

# Appendix 1

## AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT OPPORTUNITY POLICIES AND PROCEDURES

### I. AA/EEO POLICY STATEMENT

Arcadia University is committed to providing equal opportunity for employment to all applicants and equitable conditions of employment for all employees. The University stands firmly opposed to discrimination and pledges to treat employees and applicants solely with regard to their performance and abilities and without regard to ethnicity, national origin, ancestry, race, color, religion, creed, sex, marital status, affectional or sexual orientation, age, or disability. No qualified person shall be denied the opportunity to apply for a position at the University, nor shall any qualified employee be denied training, assignment, promotion, compensation, or benefits on the basis of any of the conditions just listed. Where past practices, regardless of intent, have led to unreasonable under-representation of members of ethnic or racial groups or members of one sex among its employees, the University pledges to pursue reasonable means of remedying imbalances. The University will implement and administer this policy in accordance with all applicable Federal, State and local laws and regulations as are appropriate.

### II. DEFINITION OF TERMS

The policy to which Arcadia University is committed embodies two principal concepts: non-discrimination and affirmative action.

- A. **Non-discrimination** requires that any illegal discriminatory conditions pertaining to employment practices, whether intended or inadvertent, be eliminated. **Non-discrimination** applies to all persons, whether or not the individual is a member of a conventionally defined minority group. Therefore, no person may be denied employment or related benefits on grounds of ethnicity, national origin, ancestry, race, color, religion, creed, sex, marital status, affectional or sexual orientation, age, or disability.
- B. **Affirmative Action** is a policy by which the University will strive to correct serious work force imbalances and to obtain a merit-based work force that represents fairly the social categories present in the general population. It is a policy that directly supports the University's commitment to being an institution with great diversity among its people. **Affirmative Action** requires a commitment on the part of the University to do more than insure employer neutrality with regard to employment practices. Whenever positions are open in categories in which there is a conspicuous imbalance in representation of women or members of minority groups, the University shall make particular efforts to recruit, employ and promote qualified women and members of minority groups.
- C. **Minorities** are considered to be those groups of people who have been denied equality of opportunity to achieve wealth or power in our society. Women constitute another principal category of persons sometimes excluded or under-utilized in past employment patterns of society.

### III. GOALS AND OBJECTIVES

#### A. **Goals**

1. Determine the extent to which women and minorities are under-utilized among administration, faculty and staff.
2. Increase minority and women's representation in areas in which minorities and women are under-utilized.
3. Review all employment practices to assure that they encourage minority and women's applications and modify any practices that might discourage such groups from applying or seeking advancement.

#### B. **Objectives**

1. Collect and analyze data regarding the representation of women and minorities among administrators, faculty and staff.
2. Determine the extent to which women and minorities are under-utilized in each major job classification.
3. Identify and eliminate the specific causes of such under-utilization.
4. Identify and eliminate any employment practices whose impact has been adverse on minorities, women and others protected by applicable law and whose relationship to job performance has not been clearly established.
5. Replace such practices with new practices that are based on merit and valid job qualifications.

6. Develop, through special recruitment efforts and other measures, applicant pools in which validly qualified minorities and women are represented in proportions sufficient to help reduce their under-utilization, where such has occurred.
7. Establish organizational structures and monitoring systems that will assure effective operation of the affirmative action program, achievement of its goals, and modification of the plan as appropriate to those ends, and place such structures and systems into operation.

#### **IV. PROMULGATION OF THE POLICY**

##### **A. Notification**

A copy of these Policies shall be included in the Personnel Packet received by each employee of the University.

##### **B. Training**

The Affirmative Action Officer shall communicate to the campus community annually concerning the basic job search policies and the relevant grievance procedures. The Affirmative Action Officer will provide training upon request.

#### **V. DEFINITIONS OF RESPONSIBILITIES**

##### **A. The President**

1. The President is committed to this Affirmative Action/Equal Employment Opportunity (AA/EEO) Policy and believes it is central to the mission, purposes and goals of Arcadia University. Ultimate responsibility for the development, implementation and compliance of this policy rests with the President as chief executive officer. While the President has delegated specific overall administrative authority to the Affirmative Action Officer, each manager and supervisor will be held accountable for implementing this policy as it relates to his/her particular area.
2. In the event that the President is unable to discharge any of the functions outlined in the procedures below in a timely way, the duties will fall to the Vice President with senior administrative control in the President's absence.

##### **B. The Affirmative Action Officer**

The Affirmative Action Officer reports directly to the President of the University on matters pertaining to affirmative action and equal employment opportunity and has specific responsibilities for:

1. Revising and updating the AA/EEO Policy in consultation with the Affirmative Action Committee.
2. Monitoring the implementation of the AA/EEO policy and identifying the costs associated with implementation.
3. Monitoring employment search processes to assure compliance with federal, state, local and University AA/EEO regulations.
4. Assisting in the development of equitable personnel policies for all employees.
5. Dissemination of information and regulations from governmental agencies.
6. At the start of each semester, reporting to the Affirmative Action Committee the frequency and nature of the complaints handled under these policies during the prior semester.
7. Making an annual report to the Faculty on the condition of the University in the areas of affirmative action and equal employment opportunity and of the activities of the Affirmative Action Office and Committee during the preceding year.
8. Acting as the University's liaison with outside agencies and individuals on matters of affirmative action.
9. Carrying out the Affirmative Action Officer's role in grievance procedures as outlined in this policy.
10. Conducting or participating in orientation and training of new employees to the University's affirmative action/equal opportunity commitment.
  - a) The Affirmative Action Officer will present an outline of the policies and procedures at the annual new faculty orientation.
  - b) It shall be the responsibility of the Director of Human Resources to point out the Affirmative Action Policies during new employee orientations.
11. Upon request, or if otherwise deemed necessary, serving as a consultant to search committees for positions where such committees are required and as a resource to individuals and departments conducting searches.
12. Upon request, or if otherwise deemed necessary, serving as a consultant on matters of affirmative action and equal employment opportunity to the Promotion and Tenure Committee.
13. Advising the Director of Human Resources on matters of affirmative action and equal employment opportunity.
14. Serving as an ex-officio member of the Affirmative Action Committee.

15. Otherwise promoting aggressive recruiting of faculty and staff who are women and/or members of minority groups traditionally under-represented at the University.

**C. Alternate Affirmative Action Officer**

1. An Alternate Affirmative Action Officer shall be appointed by the President to play the roles assigned to the Affirmative Action Officer if the latter is deemed to be inappropriate or ineligible to perform them or is unavailable such that the processes cannot proceed in a timely fashion.
2. It shall be the duty of the Affirmative Action Committee to nominate someone to fill this role, being mindful of some of the circumstances and attributes which might render the Affirmative Action Officer inappropriate for a given role and seeking as an Alternate a person with contrasting attributes.
3. The Alternate shall serve for a three-year term.

**D. Office of Human Resources**

1. The Office of Human Resources shall be responsible for developing employment procedures and forms that are consistent with the University AA/EEO policy and procedures.
2. It shall prepare government reports and provide statistics relating to the employment of minorities and women.
3. It shall develop recruiting relationships with organizations, which refer qualified minority and women applicants for employment.
4. It shall conduct such staff support functions as are necessary for the effective management of this policy.

**E. Affirmative Action Committee**

1. Membership.

The Affirmative Action Committee shall consist of representatives from each area of the University in which hiring, firing, and promotion occur.

- a. One tenured faculty member.
- b. One un-tenured faculty member.
- c. One representative from the executive/senior management category.
- d. One representative from the administrative/professional category.
- e. One representative from the support staff category.
- f. The Affirmative Action Officer, *ex officio*.

2. Selection of members.

- a. A ballot listing each person in the category will be sent to all employees in each of the employee groups indicated above.
- b. Employees will be asked to vote for up to three members of their group to be elected to a pool from which the members of the Committee will be drawn.
- c. These ballots will be sent to the Affirmative Action Officer, who will tabulate them.
- d. The Affirmative Action Officer will select a nominee from each employee group from among the three people who have received the most votes in the category.
  - (1) In making this selection, the primary emphases will be on creating and preserving gender and ethnic balance within the Committee and on adequate representation of the groups this Policy is intended to protect.
- e. The Affirmative Action Officer will propose individuals to the President for appointment to the Committee.
  - (1) If the President declines to appoint a nominee proposed by the Affirmative Action Officer, the President may ask for an alternate nominee from the same employee category.
  - (2) In all instances, the President and the Affirmative Action Officer are required to select only those people who are among the top three recipients of votes in their respective categories.
  - (3) The persons not selected from the top vote recipients in each category shall be considered as part of the pool from which substitute hearing panel members and/or hearing advisors might be chosen.
    - (a) Persons in these pools should be notified of their selection and eligibility to be called upon for service.

3. Terms of service.

- a. Committee members shall serve three year, staggered terms.
- b. In the event that a Committee member changes employee category during his/her term, a special election shall be held for a representative to complete that term.

4. Officers and Committees.

- a. The Affirmative Action Committee shall select its own Chair, whose role shall be to conduct meetings. The Chair may delegate this role to another committee member in his or her absence. Additional roles of the Chair include:
  - (1) Consulting with the AAO regarding requested waivers of job search requirements.

- (2) Formally writing to persons summoned to hearing
- (3) Chairing Hearing Boards, if not ineligible due to position.
- b. The Committee shall select a Secretary who shall record the proceedings of its meetings.
- c. The Committee may appoint such sub-committees as are necessary to conduct its business.
- 5. Duties.
  - a. The committee shall advise the President and the Affirmative Action Officer on a continuing basis in all matters relating both to affirmative action policy and to equal opportunity at the University, and shall propose such policies and supporting guidelines as it may deem necessary.
  - b. It shall assist the Affirmative Action Officer in the implementation and modification of the Affirmative Action/Equal Employment Opportunity (AA/EEO) policy and procedures.
  - c. It shall monitor the AA/EEO policy through the collection and evaluation of information regarding the AA/EEO policies of the University.
  - d. On an annual basis, it shall propose a pool of advisors who would be recommended to assist the participants in hearings.
  - e. On a regular basis, it shall advise the AAO of persons recommended to serve as alternates if the AAO were to be unable to carry out a role specified in these policies.
  - f. Members of the committee shall serve as the hearing board as selected under the AA/EEO grievance procedures outlined below.

## **VI. AFFIRMATIVE ACTION POLICY FOR CONDUCTING JOB SEARCHES**

### **A. Notification of job availability**

All units wishing to hire new personnel must conduct a search for candidates that is consistent with the AA/EEO policies of the University and the circumstances of the position.

1. Ordinarily, a vacancy to be filled at the University must be announced to the University community in writing, disseminated by whatever medium assures that the entire work force is made aware of the vacancy no later than the day that external advertising or announcement, if any, is sent off campus.
  - a. Exceptions to this rule may occur in cases of promotions within a department and intra-departmental reorganization of positions, though any positions which are vacated by such changes and which are to be filled become subject to the normal search requirements.
  - b. Waivers of the search requirements may be granted according to the procedures discussed in 'VI.A.8 below.
2. Before advertising to fill a vacant or new position, the office proposing a search may consult with the Affirmative Action Officer to determine what additional scope of search, if any, is required. It shall be the responsibility of the Affirmative Action Officer to keep a written record of this determination.
3. For full-time faculty positions above the level of Instructor, for Level I administrative positions, and for some Level II administrative positions (as determined by the Level I administrator in charge of the position in consultation with the Affirmative Action Officer), in all instances except where the position is explicitly defined as temporary (generally one year or less in duration), a national search will ordinarily be required.
  - a. If there is insufficient time to conduct a national search, a search may be conducted in the local region with the understanding that the position will be filled for one year only, after which time a national search will be conducted.
  - b. One-year or shorter faculty and administrative positions and adjunct faculty positions at the levels indicated may be searched for in the local region only.
4. Faculty and administrative positions below the levels indicated in VI.A.3 may be searched for in the local region only.
5. The President reserves the right, in consultation with the Affirmative Action Officer, to ask that a broader search be carried out for a position if it is determined that the scope of the search provided for in these procedures is too narrow to achieve the goals of these policies.
6. Should a person suddenly and unexpectedly leave a position, the function of which is vital to the operation of the University, the President shall have the right to authorize the appointment of an interim replacement, to serve until the conclusion of the semester in progress or until such time as a search of appropriate scale can be conducted.
7. All hiring units so required must place advertisements in periodicals which are likely to be read by qualified members of minority groups or which target the populations covered by the AA/EEO policies.
  - a. The Affirmative Action Officer will keep a file of such periodicals and electronic media and will make this available to all hiring units.
  - b. Departments and units should also maintain files on such channels for seeking applicants.

- c. If timely access to such periodicals is impossible, or if no periodical or other outlet is appropriate for the position being filled, hiring units must send announcements of positions to organizations or institutions that will afford contact with the populations covered by the AA/EEO policies.
8. The Affirmative Action Officer may approve modifications of these procedures in special circumstances.
- a. Such circumstances include, but are not limited to, blind searches, requests to use previously collected applicant pools, and special appeals for the hiring of particular individuals.
  - b. The hiring unit must present its request for a change in the procedures in a letter addressed to the Affirmative Action Officer.
  - c. The Affirmative Action Officer will consult with the Chair of the Affirmative Action Committee concerning the request.
  - d. A written response will be sent to the hiring unit, with file copies of all relevant correspondence kept by the Affirmative Action Officer
  - e. The Affirmative Action Officer and the Chair of the Committee reserve the right to call a meeting of the entire Committee to rule on difficult requests, in which case the Committee's decision shall be by majority vote.
  - f. The party requesting a modification or waiver may appeal the ruling of the Affirmative Action Officer to the Affirmative Action Committee, which shall decide the issue by majority vote.

**B. Affirmative Action Review of Advertisement Copy**

1. All advertisements of available positions must contain reference to the University's AA/EEO policies. Ordinarily, the advertisement should state that "Members of minority groups and women are especially encouraged to apply", along with indication that the University is an AA/EEO employer. When there is inadequate space, however, the phrase "Arcadia University is an AA/EEO employer" or simply "AA/EOE" will be sufficient.
2. All hiring units about to conduct a job search must request authority to conduct a search from the senior-most University officer in charge of their areas. It shall be the responsibility of the senior officer to submit to the Affirmative Action Officer an exact copy of the advertisement or announcement for the position along with a list of publications in which the advertisement is to be placed and locations to which an announcement is to be sent prior to its being sent off campus.
3. The Affirmative Action Officer, if satisfied that the advertisement conforms to the guidelines, will indicate so in writing on a form provided for that purpose. A copy of that form shall be sent to the senior officer in charge of the area in which the search is being conducted. The Affirmative Action Officer shall keep copies of the advertisement for three years. No advertisement for hiring may be placed nor announcement be made without prior, written acknowledgment that Affirmative Action guidelines have been followed.
  - a. If an absence of the Affirmative Action Officer would cause unreasonable delay in the search process, the Chair of the Affirmative Action Committee or the Executive Secretary of the President shall be authorized to review advertisements and to issue approvals or disapprovals.
  - b. If neither Affirmative Action Officer, Affirmative Action Committee Chair, nor Executive Secretary is available in such a way as to allow a timely search to proceed, the President may appoint someone to assume the approval function temporarily.
4. It shall be the responsibility of the unit conducting a search to see that a letter acknowledging an application and giving an idea of the schedule that will apply to the search is sent to all applicants for a position; templates for such letters will be made available by the Office of Human Resources.
5. From time-to-time the Affirmative Action Officer may request that such letters contain a separate, postage-paid Affirmative Action Survey card.
  - a. Cards are to be prepared and be made available by the Human Resources Office.
  - b. Cards will be returned to the Affirmative Action Officer who will use them only to compile records of the search procedures.
6. Copies of these letters, of all correspondence relating to the search, of all applications received during the search, and of all rating forms employed by search committees, shall be kept on file for three years.
  - a. The Dean of the University shall keep the files of the searches for instructional positions and for such administrative positions as report to that office.
  - b. The Director of Human Resources shall keep the files of the searches for all other positions (i.e., those files not kept by the office of the Dean).
7. The Affirmative Action Officer shall have the duty and the right to suggest to hiring units that they pursue additional channels to attract qualified applicants whose characteristics satisfy the Affirmative Action guidelines where affirmative action is necessary to correct an imbalance.

- a. Willful or repeated failure to follow reasonable suggestions of the Affirmative Action Officer will constitute a violation of the AA/EEO Policy.
- b. In such instances, it shall be the responsibility of the Affirmative Action Officer to seek out the administrative official under whose domain the failure is alleged to be occurring, in order to correct the problem.
  - (1) The Affirmative Action Officer shall first meet with the official in whose area the problem is found, to urge him or her to see that the policies are enforced.
    - (a) The Affirmative Action Officer shall stand ready to advise the relevant official about the necessary procedures.
    - (b) When the concern is about an official who is in charge of a major administrative unit, the matter shall be brought to the attention of the President.
    - (c) When the concern is about the conduct of the President, the matter shall be brought to the attention of the Chair of the Board of Trustees.
    - (d) The relevant supervisory official will be asked to submit a written summary of the actions he or she has taken, with copies sent to the President, to the Affirmative Action Officer, and to the employee whose conduct has been in question.
    - (e) The employee in question shall have the right to submit his or her own letter to the President and to Affirmative Action Officer expressing his or her view of the matter.
  - (2) In the event the Affirmative Action Officer detects repeated infraction, the matter shall be brought directly to the President who shall then have the responsibility of initiating such action as he or she deems fit, up to and including procedures of dismissal.

**VII. GRIEVANCE PROCEDURES**

Members of the Arcadia University community who feel they have experienced discrimination, disciplinary action, or harassment based upon ethnicity, national origin, ancestry, race, color, religion, creed, sex, marital status, affectional or sexual orientation, age, or disability have rights to grievance procedures which should both address their complaints and see that misbehavior is penalized or errant practices corrected<sup>1</sup>. These grievance procedures are intended for use in instances where the party accused of harassment or discrimination is a non-student employee of the University. Instances in which a student if accused or in which only students are involved will be handled according to the Student Judicial process as outlined in the Student Handbook. It is desirable that complaints about mistreatment be resolved through informal channels if at all possible. The formal grievance mechanism exists for those complainants who feel that informal discussions cannot resolve a problem or for whom other channels are inappropriate or unavailable.

Unless others in the University Community have a need to know about the issues pertinent to the grievance (e.g.: in order to protect persons from harm) the Affirmative Action Officer and all those who may become involved in its resolution shall keep their knowledge of the alleged misconduct strictly confidential.

**A. Informal resolution of complaints.**

- 1. Persons who believe themselves to have been mistreated should first communicate directly to the person they hold accountable for the mistreatment, declaring the practice to be unwelcome and asking that it cease.
  - a. Persons making such approaches should keep careful records of the transaction, should more formal procedures become necessary.
- 2. Should such initial discussions prove unsatisfactory, or if in the judgment of the Affirmative Action Officer the situation is so serious that private informal resolution is not appropriate, or if the complainant is unwilling to confront the accused in private, the complainant may wish to have the matter resolved informally in conjunction with the accused's immediate supervisor.
  - a. Complainants wishing to pursue this channel should contact the Affirmative Action Officer for guidance.
    - (1) The Affirmative Action Officer shall seek to refer the complaint to the person most immediately superior to the accused party.
      - (a) For faculty, this will be the relevant Department Chair; the relevant Dean would be involved in the instance of a complaint against a Department Chair.
      - (b) For senior administrators, this will be the President; the Chair of the Board of Trustees would be involved in the instance of a complaint against the President.

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<sup>1</sup> See the Policy on Sexual Harassment, and the U.S. Department of Education, Office of Civil Rights guidelines for definitions of harassment, discrimination and other proscribed practices.

- (c) For staff, this will be the Director of the staff member's unit; the relevant senior administrators would be involved in the instance of a complaint against a Director.
    - (2) If the immediate supervisor is unavailable, or is for any reason inappropriate, the Affirmative Action Officer may recommend alternate supervisors.
  - b. A meeting among the complainant, the accused, the Affirmative Action Officer and the accused's supervisor must be scheduled within (10) workdays of the complainant's complaint to the Affirmative Action Officer.
    - (1) Both parties to a dispute have a right to have an advisor present.
    - (2) There may also be circumstances in which the presence of the Affirmative Action Officer is inappropriate.
      - (a) In this instance, the Alternate Affirmative Action Officer will take over the roles specified for the Affirmative Action Officer (see §V, C above).
  - c. This meeting must be held in private, and its results kept strictly confidential.
  - d. If the supervisor finds discrimination, unjust disciplinary action, or harassment to have occurred, he/she must write a report of the proceedings, stating the facts of the incident and the action(s) taken by the supervisor pursuant to his/her finding. This report must be signed by the supervisor, and attested to by the signatures of the complainant and the accused. It should be placed in a sealed envelope to be kept in the employee's or student's personnel or disciplinary file. The envelope will only be opened in the event that the accused is found to have violated these policies a second time, or if, in the discretion of the appropriate University officials, it is necessary to review the contents of the file in connection with an investigation of subsequent accusations of misconduct.
    - (1) The parties to the dispute will be asked to sign the written statement of resolution within 48 hours of the conclusion of the informal hearing.
    - (2) When such an informal resolution has been reached, or when an appeal for a formal hearing has run its course (§VII,B,2,b below), the Affirmative Action Officer will communicate to the Chair of the Affirmative Action Committee that a complaint has been resolved and the general nature of the complaint, while maintaining confidentiality.

**B. Formal Grievance Procedures.**

- A student or employee may request a formal grievance hearing when a matter has not been resolved satisfactorily during efforts at informal resolution, where the student or employee does not wish to resolve a dispute informally, or where the Affirmative Action Officer has determined that the conduct complained of was so serious that informal resolution is not appropriate.
1. The person so desiring must present a written request for a hearing to the Affirmative Action Officer within twenty (20) workdays of the alleged infraction, or ten (10) workdays of an unsuccessful attempt to handle the matter informally. This request should state the specific violations being alleged, the details of the case as the complainant understands them, and what, if anything, has been done to resolve the matter informally.
    - a. With regard to the time period stated here, or any similar time period mentioned in these procedures, should such a period extend beyond the period in which participants could be expected to be present (such as, for instance, the end of the semester), the periods may be accelerated by mutual consent of the parties, or the case may be held over until the start of the subsequent semester.
    - b. There may be exceptions to these time limits if good cause is shown for coming forward at a later date within two (2) years of the alleged incident.
      - (1) Among such causes might be an accuser's reluctance to confront someone who has authority or strong influence over the accuser's future prospects, or the discovery of new evidence or corroboratory witnesses.
      - (2) In such instances of substantial delay after the alleged incident, the Hearing Board should take into account the effect of the time lapse on the parties' abilities to prepare their cases.
    - c. Should it be inappropriate for the Affirmative Action Officer to take part in these or subsequent procedures, an alternate may be proposed as indicated in §VII,A,2,b,(2).
  2. The Affirmative Action Officer should meet to discuss the case with the complainant within one week of receiving a request, and should determine whether the alleged facts would constitute a violation of policy and thus warrant a formal hearing.
    - a. The Affirmative Action Officer may conduct such investigation as is necessary in order to make such a determination, interviewing the accused, other persons, or reviewing records.
      - (1) If appropriate, the Alternate Affirmative Action Officer may be asked to assist in this process.

- b. If warranted, a formal hearing must be held within fifteen (15) workdays of the meeting with the complainant, or within fifteen (15) workdays of the decision by an Appeals Subcommittee to hold a hearing (see VII.B.2.b).
    - (1) The Affirmative Action Officer shall immediately communicate this in writing to the Chair of the Affirmative Action Committee.
    - (2) The letter to the Chair should contain an explicit statement of the charges against the accused, along with a summary of the alleged facts upon which the grievance is based. The statement of charges should be sufficiently detailed such that the Chair of the Committee and the accused will understand the facts upon which the grievance is based and so that the accused is enabled to prepare a defense.
      - (a) The complainant shall have the right to review the language of the charge.
      - (b) The complainant's review must be returned to the Affirmative Action Officer within 48 hours of its receipt.
      - (c) If the complainant and the Affirmative Action Officer cannot agree on the wording, the Affirmative Action Officer shall append the complainant's written statement to the statement of the charges.
      - (d) The Chair shall write to summon the accused party(ies) to the Hearing within two (2) workdays of receiving the written notice from the Affirmative Action Office; the letter should include a copy of the statement of charges.
    - (3) Failure of the accused to respond to this summons or to appear at the hearing, without adequate excuse being made to the Chair of the Affirmative Action Committee, shall be taken as an admission of culpability.
  - c. If the Affirmative Action Officer declines to call a hearing, the complainant has the right to appeal this decision to an Appeals Subcommittee of the Affirmative Action Committee.
    - (1) The Appeals Subcommittee shall consist of two members of the Affirmative Action Committee who would not, by virtue of their statuses, be expected to serve on the Hearing Board for the case in question; service on an Appeals Subcommittee would also prevent service on the related Hearing Board.
    - (2) This appeal must be in writing and sent to the persons designated for the Appeal within five (5) workdays of the Affirmative Action Officer's decision.
    - (3) The decision of the Appeals Subcommittee in this matter is final; in case of a tie vote, a hearing would not be held.
    - (4) After the expiration of the appeal period (5 days), the Affirmative Action Officer shall notify the Chair of the Affirmative Action Committee of the fact that a formal hearing was denied.
3. In the event of a formal hearing, selected members of the Affirmative Action Committee shall serve as the Hearing Board.
- a. The Hearing Board shall contain three (3) members.
  - b. The Chair of the Affirmative Action Committee shall chair the hearing.
  - c. The two remaining members of the Board shall be the Committee representatives of the categories in the University from which the disputants come.
    - (1) If any member of the Board is a party to the dispute, or is in a direct supervisory or reporting capacity to any of the disputants, an alternate member of the Affirmative Action Committee shall be designated by the Chair to hear the case.
    - (2) If disputants come from the same category, additional Hearing Board members may be drawn from the election pools determined at the time of the category election (see §V,E,2,e,(3) above).
    - (3) If the Chair is ineligible to sit on the Board, the President shall designate an alternate.
    - (4) If the disputants dispute the makeup of the Board and are unable reach an agreement on it, the President shall have the final decision over its makeup.
  - d. In the event that a party to a dispute is a student, one member of the Board must be a student from the disputant's category.
    - (1) For full-time undergraduates, a student selected by the Vice President for Student Affairs in consultation with the President of the Student Government Organization.
    - (2) For part-time evening University students, a student selected by the individual with primary responsibility for adult and Continuing Education students.
    - (3) For graduate students, a student selected by the Dean of Graduate Studies.
  - e. One member of the Board shall keep a written summary of the hearing; in addition, the hearing shall be tape-recorded.
4. Both complainant and accused shall be present throughout the hearing.

- a. However, if either leaves the hearing, the Board may proceed with the hearing in the absence of the complainant or the accused and may make reasonable inferences from the decision of either person to leave the proceedings.
- b. If the complainant fails to appear at the hearing, the Board shall decide whether the circumstances warrant postponing or dismissing the case.
  - (1) The Board may decide to postpone the hearing provisionally, pending discovery of the complainant's reasons for absence.
  - (2) In the instance of a postponement, the parties must be notified about the next steps in the procedure (such as re-scheduling or dismissal of the case) within 72 hours.
5. Both complainant and accused may bring a member of the University community to serve as an advisor. However, legal counsel may not be present at the hearing.
6. Both the complainant and the accused shall represent themselves; they may also request their advisors to assist in their presentations.
7. The Affirmative Action Officer will ordinarily be present during the hearing to offer such advice as is solicited by the Hearing Board.
8. Both complainant and accused may call witnesses and present written evidence to support their positions.
  - a. Both complainant and accused must submit a list of proposed witnesses and copies of written evidence to the other party no later than five (5) days before the hearing date.
  - b. If, upon receipt of the complainant's information, the accused believes that more time is needed to respond to unanticipated witnesses or evidence, the accused may appeal to the Hearing Board for an extension; the Board, by majority vote, may grant such an extension, not to exceed five (5) additional days.
  - c. Both complainant and accused must bring to the hearing four (4) copies of all written evidence.
9. The evidence to be heard at the hearing will be in the sound discretion of the Hearing Board. The Hearing Board may reject evidence that it believes to be not relevant or competent, and may refuse to hear witnesses if it appears that they have no meaningful evidence to contribute to the process, or if the information they have would be redundant.
  - a. Either side may challenge the admissibility of evidence or testimony. In such an instance, the Chair of the Hearing shall rule on the issue. Appeal of his/her ruling may be made to the Hearing Board, which shall rule on the issue by majority vote.
  - b. Each party to the grievance may question the witnesses brought by the other party, following the procedure given below. Members of the Hearing Board may ask questions of witnesses at any time.
  - c. Witnesses shall remain in the Hearing room only during the duration of their testimony.
10. Accused parties will not be considered responsible for a violation of policy unless or until allegations made against them are admitted or proven in the hearing procedures.
11. The Hearing Board shall consider allegations to be proven if the evidence presented in the hearing that supports the allegations is clear and convincing and is found to be credible.
  - a. "Clear and convincing" establishes a standard of proof falling between the traditional standards of "preponderance of the evidence" and "beyond a reasonable doubt."
  - b. "Clear and convincing" means unequivocal and convincing evidence that a fact is probably correct or is very likely to be correct
12. The Hearing shall adhere to the following procedures.
  - a. The Chair shall call the meeting to order.
  - b. The Chair shall determine that all present understand the procedures of the hearing, and that the contesting parties know of their rights to advisors.
  - c. The Chair shall read the allegations against the accused, and the accused shall be asked to admit or deny them.
    - (1) If the accused denies the allegation, the hearing shall proceed as below.
    - (2) If the accused acknowledges the allegation, the Hearing Board may, at its discretion, proceed with the hearing as outlined below in order to learn facts they may use in weighing their judgment of corrective measures or sanctions.
  - d. The complainant with the assistance of an advisor, if desired, shall make statements, call witnesses, and present evidence in support of the complainant's allegations.
    - (1) The accused (and advisor) shall have an opportunity to question each witness after the complainant (and advisor) have finished their questions; the accused may likewise comment on each piece of evidence as it is presented.
    - (2) Members of the Board may question witnesses at any time, but should generally reserve their questions until all parties to the dispute have finished their interrogations.

- e. The accused and advisor, if so chosen, shall next present statements, witnesses and evidence in answer to the complaint.
    - (1) The complainant (and advisor) have reciprocal rights to question the evidence given by the accused.
    - (2) The Board may likewise ask questions, though preferably after the disputants have concluded.
  - f. The complainant or his/her advisor shall present a summary statement of the case against the accused.
  - g. The accused or his/her advisor shall present a summary statement of the case on his/her behalf.
  - h. Members of the Board shall be permitted to ask any final questions of the disputants.
  - i. All persons except members of the Hearing Board shall be excused from the room, and the Board shall deliberate over its judgment in private. No recording of these deliberations is to be made.
    - (1) The Board shall first consider the question of whether the accused party violated policies as alleged in the complaint.
    - (2) If the Board finds the allegations to have been proved, it shall then deliberate over the corrective measures or sanctions to be recommended.
    - (3) The Board's decisions shall be made by majority vote of the members.
  - j. The accused party(ies) and the complainant(s) shall be notified of the decision of the Board regarding the validity of the allegations as soon after the hearing as is practical, but in no case later than three (3) workdays after the hearing.
13. The Board may recommend that a variety of measures be taken or sanctions carried out in the event of finding the accused to have violated policies as alleged.
- a. A written warning to the accused.
  - b. Restoration of loss to the complainant, including but not limited to changes in employment status, changes in academic records, or provision of counseling services.
  - c. Other disciplinary action short of termination or dismissal.
  - d. Termination or dismissal.
  - e. Proposed revisions of policies or practice to avoid recurrence of the infraction.
14. Such recommendations are advisory to the President, who alone shall have the authority to invoke sanctions; if the President is the violator, such recommendations will be made to the Chair of the Board of Trustees.
- a. A written report of the proceedings and recommendations must be sent to the President within five (5) workdays of the conclusion of the hearing.
  - b. The President shall discuss the sanction with the appropriate administrator: Vice President for Student Affairs and/or Dean of Graduate Studies for student offenders; Academic Vice President for faculty offenders; Director of Human Resources for staff offenders; in the event that a member of the Senior Staff is judged to have violated these policies, the President will discuss the sanctions with the other senior administrators; should the President be found culpable, the Chair of the Affirmative Action Committee shall consult with the Chair of the Board of Trustees.
  - c. The President shall endeavor to meet with the necessary administrators promptly to discuss sanctions. Written notification of the sanctions should be sent to the offender no later than fifteen (15) workdays after the hearing.
15. The intent of these procedures is to provide a fair and orderly method of finding facts and resolving disputes in matters involving discrimination, affirmative action, or harassment. The Hearing Board, in its sound discretion, may approve deviations from the hearing procedures outlined herein, in order to provide a fair procedure and to protect the rights of all parties to the proceeding.
16. Either party may appeal the decision of the Board, but only on the grounds that errors of procedure during the hearing might have affected the outcome of the hearing.
- a. Such an appeal must be made in writing to the President within 5 workdays of the conclusion of the hearing.
    - (1) The appeal must state the specific procedural violation alleged, and must explain how this might have affected the outcome of the hearing.
  - b. The President may choose to review the written and taped record of the hearing before making a determination on the appeal.
  - c. The President must render a decision on the appeal within 10 workdays of its receipt.
  - d. The President's decision is final.

Approved by the Board of Trustees on June 8, 2001