



Sexual Misconduct/Title IX Policy

Thiel College

Effective Date: August 14, 2020

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INTRODUCTION

This Policy sets forth Thiel College's obligations under the 2020 Title IX Regulations and incorporates the definitions and procedural requirements from the 2013 Clery Amendments pertaining to sexual assault, dating violence, domestic violence, and stalking. Pursuant to this Policy, Thiel College will:

- Respond to all reports of sexual discrimination and/or retaliation.
- It will take necessary measures to end conduct that is in violation of this Policy, prevent its recurrence, and remedy its effect on individuals and the community.
- Within any process related to this Policy, Thiel College provides reasonable accommodations to persons with disabilities and reasonable religious accommodations, consistent with state and federal law.

Situations involving other conduct that may be in violation of other Thiel College student or employee conduct policies should be reported to Student Life Office for matters involving students, or the Human Resources Office for matters involving faculty or staff. Situations involving other conduct relating to nonaffiliates should be reported to Human Resources or Public Safety.

Any concerns related to conduct prohibited by this Policy should be reported to Thiel College's Title IX Coordinator:

Name: Jennifer Clark, Director of Human Resources and Lead Title IX Coordinator
Physical Address: 1st Floor Roth Hall, 75 College Avenue, Greenville, PA 16125
Email Address: jclark@thiel.edu
Telephone No.: 724-589-2858

A. Statement of Nondiscrimination

As set forth in this Policy, Thiel College prohibits discrimination on the basis of sex in its programs and activities. As defined by Title IX, discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Thiel College does not discriminate in its admissions practices, except as permitted by law, in its employment practices, or in its educational programs or activities on the basis of sex. Thiel College also prohibits retaliation against any person opposing sex discrimination or participating in any sex

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discrimination investigation or complaint process, whether internal or external to Thiel College. Sexual harassment, sexual assault, dating and domestic violence, and stalking are forms of sex discrimination, which are prohibited under Title IX and by this Policy.

When brought to the attention of Thiel College, conduct prohibited by this Policy will be addressed by Thiel College according to the procedures set forth in this Policy. Discrimination on the basis of any other protected category will be addressed in accordance with the College's full non-discrimination policy.

I. SCOPE AND JURISDICTION OF THIS POLICY

This policy applies to all students, faculty, and staff who experience Prohibited Sexual Harassment (as defined in this policy) in Thiel College's education programs or activities. This policy also applies to participants in Thiel College's program and activities (such as summer programs or alumni who are attempting to participate in alumni activities). This includes locations, events, or circumstances over which Thiel College exercises substantial control and the context in which the Prohibited Sexual Harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the College. Thiel College has other policies and procedures that may be applicable if the conduct does not meet the definition of Prohibited Sexual Harassment under this policy or otherwise falls within the scope of this policy.

Any individual covered by this Policy is expected to provide truthful information in any report, meeting, or proceeding under this Policy.

Unless otherwise specified in this Policy, any individual who is accused of engaging in conduct prohibited by this Policy who is not a student, faculty member, or staff member is generally considered a third party. Thiel College's ability to take corrective action against a third party may be limited and will depend on the nature of the third party's relationship, if any, with Thiel College. When appropriate, the Title IX Coordinator will refer such allegations against a third party to the appropriate office.

The status of a party may impact which resources and remedies are available to them under this Policy.

If there is a conflict between the provisions of this Policy and other Thiel College policies, procedures, rules, regulations, or terms or conditions of employment, the provisions of this Policy will govern unless otherwise stated.

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II. PROHIBITED SEXUAL HARASSMENT

In accordance with its obligations under the Title IX Regulations of 2020, Thiel College prohibits sexual harassment, which is conduct based on sex, including gender identity, gender expression, or sexual orientation,¹ that satisfies one or more of the following definitions (collectively referred to as “Prohibited Sexual Harassment”):

A. Quid Pro Quo Harassment:

Quid pro quo harassment occurs when an employee, agent, or other person authorized by Thiel College to provide an aid, benefit, or service under Thiel College’s education program or activity, explicitly or impliedly conditions the provision of such aid, benefit, or service on a person’s participation in unwelcome sexual conduct.

B. Hostile Environment Harassment

Hostile Environment – An environment where the conduct of one or more individuals is sufficiently serious that it denies or limits a student’s, faculty member’s, or staff member’s ability to participate in or benefit from the College’s program based on sex. In determining whether a hostile environment exists, the College shall consider all relevant circumstances, including the following factors:

- 1) the degree to which the conduct affected the College’s educational programs,
- 2) the type, frequency, and duration of the conduct,
- 3) the age and sex of the alleged harasser and the subject or subjects of the harassment,
- 4) the location of the incidents and the context in which they occurred,
- 5) other incidents at the College, and
- 6) incidents of gender-based, but nonsexual harassment.

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C. Sexual Assault

Sexual assault is defined as any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

Sexual assault includes:

- 1) **Sex Offenses**—Any sexual act directed against another person, without the affirmative consent of the victim including instances where the victim is incapable of giving affirmative consent. Sexual Act is defined as conduct between persons consisting of:
 - a. Contact between the penis and the vulva, or between penises and vulvas;
 - b. • Contact between the penis and the anus;
 - c. • Contact between the mouth and the penis;
 - d. • Contact between the mouth and the vulva;
 - e. • Contact between the mouth and anus;
 - f. • Contact between anuses; or,
 - g. • Contact involving any of the above or the buttocks or breasts
- 2) **Non-Consensual Penetration** Actual or attempted 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, without the affirmative consent of the victim. This includes penetration forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving affirmative consent because of their temporary or permanent mental or physical incapacity.
- 3) **Fondling**—The non-consensual touching of the private body parts of another person for the purpose of sexual gratification, without affirmative consent, whether forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving affirmative consent because of their youth or because of their temporary or permanent mental or physical incapacity. Private body parts include all of the body parts specified above, including genitals, groin area, breasts and buttocks.

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4) Other Lawfully Prohibited Sexual Intercourse -

This category includes conduct constituting sexual assault that does not meet the definition of Non-Consensual Penetration or Fondling:

- Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law, regardless of affirmative consent.
- Nonforcible sexual intercourse with a person who is under the statutory age of consent, regardless of affirmative consent.

5) Dating Violence

This includes violence committed by a person:

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

Emotional and psychological abuse do not constitute violence for the purposes of this definition.

6) Domestic Violence

This includes felony or misdemeanor crimes of violence committed by a person who:

- a. Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of Thiel College, or a person similarly situated to a spouse of the victim;
- b. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

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- c. Shares a child in common with the victim; or
- d. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of Pennsylvania.

Emotional and psychological abuse do not constitute violence for the purposes of this definition.

7) Stalking

Engaging in a course of conduct, on the basis of sex, directed at a specific person that would cause a reasonable person to— (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.

8) Sexual Exploitation

Sexual exploitation means a person taking sexual advantage of another person for the benefit of anyone other than that person without that person's consent, including, but not limited to, any of the following acts:

- a. The prostituting of another person;
- b. The trafficking of another person, defined as the inducement of a person to perform a commercial sex act, or labor or services, through force, fraud, or coercion;
- c. The recording of images, including video or photograph, or audio of another person's sexual activity or intimate parts, without that person's consent;
- d. The distribution of images, including video or photograph, or audio of another person's sexual activity or intimate parts, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to the disclosure.
- e. The viewing of another person's sexual activity or intimate parts, in a place where that other person would have a reasonable expectation of privacy, without that person's consent, for the purpose of arousing or gratifying sexual desire.

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III. DEFINITIONS

A. Affirmative Consent

Affirmative consent means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that they have the affirmative consent of the other or others to engage in the sexual activity. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time.

- Lack of protest or resistance does not mean consent.
- Silence does not mean consent.
- The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

It shall not be a valid excuse that the Respondent believed that the Complainant affirmatively consented to the sexual activity if the Respondent knew or reasonably should have known that the Complainant was unable to consent to the sexual activity under any of the following circumstances:

- The Complainant was asleep or unconscious.
- The Complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the Complainant could not understand the fact, nature, or extent of the sexual activity.
- The Complainant was unable to communicate due to a mental or physical condition.

In addition, it shall not be a valid excuse to alleged lack of affirmative consent that the Respondent believed that the Complainant consented to the sexual activity under either of the following circumstances:

- The Respondent's belief in affirmative consent arose from the intoxication or recklessness of the Respondent.
- The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented.

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B. Complainant

Complainant is any individual, including a student or employee (including applicants for employment, student-employees, unpaid interns, volunteers, contractors), or participant in an education program or activity who has reported being, or is alleged to be, impacted by Prohibited Sexual Harassment as defined by this Policy, and who was employed, or participating or attempting to participate in a program or activity offered by Thiel College at the time of the alleged Prohibited Sexual Harassment.

C. Formal complaint

Formal Complaint means a document filed by a Complainant or signed by the Title IX Coordinator alleging Prohibited Sexual Harassment against a Respondent and requesting that Thiel College investigate the allegation of Prohibited Sexual Harassment. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of Thiel College with which the Formal Complaint is filed.

D. Grievance Process

Grievance Process means the fact-finding process from the time of the filing of the Formal Complaint through the final determination of an appeal (if any).

E. Respondent

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute Prohibited Sexual Harassment under this policy.

F. Supportive Measures

Supportive Measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the 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 Thiel College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Thiel College's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Supportive measures may also include written notification about available services both within

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the institution and the community and options for available assistance as required by the Clery Act. Supportive measures are not disciplinary measures.

IV. REPORTING PROHIBITED SEXUAL HARASSMENT

A. Notice of Allegations.

Thiel College has notice of Prohibited Sexual Harassment or allegations of Prohibited Sexual Harassment under this policy when such conduct is reported to the Title IX Coordinator or any official of Thiel College who has authority to institute corrective measures on behalf of Thiel College. However, all employees are encouraged/required to report Prohibited Sexual Harassment, as defined and prohibited by this policy, to the Title IX Coordinator, consistent with the requests of the Complainant.

B. Response to a Report.

With or without a Formal Complaint, upon a report of Prohibited Sexual Harassment, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of Supportive Measures, consider the Complainant's wishes 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 to the Complainant the process for filing a Formal Complaint.

C. Informational Materials.

Upon receipt of a report of sexual assault, dating violence, domestic violence, or stalking, Thiel College shall provide informational materials via electronic or physical format that contain procedures to follow if a sex offense, domestic violence, dating violence, sexual assault, or stalking has occurred, including information in writing about—

1. The importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order and the identification and location of witnesses;
2. How and to whom the alleged offense should be reported;
3. Options regarding law enforcement and campus authorities, including notification of the option to:
 - a. notify proper law enforcement authorities, including on-campus and local police;

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- b. be assisted by campus authorities in voluntarily notifying law enforcement authorities; and
- c. decline to notify such authorities;
- 4. Where applicable, their rights and the institution's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court;
- 5. Information about appropriate and available services both at the institution and in the community including information about the availability of, and contact information for, on- and off-campus resources and services, and coordination with law enforcement, as appropriate; and
- 6. Options for, available reasonably available assistance and accommodations and how to request them; and
- 7. Information about the participation of victim advocates and other supporting people. Thiel College's Clery/VAWA mandated information packet for victims of sexual assault, dating violence, domestic violence and stalking is located here or available from the Title IX Coordinator.

D. Implementation of Supportive Measures.

Thiel College shall treat parties equitably by offering Supportive Measures to the Complainant, and by following a grievance process that complies with this policy before the imposition of any disciplinary sanctions or other actions that are not Supportive Measures as against the Respondent. Thiel College will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of Thiel College to provide the Supportive Measures. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures. The Title IX Coordinator should record and retain records regarding requests and provision of Supportive Measure in accordance with the requirements set out at XIV. Record Keeping, below.

E. Emergency removal.

Nothing in this part precludes Thiel College from removing a Respondent from Thiel College's education program or activity on an emergency basis, provided that Thiel College undertakes 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 Prohibited Sexual Harassment justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

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F. Administrative Leave.

Thiel College reserves the right to place a non-student employee Respondent on administrative leave during the pendency of a grievance process.

G. Amnesty for Student Code of Conduct Violations.

Sometimes, individuals are reluctant to come forward to report perceived violations of this policy out of fear that they may be charged with violations of other policies. To ensure that all perceived violations of this policy are reported so that those affected can receive the support and resources needed Thiel College may choose not to charge students who report violations of this policy with violations of other policies.

V. PROCEDURES FOR RESOLVING COMPLAINTS OF PROHIBITED SEXUAL HARASSMENT

A. Informal Resolution

Consistent with the requirements of this section, at any time prior to reaching a determination regarding responsibility Thiel College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that Thiel College:

1. Provides to the parties a written notice disclosing:
 - a. The allegations,
 - b. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint, and
 - c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
2. Obtains the parties' voluntary, written consent to the informal resolution process; and
3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee engaged in Prohibited Sexual Harassment against a student.
4. Completes the informal resolution process within 60 days of receiving the Formal Complaint, unless unusual or complex circumstances exist.

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Thiel College does not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of Formal Complaints of Prohibited Sexual Harassment under this policy. Thiel College shall not require the parties to participate in an informal resolution process and will not offer an informal resolution process unless a Formal Complaint is filed.

B. Formal Complaint and the Grievance Process

1. Filing a Formal Complaint.

A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed for the Title IX Coordinator above. (Add any additional method designated by Thiel College.) A “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by Thiel College) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party. A Formal Complaint shall trigger an investigation except as specified below. The Formal Complaint should include the date(s) of the alleged incident(s), the name of the Respondent, and should describe the circumstances of the incident(s), where known.

2. Dismissal of a Formal Complaint.

Thiel College shall investigate the allegations in a Formal Complaint, except as follows:

3. Mandatory Dismissal.

Thiel College shall dismiss the Formal Complaint if the conduct alleged in the Formal Complaint

- a. would not constitute sex Prohibited Sexual Harassment as defined by this policy, even if proved,
- b. did not occur in Thiel College’s education program or activity,
- c. or did not occur against a person in the United States.
- d. This dismissal does not preclude action under another policy or procedure of Thiel College.

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4. Discretionary Dismissal.

Thiel College may dismiss the Formal Complaint or any allegations therein, if at any time during the investigation or hearing:

- a. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- b. The Respondent is no longer enrolled in or employed by Thiel College; or
- c. Specific circumstances prevent Thiel College from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.
- d. Occurred prior to August 14, 2020, in which case, Thiel College's relevant Title IX policy and procedures shall be used.

Thiel College may dismiss a Formal Complaint at any time in the process if it becomes known that one of the foregoing reasons for dismissal applies.

Upon a dismissal required or permitted under this section, Thiel College will promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties. Thiel College may also refer the matter to the appropriate department for resolution.

5. Consolidation of Formal Complaints.

Thiel College may consolidate Formal Complaints as to allegations of Prohibited 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 Prohibited Sexual Harassment arise out of the same facts or circumstances. Where a grievance process involves more than one Complainant or more than one Respondent, references in this section to the singular "party," "Complainant," or "Respondent" include the plural, as applicable.

6. Notice of Charges

- a. **Initial Notice of Charges.** Upon receipt of a Formal Complaint, prior to commencing the investigation, Thiel College shall provide the following written notice to the parties who are known. This notice shall include:
 - i. This policy (as a link or attachment).

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- ii. Notice of the allegations potentially constituting Prohibited Sexual Harassment as defined in this policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Prohibited Sexual Harassment under this policy, and the date and location of the alleged incident, if known.
- iii. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- iv. Notification to the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney.
- v. Notification to the parties that they may inspect and review evidence, as set forth in this policy.
- vi. Any provision in Thiel College's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
- vii. Describes the standard of evidence that will be used.
- viii. Lists all possible sanction the institution may impose.

- b. **Amended Notice of Charges.** If, in the course of an investigation, Thiel College decides to investigate allegations about the Complainant or Respondent that are not included in the initial notice of charge, Thiel College must provide notice of the additional allegations to the parties whose identities are known.

7. Principles for the Grievance Process

Under this grievance process, Thiel College shall:

- a. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Thiel College and not on the parties, provided that Thiel College cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless Thiel College obtains that party's voluntary, written consent to do so for a grievance process under this section (if a party is not an "eligible student," as defined in 34 CFR 99.3, then Thiel College must obtain the voluntary, written consent of a "parent," as defined in 34 CFR 99.3).

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- b. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
- c. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
- d. Provide the parties with 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 a friend, family member, Thiel employee, attorney, etc. and not limit the choice or presence of advisor for either the Complainant or Respondent in any meeting or grievance proceeding; however, Thiel College may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties. For the purposes of this policy, the role of the advisor is limited to the following: the advisor may attend any interview or meeting connected with the grievance process, but may not actively participate in interviews nor provide testimony or argument on behalf of the party. The advisor may attend the live hearing and may conduct cross-examination of the other party and any witness at the hearing; otherwise, the advisor may not actively participate in the hearing.
- e. Allow each party to be accompanied by a support person if they do not wish to have an advisor. Each party may be accompanied by only one other person unless there is good cause, such as a disability-related accommodation or union representative.
- f. 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.
- g. Require an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence— and provide that credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness.
- h. Require that any individual designated as a Title IX Coordinator, investigator, decisionmaker, or any person to facilitate an informal resolution process, not have a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant

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or Respondent. Thiel College may use internal personnel or external parties in the informal resolution process or the grievance process, provided that they meet this requirement.

- i. Include a presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
- j. Use the following standard of evidence to determine responsibility for allegations in a Formal Complaint of sexual harassment: preponderance of evidence. The standard of evidence shall be the same for Formal Complaints against students as for Formal Complaints against faculty and staff.
- k. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

8. Extensions of the Grievance Process

The Title IX Coordinator may grant or deny requests from either party to temporarily delay the grievance process or may issue the limited extension of time frames for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action.

Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

9. Investigation of Formal Complaints

If not serving as the Investigator, the Title IX Coordinator will appoint an Investigator, who may be an employee or official of Thiel College or may be an external investigator with appropriate experience or expertise. The parties will be provided with notice of the identity of the appointed Investigator, and will be informed that any objections to the service of the appointed Investigator on grounds of conflict of interest or a lack of impartiality should be submitted in writing to the Title IX Coordinator within three days of notice of the appointment. The Title IX Coordinator will decide promptly whether the appointed Investigator will or will not continue to conduct the investigation. Any materials collected or notes prepared by the Investigator during the objection period will be turned over to any

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replacement Investigator. The replacement Investigator will decide whether to use such materials or not.

When investigating a Formal Complaint Thiel College shall, within 30 days of receiving the Formal Complaint, unless unusual or complex circumstances exist:

- a. Engage in fact-gathering of all relevant facts. Credibility resolutions and fact-finding shall be conducted in the live hearing phase of the grievance process.
- b. 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 Thiel College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
- c. Prior to completion of the investigative report, 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 must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.
- d. Make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; and
- e. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to a hearing or other time of determination regarding responsibility, the Title IX Coordinator shall 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. Upon finalization of the investigative report, the Title IX Coordinator shall provide it to the decision-maker(s).

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C. Live Hearings Under the Grievance Process

1. **Requirement of a Live Hearing for Fact-Finding and Determining Responsibility.**
 - a. Following the investigation, within 30 days of sending the final investigative report to the parties, unless unusual or complex circumstances exist, Thiel College shall conduct a live hearing in front of the decision-maker(s), which may be an individual or a Review Panel, for the purposes of determining responsibility for allegations of sexual harassment in the Formal Complaint. The decision-maker(s) cannot be the same person(s) as the Title IX Coordinator or the investigator(s). A decision-maker may include internal employees or external third-parties contracted by Thiel College. All decision-makers will receive annual training as specified by this policy. The parties each may challenge the participation of the decision-maker for conflict of interest or other good cause. The Title IX Coordinator will make the final decision whether to select an alternate upon a challenge from a party.
 - b. The live hearing will be closed. The only individuals permitted to participate in the hearing are as follows: the Complainant and Respondent, the decision-maker(s), the advisor for each party, any witnesses (only while being questioned), and any individual providing authorized accommodations or assistive services.
 - c. If a party does not have an advisor present at the live hearing, Thiel College shall provide without fee or charge to that party, an advisor of Thiel College's choice, who may be but is not required to be, an attorney, to conduct cross-examination on behalf of that party. Thiel College is obligated to ensure each party has an advisor, either of the party's or Thiel College's choice regardless of whether or not the party is present at the hearing. To ensure timely proceedings, a party shall alert the Title IX Coordinator as soon as practicable if the party will need an advisor. If a party's selected advisor is unavailable for a hearing date, the live hearing date may be postponed for good cause.
 - d. Live hearings may be conducted with all parties physically present in the same geographic location or, at Thiel College's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

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- e. At the request of either party, Thiel College shall 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.
- f. Thiel College shall create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review. Any other recording is prohibited, and violations may result in discipline.
- g. The Decision Maker will notify both parties to go over the process and administration of the live hearing. The Decision Maker will set the deadlines for submitting and exchanging names of witnesses, evidence, and pre-hearing questions. (The parties will also be permitted to submit questions to the Decision Maker during the live hearing.) Participation is required to facilitate the efficient and fair administration of the live hearing process.

2. Questioning at the Live Hearing

- a. At the live hearing, the decision-maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.
- b. Only relevant cross-examination and other questions may be asked of a party or witness. Questions must be submitted to the Decision Maker before asking so that the Decision Maker can determine relevancy. The Decision Maker can deny a question if it is deemed not relevant.
- c. Decision-maker(s) also have the right to question a party or witness.
- d. Cross-examination at the live hearing must be conducted directly, orally, and in real-time by the party's advisor of choice and never by a party personally, notwithstanding Thiel College's ability to otherwise restrict the extent to which advisors may participate in the proceedings.
- e. Before the Complainant, Respondent, or witness answers a cross-examination or other question, the decision-maker must

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first determine whether the question is relevant. The decision-maker must explain to the party proposing the questions any decision to exclude a question as not relevant.

- f. 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.

3. Use of Witness Statements

The decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross examination or other questions.

4. Written Determination of the Decision-Maker

- a. The decision-maker(s) shall issue a written determination regarding responsibility. To reach this determination, the decision-maker must apply the standard of evidence required by this policy. The written determination must include:
 - i. Identification of the allegations potentially constituting sexual harassment as defined by this policy;
 - 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 Thiel College's policy to the facts;
 - v. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the

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respondent, and whether remedies designed to restore or preserve equal access to Thiel College's education program or activity will be provided to the complainant; and

- b. The procedures and permissible bases for the Complainant and Respondent to appeal, as set forth in this policy.
 - i. Thiel College shall provide the written determination to the parties simultaneously.
 - ii. The determination regarding responsibility becomes final either on the date that Thiel College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

VI. APPEALS

A. Grounds

Within 10 days of receiving the written determination, either party may appeal from a determination regarding responsibility, and from Thiel College's dismissal of a Formal Complaint or any allegations therein, on the following grounds:

Ground 1: Procedural irregularity that affected the outcome of the matter;

Ground 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; and

Ground 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.

Appeals must be sent to the Title IX Coordinator in writing.

B. Response to Appeals

As to all appeals, the Title IX Coordinator (or designee) shall:

- 1. Notify the other party in writing immediately when an appeal is filed and implement appeal procedures equally for both parties;

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2. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
3. Ensure that the decision-maker(s) for the appeal complies with the standards set forth in this policy;
 - a. Give the non-appealing party an opportunity to submit a written statement in response to the appeal within 10 days of receiving the appeal, which shall be transmitted within 2 business days to the Appeal decision-maker(s).

C. Decision on Appeal

Within 20 days of receiving the appeal and the response, the Appeal decision-maker(s) shall issue a written decision describing the result of the appeal and the rationale for the result; and provide the written decision simultaneously to both parties. The Appeal decision-maker(s) may deny the appeal or, if the appeal ground(s) has or have been met, may return the case to the initial decision-maker(s) for reconsideration, or convene a new hearing. If a case is returned to the initial decision-maker(s), the Appeal decision-maker(s) shall identify which aspects merit further review.

VII. REMEDIES AND SANCTIONS

Remedies must be designed to restore or preserve equal access to Thiel College's education program or activity.

Sanctions: One or more of the sanctions or disciplinary steps listed here may be imposed on a Respondent who is found responsible for a violation of Thiel College's policies. Sanctions or disciplinary steps not listed here may be imposed in consultation with the Title IX Coordinator.

The form of sanction or discipline used will depend on the nature of the offense, as well as any prior disciplinary history. Such discipline or sanction will be imposed pursuant to and in accordance with any and all applicable Thiel College rules, policies and procedures. Factors considered when determining a sanction/responsive action may include:

- A. The nature, severity of, and circumstances surrounding the violation;
- B. An individual's disciplinary history;
- C. Previous Resolutions or allegations involving similar conduct;

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- D. The need for sanctions/responsive actions to bring an end to the sex discrimination or retaliation;
- E. The need for sanctions/responsive actions to prevent the future recurrence of sex discrimination or retaliation;
- F. The need to remedy the effects of the sex discrimination or retaliation on the victim and the campus community.

Student sanctions imposed are implemented when the decision is final (after an appeal, or, if there was no appeal, after the appeals period expires).

Faculty found responsible for violating this Policy may be referred to the appropriate academic official for any other applicable processes.

Possible sanctions and disciplinary steps for student Respondents include, but are not limited to the following:

- 1. Disciplinary Warning
- 2. Disciplinary Probation
- 3. Disciplinary Suspension
- 4. Disciplinary Dismissal
- 5. Disciplinary Expulsion

Possible sanctions and disciplinary steps for staff and faculty Respondents include, but are not limited to:

- 1. Suspension
- 2. Termination

Remedies may include but are not limited to:

Counseling; • Extensions of deadlines or other course-related adjustments, in coordination with the relevant Faculty member; • Modifications of work or class schedules, in coordination with the relevant Faculty member and/or supervisor; • Campus escort services; • Restrictions on contact and communication applied to one or more parties, including no contact directives (which may be mutual or unilateral, and at the discretion of Thiel College's Title IX Coordinator as set forth below); • Changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; • Training and education programs related to Prohibited Sexual Harassment; • Leaves of absence; • Increased security and monitoring of certain areas of campus; and, • Other similar measures based on the specific facts of each case

The Title IX Coordinator is responsible for effective implementation of any remedies.

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VIII. RETALIATION PROHIBITED

No student, faculty or staff member may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right established by this policy or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of Prohibited Sexual Harassment, for the purpose of interfering with any right under this Policy constitutes retaliation.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited under this section.

Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination available at [ADD CROSS REFERENCE(S)]. The complaints may be processed under this policy at the discretion of the Title IX Coordinator.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy does not constitute retaliation prohibited under of this section, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

IX. CONFIDENTIALITY

Consistent with the requirements of this policy, Thiel College shall keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a Formal Complaint of Prohibited Sexual Harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. This means that Thiel College will protect the party's privacy consistent with this Policy but may disclose information to those who have a legitimate need to know to process complaints under this policy.

Confidentiality is not absolute. Such as, where criminal conduct has occurred, or where the health and/or safety of others in the community may be in danger, it may be necessary for Thiel College to take appropriate steps to protect the safety of its students and employees, including the person who has reported the misconduct.

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Counselors and medical providers working at or on behalf of Thiel College are Confidential Resources. In most cases, Confidential Resources at Thiel College will not share the substance of any such communications or that such communications occurred without consent. Individuals who wish to talk about issues related to sexual harassment or sexual misconduct confidentially, with the understanding that Thiel College will not take any action based on such confidential communications, are encouraged to contact one of these Confidential Resources.

Confidential resources may, however, have an obligation to disclose otherwise privileged information where they perceive an immediate and/or serious threat to a person and/or property. This is a limited exception to the privileged nature of communications with Confidential Resources. Reports or records maintained by Thiel College (including Counseling Service records), and other confidential, non-privileged records may, however, be subject to a subpoena if civil or criminal charges are filed in court.

In accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, Confidential Resources will not report Clery crimes they learn about through confidential communications for purposes of Thiel College's compilation of campus crime statistics.² In addition, when appropriate and legally permissible, Thiel College shall conduct record-keeping on reports of dating violence, domestic violence, stalking and sexual assault, such as that collected for legally Counseling; • Extensions of deadlines or other course-related adjustments, in coordination with the relevant Faculty member; • Modifications of work or class schedules, in coordination with the relevant Faculty member and/or supervisor; • Campus escort services; • Restrictions on contact and communication applied to one or more parties, including no contact directives (which may be mutual or unilateral, and at the discretion of Thiel College's Title IX Coordinator as set forth below); • Changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; • Training and education programs related to Prohibited Sexual Harassment; • Leaves of absence; • Increased security and monitoring of certain areas of campus; and, • Other similar measures based on the specific facts of each case

The Title IX Coordinator is responsible for effective implementation of any remedies.

² Crimes reported to a pastoral or professional counselor are not required to be reported by an institution under the Clery Act; however, institutions are strongly encouraged to establish voluntary, confidential reporting processes so that incidents of crime that are reported exclusively to professional and pastoral counselors will be included in the annual crime statistics. 34 C.F.R. §668.46(b)(2)(iii).

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VII. RESOURCES

On-Campus Counseling Services	Name: Thiel College Counseling Center Physical Address: Lower Level of the Howard Miller Student Center (HMSC) Email Address: mbroadwater@thiel.edu Telephone No.: 724-589-2754 or appointments can be scheduled through Student Life at 724-589-2125
Off-Campus Counseling Services	Name: Community Counseling Physical Address: Center77 N. Main St. Greenville, PA 16125 Telephone No.: (724) 588-6490
On-Campus Healthcare Services	Name: Thiel College Student Health Center Physical Address: Lower Level of the Howard Miller Student Center (HMSC) Email Address: health_services@thiel.edu Telephone No.: 724-589-2195
Off-Campus Healthcare Services	Name: UPMC Greenville Medical Center Physical Address: 90 Shenango St., Greenville, PA 16125 Telephone No.: 724-588-4478 Name: Primary Health Network Greenville PA Physical Address: 348 Main Street, Greenville, PA 16125 Telephone No.: 724-588-5250
On-Campus Mental Health Services	Name: Thiel College Counseling Center Physical Address: Lower Level of the Howard Miller Student Center (HMSC) Email Address: mbroadwater@thiel.edu Telephone No.: 724-589-2754 or appointments can be scheduled through Student Life at 724-589-2125
Off-Campus Mental Health Services	Name: Community Counseling Center Physical Address: 77 N. Main St. Greenville, PA 16125 Telephone No.: 724-588-6490
On-Campus Ministry Office	Pastoral care and counseling is available to student through our Campus Pastor. This service is open to members of the community from all faiths and backgrounds. <i>Phone: 724-589-2130</i> <i>Hours of Operation: Tuesday – Friday 8:00am – 5:00pm and the Pastor can be reached through Campus Police or Residence Life Departments should a crisis situation occur in off hours.</i> <i>Location: 1st floor of the Howard Miller Student Center or at the David Johnson Memorial Chapel located on College Avenue</i> http://www.thiel.edu/campus_life/spiritual-life
Victim Advocacy Services	Name: AWARE of Mercer County

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	Physical Address: 109 S. Sharpsville Ave., Suite D, Sharon, PA 16146 Telephone No.: 724-342-4934 or 24-hour hotline: 888-981-1457
Legal Services	Name: Wallace & Dibble Law Firm (724) 588-5005 Physical Address: 47 Clinton St. Greenville, PA 16125 Telephone No.: 724-588-5005 Name: Whalen Law Offices 724-588-0306 Physical Address: 64 Clinton St. Greenville, PA 16125 Telephone No.: 724-588-0306 Name: Douglas M Watson Attorney Physical Address: 259 Main St. Greenville, PA 16125 Telephone No.: 724-588-8404 Name: Halliday & Halliday (724) 588-8300 Physical Address: 273 Main St. #1 Greenville, PA 16125 Telephone No.: 724-588-8300
Emergency Medical Services	Name: UPMC Horizon Greenville Hospital Physical Address: 110 N. Main St., Greenville, PA 16125 Telephone No.: 724-588-2100
Campus Security/Police Department	Name: Thiel College Public Safety Department Physical Address: 2nd Floor of the Howard Miller Student Center (HMSC) Email Address: dbish@thiel.edu Telephone No.: 724-589-2222
Local Police Department	Name: Greenville Police Department Physical Address: 125 Main St., Greenville, PA 16125 Telephone No.: 724-589-4190
Local Sheriff's Office	Name: Mercer County Sherriff's Office Physical Address: 205 South Erie St., Mercer, PA 16137 Email Address: brosa@mcc.co.mercer.pa.us Telephone No.: 724-662-6135
State Police	Name: PA State Police Meadville Barracks 814-332-6911 Physical Address: 11025 Murray Rd., Meadville, PA 16335 Telephone No.: 814-332-6911