POLICY STATEMENT

Anti-Discrimination Policy

ORIGINATING OFFICE

Provost and Senior Vice President for Academic Affairs / Office of Social Equity, Executive Director/Title IX Coordinator

PURPOSE

To create an environment free of discrimination.

SCOPE

Applies to all students 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. When both the complainant and respondent are students, the University's Student Code of Conduct, i.e., the Swataney, and related judicial processes should be followed.

OBJECTIVE

Shippensburg University is committed to creating an environment free of discrimination for all of its employees and students. The non-discrimination policy sets clear expectations for an environment free of discrimination, defines discrimination and provides procedures for handling charges of discrimination.

DEFINITIONS

Unlawful Discrimination: An adverse employment action or decision that is based on or motivated by an individual's race, color, religion, sex, national origin, disability, age, veteran status, sexual orientation or gender identity in matters of employment. An adverse action or decision that is based upon an individual's sexual orientation or gender identity may be considered sex discrimination in certain circumstances.

Complainant: The person who is alleging the occurrence of discrimination.

Respondent: The person whose actions are alleged to have violated the Non-Discrimination policy.

POLICY

Shippensburg University is committed to creating an environment free of discrimination for all of its employees and students. The Office of Social Equity at Shippensburg University assists the University in ensuring equal opportunity and access to educational, employment and contract opportunities for all persons including students, faculty, staff and administrators. The University will make every effort to provide these opportunities to all persons regardless of race, color, religion, sex, national origin, disability, age, veteran status, sexual orientation or gender identity. This applies to all members of the University community, all applicants for admission or employment and all participants in university-sponsored activities. The non-discrimination policy sets clear expectations for an environment free of discrimination, defines discrimination and provides procedures for handling charges of discrimination.

The University is an equal opportunity institution subject to regulation by various statutes including the Age Discrimination in Employment Act of 1975, Title VI and Title VII of the Civil Rights Act of 1964, The Civil Rights Act of 1991, the Pennsylvania Human Relations Act and their underlying regulations. Accordingly, the University will not tolerate discrimination on the basis of age, color, national origin, race, religion, disability, veteran's status, sex, sexual orientation or gender identity. Discriminatory conduct is not consistent with the University's commitments to excellence and educational diversity. The University prohibition against harassment applies to all University operations and programs, administrators, faculty, staff, volunteers, students, vendors and contractors.

The University also prohibits retaliation against any party for participating in a discrimination investigation. Retaliation includes any adverse treatment that is reasonably likely to deter a complainant or any other individual from filing a complaint alleging discrimination or from participating in an investigation of a discrimination complaint**.**

The University, as an academic institution, is committed to the free and vigorous discussion of ideas and issues. This policy shall not serve as a curtailment of constitutionally protected expression, nor does the policy attempt to regulate conduct that does not constitute discrimination.

RESPONSIBILITIES

Any student, staff or faculty member of Shippensburg University who believes that he or she may have experienced discrimination based on a protected status should promptly report the incidents to any of the following:

1. Discrimination Contact Group member: Any one of at least six (6) identified contact persons. The contact persons will be designated on an annual basis by the president of the University. The Executive Director of Social Equity/Title IX Coordinator will submit a list of recommended candidates to the president. Recommendations to the Contact Group should be submitted by the President of SU/APSCUF; the President of SU/AFSCME; and the Vice President for Student Affairs and the Vice President of Administration and Finance to Social Equity. The list shall

include at least two administrators, two faculty members and two staff members. One administrator shall be a member of the Dean of Students' staff.

2. Supervisors: University agents who are in supervisory roles are encouraged to take action.
3. Faculty and Department Heads: Faculty members are encouraged to take action upon learning of a university member's complaint of discrimination or harassment based on group membership.

Each dean, department chairperson, and/or administrative supervisor is responsible within his/her respective area for the implementation, dissemination, and explanation of this policy. Assistance in accomplishing these tasks may be obtained by contacting the Office of Social Equity. It is the obligation of each student, faculty member, and staff member to adhere to this policy.

PROCEDURES

The Human Relations Fact Finding Board shall investigate complaints filed in accordance with Shippensburg University's policies against discrimination based on race, color, religion, sex, national origin, disability or age, in compliance with, without limitation, Title VI and Title VII of the Civil Rights Act and, Title IX of the Education Amendments, the Rehabilitation Act of 1973, the Americans with Disabilities Act, and the Pennsylvania Human Relations Act. The Board will hear and investigate all complaints lodged by faculty, staff, administrators, and students that fall within the aforementioned areas as well as discrimination based on veteran status, sexual orientation or gender identity. Students who file complaints alleging discrimination against peers should instead refer to the University's Student Code of Conduct, i.e., the Swataney. Students who allege discrimination against peers are directed to the Dean of Students or his/her designee.

The following defines the posture of the Human Relations Fact Finding Board:

I. COMPLAINTS AND CONTACTS

A. All contact persons shall be required to undergo training arranged by the Executive Director of Social Equity/Title IX Coordinator. A list of contact persons will be publicized in student and staff handbooks, brochures, posters, etc. and distributed to all university constituencies, contractors and affiliates. In addition, supervisors are encouraged to direct inquiries to contact persons or the Office of Social Equity.

B. If the Complainant wishes to discuss concerns or consider means of dealing individually with such incident(s), the contact person will offer advice and consultation. In addition, information on both formal and informal procedures for handling complaints will be provided to the Complainant. No written record will be kept of informal discussion between both parties.

II. HEARING BOARD

A. COMPOSITION: The Fact Finding Board pool shall consist of the following members: four undergraduate students to be nominated by the Student Senate; two graduate students to be nominated by the Executive Committee of the Graduate Student Association; four faculty members to be nominated by the President of SU/APSCUF; four staff persons to be nominated by the President of SU/AFSCME; and four administrators, at least one of whom to be nominated by the Vice President for Student Affairs and at least one of whom to be nominated by the Vice President of Administration and Finance. The Board must include the Executive Director of Social Equity/Title IX Coordinator. Formal approval and appointment shall be made by the President of the University. The President or his/her designee shall appoint an additional individual to serve as Chair of the Board. The Executive Director of Social Equity/Title IX Coordinator may supplement the Board pool through the appointment of additional members if needed.

B. TERM: All Board members with the exception of the student representative may serve for a period of three years and can be reappointed. A student representative will serve for a period of one year; the undergraduate student must maintain a GPA of 2.0 and the graduate student must maintain a GPA of 3.0. Failure to do so will result in an automatic dismissal. New members will be appointed during the second year of the Board's three-year term, resulting in staggered terms for non-student members.

C. RESPONSIBILITY: The Office of Social Equity will have the responsibility to recommend to the President names of potential Board members. The President shall appoint to the Board as s/he deems appropriate.

1. The chair will have the responsibility to brief all members on pending actions.
2. The chair shall appoint the complaint investigating teams, which consist of a minimum of three Board members.
3. The Director of Social Equity/Title IX Coordinator will arrange for on-going training of the Board members.
4. The chair will prepare a written statement of the Board's findings and convene and conduct all meetings on an as-needed basis.
5. The chair will refer any complaints identified as sexual harassment to the Sexual Harassment Fact Finding Board.
6. The Board shall treat all complaints confidentially**.**
7. The Board will be responsible for publicizing its existence and purpose campus-wide.
8. The Board must be timely in addressing complaints.
9. The Board shall develop all complaint forms and appropriately distribute campus-wide.

10. The Board shall not solicit complaints.

III. COMPLAINT PROCESS

A. Informal: The informal process shall apply to all actions under the auspices of the Board. The complaint originator may seek assistance from any Board member(s) in resolving the complaint. The Office of Social Equity will be notified about the complaint and the recommended actions of the Board member(s) relative to the complaint. The Board member(s) shall make a good faith effort, with the complainant's written consent, to resolve the complaint (i.e., letter, confrontation), within fifteen working days. All informal complaints of discrimination based on race, color, religion, sex, national origin, disability, age, veteran status, sexual orientation or gender identity should be reported within 360 calendar days after the alleged incident.

B. Formal: A written, signed complaint must be submitted by a fully identified individual. Allegations of discrimination based on race, color, religion, sex, national origin, disability, age, veteran status, sexual orientation or gender identity must be reported within 180 calendar days after the alleged incident. Procedures for Formal Complaint are as follows:

1. After discussion with the complainant, the Board member will approach the Fact Finding Board.

2. If the Board decides that the complaint falls under its auspices, then an investigating team of at least three (3) Board members will be appointed by the chairperson to approach persons directly involved to gather relevant facts and information. The investigating team will include a peer of the complainant and a peer of the respondent. The team will speak to the respondent and will identify the individual making the complaint and its substance.

3. The complainant and the respondent will have the right to challenge the participation of any Board member when the challenge is based on a potential conflict of interest. However, no more than two (2) pre-emptive challenges will be accepted. The challenge must be made within five (5) working days after the respondent is informed of the complaint. Notice shall be in the form of the written complaint.

4. The investigating team will report its findings to the full Board. The time period allocated for investigation will be at the discretion of the chairperson but should not exceed twenty-one (21) working days. The complainant and the respondent, as well as such parties as the Board may deem essential to reaching a decision on the validity of the accusation, may elect to speak before the full Board. No testimony will be received in absence of the complainant or the respondent unless either

willfully absents herself/himself from the proceedings. Both complainant and respondent must be notified of hearing time and place at least seven (7) working days before the scheduled hearing. The respondent and/or the complainant are permitted to have an advisor of his/her choice at the hearing. This person can attend strictly as an advisor and observer but not as an active participant.

5. Within fifteen (15) working days after the conclusion of the hearing, the committee shall submit a written report to the President of the University, the respondent(s), and the complainant. The Board may decide that there is no basis for pursuing the complaint between the persons involved. The Board may decide that the complaint is valid and can recommend action by the President of the University.

6. The President or his/her representative shall within fifteen (15) working days of the receipt of the Board's report and recommendation(s) render a decision. The President or her/his representative may accept, reject, modify, or ask for clarification of the Board's report and recommendation(s). The President or his/her representative shall comply with any applicable, required collective bargaining unit procedures. Without limitation, one or more of the following actions may be among the decisions considered by the President if s/he finds the charges valid:
    i. a letter of reprimand or warning to the offender, with a copy placed in the offender's official personnel file.
    ii. disciplinary action appropriate for employee violation of University policy.
    iii. referral to the appropriate termination procedure.
    iv. initiation of procedures, e.g., allowing student to change sections, extend a deadline, change in grade, withdraw from a course without penalty, allowing an employee to change supervisors, etc., intended to restore and rectify loss suffered by the complainant in connection with the incident.
    v. mandate training in the affected area; e.g., race relations, cultural awareness/differences.

7. After a decision has been rendered, the President or her/his representative shall, within ten (10) working days, notify the Board chair, the respondent, and the complainant of the action taken.

ANY FORM OF RETALIATION IS STRICTLY PROHIBITED AND WILL BE ACTIONABLE UNDER THE BOARD.

IF THE GRIEVANCE PROCEDURES ARE IN CONFLICT WITH THE COLLECTIVE BARGAINING AGREEMENT OF ANY UNIVERSITY RECOGNIZED UNIT, THEN THE COLLECTIVE BARGAINING AGREEMENT SHALL PREVAIL.

(Passed by Cabinet 9/17/12)