

TITLE IX – SEX DISCRIMINATION IN EDUCATION

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. These rights extend to application for admission, classrooms, workplaces, residences, and the entire College environment. Accordingly, the College prohibits discrimination, unlawful harassment, including sexual harassment, and any other victimization of individuals based on actual or perceived traits or characteristics. This Title IX Policy outlines the College’s policy and procedures regarding sex discrimination in education as prohibited by Title IX of the Education Amendment of 1972, and the Pennsylvania Human Relations Act, including sexual harassment. Title IX states that:

“No person in the United State shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

Consistent with Title IX, the College prohibits all forms of sex discrimination as defined by Title IX and Title IX regulations, and as explained in detail in this policy.

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.

The procedures, including the grievance process, set forth in this Policy apply when an employee, student (or applicant for admission) is either a Complainant or Respondent (as the terms are defined in this Policy).

2. STATEMENT OF PURPOSE

This Policy establishes guidelines in accordance with the College’s obligations under Title IX. The purposes of this Policy include:

Defining Sexual Harassment:

- Educating all students and employees on the different types of behavior that can be considered sexual harassment;
- Explaining procedures or reporting incidents of sexual harassment;
- Explaining the grievance procedures, including but not limited to, the investigation process, hearings and appeals;
- Explaining training provided by the College to officials with Title IX responsibilities under this Policy; and
- Identifying the types of disciplinary actions that may be imposed upon persons who violate this Policy and the supportive measures that may be put in place.

3. APPLICABILITY

This Policy applies when the College has actual knowledge of allegations of sexual harassment in any of the College’s educational programs or activities against persons present in the United States by and among all members of the College community, including all faculty, staff, temporary employees, students, customers, and other third parties within the College’s control. As noted in Section 1, the procedures and grievance process for this Policy apply whenever a party is either a Complainant or Respondent. 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. A separate set of procedures applies to allegations of sexual harassment and sex discrimination that do not meet the federal regulations (not a VAWA offense) or that happens outside the College’s jurisdiction, off campus or outside the United States, will be handled under the Colleges Student Code of Conduct (students) or the Colleges Nondiscrimination Policy (employees).

Note: This Title IX Policy has been comprehensively updated, effective August 14, 2020, to comply with the Department of Education’s new requirements effective on that date and is intended to treat Complainants and Respondents equitably. 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

Actual Knowledge: Notice of Sexual Harassment or allegations for Sexual Harassment to any of the following:

1. Title IX Coordinator
2. Any official who has authority to institute corrective measures on behalf of the College. The actual knowledge standard is not met when the only official of the College with actual knowledge is also the Respondent.
3. Individuals who have actual knowledge may become aware of Sexual Harassment if they witness Sexual Harassment; hear about Sexual Harassment or Sexual Harassment allegations from a Complainant (i.e., a person alleged to be the victim) or a third party (e.g., the Complainant's parents, friend, or peer); receive a written or verbal complaint about Sexual Harassment or Sexual Harassment allegations; or by any other means.

Advisor: An individual who has agreed to serve as an informal provider of support and advice for a Complainant or Respondent. 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 grievance proceeding or any related meeting, who may be, but 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 Title IX proceedings. The Advisor, upon a party's request may:

1. Accompany the party to related Title IX proceedings;
2. Advise the party in the preparation and presentation at all relate proceedings;
3. Conduct cross-examination in Title IX hearings on behalf of the party; and
4. 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 at the Title IX hearing. If, at any point, an Advisor becomes disruptive or fails to follow the rules of 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.

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 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.

Deliberately Indifferent:

A response that is clearly unreasonable, in light of the known circumstances.

Education Program or Activity:

Locations, events, or circumstances over which the College exercises substantial control over both the Respondent and the context in which the alleged Sexual Harassment occurred. Conduct that occurs outside of the College's program or activity as defined in this policy may be subject to another applicable University 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.

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.

Notice Triggering the University's Response

Obligation: Notice to the Title IX Coordinator, or to an official with authority to institute corrective measures on the College's behalf, triggers the College's response obligations under this Policy. Such officials include the Title IX Coordinator, Deputy Title IX Coordinators, the Dean of Student's Office,

Human Resources and other employees with supervisory authority.

Officials with Authority: A College employee who has the duty to report incidents of sexual misconduct or other student misconduct, or who a student or employee could reasonably believe has this authority or duty. The following employees are considered Officials With Authority (OWA): all full-time, part-time, temporary, visiting, and volunteer faculty, administrators, staff, coaches, campus security and all other persons who conduct business with or on behalf of the College but are not employees.

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

Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Sexual Harassment: Consistent with the Title IX Regulations, “Sexual Harassment” for the purposes of this Policy means conduct, on the basis of sex, that satisfies one or more of the following:

- (i) An employee conditioning the provision of an aid, benefit, or service of the College on an individual’s participation in unwelcome sexual conduct (sometimes referred to as “quid pro quo”)
- (ii) Unwelcome conduct that a reasonable person would determine to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College’s education program or activity; or
- (iii) Sexual Assault as defined in the Clery Act, or dating violence, domestic violence or stalking as defined in the Violence Against Women Act (VAWA). The Clery Act and VAWA are described in more detail below.

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.

Title IX Coordinator: The Title IX Coordinator shall be responsible for monitoring compliance with all aspects of this Policy. Accordingly, the Title IX Coordinator must be informed of all reports and complaints raising Title IX issues (subject to the exception for confidential staff described in Section 7), even if the report or complaint was initially filed with another individual or office, or if the investigation will be conducted by another individual or office.

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

Marian V. Wilson, PhD,
Chief Diversity, Equity and Inclusion Officer and Title IX Coordinator
Telephone: (717) 391-1365
Email: wilson@stevenscollege.edu
Address: 750 East King Street
Lancaster, PA 17602

The above contact information shall be provided to all current students and employees of the College, applicants for admission and employment with the College and must be prominently displayed on the College’s website.

Title IX Regulations: The federal regulations at 34 C.F.R. Part 106, as amended effective August 14, 2020, or as thereafter amended.

College Community: Includes all full-time, part-time, temporary, visiting, and volunteer 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: For the purposes of this Policy means 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.

Written Notice: Notice to a student or employee to their official College email 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 responsibility to regularly check their College-issued email accounts and ensure the local address on file with the College is current.

Written notice to individuals or entities that are not affiliated with the College will be sent to the email 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 to the student from the College, notice is effective on the date that the notice is delivered to the student or employee 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 student's or employee's College provided email account.

5. RELEVANT FEDERAL LAWS

5.1 Title IX of the Education Amendments of 1972

Title IX is a federal civil rights law that prohibits discrimination on the basis of sex in education programs and activities that receive federal funding.

The law provides that “no person in the United States shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any federal financial assistance.” Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, et. seq.

The U.S. Department of Education's Office for Civil Rights mandates that schools respond promptly to Title IX sexual harassment in a manner that is not deliberately indifferent and is not clearly unreasonable in light of, the known circumstances.

Title IX protects all students at recipient institutions in the United States regardless of national origin, immigration status, or citizenship status.

5.2 Title VII of the Civil Rights Act of 1964

Title VII of the Civil Rights Act of 1964, as amended, prohibits employment discrimination based on sex, race, color, religion, or national origin. Accordingly, harassment of an employee, on the basis of sex violates federal law.

Cases that involve allegations of harassment or discrimination not related to dating violence, domestic violence, sexual assault, or stalking will be dismissed under the Title IX policy and investigated under the College's Non-discrimination Policy.

5.3 The Violence Against Women Act (VAWA)

The Violence Against Women Act (“VAWA”), 42 U.S.C. 13701, et seq. prohibits sexual assault, domestic violence, dating violence, and stalking. This federal legislation is sometimes referred to as the Campus Sexual Violence Elimination (“SaVE”) Act.

5.4 The Clery Act

The Clery Act, 20 U.S.C. 1092 (F) requires all colleges and universities that participate in federal financial programs to collect and disclose certain information about crime on or near their campuses, including sex offenses.

5.5 Family Educational Rights and Privacy Act (FERPA)

The Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. 1232(g), protects the privacy of student educational records. FERPA is designed to ensure that students (and parents of students under the age of 18) may obtain access to the student's educational records and challenge the content or release of such records to third parties.

6 PROHIBITED CONDUCT

The following conduct is prohibited by this Policy:

6.1 Sexual Harassment

The College prohibits sexual harassment as defined in the Title IX regulations and Section 4 of this Policy.

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 in violation of Title IX, because of the inherent risks in any familial, romantic/sexual relationship (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 imbalance 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 and unwelcome. Further, the College and the supervisory individual could be challenged if a consensual amorous relationship results in an allegation of hostile work environment by the subordinate or family member, or others who feel they have been denied an opportunity or treated unfairly, as a result 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 Human Resources who will seek advice from the appropriate administrative officer, typically, their Vice President, or Dean who will take steps to insure unbiased supervision or evaluation of the person supervised.

6. PROHIBITED CONDUCT: BY THIS POLICY

6.1.1 Examples of Sexual Harassment

Sexual Harassment for the purposes of Title IX includes, for example, but is not limited to, the following types of misconduct, conduct based on sex:

- Rape/Sexual Assault (See Section 6.1.2 below).
- Dating Violence (See Section 6.1.3 below)
- Domestic Violence (See Section 6.1.4 below);
- Stalking (See Section 6.1.5);
- Offensive physical contact such as unwelcome touching, fondling, patting, pinching, brushing the body or other obscene gestures;
- Sexually degrading language or remarks of a sexual nature used to describe a person's body or clothing;
- Verbal or physical conduct of a sexual nature made to any employee or student that may threaten or insinuate, either explicitly or implicitly, that an individual's submission to, or rejection of, sexual advances will in any way influence any personnel or academic decisions regarding that person;

- Repeated unwelcome sexually oriented conversations or comments, including jokes or anecdotes of a sexual nature, and sexually degrading language, including unwelcome or insulting sounds or whistles, and obscene telephone calls, emails, social media posts, or texts;
- Sexually explicit language or writings, including the content of text messages and emails;
- Display of sexually demeaning and suggestive objects, pictures, videotapes, audio recordings, computer communications, or literature placed in the work or study area. (Note: Materials with sexual content that are used or displayed in an educational setting must be related to educational purposes);
- Displaying or electronically transmitting lewd pictures;
- Threats that an individual's conditions of academic life may be adversely affected by refusing to submit to sexual advances;
- Promises, implied or expressed of academic benefit to a person who engages in sexual activities;
- Indecent exposure;
- Invasion of sexual privacy;
- Bullying;
- Quid Pro Quo Sexual Harassment (See Section 6.1.6 below);
- Hostile Educational Environment Harassment (See Section 6.1.7 below); and
- Any other conduct which, when viewed from the perspective of a reasonable person, is sufficiently severe, pervasive, or objectively offensive to alter the conditions of the individual's employment or status as a student and create a hostile working or learning environment.

6.1.2 Rape and Sexual Assault

The College prohibits sexual misconduct against an individual without consent or when an individual is unable to give consent, including rape and other types of sexual assault. "Sexual Assault" is defined for the purposes of Title IX and this Policy as an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Rape includes acts of sexual intercourse that takes place against a person's will and that are accompanied by physical coercion or the threat of bodily injury. This includes the sexual penetration of any bodily orifice with a

body part or other object. Rape also includes intercourse with a person who is unable to consent, as a result of conditions including, but not limited to, those caused by the intake of alcohol or drugs, or because intellectual or other disability prevents the person from having the capacity to give consent.

6.1.3 Dating Violence

Prohibited “Dating Violence” is defined in the Violence Against Women Act, 34 U.S.C. § 12291(a)(10), as violence committed by a person—

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (i) The length of the relationship.
- (ii) The type of relationship.

6.1.4 Domestic Violence

For the purposes of this Policy, prohibited “Domestic Violence” is defined consistently with the Title IX Regulations and the Violence Against Women Act, 34 U.S.C. § 12291(a)(8), to include “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 the jurisdiction receiving grant monies, 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 the [Commonwealth of Pennsylvania].”

6.1.5 Stalking

Prohibited “stalking” is defined in accordance with the Title IX Regulations and the Violence Against Women Act, 34 U.S.C. § 12291(a)(30), to mean engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

- (A) fear for his or her safety or the safety of others; or
- (B) suffer substantial emotional distress.

6.1.6 Quid Pro Quo Sexual Harassment

The College prohibits “Quid Pro Quo” sexual harassment, which occurs when an employee of the College conditions the provision of an aid, benefit, or service of the College on an individual’s participation in unwelcome sexual conduct.

6.1.7 Hostile Environment Sexual Harassment

“Hostile Environment” sexual harassment in education in violation of Title IX, the Title IX Regulations, and this Policy occurs when unwelcome conduct of a sexual nature when viewed from the perspective of a reasonable person is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity.

6.2 Retaliation

Retaliation in violation of Title IX is prohibited by the College. This prohibited conduct includes, but is not limited to, retaliation against a person for: reporting discrimination and harassment; filing a complaint of discrimination or harassment; or participating in, or refusing to participate in, the investigation, grievance, or other procedures of this Policy. Retaliation is also prohibited against persons who assist others in bringing a complaint of discrimination or harassment by offering advice and moral support or by giving testimony or documentary evidence in response to a complaint.

Prohibited retaliation includes conduct that may reasonably be viewed to:

- Adversely affect an individual’s educational, living, or work environment because of his or her good-faith participation, or refusing to participate, in the reporting, investigation, or other procedures in this Title IX Policy; or
- Discourage a person from filing a report or 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 complaint process, such as filing a complaint with the U.S. 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.

Prohibited retaliation also includes retaliation against a person who reasonably protests against sexual harassment practices within the College.

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 for purposes of interfering with Title IX protections. 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 Title IX process.

6.3 Consent and The Use of Alcohol and/or Other Drugs

Being intoxicated does not diminish an individual's responsibility to obtain the consent of the other party before engaging in sexual activity. Being intoxicated or under the influence of any other controlled substance is never an excuse for sexual misconduct.

6.4 Harassment based on Sexual Orientation

This Policy prohibits sex-based harassment and bullying, including harassment based on gender, sexual orientation, and gender identity. The actual or perceived sexual orientation or gender identity of the parties, including lesbian, gay, bisexual, transgender, and queer (LGBTQ), does not change the College's obligations under this Policy.

7. REPORTING PROCEDURES AND RESPONSE OBLIGATIONS

Start Here

7.1 In the Event of a Sexual Assault

If you or someone you know has recently been assaulted:

- Immediately **get to a safe place**.
- Students and employees who believe that they have been victims of sexual assault or other criminal sexual misconduct are encouraged to report the incident **immediately** to **Campus Security at 717-606-1564** (24 hours a day,

seven days a week) or to **law enforcement** by dialing 911.

- To best preserve evidence, in cases of assault:
 - Try not to wash your face or hands, bathe, brush your teeth, drink, or eat, douche, or change clothes if you can avoid it. If you do change your clothes, put all clothing you were wearing at the time of the assault in individual paper bags (not plastic). It is important to preserve as much evidence as possible should you later decide to press criminal charges.
 - Try to preserve all physical evidence.
- **Seek medical attention.** The College Health Offices may be contacted by dialing 717-299-7769 (Main Campus) or 717-606-1560 (Branch Campus). 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.
- When you feel ready to do so, **please contact the Title IX Coordinator** or other resources described in this Policy for ongoing support.

7.1.2 Reporting and Filing Complaints with the Title IX Coordinator

Any incident of sexual harassment in violation of Title IX and this Policy may be reported to the Title IX Coordinator. Formal Complaints, which are explained in detail in Section 8 of this Policy, should also be filed with the Title IX Coordinator, whose contact information as of the effective date of this Policy is as follows:

Marian V. Wilson, PhD,
Chief Diversity, Equity and Inclusion Officer and Title IX Coordinator
Telephone: (717) 391-1365
Email: wilson@stevenscollege.edu
Address: 750 East King Street Lancaster, PA 17602

Forms and procedures for reporting complaints of sexual harassment in violation of Title IX are available in the Counseling Offices, Office of Human Resources and on the College's website.

7.1.3 Additional Information on Reporting

Confidential Employees: Professional licensed counselors, health services professional, and pastoral counselors who provide mental, health, and

counseling services to members of the College community *are not permitted* to report any information without the victim's permission.

Reports: When a report is made to the Title IX Coordinator, it is helpful if the report provides all relevant details, including the names of the Complainant and Respondent (if known), any witnesses, and any other relevant facts, including the date, time, and specific location of the alleged incident.

Anonymous Reporting: Any member of the College community may report a violation of this Policy 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.

Timing. There is no time limit for reporting prohibited conduct to the College under this Policy; 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.

Deputy Coordinators have been designated by the Title IX Coordinator to provide assistance with the Title IX process. The Deputy Coordinators are:

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

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

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

7.2 Overview of Response Obligations.

Upon receiving notice of potential sexual harassment prohibited under Title IX, the College is obligated to promptly respond in a manner that is not *deliberately indifferent* and is not clearly unreasonable, in light of, the known circumstances.

Mandatory response obligations of the College as required by the Title IX Regulations are as follows:

- The College must offer supportive measures to the Complainant and Respondent.
- The Title IX Coordinator must promptly contact the Complainant confidentially to inform the Complainant of the availability of supportive measures and consider Complainant's requests with respect to supportive measures; inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint; and explain the formal complaint process and all other options such as mutual no-contact orders, informal resolution, investigation, other, i.e. if not dating, domestic violence, stalking or sexual assault.
- The College must follow the grievance process set forth in this Policy before the imposition of any disciplinary sanctions or other actions that are not supportive measures, against a Respondent.
- The College must not restrict rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment, when complying with Title IX.
- The College must investigate sexual harassment allegations in any Formal Complaint, whether filed by a Complainant or signed by a Title IX Coordinator.
- The College should respect a Complainant's wishes with respect to whether it investigates the reported incident unless the Title IX Coordinator determines that signing a Formal Complaint to initiate an investigation over the wishes of the Complainant is not clearly unreasonable, in light of, the known circumstances.

8. GRIEVANCE PROCESS

8.1 Complaint of Sexual Harassment

As explained in Section 7 above, informal reports of sex discrimination may be made by anyone, including anonymously, to the College's Title IX Coordinator.

If that occurs, the Title IX Coordinator will promptly review the allegations to determine if they may constitute sexual harassment in violation of this Policy that may warrant the filing of a Formal Complaint by the Title IX Coordinator.

A **Formal Complaint** may be filed with the College Title IX Coordinator in person, by online portal, mail, or by electronic mail, by using the contact information listed in this Policy for the Title IX Coordinator.

Submission to the Title IX Coordinator of a Formal Complaint alleging sexual harassment and requesting investigation will immediately trigger the College's Title IX Grievance Process. For the purposes of this Policy, a "Formal Complaint," consistent with Section 106.30 of the Title IX Regulations, is defined as 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. (When the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not considered to be a "Complainant.")

At the time of filing a Formal Complaint, a Complainant **must be participating in or attempting to participate in an education program or activity of the College** in order, to implicate the College's Title IX formal grievance process.

8.2 Notice of Allegations

Upon receiving a Formal Complaint, the College must complete a prompt, fair, and impartial investigation of the allegations. The entire grievance process is intended to treat the Complainant and Respondent equitably. **Respondents are presumed not responsible** for the alleged conduct and no determination regarding responsibility will be made until the conclusion of the grievance process. The investigation shall be handled by one or more investigators appointed by the Title IX Coordinator.

The Respondent (and Complainant) will be promptly provided with a "**Notice of Allegations**" that meets the requirements of Section 106.45(b) (2)(i)(B) of the Title IX Regulations. At a minimum, such Notice shall include the allegations of conduct potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Such details 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. The Notice will include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process. The Notice will also inform the parties that they may each have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence. The Notice will also inform the parties of any provision in the Code of Conduct that prohibits knowingly making false statements to College officials, including Section XII major violations Number 1.

The Notice of Allegations shall be provided as soon as reasonably practicable but no more than seven (7) College Days after the receipt of a Formal Complaint.

8.3 Investigation by the College

An investigation shall be promptly conducted by the College through one or more investigators ("Deputy Coordinators") who will not be the Title IX Coordinator. When investigating a Formal Complaint (and throughout the entire grievance process), the College will, in accordance with the Title IX Regulations:

- (i) 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 a party's medical/psychological records without that party's voluntary, written consent to do so;
- (ii) Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other evidence;
- (iii) Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
- (iv) The parties will have the same opportunities to have others present during any grievance proceeding, 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 grievance proceeding;
- (v) Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to

prepare to participate;

(vi) Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a 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 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 a 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 completion of the investigative report. 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; and

(vii) Create an investigative report that fairly summarizes relevant evidence and, allows at least ten (10) calendar days prior to a hearing (if a hearing is held) or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

The investigation stage of the process, ending with the issuance of the investigative report shall be completed in no more than sixty (60) College Days, but may be extended in intervals of fourteen (14) College Days, with written notice explaining the reason for the extension.

8.4 Options for Informal Resolution after Formal Complaint is Filed.

Except in cases where the Respondent is an employee and the Complainant is a student, the College in appropriate situations in which a Formal Complaint has been filed may in its discretion offer and facilitate an *informal resolution process* if each party, after being fully informed, voluntarily agrees in writing to participate in such process. The process, which would be handled in compliance with Section 106.45(b) of the Title IX Regulations, could involve such informal processes as a mediation or restorative justice.

An informal resolution process may be used only when both the Complainant and 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.

If an informal resolution option is offered by the College, both parties, prior to making a decision on whether to participate in the informal resolution process, will be provided with written notice describing the process and implications of participating. The notice will describe the allegations against the Respondent. It will also describe the informal resolution process, including the right of either party at any time prior to the voluntary agreement to a resolution, to withdraw from the informal resolution process and requiring the matter to resume under the Formal Hearing process. It will also describe the consequences of proceeding to a conclusion under the informal resolution process, 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.

If in a particular case expulsion is a proposed sanction, it, like all other potential outcomes, can only occur if both parties agree to it as part of resolution.

Any 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 under the Title IX regulations, 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 the timeframe for the informal resolution process, the formal grievance process shall resume. (The time frames applicable to the formal grievance 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.)

8.5 Dismissal of Formal Complaint

If the conduct alleged in the Formal Complaint would not constitute sexual harassment as defined in Section 106.30 of the Title IX Regulations, even if proven, did not occur in the College's education program or activity, or did not occur in the United States, then the College will dismiss the Formal Complaint with regard to that conduct for purposes of sexual harassment under Title IX, and refer the complaint to the appropriate College official i.e., the Offices of the Dean of Students, Human Resources or Diversity, Equity and Inclusion as appropriate to be reviewed under the Student Code of Conduct, Human Resources policies or the Non-discrimination Policy.

If the conduct alleged is contrary to the College's policies but occurred outside the Colleges jurisdiction (off campus, at a non-affiliated location) yet the behavior has significant impact on the operations of the College, the matter will be referred to the appropriate College official to be reviewed as a non-Title IX disciplinary proceeding regarding such conduct under the College's Student Code of Conduct Policy for students, through the Human Resources policies for employees or the Non-discrimination Policies for students or employees.

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 a Formal Complaint or any allegations therein within the timeframe and on any of the three grounds specified below in the Appeals section of this Policy.

8.6 Live Hearing

Except for cases in which the parties have agreed to proceed with an offered informal resolution process, a live hearing will be held before a trained decision maker(s) appointed by the College. The decision-maker(s):

(i) Will not be the Title IX Coordinator or the investigator(s);

(ii) Will be free from conflict of interest or bias, including bias for or against Complainants or Respondents; and

(iii) 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.

At the hearing, each party, in accordance with Section 106.45(b)(6), shall be *permitted through an Advisor* of the party's choosing, 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 a 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 to that party, an advisor of the College's choice to conduct cross-examination on behalf of that 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 the 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 cross-examination or other 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 questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) is prohibited under the Title IX Regulations from

relying on any statement of that party or witness in reaching a determination regarding responsibility. However, no negative inference about the determination regarding responsibility shall be drawn solely on the basis of a party's or witness's absence from the live hearing or refusal to answer cross-examination or other 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. The College is not required to provide a copy to be taken by the party.

The College uses a "*preponderance of the evidence*" standard to determine responsibility. The same standard of evidence applies for Formal Complaints against students as for Formal Complaints against employees, including faculty.

8.7 Determination Regarding Responsibility

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

The written determination must include the following:

- (i) Identification of the allegations potentially constituting Sexual Harassment;
- (ii) 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;
- (iii) Findings of fact supporting the determination;
- (iv) Conclusions regarding the application of the College's policy, and if applicable, code of conduct to the facts in the event that the College exercises its discretion to apply any College policies and procedures not otherwise required under Title IX;
- (v) A statement of, and rationale for, the result as to each allegation, including:
 - (a) A determination regarding responsibility;
 - (b) Any disciplinary sanctions the College imposes on the Respondent;
 - (c) And whether remedies designed to restore or preserve equal access to

the College's education program or activity will be provided by the College to the Complainant; and

- (vi) The applicable procedures and permissible bases for the Complainant and Respondent to appeal (as described below).

8.8 Appeals

Either the Complainant or the Respondent may appeal from either:

- A determination of responsibility/non-responsibility; or
- The dismissal of a Formal Complaint or any allegations therein, to both parties, on the following three grounds, and no other grounds:
 - A procedural irregularity that affected the outcome of the matter;
 - 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; and
 - 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 such *Notice of Intent to Appeal* must be filed by either party within **two (2) College Days** of the issuance of a determination regarding responsibility or the dismissal of a formal complaint with the Title IX Coordinator
- 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 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 immediately provide a copy of any Notice of Intent to Appeal and of the appealing party's Statement of Appeal to the non-appealing party. The non-appealing party will have five (5) College Days from the date appeal was sent to College email, if

desired, to submit a written “**Response to Statement of Appeal.**” If such Response to Statement of Appeal is filed, a copy will be immediately 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 the **Office of the President** at the following address:

Pedro Rivera, President
Office of the President
Mellor Building
Thaddeus Stevens College of Technology
750 East King Street
Lancaster, PA 17602

Non-punitive supportive measures, such as mutual class scheduling adjustments (where possible), and mutual no-contact orders, 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 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 is reasonably possible, but not later than forty-five (45) days after receipt of the written Notice of Intent to Appeal.

This is the final step in the College’s Formal Complaint procedure.

9. DISCIPLINARY ACTIONS

Employees and students who violate this Policy are subject to appropriate discipline by the College. If an investigation results in a finding of responsibility, that this Policy has been violated, the mandatory minimum discipline is a 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 actions 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 complaint or participating in the investigation of a 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.

10. SUPPORTIVE MEASURES

Supportive measures by the College may include, but may not be limited to:

- Providing escorts to ensure that individuals can safely move between classes and activities;
- Where possible and as appropriate, assure that the Respondent and Complainant do not attend the same classes;
- Moving the Complainant and/or Respondent to a different residence hall;
- Providing counseling and/or medical services for the Respondent and Complainant;
- Providing academic support services, such as tutoring to the Respondent and Complainant.

The College may also provide remedies for the broad College community, including additional training and education.

11. SPECIAL RULES AND PROCEDURES WHERE THE RESPONDENT IS A COLLEGE EMPLOYEE.

When the Respondent is an employee of the College and the Complainant is a student, the following special rules and procedures shall apply with respect to such Respondent:

- The Title IX Coordinator shall notify the President and coordinate the investigation with a trained investigator.
- Under no circumstances shall the informal resolution process of this Policy be available when the Respondent is a College employee,

and the Complainant is a student.

- Employees who are found responsible for violating this Policy shall be subject to disciplinary action, up to and including termination of employment. Disciplinary action other than termination may include, but not be limited to, demotion, reassignment, a suspension without pay from employment, written warnings and oral warnings.
- Employees subject to discipline based on a determination of responsibility for violating this Policy who are members of a collective bargaining unit represented by a labor union at the College shall have the right, to the extent consistent with federal law, including the Title IX Regulations, to pursue any directly applicable grievance and arbitration procedures under the applicable collective bargaining agreement with respect to such disciplinary action.
- When determined by the College to be appropriate under the circumstances, and to the extent consistent with any applicable collective bargaining agreement, an employee who is a Respondent may be placed on administrative leave during the pendency of a grievance process.
- **Note:** Any complaint that does not meet the federal regulations of Sexual Harassment under the federal regulations of 106.30 and (not a VAWA offense) of sexual harassment, dating violence, domestic violence, stalking or sexual assault, or that happens outside the College's jurisdiction, (off campus or outside the United States), will be handled outside the 106.45 procedures and reviewed under the Colleges Student Code of Conduct (students) or the Colleges Nondiscrimination Policy (employees).

12. EDUCATION AND PREVENTION

12.1 Generally

Education is an essential component in 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 this 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.

12.2 Training

The Title IX Coordinator shall oversee and coordinate training regarding Title IX and the prevention of sex discrimination. To the extent training relates to employees, the Title IX Coordinator shall coordinate such training with the Office of Human Resources.

12.3 Dissemination of the Policy

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

12.4 Public Notification of Clery Act Statistics

To the extent required by 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.

12.5 Resources

Information on Counseling and Victim Services:

For further information on the counseling services available to student victims of harassment and sexual assault, contact:

- **Title IX Coordinator directly at: 717-391-1365**
- **Counseling Services directly at (717) 299-7408.**
- **Other resources include: Health Services: 717-299-7769 (Main Campus) or 717-606-1560 (Branch Campus)**
- **Employee Assistance (717)**

12.6 Title IX Recordkeeping

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 audiovisual 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 recipient's education program or activity;

- Any appeal and the result of the appeal;
- Any informal resolution and the results there from;
- 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 website; and
- 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.

12.7 Questions/Contact

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

Please find the official Title IX Thaddeus Stevens College of Technology Student/Employee Sexual Misconduct and Harassment Reporting Form at the bottom of: www.StevensCollege.edu

STUDENT/EMPLOYEE SEXUAL MISCONDUCT AND HARASSMENT REPORTING FORM The information contained in this document is confidential and must be submitted to the Title IX Coordinator, except for matters which only involve employees, with no students involved as Complainant or Respondent. In such cases, the form should be submitted to the Office of Human Resources.

Name: _____
 Local Address: _____
 Work Phone: _____ Local Phone: _____ Cell Phone: _____
 Date of Incident: _____ Time of Incident: _____ AM / PM Location of Incident: _____

Identify the name(s) of the individual(s) against whom you are submitting this complaint:

Please describe the nature of the incident, providing as much detail as possible to assist with the investigation of this complaint. _____

Please provide the names and contact information of any witness(es).

| Name/Status | Address | Telephone # |
|-------------|---------|-------------|
| | | |
| | | |

If additional space is required, please use an additional form and just provide your name in the top section of the form)

Acknowledgement: By signing this form I understand that this complaint will be investigated, and the alleged harasser(s), any witnesses, and persons of interest will be interviewed. The information provided in this Sexual Harassment Reporting Form is true and accurate to the best of my knowledge.

Complainant

Date

Special Note: Students and employees who believe that they have been victims of sexual misconduct should report their complaint/incident immediately to Marian V. Wilson, PhD, Title IX Coordinator at 717-391-1365 or to Campus Security at: 484-365-7211 (24 hours a day, seven days a week).