



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (10/1/89)

Agency: Central Washington University

- Permanent Rule
 Emergency Rule

(1) Date of adoption: 10-28-91

(2) Purpose:
see attachment

(3) Citation of existing rules affected by this order:

Repealed:

Amended: WAC 106-72-005, 015, 025, 130, 220, 400, 410, 490, 510, 520, 530,

~~XXXXXXX~~ Suspended: 540, 550, 560, 570, 580, 590, 600

(4) Authority for adoption:

Statute: RCW 28B.35.120(12)

Other Authority:

(5.1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR _____ on _____ (date)

Describe any changes other than editing from proposed to adopted version:

(5.2) EMERGENCY RULE ONLY

Pursuant to RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Necessary clarification of nondiscrimination rules and compliance with Administrative Procedure Act; compliance with Title IX of the Education Amendments of 1972 (Title IX) as interpreted by Office for Civil Rights, Region X (Title 20 USC 1681)

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If yes, explain:

(6) Effective date of rule:

Permanent Rules

Emergency Rules

- 31 days after filing
 Other (specify) _____ *
- Immediately
 Later (specify) _____

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

CODE REVISER USE ONLY
CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

NOV 01 1991

TIME: 1:56
WSR 91-22-060

NAME (TYPE OR PRINT)

Donald M. Schliesman

SIGNATURE

Donald M. Schliesman

TITLE

Provost & VP for Academic Affairs

DATE

10-28-91

ATTACHMENTS CR-103

PURPOSE

WAC 106-72-005	To redefine policy statement and clarify protected groups
WAC 106-72-015	To clarify protected workforce groups which will be analyzed annually
WAC 106-72-025	To define university sponsored programs and activities to be provided equal access
WAC 106-72-130	To ensure nondiscrimination compliance for university contracts and contractors
WAC 106-72-220	To define significant minority group members for student population
WAC 106-72-400	To ensure that an individual will not be penalized or retaliated against for participation in complaint procedure
WAC 106-72-410	To change dean of students to vice-president for student affairs and delete contact confidentiality phrase
WAC 106-72-490	To change hearing to proceeding
WAC 106-72-510	To change hearing to proceeding
WAC 106-72-520	To change formal hearing to adjudicative proceeding
WAC 106-72-530	To change formal hearing to adjudicative proceeding and hearing to proceeding
WAC 106-72-540	To change formal hearing to adjudicative proceeding and hearing to proceeding
WAC 106-72-550	To change formal hearing to adjudicative proceeding
WAC 106-72-560	To change formal hearing to adjudicative proceeding and hearing to proceeding

- WAC 106-72-570** **To change formal hearing to adjudicative proceeding and hearing to proceeding**
- WAC 106-72-580** **To change formal hearing to adjudicative proceeding**
- WAC 106-72-590** **To change formal hearing to adjudicative proceeding and hearing to proceeding**
- WAC 106-72-600** **To change hearing to proceeding**

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

WAC 106-72-005 AFFIRMATIVE ACTION POLICY STATEMENT. (~~It is the policy of~~) Central Washington University is committed to affirmative action for Asians, Blacks, Hispanics, Native Americans, women, persons between the ages of forty and seventy, persons of disability, and disabled and Vietnam-era veterans. This commitment is expressed through the university's efforts to eliminate barriers to equal employment opportunity and improve employment opportunities encountered by these protected groups.

Furthermore, as an equal opportunity employer Central Washington University ((to)) will:

(1) Recruit, hire, train, and promote persons in all job titles, without regard to race, color, religion, creed, age, national origin, disabled or Vietnam era veteran status, the presence of any physical, mental, or sensory handicap, marital status, sexual orientation, or sex except where a bona fide occupational qualification exists.

(2) Insure that all personnel actions such as compensation, benefits, transfers, terminations, layoffs, return from layoff, reductions in force (RIF), university sponsored training, education, tuition assistance, and social and recreation programs, will be administered without regard to race, color, religion, sex, age, national origin, creed, marital status, or the presence of any physical, mental or sensory handicap.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

WAC 106-72-015 ANNUAL WORKFORCE ANALYSIS. (1) The affirmative action office will conduct an annual workforce analysis for each academic department and a separate utilization analysis for ((minorities and-women)) protected group members (i.e., minorities, women, Vietnam-era and disabled veterans, persons of disability and persons over the age of forty in each major job group. ((If underutilization exists,)) The university will set forth specific goals and timetables ((for minorities-and-women)) where underutilization is identified. Underutilization is defined as ((^))having fewer ((women-or-minorities)) protected group members in a particular job than would reasonably be expected by their availability.((^)) (Higher Education Guidelines, Executive Order 11245.)

(2) The university and each organizational unit will make every possible effort to recruit and employ qualified minorities and women to fill vacancies in order to achieve its goals, searching for personnel in areas and channels previously unexplored to the extent necessary to overcome underutilization. Before each vacancy can be officially filled, a designee of the affirmative action office or the personnel and benefits office must certify that the appropriate recruitment and hiring procedures have been followed.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

WAC 106-72-025 NONDISCRIMINATION IN DELIVERY OF SERVICES. Central Washington University will provide equal access to all programs for all students on the basis of merit without regard to race, color, religion, sex, age, national origin, or the presence of any sensory, physical, or mental handicap.

No person will be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity sponsored by the university including, but not limited to, admissions, academic programs, student employment, counseling and

guidance services, financial aid, recreational activities, and inter-collegiate athletics.

Programs may be developed by the university, however, for special student populations as affirmative action measures to overcome the effects of past discrimination.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

WAC 106-72-130 PROCEDURES, RULES, AND REGULATIONS--CONTRACTS AND CONTRACTORS. ((Every department of the university which awards contracts for the construction, alteration or repair of any building or other public work shall utilize procedures which will ensure that minority group persons are employed on all public works projects of the university. This goal is to be sought whenever university funds, from any source, are expended.

The university shall include in the bid specifications for a public works contract a requirement that the prospective contractor and his subcontractors must agree to take affirmative action to employ minority group workers in the performance of the contract. The bid specifications shall express as precisely as possible what affirmative action a contractor will be obligated to take.)) The business manager, through the director of auxiliary services, director of physical plant, director of business services and contracts, and the director of facilities planning and construction shall comply with federal, state, and local nondiscrimination policies and procedures when soliciting bids on all contracts for construction, goods, and services. Bids will be solicited by women and minority group vendors and contractors. Agencies engaged in business with the university will be notified in writing of the university's affirmative action program and asked to provide a statement of nondiscrimination.

In the case of federal contracts for research grants and awards, the office of graduate studies will be charged with development and inclusion in any contract a statement of nondiscrimination in the fulfillment of such contract.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

WAC 106-72-220 PROCEDURES, RULES, AND REGULATIONS--ACADEMIC PROGRAM. It shall be the goal of this university to recruit and enroll a student body which reflects a significant number of minority group members. ((The test for significance shall be determined by the percentage of such minority groups in the population of the state.)) Significant means enrolling graduating minority high school students at the same rate as graduating nonminority high school students. The university shall, in the fulfillment of this goal, make special efforts within its financial resources to bring about this desired student mix.

No students are to be given special consideration in fulfilling graduation requirements at the university, except as may be available for all students through established university policy.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

WAC 106-72-400 AFFIRMATIVE ACTION GRIEVANCE PROCEDURE. (1) A person who believes he or she has been discriminated against by Central Washington University because of race, color, ethnic background, sexual orientation, religion, national origin, sex, physical or mental handicap, or Vietnam era or disabled veteran status is encouraged to utilize the grievance procedures provided by Central Washington University. There are informal and formal means of addressing complaints through the affirmative action office. These should be used as soon as possible after the alleged act of discrimination. No individual shall be penalized or retaliated against in any way by the university community for his or her participation in this complaint procedure.

(2) All persons who seek the advice and assistance of the affirmative action office shall have explained to them the informal and the formal grievance procedures available to them through the university as well as the existence of external complaint procedures available through state and federal agencies. They shall also receive a copy of the affirmative action grievance procedure.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

WAC 106-72-410 INFORMAL GRIEVANCE PROCEDURE. Informal review and consultative processes are highly desirable means of resolving problems. Use of those methods by individuals (e.g., students, employees, applicants) at the lowest possible level within the university is strongly encouraged.

(1) Individuals who believe that they have been the target of discrimination by Central Washington University are encouraged to discuss the matter initially with their department chair, dean, administrative supervisor or department head. Students are encouraged to discuss the matter with the appropriate department chair, dean, or the ~~((dean-of-students))~~ vice-president for student affairs. The matter may be concluded by mutual consent at this point. However, complainants should feel free to bring the alleged act of discrimination to the attention of the director of affirmative action at any time.

(2) Any person may contact the affirmative action office for informal discussion, advice, and assistance. ~~((These--contacts--are kept--confidential*))~~ The affirmative action director or a designee will assist the complainant(s) in determining whether there exists any relationship of the complaint to civil rights legislation and the university's affirmative action program.

(3) With the consent of the complainant, there may be facilitation or informal intervention by the affirmative action director or a designee. Discussion of the grievance by the affirmative action director or a designee with the immediate supervisor of the respondent may follow the visit to the affirmative action office by the complainant. The discussion between the director of affirmative action and the immediate supervisor shall be confidential. The complainant may choose to participate in this discussion at his/her option. At this time it shall be the option of the director of affirmative action to notify the respondent's next higher supervisory authority of the complaint.

(4) All discussions held under this informal procedure shall have the goal of resolving the matter without the necessity of entering into a formal complaint procedure.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

WAC 106-72-490 FORMAL GRIEVANCE PROCEDURE--COMMITTEE RECOMMENDATION. The affirmative action grievance committee shall review the complaint and the findings of the investigating officer and determine whether or not the facts warrant a ((hearing)) proceeding. The committee's decision shall be limited to one of the following statements:

- (1) Based on the evidence presented to us, we find probable cause for believing that a discriminatory act has been committed; or
- (2) Based on the evidence presented, we find no probable cause for believing that a discriminatory act has been committed.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

WAC 106-72-510 FORMAL GRIEVANCE PROCEDURE--((HEARING)) PROCEEDING NOTICE. If probable cause is found, a ((hearing)) proceeding will be held.

(1) The chair of the committee shall establish a date for the ((hearing)) proceeding. A notice establishing the date, time and place of the ((hearing)) proceeding shall be provided the parties not more than ten working days from the issuance of the probable cause or no cause decision. The composition of the ((hearing)) proceeding committee shall be provided also.

(2) The ((hearing)) proceeding shall be held not less than fifteen working days from the mailing of the notice of ((hearing)) proceeding unless all of the parties, with the consent of the chair, agree to shorten the time to less than fifteen days.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

WAC 106-72-520 ((FORMAL--HEARING)) ADJUDICATIVE PROCEEDING--CHALLENGES. Each party shall have the privilege of one challenge without stated cause and unlimited challenges for stated bias or interest. In the case of a challenge for stated bias or interest, a majority of the affirmative action grievance committee members must be satisfied that a challenged member cannot hear the case impartially before the member can be disqualified. In the case of removal of a member through the challenge process, the president shall restore the committee to full membership.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

WAC 106-72-530 ((FORMAL--HEARING)) ADJUDICATIVE PROCEEDING--EXPEDITIOUS CONDUCT. The ((hearing)) proceeding shall be conducted as expeditiously as possible and on successive days if possible.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

WAC 106-72-540 ((FORMAL--HEARING)) ADJUDICATIVE PROCEEDING--AVAILABILITY OF NECESSARY PARTIES. The parties and any others the

affirmative action grievance committee deems necessary to the proceedings shall make themselves available to appear at the ((hearing)) proceeding unless they can verify to the committee that their absence is unavoidable.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

WAC 106-72-550 ((~~FORMAL--HEARING~~)) ADJUDICATIVE PROCEEDING--COUNSEL. The complainant and the respondent shall be permitted to have with him/her a party of his/her own choosing to act as advisor and counsel.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

WAC 106-72-560 ((~~FORMAL-HEARING~~)) ADJUDICATIVE PROCEEDING--CONFIDENTIALITY. ((~~Hearings~~)) Proceedings shall be closed to all except those persons directly involved in the case as determined by the grievance committee. Statements, testimony, and all other evidence given at the ((hearing)) proceeding shall be confidential and shall not be released to anyone and may be used by the committee only for the purpose of making its findings and recommendations to the president. (However, it will be made available to federal and/or state compliance agencies upon request.)

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

WAC 106-72-570 ((~~FORMAL--HEARING~~)) ADJUDICATIVE PROCEEDING--RESPONSIBILITIES OF PARTIES. The chair of the grievance committee shall convene and regulate the ((hearing)) proceeding. All parties and members of the panel must be present during the ((hearing)) proceeding unless excused by the chair for good cause. Repeated failure, without reasonable explanation, of either party to appear shall be grounds for defaulting that party's case. The complainant shall have the burden of presenting the case and the respondent shall have the burden of challenging sufficiency of the evidence presented.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

WAC 106-72-580 ((~~FORMAL--HEARING~~)) ADJUDICATIVE PROCEEDING--RIGHTS OF PARTIES. (1) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved and to examine and cross examine witnesses.

(2) No individual shall be compelled to divulge information in any form which she/he could not be compelled to divulge in, or in connection with, superior court proceedings.

(3) Any legal opinion or interpretation given to the grievance committee by the parties may be shared with all parties to the case.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

WAC 106-72-590 ((FORMAL-HEARING)) ADJUDICATIVE PROCEEDING--POWERS OF ((HEARING)) PROCEEDING PANEL. The ((hearing)) proceeding panel shall be empowered to: Examine witnesses and receive evidence; suspend the ((hearing)) proceeding on account of or exclude from attendance any person(s) felt to be unreasonably disruptive of the proceedings; hold conferences for the settlement and/or simplification of the issues involved; make decisions or proposals for decisions; and take any other action authorized by rule consistent with this procedure.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

WAC 106-72-600 FINDINGS OF GRIEVANCE COMMITTEE. The affirmative action grievance committee shall file its findings and recommendations with the president, the affirmative action director, the complainant and the respondent within fifteen working days after the conclusion of the ((hearing)) proceeding. If the findings and recommendations of the affirmative action grievance committee are acceptable to the complainant and the respondent, the president may direct implementation of the recommendations.