



POLICY STATEMENT

Anti-Sexual Harassment Policy

ORIGINATING OFFICE

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

PURPOSE

To promulgate and codify the university's position and response to issues of Sexual Harassment as governed by Title IX of the Education Amendments of 1972 which prohibits sex discrimination in education, Title VII of the Civil Rights Act of 1964 which prohibits sex discrimination in employment, the Pennsylvania Human Relations Act and their underlying regulations.

SCOPE

This sexual harassment policy 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.

OBJECTIVE

Shippensburg University is committed to assuring that its educational and employment environment is free from unlawful discrimination and harassment based upon an individual's sex. Sexual harassment in any form is considered to be unacceptable behavior and counterproductive to the mission of an educational institution. The University regards sexual harassment as a violation of the standards of conduct required of all persons associated with the University.

DEFINITIONS

1. Sexual harassment: A form of sex discrimination occurring when there is deliberate or repeated use of sexual comments, attempted physical contact, or actual physical contact including sexual violence in the workplace or academic environment that creates a hostile environment for the recipient.
 - a. Quid Pro Quo: "Quid pro quo" is a Latin term that implies a trade off, "this for that" or "something for something." The harassment occurs when a job, job benefit or academic evaluation is directly linked to a subordinate's, co-worker's or student's willingness to grant or deny sexual favors.

- b. Hostile Environment: “Hostile environment” harassment is unwelcome conduct of a sexual nature that creates an intimidating, hostile or offensive working or academic environment and has the effect of substantially interfering with the victim’s work or study. Behavior will be considered “unwelcome” if the individual did not solicit or invite it and particularly if s/he indicates that s/he finds the conduct undesirable or offensive. Acquiescence or failure to complain does not mean that the conduct is welcome. However, if a student or employee actively participates in sexual banter or discussions without giving an indication that s/he does not like it, it will probably not meet the definition of “unwelcome.” Not every act that might be offensive to an individual or group necessarily will be considered as harassment and/or a violation of the University’s standard of conduct. In determining whether an act constitutes harassment, the totality of the circumstances that pertain to any given incident in its context must be carefully reviewed and due consideration must be given to the protection of individual rights, freedom of speech, academic freedom and advocacy.
- c. For purposes of this policy, unsolicited sexual advances, requests for sexual favors, verbal comments, gestures, or physical contact of a sexual nature which are unwelcome constitute sexual harassment when:
 - i. Submission to such conduct is made either explicitly or implicitly as a term or condition of an individual’s employment or academic standing.
 - ii. Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual, or
 - iii. Such conduct has the effect of unreasonably interfering with an individual’s work or academic performance or creating an intimidating, hostile, or offensive work or academic environment.

In Davis v. Monroe County Board of Education, 526 U.S 629 (1999), the U.S. Supreme Court ruled that in order to constitute sex discrimination in violation of Title IX of the Education Amendments of 1972 the harassment must be “so severe, pervasive and objectively offensive that it can be said to deprive the victim’s access to the educational opportunities or benefits provided by the school.”

- 2. Complainant: The person who is alleging the occurrence of sexual harassment.
- 3. Respondent: The person whose actions are alleged to have violated the sexual harassment policy.
- 4. Retaliation: Includes threats, intimidation, reprisals, and adverse actions related to one's employment or education.

POLICY

It is the policy of Shippensburg University to prohibit harassment of employees and students on the basis of sex. Sexual harassment is a form of sex discrimination. Where sexual harassment is found to

have occurred, the University will act to stop the harassment, prevent its recurrence, and, if need be, take appropriate corrective action, including discharge or expulsion from the University.

Retaliation against any person who alleges sexual harassment or who reports or assists in the investigation of a complaint under this policy may result in disciplinary action up to and including termination or expulsion. Retaliation against any person who is the alleged victim of sexual harassment is prohibited as well.

RESPONSIBILITIES

Any student, staff or faculty member of Shippensburg University who believes that he or she may have experienced sexual harassment should promptly report the incidents to any of the following:

1. Sexual Harassment/Title IX 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 Women's Consortium and the Executive Director of Social Equity/Title IX Coordinator will each submit a list of recommended candidates to the president. The list shall include two administrators, two faculty members and two staff members. One administrator shall be a member of the Dean of Students' staff. The names and contact information for the Contact Group will be publicized throughout campus.
2. Supervisors: As a supervisor, one can be personally responsible for sexual harassment incidents involving those who report to you if you knew or should have known about the conduct.
3. Faculty and Department Heads: Faculty act as agents of the University. As a result, faculty members are encouraged to take action on learning of a student's complaint of sexual harassment. Even faculty who are not in these roles are encouraged to take action as well.

Employees should seek out assistance or guidance from Social Equity, appropriate dean, the Title IX coordinator, or other designated party if a student, subordinate, or other community member comes to you with a complaint. It is critical, in addition, that you inform the student or remind others of the various procedures for addressing sexual harassment.

All members of the community are strongly encouraged to avail themselves of presentations and updates on Sexual Harassment or Discrimination.

PROCEDURES

The University will promptly investigate all sexual harassment complaints in a confidential manner to the extent that it is possible to do so. In the event that both parties are University students, the matter will be referred to the Dean of Students' office for resolution according to the rules and regulations of the University regarding student rights and responsibilities.

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.

- B. If the Complainant wishes to discuss thoughts or feelings 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. The Complainant will be informed that the Executive Director of Social Equity/Title IX Coordinator will be notified and that further action may be taken by the contact person even without the express permission and instruction of the Complainant. No written record will be kept of informal discussion between both parties.

II. HEARING BOARD

- A. COMPOSITION: The Sexual Harassment 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; two staff persons to be nominated by the President of SU/AFSCME; and two administrators, one to be nominated by the Vice President for Student Affairs and one 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. No contact person may serve as a member of the Fact Finding Board. 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. The student representative will serve for a period of one year, and the student must maintain a GPA of 2.0. 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.

III. COMPLAINT PROCESS

A. INFORMAL COMPLAINT PROCESS

- 1. If the Complainant so desires, s/he may seek informal assistance in resolving the complaint. In order to initiate the informal process, the Complainant must submit a written complaint. The contact person may assist in the preparation of the complaint and a copy of the complaint will be filed with the Executive Director of Social Equity/Title IX Coordinator.

2. The following procedures will be applied only in cases where a formal written signed complaint is submitted by a fully identified individual. This complaint should be submitted within 300 days from the date of the incident.
After discussion with the Complainant, the contact person will approach the Executive Director of Social Equity/Title IX Coordinator. The Executive Director of Social Equity/Title IX Coordinator shall work with the Complainant and the contact person in following the informal complaint procedures. The Director of Social Equity may request the assistance of additional individuals in the resolution process if the Director believes this is necessary for the comfort of the Complainant or for the fair resolution of the complaint.
3. If the incident(s) of sexual harassment involves a University student(s), as either Complainant or respondent, then at least one involved contact person shall be a member of the Dean of Students' staff.
4. At the commencement of the informal process, a written copy of the complaint will be provided to the Respondent. The contact person(s) may meet with the Respondent and with any other individuals who the contact person(s) believe are necessary for the resolution of the complaint. The Respondent may have an advisor present during interviews with the contact person(s). If the contact person(s) believes that it is desirable, and if the Complainant agrees, a meeting among all of the parties may be used as a method for the resolution of the complaint. A refusal by the Complainant to meet with the respondent shall not in any way prejudice the validity of the complaint.
5. It shall be the purpose of the Informal Process to attempt to reach an acceptable resolution of the complaint. The individuals involved in the process shall respect the confidentiality of the facts of the incidents and identities of the parties involved in the process. Any act of reprisal or retaliation directed against the Complainant or any witness or other persons involved in the process may result in disciplinary action up to and including termination and expulsion.
6. If at the conclusion of the Informal Process, or if at any time therein, the Complainant should decide to withdraw the complaint, the University shall retain the right to pursue a complaint in its own name under this policy. The informal process must be concluded within 60 days of submission of a written complaint.

B. FORMAL COMPLAINT PROCESS

1. It is the purpose of the Formal Complaint Process to provide for the ascertainment of all facts which are necessary for the resolution and remediation of allegations of sexual harassment. Following the completion of the Informal Complaint Process, if opted, and failing to have reached an acceptable resolution of the complaint, either the Complainant or the University

may bring a formal complaint by notifying the Executive Director of Social Equity/Title IX Coordinator within ten (10) days of receiving notice of failure to reach an amicable resolution. The Executive Director of Social Equity/Title IX Coordinator shall be responsible for deciding whether to bring a formal complaint on behalf of the University.

2. If a decision is made to bring a formal complaint on behalf of either the Complainant or the University, the Executive Director of Social Equity/Title IX Coordinator shall notify both the Respondent and the Chair of the Sexual Harassment Fact Finding Board. The Board shall then schedule a fact finding conference for the purpose of determining the facts relevant to the sexual harassment complaint.
3. The Fact Finding Conference shall be scheduled for a time no later than 15 days from receipt of notice of formal complaint from the Executive Director of Social Equity/Title IX Coordinator. The Complainant and the Respondent shall receive notice of the time and place of the conference. The Complainant may present his/her own facts and witnesses and/or the Executive Director of Social Equity/Title IX Coordinator may make such a presentation on behalf of the University (the latter in those situations only where the University itself is pursuing the complaint). The Respondent may also present his/her facts and witnesses and may have an advisor present during the conference; however, the advisor is present for the sole purpose of providing advice and support to the Respondent and may not make a formal presentation or address, or examine the board, witnesses or the Complainant. The Complainant may also have an advisor present, but said individual is subject to the same restrictions set forth in regard to the Respondent.
4. The Fact Finding Conference is not a hearing or formal adjudication. The purpose of the conference is to gather the facts which the Board believes are necessary to support a resolution of the complaint. Participation by the complainant in the conference is voluntary; cooperation is strongly encouraged in the interest of arriving at a fair and equitable resolution for all parties concerned. Even without the participation of principle parties, the fact-finding board will proceed and determine the facts as best they can. The conference will be chaired by the Chair of the Board or his/her designee. There are no formal rules of procedure or evidence, but good order will be maintained at all times. The Chair may make rulings on procedure and evidence and may call for recess or adjournment as he/she sees fit. The Chair may only vote in situations where a formal vote results in a tie. Five (5) Board Members (one from each of the five (5) constituencies) will be selected by the chair for each formal complaint and will participate in the conference(s). The parties may waive this provision by mutual written consent. If the respondent is a member of another

collective bargaining unit other than SU AFSCME or SU APSCUF, the president will appoint a member of that unit as a member of the Fact Finding Conference established for the complaint against that Respondent. In these instances, the Board membership will be six (6).

5. Following the conclusion of the conference, the Board will issue a Finding of Facts to the President within 10 days of the conference. The Findings of Fact shall set forth those facts which the Board believes are relevant to the complaint. The Board is not empowered to make recommendations as to specific actions to be taken by the President. The President may meet with the Board in order to review the Findings of Fact.
6. Within 10 days of receipt of the Findings of Fact, the President of the University or his/her designee, shall schedule a meeting with the Respondent. If the Respondent is a member of a collective bargaining unit, the appropriate provisions shall be followed. Respondent shall receive a copy of the Findings of Fact prior to the meeting with the President.
7. Following the meeting described in paragraph III (B.6), the President shall determine the appropriate action (if any) to be taken in regard to the formal complaint and provide notice to the respondent and the appropriate collective bargaining representative, if any.
8. The Complainant shall receive a copy of the Findings of Fact and notice as to whether the President has determined it appropriate to take action in the matter as well as the nature of the action taken.
9. Any time frame set forth within this policy is subject to extension for cause as determined by the Chair of the Sexual Harassment Fact Finding Board regarding Paragraphs B1 – B6 or the President regarding Paragraphs B1 – B8 in the Formal Process.
10. The Executive Director of Social Equity/Title IX Coordinator shall be responsible for the docketing and tracking of complaints through the informal and formal processes and for the retention of all records relevant to the policy. All records for each grievance will be destroyed within three (3) years of the date of final decision by the president or within three (3) years of the filing of a written complaint when no action is taken by the president. All records will be kept in the Office of the Executive Director of Social Equity/Title IX Coordinator in a totally confidential file. The Director shall also be responsible for the issuance of a notice of failure to reach an amicable resolution set forth in Paragraph III (A). Notwithstanding any other provision of these procedures to the contrary, records relating to employee discipline which are made a part of a Respondent's official employee personnel file under applicable employee disciplinary

procedures shall be governed by such applicable employee disciplinary procedures and not by these sexual harassment grievance procedures.

11. In the event that a complaint, either formal or informal, is made against the University President or a member of the Council of Trustees, the complaint will be referred to the Office of the Chancellor of the State System of Higher Education for disposition under the policies and procedures of that office.

(Passed by Cabinet 9/17/12)