

Policy Number:

1.01.002

Title:

Title IX Sexual Harassment Policy

1. POLICY STATEMENT

Thaddeus Stevens College of Technology (the “College”) does not discriminate on the basis of sex and is committed to providing a safe and healthy educational and workplace environment for all members of the College community. All students and employees have a right to be treated with dignity and respect. Consistent with the College’s Non-Discrimination Notice and the U.S. Department of Education’s implementing regulations for Title IX of the Education Amendments of 1972 (“Title IX”) (see 34 C.F.R. § 106 *et seq.*), the College prohibits Sexual Harassment that occurs within its Education Programs or Activities.

For purposes of this policy, Sexual Harassment includes Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking.

Administrators, faculty member, staff, students, contractors, guests, and other members of the College community who commit Sexual Harassment are subject to the full range of College discipline including verbal reprimand; written reprimand; mandatory training, coaching, or counseling; mandatory monitoring; partial or full probation; partial or full suspension; fines; permanent separation from the institution (that is, termination or dismissal); physical restriction from College property; cancellation of contracts; and any combination of the same.

The College will provide persons who have experienced Sexual Harassment ongoing remedies as reasonably necessary to restore or preserve access to the College’s Education Programs or Activities.

2. PURPOSE

This Policy establishes guidelines in accordance with the College’s obligations to respond to Sexual Harassment under Title IX. The Policy is intended to:

- Define Sexual Harassment
- Provide examples of Sexual Harassment
- Explain procedures for reporting incidents of Sexual Harassment
- Explain the procedures to investigate and adjudicate Formal Complaints of Sexual Harassment
- Identify the types of Supportive Measures available to Complainants and Respondents
- Explain training provided to officials with Title IX responsibilities under this policy
- Identify the types of disciplinary actions that may be imposed for violations of this Policy

3. SCOPE

This policy applies to Sexual Harassment that occurs within the College's Education Programs or Activities and that is committed by an administrator, faculty member, staff, student, contractor, guest, or other member of the College Community.

This policy does not apply to Sexual Harassment that occurs off-campus, in a private setting, and outside the scope of the College's education programs or activities; such sexual misconduct may be prohibited by the Student Code of Conduct if committed by a student, the Employee policies if committed by an employee.

Consistent with the U.S. Department of Education's implementing regulations for Title IX, this policy does not apply to Sexual Harassment that occurs outside the geographic boundaries of the United States, even if the Sexual Harassment occurs in the College's Education Programs or Activities, such as a study abroad program. Sexual Harassment that occurs outside the geographic boundaries of the United States is governed by the Nondiscrimination Policy.

Unless otherwise stated, this Policy supersedes and overrides other policies and procedures of the College to the extent they may be inconsistent with this Policy.

4. DEFINITIONS

Advisor: An individual who has agreed to serve as a provider of support and advice for a Complainant or Respondent and who will participate in the investigation and adjudication process outlined in this Policy.

Coercion: Direct or implied threat of force, violence, danger, hardship, or retribution sufficient to persuade a reasonable person of ordinary susceptibility to perform an act which otherwise would not have been performed or acquiesce in an act to which one would otherwise not have submitted. Coercion can include unreasonable and sustained pressure for sexual activity.

College Community: All full-time, part-time, temporary, visiting, and volunteering faculty, persons engaged in research, teaching assistants, administrators, staff, coaches, campus security, and all other persons who conduct business with or on behalf of the College but are not employees.

College Day: A day when classes or examinations are scheduled and held in accordance with the official academic calendar of Thaddeus Stevens College of Technology, excluding Saturdays and Sundays.

Complainant: An individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.

Consent: An informed decision, freely given, made through mutually understandable words or actions that indicate a willingness to participate in mutually agreed upon sexual activity. Consent cannot be given by an individual who is asleep, unconscious, or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason or is not under duress, threat, Coercion, or force. Past Consent does not imply future Consent. Silence or an absence of resistance does not imply Consent. Consent can be withdrawn at any time.

Dating Violence: Violence committed by a person:

1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
2. Where the existence of such a relationship will be determined based on a consideration of the following factors:
 - The length of the relationship;
 - The type of relationship; and
 - The frequency of interaction between the persons involved in the relationship.

Domestic Violence: Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Pennsylvania, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Pennsylvania.

Education Program or Activity: All the operations of the College, including, but not limited to, in-person and online educational instruction, employment, research activities, extracurricular activities, athletics, residence life, dining services, performances, and community engagement and outreach programs. The term applies to all activity that occurs on campus or on other property owned or occupied by the College. It also includes off-campus locations, events, or circumstances over which the College exercises substantial control over the Respondent and the context in which the Sexual Harassment occurs, including Sexual Harassment occurring in any building owned or controlled by a student organization that is officially recognized by the College. Conduct that occurs outside of the College's Education Program or Activity may be subject to another applicable College policy.

Formal Complaint: A document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that the College investigate the allegation of Sexual Harassment. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the College's Education Programs or Activities. A "document filed by a Complainant" means a document or electronic submission (such as an email) that contains the Complainant's physical or electronic signature or otherwise indicates that the Complainant is the person filing the Complaint.

Hearing Officer: The person who is the decision-maker with respect to the determination of responsibility after a live hearing. Hearing Officer may also mean a committee that is the decision-maker with respect to the determination of responsibility after a live hearing. A Hearing Officer cannot be the same person as the Title IX Coordinator or the investigator.

Hostile Environment Sexual Harassment: Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person access to the College's Education Programs or Activities.

Incapacitated: The state where a person does not appreciate the nature or fact of sexual activity due to the effect of drugs or alcohol consumption, medical condition or disability, or due to a state of unconsciousness or sleep.

Party: Either Complainant or Respondent. References to the plural “parties” includes Complainant and Respondent.

Quid Pro Quo Sexual Harassment: An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual’s participation in unwelcome sexual conduct.

Respondent: An individual who has been reported to be the perpetrator of conduct that would constitute Sexual Harassment.

Retaliation: Intimidation, threats, Coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX and its implementing regulations or because an individual has made a report or Formal Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.

Sexual Assault: Consists of one or more of the following:

- Rape: Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, or by a sex-related object. This definition also includes instance in which the victim is incapable of giving Consent because of temporary or permanent mental or physical incapacity (include due to the influence of drugs or alcohol) or because of age. Physical resistance is not required on the part of the victim to demonstrate lack of Consent.
- Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the Consent of the victim, including instances where the victim is unable to give Consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
- Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Pennsylvania law.
- Sexual intercourse with a person who is under the statutory age of Consent as defined by Pennsylvania law.

Sexual Harassment: Conduct on the basis of sex that constitutes Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking. Sexual Harassment can be committed by both men and women and can occur between people of the same or opposite sex. It can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship.

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for their safety or the safety of others; or
- Suffer substantial emotional distress.

Supervisor/Supervisory Authority: A College employee who has the power to control or influence another person's academic advancement, employment, or extracurricular participation, including but not limited to, admissions, financial aid, athletic participation, employment conditions, compensation, promotion, discipline, or recommendations.

Supportive Measures: Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge, to the Complainant or Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program without unreasonably burdening the other party, including measures designed to protect the safety of all parties and/or educational environment, or deter Sexual Harassment. Supportive measures may include counseling, extensions of academic or other deadlines, course-related adjustments, modifications to work or class schedules, campus escort services, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, and other similar measures. Supportive Measures may also include mutual restrictions on contact between the parties implicated by a report of Sexual Harassment.

Written Notice: Notice to a student or employee to their official College e-mail account as well as a hard copy letter sent via first class USPS mail to their local address on file with the College. Students and employees have a responsibility to regularly check their College-issued e-mail accounts and ensure the local address on file with the College is current.

Written notice to an individual or entities that are not affiliated with the College will be sent to the e-mail address and/or USPS mail address on file with the College, if any.

When notice is sent pursuant to this section by United States mail or courier service, the notice is effective on the date that the notice is mailed or delivered to the courier service. When notice is hand delivered, notice is effective on the date that the notice is delivered to the individual to whom the notice is addressed. When notice is sent by email, the notice is effective on the date the email is sent to the individual's College or third-party e-mail account.

5. UNDERSTANDING HOSTILE ENVIRONMENT SEXUAL HARASSMENT

In determining whether a hostile environment exists, the College will consider the totality of circumstances, including factors such as the actual impact the conduct has had on the Complainant; the nature and severity of the conduct at issue; the frequency and duration of the conduct; the relationship between the parties (including accounting for whether one individual has power or authority over the other); the respective ages of the parties; the context in which the conduct occurred; and the number of persons affected. The College will evaluate the totality of circumstances from the perspective of a reasonable person in the Complainant's position. A person's adverse subjective reaction to conduct is not sufficient, in and of itself, to establish the existence of a hostile environment.

The College encourages members of the College Community to report all instances of Sexual Harassment, even if they are unsure whether the conduct rises to the level of a policy violation.

Some specific examples of conduct that may constitute Sexual Harassment if unwelcome include, but are not limited to:

- Unreasonable pressure for a dating, romantic, or intimate relationship or sexual contact
- Unwelcome kissing, hugging, or massaging
- Sexual innuendos, jokes, or humor
- Displaying sexual graffiti, pictures, videos, or posters
- Using sexually explicit profanity
- Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities
- E-mail, internet, or other electronic use that violates this policy
- Leering or staring at someone in a sexual way, such as staring at a person's breasts or groin
- Sending sexually explicit emails, text messages, or social media posts
- Commenting on a person's dress in a sexual manner
- Giving unwelcome personal gifts such as lingerie that suggest the desire for a romantic relationship
- Insulting, demeaning, or degrading another person based on sex or sex stereotypes

6. UNDERSTANDING CONSENT AND INCAPACITATION

6.1 Consent

Lack of Consent is a critical factor in determining whether Sexual Harassment has occurred. As defined above, Consent is a mutual, voluntary, and informed agreement to participate in specific sexual acts with another person that is not achieved through unreasonable manipulation or Coercion—or any kind of physical force or weapon—and requires having cognitive ability to agree to participate. Consent requires an outward demonstration, through mutually understandable words, conduct or action, indicating that an individual has freely chosen to engage in the specific sexual acts. A verbal “no” constitutes lack of Consent, even if it sounds insincere or indecisive.

Impairment or incapacitation due to alcohol and/or drug use, permanent/ temporary psychological or physical disability, and being below the age of consent are factors which detract from or make Consent impossible.

Silence or an absence of resistance does not imply Consent, and Consent to engage in sexual activity with one person does not imply Consent to engage in sexual activity with another. Even in the context of an ongoing relationship, Consent must be sought and freely given for each specific sexual act. Consent may be withdrawn at any time. When Consent is withdrawn, sexual activity must immediately stop.

6.2 Incapacitation

Incapacitation is a state where an individual cannot make an informed and rational decision to Consent to engage in sexual contact because the individual lacks conscious knowledge of the nature of the act (e.g., to understand the “who, what, where, when, why or how” of the sexual interaction) and/or is physically or mentally helpless. An individual is also considered

incapacitated, and therefore unable to give Consent, when asleep, unconscious, or otherwise unaware that sexual contact is occurring.

Incapacitation can only be found when the Respondent knew or should have known that the Complainant was incapacitated when viewed from the position of a sober, reasonable person. One's own intoxication is not an excuse for failure to recognize another person's incapacitation.

Incapacitation may result from the use of alcohol and/or other drugs; however, consumption of alcohol or other drugs, inebriation, or intoxication alone are insufficient to establish incapacitation. Incapacitation is beyond mere drunkenness or intoxication. The impact of alcohol or drugs varies from person to person, and evaluating incapacitation requires an assessment of how consumption of alcohol and/or drugs impacts an individual's:

- Decision-making ability
- Awareness of consequences
- Ability to make informed judgments
- Capacity to appreciate the nature of circumstances of the act.

No single factor is determinative of incapacitation. Some common signs that someone may be incapacitated include slurred speech, confusion, shaky balance, stumbling or falling down, vomiting, and unconsciousness.

7. ADVICE FOR INDIVIDUALS REPORTING SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING

If you believe you are the victim of Sexual Assault, Domestic Violence, or Dating Violence, get to safety and do everything possible to preserve evidence by making certain that the crime scene is not disturbed. Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order. For those who believe that they are victims of Sexual Assault, Domestic Violence, or Dating Violence, the College recommends the following:

- Get to a safe place as soon as possible.
- Try to preserve all physical evidence of the crime—avoid bathing, using the toilet, rinsing one's mouth or changing clothes. If it is necessary, put all clothing that was worn at the time of the incident in a paper bag, not a plastic one.
- Do not launder or discard bedding or otherwise clean the area where the assault occurred- preserve for law enforcement.
- Preserve all forms of electronic communication that occurred before, during, or after the assault
- Report the incident immediately to Campus Security at 717-391-7225 (24 hours a day, seven days per week) or to law enforcement by dialing 911.
- Seek medical attention. The College health offices may be contacted by dialing 717-299-7769 (Main Campus) or 717-606-1560 (Griscom Education Center). For urgent medical treatment, call 911. If you have time and desire to do so, you can contact the Title IX Coordinator to assist you and, if needed, provide you with an escort to the hospital.
- Contact a trusted person, such as a friend or family member for support.

- Talk with a professional licensed counselor, chaplain, or health care provider who can help explain options, give information, and provide emotional support.
- Make a report to the Title IX Coordinator.
- Explore this policy and its options for investigation, adjudication, and/or informal resolution.

It is also important to take steps to preserve evidence in cases of Stalking, to the extent such evidence exists. Such evidence is more likely to be in the form of letters, emails, text messages, electronic images, etc. rather than evidence of physical contact and violence. This type of non-physical evidence will also be useful in all types of Sexual Harassment investigations.

Once a report of Sexual Assault, Domestic Violence, Dating Violence, or Stalking is made, the victim has several options such as, but not limited to:

- obtaining Supportive Measures
- contacting parents or a relative
- seeking legal advice
- seeking personal counseling (always recommended)
- pursuing legal action against the perpetrator
- filing a Formal Complaint
- requesting that no further action be taken

Campus Security can provide information about obtaining a personal protection order (“PPO”).

8. REPORTING SEXUAL HARASSMENT

Any person may report Sexual Harassment to the Title IX Coordinator. Reports may be made in person, by regular mail, telephone, electronic mail, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. In-person reports must be made during normal business hours, but reports can be made by regular mail, telephone, or electronic mail at any time, including outside normal business hours.

Any member of the College community may report Sexual Harassment by calling the College’s reporting hotline, (7 days a week, 24 hours a day) at 717-391-7225. Callers will speak with a live operator who will ask you questions and complete a report. Callers will also be able to provide further details as needed anonymously.

The Title IX Coordinator’s contact information is as follows:

Nakia Perry
 Campus Inclusion and Compliance Officer and Title IX Coordinator
 Telephone: (717) 391-1365
 Email: perry@stevenscollege.edu
 Address: 750 East King Street, Lancaster, PA 17602

The College has also designated a Deputy Coordinator to assist with the Title IX process. The Deputy Coordinator is:

Heather Burky
Director of Employee Engagement
Telephone: 717-391-6935
Email: Burky@stevenscollege.edu
Address: 750 East King Street, Lancaster, PA 17602

Reports of Sexual Harassment should provide all relevant details, including the names of the Complainant and the Respondent (if known), any witnesses, and any other relevant facts, including the date, time, and specific location of the alleged incident.

Forms and procedures for reporting Sexual Harassment are available in the Counseling Office, the Office of Employee Engagement, and on the College's website.

There is no time limit for reporting prohibited conduct to the College; however, the College's ability to respond may diminish over time as evidence may erode, memories may fade, and Respondents may no longer be affiliated with the College.

8.1 EMPLOYEE REPORTING OBLIGATIONS

All College Employees who are not designated as confidential employees are required to promptly report potential Sexual Harassment in the College's Education Programs or Activities to the Title IX Coordinator. An employee's duty to report is triggered when: (1) the employee receives a report of potential Sexual Harassment from another person; (2) the employee observes potential Sexual Harassment; or (3) the employee learns about potential Sexual Harassment through some other means.

Professional licensed counselors, health services professionals, and pastoral counselors who provide mental, health and counseling services to members of the College community are designated as confidential employees and are not permitted to report any information without the victim's permission.

8.2 EXTERNAL REPORTING OPTIONS

In addition to the procedures in this policy for reporting to the Title IX Coordinator, individuals may also contact the Office of Civil Rights (OCR).

U.S. Department of Education.
Office for Civil Rights
Lyndon Baines Johnson, Department of Education
Building 400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012
TDD: 800-877-8339
Email: OCR@ed.gov

9. PRELIMINARY ASSESSMENT

After receiving a report of Sexual Harassment, the Title IX Coordinator will promptly review the allegations to determine:

- Whether the conduct, as reported, falls or could fall within the scope of this policy; and
- Whether the conduct, as reported, constitutes or could constitute Sexual Harassment.

If the Title IX Coordinator determines that the conduct reported could not fall within the scope of the policy, and/or could not constitute Sexual Harassment, even if investigated, the Title Coordinator will close the matter and may notify the reporting party if doing so is consistent with the Family Educational Rights and Privacy Act ("FERPA"). The Title IX Coordinator may refer the report to other College offices, as appropriate.

If the Title IX Coordinator determines that the conduct reported could fall within the scope of the policy, and/or could constitute Sexual Harassment, if investigated, the Title IX Coordinator will proceed to contact the Complainant.

As part of the preliminary assessment, the Title IX Coordinator may take investigative steps to determine the identity of the Complainant, if it is not apparent from the report.

In situations when a report or Formal Complaint of alleged Sexual Harassment involves a student Complainant and employee Respondent, the Title IX Coordinator shall notify the President about the allegations.

10. CONTACTING THE COMPLAINANT

If a report is not closed as a result of the preliminary assessment and the Complainant's identity is known, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of Supportive Measures; to discuss and consider the Complainant's wishes with respect to Supportive Measures; to inform the Complainant about the availability of Supportive Measures with or without filing a Formal Complaint; and to explain the process for filing and pursuing a Formal Complaint. The Complainant will also be provided with options for filing a complaint with the local police and information about resources that are available on campus and in the community.

11. SUPPORTIVE MEASURES

If a report is not closed as a result of the preliminary assessment, the College will offer and make available Supportive Measures to the Complainant regardless of whether the Complainant elects to file a Formal Complaint.

Contemporaneously with the Respondent being notified of a Formal Complaint, the Title IX Coordinator will notify the Respondent of the availability of Supportive Measures, and the College will offer and make available Supportive Measures to the Respondent in the same manner in which it offers and makes them available to the Complainant. The College will also offer and make available Supportive Measures to the Respondent prior to the Respondent being notified of a Formal Complaint, if the Respondent requests such measures.

The College will maintain the confidentiality of Supportive Measures provided to either a Complainant or Respondent, to the extent that maintaining such confidentiality does not impair the College's ability to provide the Supportive Measures in question.

12. INTERIM REMOVAL

At any time after receiving a report of Sexual Harassment, the Title IX Coordinator may remove a student Respondent from one or more of the College's Education Programs or Activities on a temporary basis if an individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal. In the event the Title IX Coordinator imposes an interim removal, the Title IX Coordinator must offer to meet with the Respondent within twenty-four hours and provide the Respondent an opportunity to challenge the interim removal.

In the case of a Respondent who is a non-student employee (administrator, faculty, or staff), and in its discretion, the College may place the Respondent on administrative leave at any time after receiving a report of Sexual Harassment, including during the pendency of the investigation and adjudication process.

For all other Respondents, including independent contractors and guests, the College retains broad discretion to prohibit such persons from entering onto its campus and other properties at any time, and for any reason, whether after receiving a report of Sexual Harassment or otherwise.

13. FORMAL COMPLAINT

A Complainant may file a Formal Complaint with the Title IX Coordinator requesting that the College investigate and adjudicate a report of Sexual Harassment in accordance with the provisions in this policy. Provided, however, that at the time the Complainant submits a Formal Complaint, the Complainant must be participating in, or attempting to participate in, one or more of the College's Education Programs or Activities.

A Complainant may file a Formal Complaint with the Title IX Coordinator in person, by regular mail, or by email using the contact information specified above. No person may submit a Formal Complaint on the Complainant's behalf.

In any case, including a case where a Complainant elects not to file a Formal Complaint, the Title IX Coordinator may file a Formal Complaint on behalf of the College if doing so is not clearly unreasonable. Such action will normally be taken in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the College Community. Factors the Title IX Coordinator may consider include (but are not limited to): (a) was a weapon involved in the incident; (b) were multiple assailants involved in the incident; (c) is the accused a repeat offender; and (d) does the incident create a risk of occurring again.

If the Complainant or the Title IX Coordinator files a Formal Complaint, then the College will commence an investigation and proceed to adjudicate the matter as specified below. In all

cases where a Formal Complaint is filed, the Complainant will be treated as a party, irrespective of the party's level of participation.

In a case where the Title IX Coordinator files a Formal Complaint, the Title IX Coordinator will not act as a Complainant or otherwise as a party for purposes of the investigation and adjudication processes.

14. CONSOLIDATION OF FORMAL COMPLAINTS

The College may consolidate Formal Complaints as to allegations of Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Sexual Harassment arise out of the same facts or circumstances. Where the investigation and adjudication process involve more than one Complainant or more than one Respondent, references in this policy to the singular "party," "Complainant," or "Respondent" include the plural, as applicable. A Formal Complaint of Retaliation may be consolidated with a Formal Complaint of Sexual Harassment.

15. DISMISSAL PRIOR TO COMMENCEMENT OF INVESTIGATION

In a case where the Complainant files a Formal Complaint, the Title IX Coordinator will evaluate the Formal Complaint and must dismiss it if the Title IX Coordinator determines:

- The conduct alleged in the Formal Complaint would not constitute Sexual Harassment, even if proved; or
- The conduct alleged in the Formal Complaint falls outside the scope of the policy (that is, because the alleged conduct did not occur in the College's Education Programs or Activities and/or the alleged conduct occurred outside the geographic boundaries of the United States).

In the event the Title IX Coordinator determines the Formal Complaint should be dismissed pursuant to this Section, the Title IX Coordinator will provide a written notice of dismissal to the parties and advise them of their right to appeal. The Title IX Coordinator may refer the subject matter of the Formal Complaint to other College offices, as appropriate.

16. NOTICE OF FORMAL COMPLAINT

No more than seven (7) College Days after the receipt of a Formal Complaint, the Respondent and Complainant will be provided with a Notice of Allegations that includes:

- A physical copy of this policy or a hyperlink to this policy.
- Sufficient details known at the time so that the parties may prepare for an initial interview with the investigator, to include the identities of the parties involved in the incident (if known), the conduct allegedly constituting Sexual Harassment, and the date and location of the alleged incident (if known).

- A statement that the Respondent is presumed not responsible for the alleged Sexual Harassment and that a determination of responsibility will not be made until the conclusion of the adjudication and any appeal.
- Notifying the Complainant and Respondent of their right to be accompanied by an Advisor of their choice.
- Notifying the Complainant and Respondent of their right to inspect and review evidence.
- Notifying the Complainant and Respondent of the College's prohibitions on retaliation and knowingly making false statements to a College official.
- Information about resources that are available on campus and in the community.

Should the College elect, at any point, to investigate allegations that are materially beyond the scope of the initial written notice, the College will provide a supplemental written notice describing the additional allegations to be investigated.

17. INVESTIGATION BY THE COLLEGE

After the written notice of Formal Complaint is transmitted to the parties, an investigator selected by the Title IX Coordinator will undertake an investigation to gather evidence relevant to the alleged misconduct, including inculpatory and exculpatory evidence. The investigation will encompass the following elements:

- Ensure that the burden of proof and the burden of gathering evidence is on the College and not on the parties. However, the College cannot access, consider, disclose, or otherwise use the Party's medical/psychological records (or any other information protected by a legal privilege) without that party's voluntary, written Consent to do so.
- Provide an equal opportunity for parties to present witnesses, including fact and expert witnesses, and other evidence. Notwithstanding the foregoing, the investigator retains discretion to limit the number of witness interviews the investigator conducts if the investigator finds that testimony would be unreasonably cumulative, if the witnesses are offered solely as character references and do not have information relevant to the allegations at issue, or if the witnesses are offered to render testimony that is categorically inadmissible (e.g., testimony concerning sexual history of the Complainant).
- Not restrict the ability of either party to discuss the allegations under the investigation or to gather and present relevant evidence.
- Provide both parties with the same opportunities to have others present during any meetings or proceedings, including the opportunity to be accompanied to any related meeting or proceeding by the Advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of Advisor for either the Complainant or Respondent in any meeting or proceeding.

- Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all the hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
- Provide both parties with an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in Formal Complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and evidence, whether or not obtained by the College, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation.

Prior to the completion of the investigative report, the College will send to each party and the party's Advisor, if any, the evidence subject to inspection and review in an electronic format or hard copy, and the parties will be given at least ten (10) calendar days to submit a written response, which the investigator will consider prior to the completion of the investigative report. The parties and their Advisors are permitted to review the evidence solely for the purposes of this grievance process and may not duplicate or disseminate the evidence to other individuals. All such evidence will be made available for the parties' inspection and review at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

After the period for the parties to provide any written response has expired, the investigator will create an investigative report that fairly summarizes the various steps taken during the investigation, summarizes the relevant evidence collected, lists material facts on which the parties agree, and lists material facts on which the parties do not agree. When the investigation report is complete, the investigator will transmit a copy to the Title IX Coordinator. The investigator will also transmit the investigation report to each party and their Advisor, in either electronic or hard copy form. The report will be issued at least ten (10) calendar days prior to a hearing.

Although the length of each investigation may vary depending on the totality of the circumstances, the investigation stage of the process, ending with the issuance of the investigation report, shall typically be completed in no more than (60) College Days. That timeline may be extended in intervals of fourteen (14) College Days with written notice explaining the reason for the extensions.

18. LIVE HEARING

At the conclusion of the investigation process, a live hearing will be held before a trained decision maker(s) appointed by the College. The decision-maker(s):

- Will not be the Title IX Coordinator or the investigator(s).
- Will be free from conflict of interest or bias, including bias for or against the Complainant(s) or Respondent(s) or against complainants or respondents generally.

- Will have been trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for Complainants, and any technology to be used at the hearing.

Prior to the hearing, the decision maker(s) will conduct a pre-hearing conference with each party and the party's Advisor. In the decision maker(s)'s discretion, the pre-hearing conference may be conducted virtually, by use of video and audio technology, where all participants participate simultaneously and contemporaneously by use of such technology. During the pre-hearing conference, the decision maker(s) will discuss the hearing procedures with the party and their Advisor; discuss the witnesses the parties have requested be invited to attend the hearing; and resolve any other matters that the decision maker(s) determines should be resolved before the hearing.

At the hearing, each party's Advisor shall be permitted to cross-examine and ask relevant questions of the other party and all witnesses. The Advisor may be, but is not required to be, an attorney. In no event will the party (Complainant or Respondent) be permitted to personally cross-examine another party or witness. If a party does not have an Advisor present at the live hearing, the College will provide, without charge, an Advisor of the College's choice to conduct cross-examination on behalf of the party.

At the request of either party, the College will provide for the live hearing to occur with the parties located in separate rooms with technology enabling decision maker(s) and parties to simultaneously see and hear the party or the witness answering questions. At the discretion of the College, hearings may be conducted with all parties physically present in the same geographic location or any or all parties, witnesses, and other participants appearing at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

Before a Complainant, Respondent, or witness answers a question, the decision maker(s) will first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant or if the question and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove Consent.

In the event a party or witness who was interviewed during the investigation declines to attend the hearing, or attends the hearing but does not respond to questions that have been deemed relevant and not impermissible, the decision maker(s) may consider the individual's statements, although the decision maker(s) must consider whether the individual's failure to attend and/or respond to questions about their credibility should affect the weight to be given to such statement. The decision maker(s) may choose to place less or no weight upon the individual's prior statements, provided that the decision-maker may not draw a negative inference solely based on the individual's absence from the live hearing or refusal to answer questions.

The College will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review period.

The College uses a preponderance of the evidence standard (that is, “more likely than not”) to determine responsibility. The same standard of evidence applies to Formal Complaints against students as for Formal Complaints against employees, including faculty.

19.DETERMINATION REGARDING RESPONSIBILITY

Following the hearing, the decision maker(s) shall issue a written determination. The written determination shall be issued as soon as reasonably practicable, but not later than ten (10) College Days after the close of the hearing.

The written determination must include the following:

- Identification of the allegations potentially constituting Sexual Harassment.
- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held.
- Findings of fact supporting the determination.
- A statement of, and rationale for, each allegation that constitutes a separate potential incident of Sexual Harassment, including a determination regarding responsibility for each separate potential incident.
- A statement of, and rationale for, any determinations of Code of Conduct or other policy violations if the College exercises its discretion to apply other applicable College policies and procedures to the allegations contained in the Formal Complaint.
- Any disciplinary sanctions that will be imposed on the Respondent (if applicable).
- Whether the Complainant will receive any ongoing support measures or other remedies as determined by the Title IX Coordinator.
- The applicable procedures and permissible basis for the Complainant and the Respondent to appeal.

20.APPEAL

Either party may appeal from a (1) determination of responsibility/non-responsibility or (2) dismissal of a Formal Complaint or any allegations therein, by filing a **Notice of Intent to Appeal** on the following three grounds, and no other grounds:

1. A procedural irregularity that affected the outcome of the matter.

2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter.
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

Any ***Notice of Intent to Appeal*** must be filed within **two (2) College Days** from the issuance of a determination regarding responsibility or the dismissal of a Formal Complaint.

The Notice of Intent to Appeal must be followed within **three (3) additional College Days** by the filing of a detailed written **Statement of Appeal** identifying the grounds for appeal and explain with specificity the facts supporting the basis of the appeal. Failure to timely file either the Notice of Intent to Appeal or the Statement of Appeal will result in the appeal being dismissed.

The College will provide a copy of the appealing party's Notice of Intent to Appeal and Statement of Appeal to the non-appealing party. **The non-appealing party will have five (5) College Days** from the date the appeal documents are transmitted to submit a written **Response to Statement of Appeal**. If the non-appealing party submits a Response to Statement of Appeal, a copy will be provided by the College to the appealing party, but the appealing party shall not have the right to submit an additional statement.

Notices of Intent to Appeal, Statements of Appeal, and Responses to Statements of Appeal must be submitted in writing to:

Dr. Pedro Rivera, President
Office of the President
Mellor Building
Thaddeus Stevens College of Technology
750 East King Street
Lancaster, PA 17602
riverap@stevenscollege.edu

Supportive Measures may be continued during the pendency of an appeal, but any disciplinary sanctions will be stayed until the completion of the appeal process.

The President or the President's designee will review the appeal, including all party submissions, and issue a written decision to all parties involved within thirty (30) College Days, or as soon as reasonably possible, but not later than forty-five (45) College Days after the receipt of the written Notice of Intent to Appeal. The appeal decision is final and concludes the College's formal complaint resolution process.

21. DISCIPLINARY ACTIONS

Employees and students who violate this policy are subject to appropriate discipline by the College. If an investigation results in a determination that this policy has been violated, the mandatory minimum discipline is written reprimand.

Upon the finding of a serious violation of this policy, the College reserves the right to take disciplinary action, up to and including, termination of employment, expulsion or suspension, removal from campus, cancellation of contract, and any other appropriate actions necessary to address the violation.

Appropriate disciplinary action shall be taken against any person found to have participated in any acts of retaliation. Any attempt to penalize or retaliate against a person for filing a Formal Complaint or participating in the investigation of a Formal Complaint regarding a violation of this policy will be treated as a separate and distinct violation of the policy. Specifically:

- A student found to have retaliated in violation of this policy shall be subject to measures up to, and including, suspension and/or expulsion.
- A College employee found to have retaliated in violation of this policy shall be subject to measures up to, and including, termination of employment.
- A College non-employee found to have retaliated in violation of this policy shall be subject to measures up to, and including, exclusion from a College relationship and College grounds.
- Persons who violate this policy may also be subject to civil damages or criminal penalties.

22. OPTIONS FOR INFORMAL RESOLUTION

Except in cases where the Respondent is an employee and the Complainant is a student, the College may, in its discretion, offer and facilitate an informal resolution process. The specific manner of any informal resolution process will be determined by the parties and the Title IX Coordinator, in consultation together. It may include mediation, facilitated resolution, restorative justice, or another form of dispute resolution.

An informal resolution process may be used only when both the Complainant and the Respondent voluntarily agree to participate, and only after a Formal Complaint has been filed. If the parties elect to proceed with an offered informal resolution process, this process would be in lieu of a formal hearing (discussed below). No one can be forced to go through the informal resolution process.

Prior to commencing the informal resolution process, the Title IX Coordinator will transmit a written notice to the parties that:

- Describes the allegations against the Respondent.
- Describes the parameters and requirements of the informal resolution process to be utilized.
- Identifies the individual responsible for facilitating the informal resolution.
- Explains the effect of participating in informal resolution and/or reaching a final resolution will have on a party's ability to resume the investigation and adjudication of the allegations at issue in the Formal Complaint, including the bar to the Complainant of

later pursuing a Formal Complaint arising from the same allegations after a final informal resolution has been agreed to by the parties; and

- Explains any other consequence resulting from participation in the informal resolution process, including a description of records that will be generated, maintained, and/or shared.

After receiving the written notice, each party must voluntarily provide written consent to the Title IX Coordinator before the informal resolution may commence. Mediators or other individuals offered by the College to facilitate an informal resolution process will be trained, including with respect to, among other things, the definition of Sexual Harassment, how to conduct the process, and how to avoid conflicts of interest and bias in discharging their duties.

An informal resolution process shall be completed within sixty (60) College Days of the agreement of all parties to use the informal resolution process unless an extension of time is agreed to by all parties. If either party withdraws from the informal process, or no mutually agreeable resolution can be reached during this timeframe, the formal grievance process shall resume. The timeframes applicable to the formal agreements process shall be put on hold, or “toll,” during any informal resolution process and shall restart if the informal resolution process is terminated without an agreed upon resolution.

If the parties reach a resolution through the informal resolution process, and the Title IX Coordinator agrees that the resolution is not clearly unreasonable, the Title IX Coordinator will draft an informal resolution agreement that contains the terms of the resolution and obtain both parties’ signatures on the agreement. Once both parties and the Title IX Coordinator sign the informal resolution agreement, the resolution is final, and the allegations addressed by the resolution are considered resolved and will not be subject to further investigation, adjudication, remediation, or discipline by the College, except as otherwise provided in the resolution itself, absent a showing that a party induced the resolution by fraud, misrepresentation, or other misconduct or where required to avoid a manifest injustice to either party or to the College. The terms of the informal resolution agreement are not subject to appeal.

A party may withdraw their consent to participate in informal resolution at any time before a resolution has been finalized.

23. DISMISSAL OF FORMAL COMPLAINTS

If the conduct alleged in the Formal Complaint would not constitute Sexual Harassment even if proven, did not occur in the College’s Education Program or Activity, or did not occur in the United States, the College will dismiss the Formal Complaint under this Policy and refer it to the appropriate College official to be reviewed under other applicable policies

If the conduct alleged is contrary to the College's policies and has had a significant impact on College operations but occurred outside of the scope of this Policy (e.g., off campus, at a non-affiliated location), the matter will be referred to the appropriate College official to be reviewed as a non-Title IX disciplinary proceeding under applicable College policies (e.g., Student Code of Conduct, Human Resources policies, Non-Discrimination Policy.)

In addition, the College may dismiss a Formal Complaint or any allegations therein if at any time during the investigation or hearing: a Complainant notifies the Title IX coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; the Respondent is no longer enrolled at or employed by the College; or specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

An appeal may be taken by either party from a dismissal of the Formal Complaint or any allegations therein within the time frame and on any of the three grounds specified in the Appeals section of this policy.

24. CONSENSUAL AMOROUS OR FAMILIAL RELATIONSHIPS

A relationship between members of the College community in which one party exercises academic or administrative authority over another, or where the parties are related, may be inappropriate even if not classified as Sexual Harassment because of the inherent risks in familial, romantic/sexual relationships (such as faculty and staff, or faculty/staff and undergraduate student). These relationships have the potential to involve:

- Conflict of Interest
- Exploitation
- Favoritism
- Bias

Given the power and balance between the parties, the relationship may be less voluntary for the subordinate than to the supervisor/family member. In some cases, relationships change, and conduct that was previously welcomed by the subordinate may become unwanted or unwelcome. Further, the College and the supervisory individual could be challenged if a consensual amorous relationship results in an allegation of a hostile work environment by the subordinate or family member, or others who feel they may have been denied an opportunity or treated unfairly, because of the relationship.

Therefore, when Thaddeus Stevens College of Technology faculty and staff members exercise power and authority over students or other employees, where the supervisory, instructional, or other professional authority creates a potential power imbalance, the faculty or staff member must report the situation promptly to Office of Employee Engagement who will seek advice from the appropriate administrative officer, typically their Vice President, or Dean who will take steps to ensure unbiased supervision or for evaluation of the person supervised.

25. PRESUMPTION OF NON-RESPONSIBILITY

From the time a report or Formal Complaint is made, a Respondent is presumed not responsible for the alleged misconduct until a determination regarding responsibility is made final.

26. FREE EXPRESSION AND ACADEMIC FREEDOM

The College is committed to protecting, maintaining, and encouraging both freedom of inquiry, teaching, service, and research. However, raising issues of academic freedom and freedom of

expression will not automatically excuse behavior that constitutes a violation of this Policy or the law. The College will balance the enforcement of this policy with freedom of speech and academic freedom.

27. ADVISORS

Both parties may select an individual of their choice to serve as their Advisor. Both parties have the right to have their Advisor present during any meeting or hearing under this Policy. The Advisor may be, but is not required to be, an attorney. The College will appoint an Advisor for parties who have not selected their own. The role of the Advisor is to assist and guide the party during all College proceedings under this Policy. The Advisor, upon a party's request may:

- Accompany the party to all meetings or hearings held pursuant to this policy.
- Advise the party in the preparation and presentation at all related proceedings.
- Conduct cross examination in the hearing on behalf of the party.
- Advise the party in the preparation of any appeals.

The Advisor may not perform any function in the process other than advising the party and may not make a presentation or represent the party, other than questioning at the hearing. If, at any point, an Advisor becomes disruptive or fails to follow the rules this Policy, the College reserves the right to remove the Advisor from the proceeding, and, if appropriate, any future proceedings. If a party's Advisor is removed, that party may choose another Advisor or otherwise will have one appointed for them by the College.

28. RETALIATION

It is a violation of this policy to engage in Retaliation. Prohibited Retaliation includes conduct that may reasonably be viewed to:

- Adversely affect an individual's, educational, living, or working environment because of a good faith participation, or refusing to participate, in the reporting, investigation, or other procedures in this Policy.
- Adversely affect an individual's, educational, living, or working environment because of a good faith protest against Sexual Harassment within the College.
- Discourage a person from filing a report or Formal Complaint of Sexual Harassment or participating in an investigation or other proceedings under this policy or reporting to or participating in procedures with any other local, state, or federal Formal Complaint process, such as filing a Formal Complaint with the US Department of Education.

Retaliation includes, but is not limited to, acts or words that constitute intimidation, threats, or Coercion intended to pressure any individual to participate, not participate, or provide false or misleading information during any proceeding under this policy. The College will not charge an individual under a separate policy or code of conduct for conduct arising out of the same facts or circumstances reported as Sexual Harassment without utilizing the process outlined in this policy.

Reports and Formal Complaints of Retaliation may be made in the manner specified above for reporting Sexual Harassment. Any report or Formal Complaint of Retaliation will be processed under this policy in the same manner as a report or Formal Complaint of Sexual Harassment. The College retains discretion to consolidate a Formal Complaint of Retaliation with a Formal Complaint of Sexual Harassment for investigation and/or adjudication purposes if the two Formal Complaints share a common nexus.

29. CONFIDENTIALITY

The College is required to keep confidential the identity of Complainants, Respondents, and witnesses, except as where may be required by law, permitted under FERPA, or deemed necessary to carry out the procedures described in this Policy.

While the College will maintain confidentiality as specified in this section, it will not limit the ability of the parties to discuss the allegations at issue in a particular case. Parties are advised, however, that the way they communicate about, or discuss a particular case, may constitute Sexual Harassment or Retaliation in certain circumstances and be subject to discipline pursuant to the processes specified in this policy

Note that certain types of Sexual Harassment are considered crimes for which the College must disclose crime statistics in its Annual Security Report that is provided to the campus community and available to the public. These disclosures will be made without including personally identifying information.

30. OTHER FORMS OF DISCRIMINATION

This policy applies only to Sexual Harassment. Complaints of other forms of sex discrimination are governed by the College's Non-Discrimination Policy.

31. DISCRETION IN APPLICATION

The College retains discretion to interpret and apply this policy in a manner that is not clearly unreasonable, even if the College's interpretation or application differs from the interpretation of the parties.

Despite the College's reasonable efforts to anticipate all eventualities in drafting this policy, it is possible unanticipated or extraordinary circumstances may not be specifically or reasonably addressed by the express policy language, in which case the College retains discretion to respond to the unanticipated or extraordinary circumstance in a way that is not clearly unreasonable.

The provisions of this policy are not contractual in nature. Accordingly, the College retains discretion to revise this policy at any time, and for any reason. The College may apply policy revisions to an active case provided that doing so is not clearly unreasonable.

32. EDUCATION AND PREVENTION

32.1 Generally

Education is an essential component of the prevention and elimination of Sexual Harassment. To accomplish an adequate Title IX educational program, the College shall:

- Educate members of the College community on what constitutes prohibited conduct under the policy.
- Inform members of the College community of this policy and training programs to assure their implementation.
- Ensure that the College has sufficiently trained staff to carry out educational programs and regarding the procedures established by this policy.

32.2 Training

The Title IX Coordinator shall oversee and coordinate training regarding Title IX and ensure that College officials acting under this policy, including but not limited to the Title IX Coordinator, investigators, decision makers, informal resolution facilitators, College provided Advisors, and appeals officers receive training in compliance with 34 C.F.R. § 106.45(b)(1)(iii) and any other applicable federal or state law. To the extent training relates to employees, the Title IX Coordinator shall coordinate such training with the Office of Employee Engagement.

32.3 Dissemination of the Policy

A copy of this policy shall be distributed throughout the campus and shall be published on the College's website.

32.4 Public Notification of Clery Act Statistics

To the extent required by the law, including the Clery Act, the College shall collect and annually report statistical information concerning sexual misconduct occurring within its jurisdiction. To promote public safety, the College will alert the campus community of incidents and developments of immediate concern.

32.5 Resources

Information on Counseling and Victim Services: For further information on the counseling services available to victims of harassment and sexual assault, contact:

- Title IX Coordinator: 717-391-1365
- Counseling Services: 717-299-7408
- Health Services: 717-606-1560
- State Employee Assistance Program 1-800-692-7459
- YWCA 24-Hour Sexual Assault Hotline 717-392-7273

32.6 Title IX Record Keeping

The College shall maintain for a period of seven (7) years records of:

- Each Sexual Harassment investigation, including any determination regarding responsibility, any audio- or audio-visual recording or transcript required under the Title IX Regulations, any disciplinary sanctions imposed on Respondents, and any remedies provided to the Complainants designed to restore or preserve equal access to the College's Education Program or Activity.

- Any appeal and the result of the appeal.
- Any informal resolution and results therefrom.
- All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. These training materials will be publicly available on the College's website.
- Any actions, including Supportive Measures taken in response to a report or Formal Complaint of Sexual Harassment, as well as to document the basis for the College's conclusions and that it has taken measures.

32.7 Questions/Contact

For any questions or concerns that the College has not met its obligation under this policy, please contact the Title IX Coordinator.

References

Non-Discrimination Policy

Student Code of Conduct Policy

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|-----------------------|---|
| <i>Audience</i> | <i>All College</i> |
| <i>Effective Date</i> | <i>8/13/2020</i> |
| <i>Date Revised</i> | <i>8/13/2020, 9/30/2021, 04/21/2024, 7/12/2025, 8/13/25</i> |
| <i>Date Reviewed</i> | <i>8/13/2020, 9/30/2021, 04/21/2024, 7/12/2025</i> |
| <i>Owner</i> | <i>Title IX Officer</i> |