



SHIPPENSBURG
UNIVERSITY

Anti-Discrimination & Anti-Harassment Policy

SU Policy Number: 701-001.1

ORIGINATING OFFICE

Office of Equity, Inclusion and Compliance

PURPOSE

To explain the policy of anti-discrimination and anti-harassment and outline prohibited conduct and actions that Shippensburg University ("University") will take to respond to reports of discrimination and/or harassment. This policy does not address sex-related misconduct including sexual harassment which is controlled by Shippensburg University's Sexual Misconduct Policy, SU Policy Number 701-002.0. All University mandated reporters must report suspected child abuse and child neglect consistent with the Shippensburg University's Protection and Supervision of Minors on Campus and Mandated Reporting of Child Abuse Policy. This Policy also does not control romantic and/or sexual relationships as defined by the Policy, PASSHE 2020-02 Amorous Relationships.

SCOPE

Shippensburg University is committed to equal access to programs, facilities, admission and employment for all persons. It is the policy of the University to maintain an environment free of harassment and free of discrimination against any person because of age, race, color, national origin, sex, sexual orientation, gender identity, gender expression, physical or mental disability, marital status, pregnancy and parenting students, religion, and veteran status. Discriminatory conduct and harassment violates the dignity of individuals, impedes the realization of the University's educational mission, and will not be tolerated. Conduct prohibited by this policy

may also violate applicable federal and state law. This policy shall not be construed to restrict academic freedom at the University, nor shall it be construed to restrict constitutionally protected expression.

OBJECTIVE

To ensure that students, applicants for employment, and employees of Shippensburg University, as well as individuals who have a contractual relationship with the University, including, but not limited to vendors and contractors understand that discrimination and harassment against any individual on the basis of race, color, sex, ethnicity, national origin, age, mental or physical disability, marital status, pregnancy and parenting students religion, sexual orientation, gender identity, gender expression, veteran status, or other protected status or characteristic is strictly prohibited and will not be tolerated. To ensure that students, applicants for employment, and employees of Shippensburg University, as well as individuals who have a contractual relationship with the University, including, but not limited to vendors and contractors understand that harassment will not be tolerated.

DEFINITIONS

Discrimination: Conduct of any nature that denies an individual the opportunity to participate in or benefit from a University program or activity, or otherwise adversely affects a term or condition of an individual's employment, education, or living environment, because of age, race, color, national origin, sex, sexual orientation, gender identity, gender expression, physical or mental disability, religion, and veteran status.

Employee: All those personnel who are seeking employment or are employed by Shippensburg University, including all personnel, vendors, contractors who operate on university property or in a capacity that serves university functions.

Faculty: All employees assigned teaching and instructional duties, including those faculty as defined by the Collective Bargaining Agreement between APSCUF and the Pennsylvania State System of Higher Education ("PASSHE").

Harassment: Behavior consisting of physical or verbal conduct that is sufficiently severe or pervasive such that it substantially interferes with an individual's employment, education or access to University programs, activities or opportunities and would detrimentally affect a reasonable person under the same circumstances. Harassment may include, but is not limited

to, verbal or physical attacks, graphic or written statements, threats, or slurs. Whether the alleged conduct constitutes prohibited harassment depends on the totality of the particular circumstances, including the nature, frequency and duration of the conduct in question, the location and context in which it occurs and the status of the individuals involved.

Reporting Individual: The individual making the report of discrimination, harassment, or retaliation.

Responding Individual: The individual against whom the report of discrimination, harassment, or retaliation has been made.

Retaliation: Any action, directly or through others, which is aimed to deter a reasonable person from reporting misconduct or participating in an investigation or hearing or action that is done in response to such activities. This includes but is not limited to intimidation, threats, coercion, or discrimination against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under this Policy. A finding of retaliation under this Policy is not dependent on a finding that the underlying misconduct occurred.

Student: Persons, who on the date of the alleged incident: are registered for course(s);

(a) enrolled in course(s);

(b) have confirmed their intent to enroll in programs; or

(c) are active but not enrolled at the University.

Vendor and Contractor: An individual, program, company or school that provides a program, activity, or service to the University that interacts with members of the campus community including students, employees, and faculty and which include experiential learning services such as internships, practicum experiences, pre-service teaching experiences, or other community service experiences in which the University places students.

PROCEDURES

1. Reporting Discrimination and/or Harassment

An individual covered by this policy who believes they have been subject to discrimination, harassment, or retaliation may seek resolution by filing a **Reporting Discrimination, Harassment or Retaliation Form** within 90 days of the alleged act of discrimination, harassment, or

retaliation. Any supervisor, manager or administrator who witnesses or receives an oral or written report of discrimination, harassment, and/or retaliation must immediately notify and forward the report to the Director of the Office of Equity, Inclusion and Compliance. The University President may extend, for a reasonable period of time, any of the deadlines specified in this section for good cause shown.

In the event of an allegation of discrimination, harassment, or retaliation against any administrator with ultimate reporting obligation to the University President or against an individual in the Office of Equity, Inclusion and Compliance, a report detailing the alleged misconduct and responsible parties should be filed with the **Office of the Provost and Vice President for Academic Affairs** or at (717) 477-1371.

In the event of an allegation of discrimination, harassment, or retaliation against the Provost and Vice President for Academic Affairs or the University President, a report detailing the alleged misconduct and responsible parties should be filed with the **Office of the Chancellor** at 2986 N 2nd Street Harrisburg, PA 17110-1201 or at (717) 720-4423.

2. Preliminary Inquiry

Following receipt of a report of discrimination, harassment, or retaliation, the Director of the Office of Equity, Inclusion and Compliance or their designee will promptly determine whether the report is properly classified as a possible instance of discrimination and/or harassment based on the Reporting Individual's protected class status. Absent unusual circumstances, this process should be completed in 90 days with recognition that circumstances may elongate the timeline. Where a report alleges actions that do not fall within this policy, the Director of the Office of Equity, Inclusion and Compliance or their designee may refer the matter to the Human Resources Office or the Dean of Students and direct further review, as appropriate. Such review may result in action such as mediation or other administrative action as deemed appropriate by the reviewing officer.

If a Reporting Individual does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the complainant may make such a request to the Director of the Office of Equity, Inclusion and Compliance or their designee, who will evaluate that request in light of the duty to ensure the safety of the University and comply with applicable law. In any case where the report does not evidence

violence, threat, pattern, predation, and/or weapon use, the Director of the Office of Equity, Inclusion and Compliance or their designee may respect a Reporting Individual's request, and will take action only so far as necessary to determine appropriate remedies.

As necessary, Shippensburg University reserves the right to initiate resolution proceedings without participation by the Reporting Individual.

3. Resolution Processes: Informal and Formal

Informal Resolution Process

If the Director of the Office of Equity, Inclusion, and Compliance or their designee deems the report to fall within the scope of this policy following a preliminary inquiry, they will inform the Reporting Individual who may then seek an Informal Resolution Process. The Reporting Individual and Responding Individual must both agree in writing to participate in the Informal Resolution Process and meet with the Director of the Office of Equity, Inclusion, and Compliance or their designee or their designated University Resolution Mediator within thirty (30) business days of initiating the Informal Resolution Process.

The Responding Individual may be told of the identity of the Reporting Individual at this stage. Investigation is optional, since the emphasis is not on establishing a founded or unfounded report, but on stopping the alleged misconduct. If deemed appropriate under certain circumstances, the Director of the Office of Equity, Inclusion, and Compliance or their designee may meet with the Reporting Individual and Responding Individual together if, in their judgment, such a meeting could foster a resolution to the issues and the Reporting and Responding Individuals agree to such a meeting.

If the Reporting Individual is not satisfied with the Informal Resolution Process or its outcome, or no longer wants to participate in the Informal Resolution Process, they may pursue Formal Resolution. If the Responding Individual declines to participate in the Informal Resolution Process, the Formal Resolution Process may be initiated.

Informal Resolution Process should conclude within thirty (30) days of request; however, there may be extenuating circumstances that delay that timeline. Following Informal Resolution Process, all parties will receive a short written memorandum setting forth the agreed upon

solution. Any act of retaliation directed against the Reporting or Responding Individuals or other persons involved in the process may result in disciplinary action up to and including termination and expulsion.

If at the conclusion of Informal Resolution Process, or if at any time therein, the Reporting Individual should decide to withdraw the report, the University Director of the Office of Equity, Inclusion, and Compliance or their designee, shall retain the right to pursue a report in its own name under this policy.

Formal Resolution Process

Notice of Receipt of a Formal Report and Investigation

Within fifteen (15) business days of deciding that the report falls within the scope of this Policy, the Director of the Office of Equity, Inclusion, and Compliance or their designee will issue a written Notice of Report and Investigation to the parties involved. This notice will include the Reporting Individual's name and the allegation(s) made.

4. Investigation

Generally, the Investigation will be conducted by the campus investigator or the Director of the Office of Equity, Inclusion, and Compliance or their designee. The Investigator(s) will review and investigate the report, interview the parties to it, seek out any relevant documents/communication deemed pertinent to the investigation, as well as any relevant witnesses or persons having knowledge of the situation.

Investigations will be completed promptly, normally within thirty (30) days of the decision to conduct the investigation. However, an investigation may take longer depending on the nature, extent and complexity of the allegations, availability of the involved parties, witnesses, and police involvement, if any.

Final Investigative Report

Upon completion of the investigation, the Investigator(s) will produce a final investigative report setting forth the facts, a summary of possible policy violation(s), and a recommendation of findings and review that report with the Director of the Office of Equity, Inclusion, and

Compliance who will submit that report to the supervising Dean, Vice President, and University President. Following receipt of the final investigative report, the supervising Dean, Vice President or the University President will make a final determination of action(s).

5. Final Determination of Action

Unfounded Report - No Violation. If the supervising Dean, Vice President, or University President determine the matter as unfounded after the conclusion of an investigation, they will issue a letter to that effect to the Reporting and Responding Individuals and the matter will be deemed closed.

Founded Report - Violation. If the supervising Dean, Vice President, or University President determines the matter to be founded, they will assess sanction(s) and will inform the Reporting Individual via letter that appropriate action has been taken, but will generally not list specific disciplinary actions, which may be a part of the Responding Individual's personnel file, except where the sanction directly relates to the discriminated or harassed individual.

6. Sanctions

For Students:

Students who fail to comply with this Policy will be subject to sanctions, including sanctions defined by the University Student Code of Conduct.

For Employees:

In all instances for employees, the supervising Dean, Vice President, or University President retain the sole authority and discretion to take formal disciplinary action against an employee. Individuals who are found to have violated this Policy will be subject to disciplinary action(s), as set forth by the applicable Collective Bargaining Agreement ("CBA"), Board of Governors Policy, or other University Policy. Such action(s) against employees could include, but are not limited to, an informal oral reprimand, a written reprimand, required training, suspension or other disciplinary action up to and including termination of employment.

7. Reports with External Agencies/Organizations

Individuals are encouraged to use these report procedures but are not required to do so and may choose to pursue reports in other forums. In addition to or in place of the University's procedures, Reporting Individuals may choose to file a report with federal or state agencies such

as the Pennsylvania Human Relations Commission (717) 787-9780, the U.S. Equal Employment Opportunity Commission (800) 669-4000, or the Office of Civil Rights of the U.S. Department of Education (215) 656-8541.

This Policy is not intended to interfere with any rights an employee may have under an applicable CBA. Unionized individuals may choose to pursue a report through the appropriate CBA grievance procedures.

8. Resources

Shippensburg University is committed to ensuring that individuals who experience discrimination, harassment, or retaliation have access to a variety of services and resources. To talk with someone to receive support and assistance in a confidential setting contact any of the supportive resources. Employees are eligible for crisis counseling by contacting the State Employee Assistance Program ("SEAP") at 800-692-7459. Students may see a counselor at the Shippensburg University Counseling Center by calling 717-477-1481 or visiting the Wellness Center.

RECISSION

This policy is effective immediately following approval, and replaces all other policies whether in print or electronic format.

APPROVALS

EMT Approval: October 15, 2019

EMT Approval: August 25, 2020

EMT Approval (revised) April 1, 2021

Forum April 13, 2021

FILENAME

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DATE

4/23/2021

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