows up with parties within two weeks of the resolution if one was reached. Additional follow-up contacts will be made as needed.
6. Proceedings and records will be confidential to the extent possible.
7. Complainants should act in a timely fashion. The Sexual Harassment Policy & Action Team members will in all cases attempt to resolve informal complaints within two weeks of notification of the complaint.

Formal Resolution of Sexual Harassment Complaints

Any employee or student who feels that informal resolution of a complaint will not be or has not been satisfactory should file a formal written complaint with the Sexual Harassment Policy & Action Team or the Ombudsperson.

1. Since the passage of time makes the resolution of complaints more difficult, it is recommended that the written complaint be filed as soon as possible from the date of the incident(s).
2. A complaint filed against a professor by a student currently enrolled in the professor’s class should be made as soon as possible. The student may choose to have the complaint held confidentially until the end of the semester, at which time the complaint will be resolved. But some situations may require immediate action on the part of the University.
3. The President shall designate an eight-member body made up of four faculty and four staff. The Ombudsperson will randomly select two panelists from the same group as the person accused and one panelist from the other group to investigate each formal complaint. Immediate supervisors of either the accused or the accuser will be excluded from serving on the three member panel. The formation of the panel will be completed within two weeks of the submission of the written complaint, except where extenuating circumstances require additional time.
4. When a formal written complaint is received by the Sexual Harassment Policy & Action Team or the Ombudsperson, a three-member panel will be selected (as noted in #3) and copies of the complaint will be given to panel members. Panel members will conduct such investigation into the facts and circumstances of the complaints as may be deemed appropriate by any of the panel members.

5. The panel may meet with the accuser, accused, and any witnesses relevant to its investigation, but shall at all times act collectively as a group and not individually. The investigation will be completed within four weeks of the formation of the panel, except where extenuating circumstances require additional time.
6. The panel shall prepare a written report of its factual findings and conclusions regarding the merits of the complaint. This report may, if applicable, include dissenting conclusions. If the report finds any part of the complaint to be meritorious, then the report will designate appropriate action with respect to the perpetrator. The panel will complete the written report within one week of the close of the investigation, except where extenuating circumstances require additional time.
7. The panel shall direct its written report to the Ombudsperson and to the major administrator who supervises the accused. The Ombudsperson shall then provide a copy of the report to the accused and the accuser and notice of the action deemed appropriate.
8. Appeals on the part of the accuser may be directed to the President. The accused may appeal any adverse action by following the established grievance procedures of the University.

ACTION TO BE TAKEN AGAINST PERPETRATORS

Any supervisor, agent or other employee who is found, after appropriate investigation, to have engaged in the sexual harassment of another employee or student will be subject to appropriate sanctions depending on the circumstances, up to and including termination.

XI. GENERAL HARASSMENT POLICY

Shepherd University does not tolerate harassment in the work place or of members of the University community. Shepherd University wants to provide an environment free of any form of harassment. For purposes of this policy, harassment is defined as any form of conduct that would be offensive, intimidating, or threatening to the average person and is done on the basis of race, religion, color, ethnicity, national origin, ancestry, gender, age, blindness, sexual preference/orientation, handicap, or familial status of the recipient, or on account of the recipient's relationship with person(s) of protected-class status.

If an employee or student believes he/she has been harassed in violation of this policy, he/she should take the following steps immediately:

1. If practical, confront your harasser with your complaint and explain why the action or comment is offensive or improper. Say it firmly, without smiling, and without apologizing.
2. Keep records. Write a journal on this issue, record the facts on a tape recorder, or tell a friend in confidence. Keep track of dates, places, times, witnesses, and the nature of the harassment. Save any letters, cards, or notes in a secure place, preferably at home. Bear in mind that this document may be used in litigation.
3. Tell the harasser, in writing, that you object to this behavior. Describe the specific things that offend or upset you. Treat this letter as a confidential piece of communication and keep a copy of it.
4. If harassment does not stop after taking these steps or if initial harassment is so serious as to require immediate action then a complaint should be initiated. A complainant should always feel encouraged to consult with the Affirmative Action Officer, members of the Affirmative Action Committee, or members of the Harassment Policy Team for guidance and assistance if they feel that they are a victim of harassment. However, generally, neither the Affirmative Action Officer, nor Committee or Team members can serve as a representative of the victim.

Informal resolution of complaints, when possible, is the preferred and the most effective way of correcting misconduct. An employee who feels he or she is being or has been harassed should contact his or her immediate supervisor who should report to the Affirmative Action Officer any complaints that cannot be resolved immediately. A student can contact the Dean of Students, the Judicial Affairs Officer in Student Affairs, or other members of the Harassment Policy Team for assistance.

Any employee or student who feels that informal resolution of a complaint against an employee will not be or has not been satisfactory may file a formal written complaint with the Affirmative Action Officer. Formal complaints against students are filed with the Campus Judicial Affairs Officer, and they are handled under student conduct procedures. Since the passage of time makes the resolution of complaints more difficult, it is recommended that the written complaint be filed within 60 days.

The Affirmative Action Officer, with the assistance of the Office of the President, will investigate all formal written complaints against employees and forward a recommendation to the appropriate Vice President within 30 days of receipt of the complaint. If the complainant feels that the Affirmative Action Officer has a conflict of interest of any sort, the complainant may petition the President to appoint an alternative investigator.

Appeals on the part of the accuser may be directed to the President. The accused may appeal any adverse action by following the established grievance procedures of the University.

XII. RACIAL HARASSMENT POLICY

Shepherd University does not tolerate harassment in the work place or of members of the University community. Shepherd University wants to provide an environment free of any form of harassment. For purposes of this policy, racial harassment is defined as any form of conduct that would be offensive, intimidating, or threatening to the average person and is done on the basis of race, color, ethnicity, national origin, or ancestry of the recipient, or on account of the recipient's relationship with person(s) of protected-class status.

If an employee or student believes he/she has been racially harassed in violation of this policy, he/she should take the following steps immediately:

1. If practical, confront your harasser with your complaint and explain why the action or comment is offensive or improper. Say it firmly, without smiling, and without apologizing.
2. Keep records. Write a journal on this issue, record the facts on a tape recorder, or tell a friend in confidence. Keep track of dates, places, times, witnesses, and the nature of the harassment. Save any letters, cards, or notes in a secure place, preferably at home. Bear in mind that this document may be used in litigation.
3. Tell the harasser, in writing, that you object to this behavior. Describe the specific things that offend or upset you. Treat this letter as a confidential piece of communication and keep a copy of it.
4. If harassment does not stop after taking these steps or if initial harassment is so serious as to require immediate action then a complaint should be initiated. A complainant should always feel encouraged to consult with the Affirmative Action Officer, members of the Affirmative Action Committee, or members of the Harassment Policy Team for guidance and assistance if they feel that they are a victim of harassment. However, generally, neither the Affirmative Action Officer, nor Committee or Team members can serve as a representative of the victim.

Informal resolution of complaints, when possible, is the preferred and most effective way of correcting misconduct. An employee who feels he or she is being or has been harassed should contact his or her immediate supervisor who should report to the Affirmative Action Officer any complaints that cannot be resolved immediately. A student can contact the Dean of Students, the Judicial Affairs Officer in Student Affairs, or other members of the Harassment Policy Team for assistance.

Any employee or student who feels that informal resolution of a complaint against an employee will not be or has not been satisfactory may file a formal written complaint with the Affirmative Action Officer. Formal complaints against students are filed with the Campus Judicial Affairs Officer, and they are handled under student conduct procedures. Since the passage of time makes the resolution of complaints more difficult, it is recommended that the written complaint be filed within 60 days.

Complaint Procedures

Any applicant for employment, current or former employee, or student (herein referred to as complainant) at Shepherd University may file a discrimination or harassment complaint with the Office of Human Resources or the University Ombudsperson.

Filing of Complaints

The Office of Human Resources has the responsibility for monitoring and addressing allegations of racial harassment brought by an employee, applicant, or student. For current employees, complaints of harassment may be made either to the immediate supervisor, the next level supervisor, the Harassment Team, or the Office of Human Resources. Students should contact the appropriate Chairperson, the Dean of Students, or the Office of Human Resources. Job applicants and others should contact the Office of Human Resources.

XIII. UTILIZATION ANALYSIS

FACULTY

Shepherd University actively recruits faculty nationwide. The availability data are based on information from the Statistical Abstract of the US 2006 representing all the U.S. The data for faculty are based on the number of full-time faculty employed as of January, 2006. As of that date there were 132 members of the faculty at Shepherd University. There were 55 females on the faculty. There were two black, and one Asian female on the faculty (Form 2). Analysis of Form #2 shows that Shepherd University has 77 males on the faculty, three of whom are black, five Asian, and one Hispanic. Form #4 "Goals Form" shows that Shepherd University has an under-utilization of one black male, and four black females. Shepherd University's goal for 2007-2008 is to employ two black females, and one black male. The ultimate goal is to employ one black male and four black females. This would bring Shepherd to parity between availability and utilization. It is hoped that a solid, well implemented program of Affirmative Action would yield results better than those outlined on Form #4 so that Shepherd University's goals for representation of minority employees could be surpassed regarding both faculty and staff.

STAFF

Shepherd University actively recruits staff personnel from the three eastern counties of West Virginia and availability data represents employment levels in Berkeley, Jefferson and Morgan counties of West Virginia. This information is from The Affirmative Action Data, BEP, for WV 2006. Category 1 data is from the Statistical Abstract of the U.S. 2006, representing all the U.S. The classified staff and non-classified staff data are based on employment levels at Shepherd University for January, 2007.

There are 72 Category 1 (Executive-Managerial) employees at Shepherd. There are 33 males and 39 females, three black males, one Hispanic male, and one Asian male. There are four black females, one Hispanic female, and one Asian female. Analysis of the availability data on Form #4 for Category 1 compared to the current workforce shows that Shepherd is not underutilized in this category. There are 34 Category 3 employees at Shepherd. There are 8 males and 26 females. There are three black females, one black male, and one Native American male in this category.

Analysis of the availability data on Form #4 for Category 3 compared to the current workforce shows that Shepherd is not under-represented in this category. There are 33 Category 4 employees at Shepherd. There are 28 white females and 2 black females. There are 3 white males. Analysis of the availability data on Form #4 for Category 4 compared to the current workforce shows that Shepherd is not under-represented in this category. There are 32 employees in Category 5 (paraprofessional) at Shepherd. There are 25 females. There are two black female employees in this category. There are six white males, and one black male employee.

Analysis of the availability data on Form #4 for Category 5 compared to the current workforce shows that Shepherd is not under-represented in this category. There are 70 employees in Category 6/7; 22 are white males with 8 black males, 2 Asian males, and 1 Native American male. There are 37 females in Category 7, with 12 black females, 3 Asian females, and 2 Hispanic females.

Analysis of the current workforce and availability data on Form #4 for Category 7 shows that Shepherd is under-represented by 10 white females. The annual goal is to employ 3 white females and the ultimate goal is to hire 10 white females.

ANNUAL GOALS AND ULTIMATE GOALS

The annual goals and ultimate goals noted on Form #4 "Goals Form" are not rigid and inflexible quotas which must be met, but targets that Shepherd University would like to attain in order to bring the composition of its workforce into line with the pool of available employees.

In those job categories where there has been a persistent history of under-representation of minorities or females at the institution, the University President shall be permitted to make appropriate exceptions to those procedures for the express purpose of facilitating the hiring of minority/females on newly created positions. Such exceptions shall be governed by current statutes and case law.

XIV. DIVERSITY AND EQUITY COMMITTEE

STRUCTURE

The Diversity and Equity Committee is appointed by the President and consists of members drawn from the administrative staff, faculty, classified employees, and community and student body. The chair is elected.

CHARGE

The Diversity and Equity Committee will report to the Administrative Council and is charged along the following lines:

1. To review the current hiring practices of the University and recruitment and retention of minority faculty, staff and students;
2. To recommend policies and strategies to increase and keep the number of minority administrators, faculty, staff and students on campus;
3. To recommend measures to facilitate a supportive environment on campus;
4. To identify off-campus outreach efforts which will significantly impact the lives and opportunities of minorities in the University's service area; and
5. The Committee will also serve as a body which will periodically review progress in reaching these objectives and make recommendations for prompt, remedial action.