

# **Anti-Harassment and Non-Discrimination Policy**

## **Effective Date: January 1, 2016**

### **Policy Summary**

Central to the mission of Susquehanna University is the establishment and maintenance of an environment in which the dignity and worth of all individuals within the institutional community are respected. Therefore, it is the responsibility of each person on campus to respect the personal dignity of others and to demonstrate a basic spirit that precludes harassment and discrimination. While the university is committed to freedom of thought, discourse, and speech, and the attainment of the highest quality of educational and academic pursuits, the university is compelled to establish this policy on behaviors that would interfere with these freedoms.

### **Definitions/Glossary**

The following definitions are university-wide definitions and will be used as a reference for all cases involving harassment and discrimination including those addressed in the Student Code of Conduct referenced as sexual assault or sexual harassment:

- 1) Protected Characteristics** – Includes race, color, religion, national origin, sex, age, disability status, genetic information, veterans' status, ethnic origin, ancestry, social class, marital and parental status, geography, sexual orientation, gender identity or expression, or any other basis protected by applicable federal, state or local laws.
  
- 2) Discrimination** – Conduct directed at an individual because of his or her Protected Characteristic(s) and that subjects the individual to different treatment so as to interfere with or limit the ability of the individual to participate in, or benefit from, the services, activities, or privileges provided by the university, or otherwise adversely affects the individual's employment or education.
  
- 3) Harassment** – Verbal or physical conduct that is directed at an individual because of his or her Protected Characteristic(s), and that is sufficiently severe, pervasive, or persistent so as to have the purpose or effect of creating a hostile work or educational environment.
  
- 4) Harassment Based on Protected Characteristics** - Harassment based on Protected Characteristics is a form of prohibited discrimination. Harassment often takes the form of verbal statements regarding an individual's Protected Characteristics, such as epithets, derogatory comments or slurs, profanity, gestures, innuendo, jokes, or forms of address. Harassment can also take the form of other adverse conduct motivated by a person's Protected Characteristics, such as teasing or tricks, physical abuse or bullying.
  
- 5) Sexual Harassment** is any unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature, including sexual assault and other forms of sexual misconduct, including but not limited to when:
  - Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational advancement, or evaluation; or
  - Submission to or rejection of such conduct is used as the basis for employment or educational advancement, or evaluation; or

- Such conduct, of a severe and pervasive manner, has the purpose or effect of interfering with an individual's work performance or educational experience, or creates an intimidating, hostile, or offensive work/educational environment.
- Unwelcome behavior is if the individual did not solicit or invite conduct, and particularly if he or she indicates that s/he finds the conduct undesirable or offensive. Acquiescence or failure to complain does not mean that the conduct is welcome.

Such harassment, and all forms of sexual discrimination, are specifically prohibited not only by this policy, but also by Title IX of the Education Amendments of 1972.

**Intent vs. Impact** - It is the **impact** of the behavior, not the **intent** of the person who exhibited the behavior that determines whether or not sexual harassment has occurred. According to the law, actual intent is irrelevant. Courts have found a hostile environment exists if the victim believes the environment to be abusive and a reasonable person would find it to be an abusive environment.

**6) Racial Harassment** is any verbal or physical conduct that is directed at an individual because of his or her race, color, national origin or ethnicity, and that is sufficiently severe or pervasive so as to have the effect of creating an intimidating, hostile, or offensive work or educational environment, which unreasonably interferes with work or educational performance, or negatively affects an individual's employment or educational opportunities. Such harassment is prohibited.

**7) Gender Identity Harassment** is any verbal or physical conduct that is directed at an individual because of his or her gender identity, the degree to which a person identifies as male, female, or some combination, and that is sufficiently severe or pervasive so as to have the effect of creating an intimidating, hostile, or offensive work or educational environment which unreasonably interferes with work or educational performance, or negatively affects an individual's employment or educational opportunities. Such harassment is prohibited.

**8) Sexual Orientation Harassment** is any verbal or physical conduct that is directed at an individual because of his or her sexual orientation, and that is sufficiently severe or pervasive so as to have the effect of creating an intimidating, hostile, or offensive work or educational environment, which unreasonably interferes with work or educational performance, or negatively affects an individual's employment or educational opportunities. Such harassment is prohibited.

**9) Disability Harassment** is any verbal or physical conduct or a pattern of a lack of reasonable accommodation that is directed at an individual because of his or her mental or physical impairment, and that is sufficiently severe or pervasive so as to have the effect of creating an intimidating, hostile, or offensive work or educational environment which unreasonably interferes with work or educational performance, or negatively affects an individual's employment or educational opportunities. Such harassment is prohibited.

**10) Religious Harassment** is any verbal or physical conduct that is directed at an individual because of his or her religion and/or religious beliefs pertaining to religion and that is sufficiently severe or pervasive as to have the effect of creating an intimidating, hostile, or offensive work or educational environment, which unreasonably interferes with work or educational performance, or negatively affects an individual's employment or educational opportunities. Such harassment is prohibited.

**This Policy Applies to:**

All full-time, part-time, and temporary employees.

Persons (faculty, staff or students) wishing to bring a charge against a student should contact the Dean of Students and Campus Life. The responding student(s) will be addressed through the student conduct system via the Code of Student Conduct.

Dean of Students & Campus Life  
514 University Avenue, Selinsgrove, PA 17870  
Degenstein Campus Center, Student Life Suite  
570-372-4139

- |   |
|---|
| <input type="checkbox"/> Board                              |
| <input type="checkbox"/> Campus Visitors                    |
| <input checked="" type="checkbox"/> Faculty                 |
| <input checked="" type="checkbox"/> Independent Contractors |
| <input type="checkbox"/> Other _____                        |
| <input checked="" type="checkbox"/> Staff                   |
| <input type="checkbox"/> Students                           |
| <input checked="" type="checkbox"/> Vendors                 |

### **Reason(s) for the Policy**

To encourage the reporting of complaints concerning harassment or discrimination and to facilitate satisfactory resolution of the complaint.

### **Policy**

Harassment or discrimination in any context is reprehensible, but is of particular concern to an academic community in which students, faculty and staff must rely on bonds of intellectual trust and dependence. Therefore, harassment and discrimination will not be tolerated. Specifically, the university expressly prohibits any form of harassment of or discrimination against its employees in categories protected by law, including harassment or discrimination based on: race, color, religion, national origin, sex, age, disability status, genetic information or veterans' status. In addition, the university also prohibits any form of harassment of or discrimination against its employees based on ethnic origin, ancestry, social class, marital and parental status, geography, sexual orientation, gender identity or expression, or any other basis protected by applicable federal, state or local laws (collectively, "Protected Characteristics"). Any individual engaging in such discrimination or harassment will be subject to the full range of institutional disciplinary actions, up to and including termination from the university, and may also face civil and/or criminal liability.

### **Links With Other Policies**

[http://www.susqu.edu/documents/studentlife/su\\_policy\\_on\\_sexual\\_assault.pdf](http://www.susqu.edu/documents/studentlife/su_policy_on_sexual_assault.pdf)

### **Exclusions and Special Situations**

Not applicable

## **Policy Contact(s)**

Responsible Office: Office of Human Resources

Policy Author: Jennifer Bucher, Director of Human Resources

Email: bucherjennifer@susqu.edu

Phone: 570-372-4157

## **Policy History**

Original Policy: 4/23/2010

Revised: 4/23/2010, 1/16/2013, 9/1/2013, 12/16/2015

Most Recent Revision Posted: 1/1/2016

## **Appendix**

### Harassment/Discrimination Grievance Procedures Description of Process:

Employees wishing to make a complaint should contact, verbally or in writing, the Director of Human Resources, who will explain the process and answer any questions.

#### **Jennifer Bucher**

Director of Human Resources

First Floor, Selinsgrove Hall

514 University Avenue

Selinsgrove, PA 17870

570-372-4157

bucherjennifer@susqu.edu

### **Informal Complaint Resolution:**

The purpose of the informal complaint resolution is to encourage the reporting of complaints concerning harassment or discrimination and to facilitate satisfactory resolution of the complaint without undue anxiety and provocation for the parties involved. An employee making a harassment or discrimination complaint **does not** have to speak first with their supervisor or the person against whom the allegation has been made. However, they are encouraged to do so with the assistance of his or her peer supporter (who may be a university employee) in the presence of the Director of Human Resources.

If a complainant desires, when filing a complaint they may be accompanied by another university employee who may advise and assist the complainant throughout the resolution process. The peer supporter must be an individual from within the university community and can include, but is not limited to, a faculty or staff member, or a Human Resources representative.

The complainant (and the peer supporter) will discuss the complaint with the person against whom the allegation has been made in the presence of the Director of Human Resources in order to reach resolution of the complaint. (In the event that the person against whom the allegation has been made should be from the Director of Human Resources, the complainant will discuss the complaint in the presence of the Vice President for Finance and Administration or the Provost). Although encouraged,

there is no obligation on the part of the complainant or the person against whom the allegation has been made to participate in the informal resolution process. If the complaint cannot be resolved informally, or step one is bypassed, the complainant may file a formal complaint. Additionally, informal resolution will not be used in cases alleging any form of sexual assault or other sexual violence.

If a complainant so desires, they may waive the informal resolution process and proceed directly to a formal investigation. The Office of Human Resources is designated as the office of referral for information and advice, unless the complaint is against a member of that office. In that case, the complainant should contact the Vice President for Finance and Administration or the Provost.

Personal legal counsel for either party may not be present during either informal or formal complaint resolution.

### **Formal Complaint Resolution:**

If the complaint cannot be resolved informally, or the informal process is bypassed, the complainant may file a formal written complaint. Formal complaints will be investigated and resolved in accordance with the procedures outlined below.

**Complaints against a university employee** - Complaints against a university employee are filed with the Director of Human Resources, which is responsible for initiating the formal resolution process. The Director of Human Resources or designee will conduct an investigation meeting or meetings.

In the event that the person against whom the allegation has been made is a Vice-President, the Office of the President will make a final determination. Should the person against whom the allegation has been made be from the Human Resources Office, the Vice President for Finance and Administration will investigate and make a final determination.

Individual investigation meetings will be conducted by the Director of Human Resources with both the complainant, the person against whom the allegation has been made, (with their respective peer supporter if they so desire), and any witnesses who could corroborate or clarify the facts in question.

Investigation meeting(s) will commence within ten working days of receipt of written complaint.

The Director of Human Resources will then forward her or his report to the supervising vice-president of the person against whom the allegation has been made, or in the case of faculty, to the provost for review and resolution along with the evidence gathered during the investigation meeting(s). Any formal action to be taken against a party as a result of the factual findings in the submitted report will be taken in accordance with the applicable policy.

### **Protection of Both Parties:**

**Notice.** When the formal investigation process has begun with the filing of a written complaint, copies of the complaint will be forwarded to the person against whom the allegation has been made. If the allegations are not substantiated, the person against whom the allegation has been made will be notified.

**Abuse of Reporting.** False and malicious accusations of harassment or discrimination will not be tolerated and those individuals making them will be subject to university sanctions.

**Retaliatory Actions.** Retaliation by the person against whom the allegation has been made or any other individual against the complainant as a result of filing a harassment or discrimination complaint, or against any individual participating in the investigation of such a complaint, will not be tolerated and the individual will also be subject to university sanctions. Reasonable action will be taken to assure the complainant and those involved with an investigation on his or her behalf will suffer no retaliation from the person against whom the allegation has been made or others within the university.

**Suspension from Employment.** In certain circumstances to protect the complainant or to prevent harm to others, the vice-president, or in a case involving a faculty member, the provost may at any time during the complaint process suspend the person against whom the allegation has been made from his or her primary duties and responsibilities until the matter is resolved.

**Failure to cooperate with investigation.** If the person against whom the allegation has been made elects not to cooperate with the investigation, the Director of Human Resources will complete the report based on the information in his or her possession.

**Confidentiality and Completed Report.** During the complaint process, the university will make every effort to ensure confidentiality. Please note that confidentiality cannot be guaranteed. Both individuals will be fully informed of the steps taken during the course of the complaint procedures by the administrator who conducts the investigation. In addition, both parties will be informed within ten working days of the completed report, whether the report has been forwarded to the appropriate vice president and the president. A record of the complaint will be located in a file separate from the general personnel file of the complainant and the accused.

**Unfounded Report.** If the matter is determined as unfounded after the conclusion of an investigation by the Director of Human Resources, then the Office of the President or the individual's supervising vice-president will communicate findings to the complainant and the matter will be deemed closed.

**Notification to Complainant and Respondent.** Within ten (10) working days of the conclusion of the investigatory process and a decision by the president or appropriate vice president, the complainant and respondent will be notified whether the allegation was judged to be founded or not founded. If founded, specific disciplinary actions will not be discussed to maintain confidentiality.

#### **Sanctions:**

In all instances, the president or supervising vice president retains the sole power and discretion to take formal disciplinary action against an employee. Individuals who are found to have violated this policy will be subject to disciplinary actions as set forth by Board of Trustees Policy, University Policy or Faculty Handbook. Such action could include, but is not limited to, an informal oral reprimand, a written reprimand or other disciplinary action up to and including termination of employment.

#### **Right of Appeal by Employees:**

A three-member President's Appeal Board will be appointed as needed by the Office of the President. The appeal board will be comprised of a faculty member, an administrator and an hourly staff member. The complainant and the person against whom the allegation has been made will be entitled to one written appeal of any decision rendered. Appeals must be based only on new evidence (not available during the investigation) or procedural error. In preparation of the appeal, both the accused and the complainant will have normal access to their file. Such appeal will be heard by the President's Appeal

Board, which will forward its recommendation to the president. Appeals will be filed no later than ten days after the receipt of a report. All faculty appeals will be done in accordance with the Faculty Handbook.

In addition to these complaint procedures, individuals may pursue other civil and legal options such as the Pennsylvania Human Relations Commission, Equal Employment Opportunity Commission or the Office of Civil Rights.

These Susquehanna University harassment/discrimination procedures set forth are not intended to interfere with any legal rights under the statutes of the Commonwealth of Pennsylvania or the United States of America.

**Time Frame:**

In order to give the complainant time to finish a particular job assignment, an evaluation period or any other similar reason, the complainant may file a formal complaint of harassment or discrimination up to one hundred and eighty days following the alleged incident of harassment or discrimination.

Formal complaints filed within this period will be investigated even though the complainant has terminated her or his association with the university.

This policy will be posted at multiple sites across the campus community. In addition, it can be found at <https://mysu.susqu.edu/HRRM/Documents/Anti-Harassment%20and%20Non-Discrimination.pdf>.