



Title IX Procedures

Revision: August 14, 2020
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Complaint Procedures Pursuant to the Spartan College Sexual Harassment, Dating Violence, Domestic Violence, Stalking and Retaliation Policy

The Spartan College of Aeronautics and Technology (the “College”) is committed to creating and maintaining a safe and non-discriminatory learning, living, and working environment as set forth in its Sexual Harassment, Dating Violence, Domestic Violence, Stalking, and Retaliation policy (the “Policy”). These procedures establish the process for investigating and responding to complaints of Prohibited Conduct under the Policy, including the availability of supportive measures and imposition of disciplinary measures against an individual found responsible for a violation.

Unless resolved through an informal resolution, the College will investigate the allegations in any Complaint in a prompt, fair, and impartial manner, with one or more internal or external Investigators. Following the investigation, a determination regarding responsibility will be made in accordance with these procedures. If there is a determination of responsibility, the College will determine sanctions and remedies as appropriate. The Procedures provides for an appeals process.

The definitions in the Policy are incorporated by reference into these procedures.

1. Burden of Proof

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties. It is presumed that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the procedures. The College uses a preponderance of the evidence standard in evaluating and making determinations of responsibility of Prohibited Conduct.

2. No Conflicts of Interest

The Title IX Coordinator will perform all duties neutrally and without conflict of interest or bias. Any individual designated as a Deputy Title IX Coordinator, Investigator, Decision Maker, Appeal Officer or any designee may not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

3. Interim Suspension/Emergency Removal

The College may remove a student Respondent from College education programs or

activities on an emergency basis in accordance with any applicable student conduct code provisions. As required by Title IX, before doing so in cases alleging Sexual Harassment, the College must undertake an individualized safety and risk analysis, determine that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal, and provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

4. Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to any individual alleging to have experienced Prohibited Conduct, or any individual accused of engaging in Prohibited Conduct before, during, or after the filing of a Complaint or where no Complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education programs and activities without unreasonably burdening the other party or parties, including measures designed to protect the safety of all parties or the educational environment, or deter Prohibited Conduct.

Supportive measures shall be discussed with the parties and 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. The College will maintain as confidential any supportive measures provided to any individual under the Policy to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator, or Deputy Title IX Coordinator for the applicable campus, is responsible for coordinating the effective implementation of supportive measures.

5. Administrative Leave

The procedures for placing an employee on administrative leave pending investigation and resolution of allegations of Prohibited Conduct shall be pursuant to applicable employee and/or faculty policies related to administrative leave.

6. Advisors

The parties have the opportunity to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The College will not limit the choice or presence of an advisor for either party in any meeting

or Proceeding, except that the advisor may not be a party or witness or an individual who would otherwise create a conflict of interest. Advisors must comply with any rules of decorum set forth by the College.

At the live hearing, each party's advisor will conduct cross-examination on behalf of the party. If a party does not have an advisor present at the live hearing, the College will provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

7. Notice of Complaint

Upon receipt of a Complaint, the College will provide the following written notice to the parties identified in the Complaint:

- a. Notice of the College's Procedures, including the Informal Resolution process.
- b. Notice of the allegations of Prohibited Conduct, 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 Conduct, and the date and location of the alleged incident, if known.
- c. Notice that, under these procedures, the Respondent is not treated as responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the procedures.
- d. Notice to the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence.
- e. Notice of the provision in these procedures, consistent with Section _____, below, that prohibits knowingly making false statements or knowingly submitting false information during the procedures.

The College will provide an amended notice of the allegations to the parties if additional allegations arise in the course of an investigation about the Complainant or Respondent that were not included in the original notice, or remove charges that were included in the original notice.

8. Dismissal of Complaint

If the conduct alleged in the Complaint would not constitute Prohibited Conduct, if proved, then the Complaint must be dismissed by the Title IX Coordinator, but the College may still address the conduct under other provisions of its policies and codes of conduct, as applicable. If the conduct alleged in the Complaint did not occur in the College's education programs or activities, or did not occur against a person in the United States, then the College must dismiss the Complaint with regard to that conduct. The College may dismiss a 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 Complaint or any allegations therein; the Respondent is no longer enrolled or employed by the College; or specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Complaint or allegations therein. Upon dismissal, the College will promptly send written notice of the dismissal and the reason(s) simultaneously to the parties as well as procedures related to appeal.

9. Consolidation of Cases

The College may, at the discretion of the Title IX Coordinator, consolidate Complaints as to allegations of Prohibited Conduct 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 Conduct arise out of the same facts or circumstances.

10. Notice of Meetings and Timeframes

The College will 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.

The College will establish reasonably prompt timeframes for conclusion of the procedures, including reasonably prompt timeframes for filing and resolving appeals and Informal Resolution processes. The College seeks to resolve all Complaints generally within 120 business days of the filing of the Complaint. All time frames expressly outlined in these Procedures are meant as guidelines rather than rigid requirements. At the discretion of the College, the procedures may be temporarily delayed and limited extensions of timeframes may be granted for good cause shown with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action. Good cause may include, but is not limited to, considerations such as the

absence of a party, advisor, or a witness; concurrent law enforcement activity; the need for language assistance or accommodation of disabilities; exam periods; or breaks in the College's calendar. No party may unreasonably delay the procedures due to unavailability of an advisor.

11. Informal Resolution

With the exception of allegations that an employee engaged in Prohibited Conduct against a student, the College may, at any time prior to reaching a determination regarding responsibility after the filing of a Complaint, facilitate a voluntary, Informal Resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the following conditions are met:

- a. Notice. The College will provide to the parties a written notice disclosing: the allegations; the requirements of the Informal Resolution process including the circumstances under which it precludes the parties from resuming a Complaint arising from the same allegations; the right of any party to withdraw from the Informal Resolution process and resume the procedures with respect to the Complaint prior to agreeing to a resolution; and any consequences resulting from participating in the Informal Resolution process, including the records that will be maintained or could be shared.
- b. Timely and Equal Access. The College will provide timely and equal access to the Complainant, the Respondent, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings.
- c. Voluntary Consent. The College will obtain the parties' voluntary, written consent to the Informal Resolution process.
- d. Timeframe. Informal Resolution will be completed within approximately 60 days of the parties' agreement to participate in Informal Resolution, but the College may extend the timeframe for good cause.

12. Investigation Process

Prohibited Conduct investigations will involve an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness. The parties will have an equal opportunity to present witnesses and other inculpatory and exculpatory evidence. The College will not restrict the ability of either

party to discuss the allegations under investigation or to gather and present relevant evidence, as long as such conduct is not harassing or retaliatory.

- a. Review of Evidence: The College will 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 the Complaint. This includes the evidence upon which the 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. Prior to completion of the investigative report, the College will make available to each party and each party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have 10 calendar days to submit a written response, which the Investigator will consider prior to completion of the investigative report. At the discretion of the investigator, additional investigative steps may be taken in light of the parties' written responses.
- b. Medical Records: The College will not 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 the College obtains that party's voluntary, written consent to do so.
- c. Past Sexual History: Evidence about the Complainant's sexual predisposition or prior sexual behavior is not relevant, unless (1) 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 (2) 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.
- d. Privilege: The College will 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.

- e. Investigative Report: At the conclusion of the investigation, the Investigator will create an investigative report that fairly summarizes relevant evidence. Ten (10) days prior to a hearing, as applicable, the College will send to each party and each party's Advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

13. Decision-Making Process

After an investigation of a complaint, the following procedures apply:

- a. Notice of Decision-Making Process. After the investigation is complete, the Title IX Coordinator or designee will send to each party and each party's advisor, if any, a notice and description of this decision-making process and the expected timeframe for the process.
- b. Standard of Evidence. The standard of evidence for all cases of Prohibited Conduct is preponderance of the evidence, which means whether it is more likely than not that Prohibited Conduct occurred.
- c. Production of Evidence. All evidence subject to the parties' inspection and review at the conclusion of the investigation will be available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
- d. Live Hearings. The College will provide a live hearing, which can be accomplished remotely using technology. At the live hearing, the decision maker, who also serves as the hearing officer, will provide the parties with an opportunity to make opening and closing statements, including statements about the impact of the matter on them and the requested sanctions or remedies, as applicable. The investigator(s) will be a witness at the hearing.
 - i. Independent Hearing Officer. The decision maker and hearing officer cannot be the same person(s) as the Title IX Coordinator or the investigator(s).
 - ii. Questioning by the Hearing Officer: The hearing officer will ask questions of the parties and any witnesses.
 - iii. Cross-Examination. At the live hearing, the hearing officer will permit each party's advisor to ask the other party and any witnesses relevant

questions and follow-up questions, including those challenging the credibility of each party or witness. Such cross-examination at the live hearing will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally, notwithstanding the discretion of the College to otherwise restrict the extent to which advisors may participate in the proceedings. Advisors must comply with any rules of decorum set forth by the College. If a party or witness does not submit to cross-examination at the live hearing, the hearing officer must not rely on any statement of that party or witness in reaching a determination regarding responsibility. The hearing officer cannot draw an inference relevant to 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.

- iv. Provision of Advisors to Conduct Cross-Examination. If a party does not have an advisor present at the live hearing, the College will provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.
- v. Relevance Determinations. Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the hearing officer will first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The hearing officer will provide the parties an opportunity to submit questions in advance of the hearing, which may allow the hearing officer to make expedited relevancy determinations, but such submission will not restrict the parties' advisors from asking other relevant cross-examination and questions of a party or witness at the live hearing directly, orally, and in real time. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless (1) 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 (2) 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.

- vi. Separate Locations. The College will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the hearing officer and parties to simultaneously see and hear the party or the witness answering questions. All parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other. The College retains discretion to conduct the live hearing with all parties physically present in the same geographic location or virtually with the use of technology.
 - vii. Recording. 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 recording will be maintained in accordance with College recordkeeping requirements.
- e. Determination Regarding Responsibility
- i. Determinations. After the live hearing, the hearing officer/decision maker will draw conclusions regarding the application of the Policy and the College's to the facts, and will make determinations regarding responsibility. If there is a finding of responsibility, the hearing officer/decision maker will determine what sanctions are appropriate. Sanction(s) will be structured to end the conduct and prevent its recurrence by the Respondent. Remedies will be designed to remedy the effects on the Complainant and the College community. Not all violations will be deemed equally serious offenses, and the College reserves the right to impose different sanctions and remedies depending on the severity of the offense. A list of sanctions is provided below.
- f. Written Determinations. The hearing officer/decision maker will issue a written determination regarding responsibility, using the preponderance of the evidence standard. The College will provide the written determination to the parties simultaneously. If an appeal is filed, the determination regarding responsibility becomes final on the date that the College provides the parties with the written determination of the result of the appeal. If an appeal is not filed, the determination regarding responsibility becomes final on the date on which an appeal would no longer be considered timely. The written determination must include:

- i. Identification of the allegations potentially constituting Prohibited Conduct;
- ii. A description of the procedural steps taken from the receipt of the 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 Policy to the facts;
- v. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
- vi. Any disciplinary sanctions the College will impose on the Respondent, and whether remedies designed to restore or preserve equal access to College education programs or activities will be provided to the Complainant.
- vii. The procedures and permissible bases for the Complainant and Respondent to appeal.

g. Possible Sanctions

Any one or more of the sanctions listed here may be imposed when there is a violation under the Policy. Sanctions are assessed in response to the specific violation(s) and any prior disciplinary history of the Respondent. Some of the sanctions listed are applicable only to Students or Employees, as indicated.

Possible sanctions include, but are not limited to:

- i. Warning: Written notice that the Respondent's behavior was in violation of the Policy and/or other College policy and that future violations will result in more severe sanctions.
- ii. Restitution: Reimbursement by the Respondent(s) to the College to cover the cost of damage to property or other loss.

- iii. Educational Program/Project: Programs and activities designed to help the Respondent become more aware of College policies and help the Respondent understand the inappropriateness of their conduct, including, but not limited to, participation in an educational program or completion of an online program.
- iv. Referral for Counseling: A referral for an assessment with a trained therapist and a mandate to follow any recommendations resulting from the counseling.
- v. Loss of Privileges (Students only): Denial of specific privilege(s) as defined by the hearing officer/decision maker for a defined period of time. Privileges include, but are not limited to, participation in extracurricular activities and events such as social events and student organizations.
- vi. Restricted Access: Conditions that dictate and limit the Respondent's presence on campus and/or participation in College-sponsored activities. The restrictions will be clearly defined and may include, but are not limited to, presence in certain buildings or locations on campus.
- vii. Removal of Offending Cause: Requirement to remove the item that was the subject of the Complaint.
- viii. Revocation of institutionally funded scholarships and/or grants (Students only).
- ix. Relocation or Removal from Residence Halls (Students only): Requirement that the Respondent relocate to another residence hall, or off-campus, by a specified date.
- x. Conduct Probation (Students only): Formal, written notice that the Respondent's behavior is in violation of the Policy or other College policy and an expectation that the Respondent exhibit good behavior for a defined period of time. Any violation during the probationary period may result in suspension or expulsion from the College.
- xi. Employment Probation (Employees only): Formal, written notice that the Employee's conduct is in violation of the Policy and/or other College policy and an expectation that the Employee exhibit good behavior for a

defined period of time. Any further violations during the probationary period may result in employment suspension without pay or termination of employment.

- xii. Suspension (Students only): Separation from the College for a defined period of time. During the suspension period the Respondent is not permitted on campus and is not permitted to participate in any College-sponsored or -affiliated program or activity. The terms of the suspension may include the designation of special conditions affecting eligibility for readmission or special conditions to be in effect upon readmission.
- xiii. Suspension without Pay (Employees only): Separation of employment for a defined period of time without pay for the time of separation.
- xiv. Employment Termination (Employees only): Permanent separation of the Employee from the College if the Respondent is a non-Student Employee and permanent separation of the Employee from their student position if the Respondent is a student.
- xv. Expulsion (Students only): Permanent separation from the College. A Respondent who has been expelled is not permitted on campus and is not permitted to participate in any College-sponsored or -affiliated program or activity.

h. Sanctions for Sexual Assault

Although it is not possible to outline the specific sanctions that will be imposed in all sexual assault cases, the following sexual assault sanctioning guidelines have been established to provide notice to the College community and provide context for the Sanctioning Officer or process in determining appropriate sanctions.

Sexual Assault Sanctioning Guidelines:

- i. Students: minimum one-year suspension (or duration that Complainant is enrolled at the College, whichever is longer).
- ii. Faculty/Staff: minimum of suspension without pay and potential termination for cause.

i. Remedies.

Remedies will be designed to restore or preserve equal access to the College's educational programs and activities. Such remedies may include supportive measures but may also be disciplinary or punitive.

The Title IX Coordinator is responsible for oversight of the effective implementation of any sanctions and remedies. Failure to comply with sanctions may be considered an additional violation of the Policy on Prohibited Conduct, and/or may lead to additional sanctions under general College codes of conduct, handbooks, or policies.

14. Appeals

The College will offer both parties an appeal from a determination regarding responsibility, and from a dismissal of a Complaint or any allegations therein. The opportunity to submit an Appeal is not provided to simply refute or express dissatisfaction with the outcome of the hearing; rather, the following procedures apply:

- a. Bases for Appeal. An appeal may be made on the following bases:
 - i. Procedural irregularity that affected the outcome of the matter;
 - ii. 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
 - iii. The Title IX Coordinator, Deputy Title IX Coordinator, Investigator, or hearing officer/decision maker had an actual conflict of interest or bias that affected the outcome of the matter.
- b. Notification. The Title IX Coordinator or designee will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.
- c. Appeal Officer. The appeal officer, who serves as a decision maker for the appeal, will not be the same person as the original hearing officer/decision maker, investigator or Title IX Coordinator. The appeal officer must be free of conflict of interest or bias and will receive training as a decision maker for appeals.

- d. Written Statements. Both parties will have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. A party desiring to appeal the outcome may submit a written appeal to the Title IX Coordinator within three (3) business days of the party's receipt of the written determination regarding responsibility, and the non-appealing party may submit his or her response to the Title IX Coordinator within three (3) business days of receipt of the appealing party's response. The Title IX Coordinator will forward the parties' written statements to the appeal officer.
- e. Written Decision. The appeal officer will issue a written decision describing the result of the appeal and the rationale for the result, and the written decision will be provided simultaneously to both parties and the Title IX Coordinator. The appeal officer's decision is final and is not subject to further appeal.
- f. Timeframe for Appeals. The appellant and appellee will generally be notified in writing of the outcome of the appeal within ten (10) business days of receipt of the appellee's response statement, but the College may extend the timeframe for good cause.

15. Confidentiality

Complaints and investigations under the Policy are treated as private by the College. The College complies with the Family Educational Rights & Privacy Act (FERPA) and other applicable privacy laws at all times in the course of investigations. The College will keep confidential the identity of any individual who has made a report or complaint of Prohibited Conduct, any Complainant, any individual who has been reported to be the perpetrator of Prohibited Conduct, any Respondent, and any witness, except as may be permitted by FERPA, or as required by law, or in order to conduct any investigation, hearing, or judicial Proceeding arising from the Policy. The College complies with the Jeanne Clery Disclosure of Campus Security Police and Campus Crime Statistics Act and the Violence Against Women Act with respect to reporting and disclosure of campus security information. The College will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence, as long as such conduct is not harassing or retaliatory. The investigation, investigation report, and Proceedings are considered confidential.

Additional information about confidentiality is set forth in the Policy.

16. False Information

Knowingly making a materially false statement or submitting false information in bad

faith during the review process herein is prohibited. However, a determination regarding responsibility, alone, is not sufficient to charge any party with making a materially false statement in bad faith.

17. Training

The Title IX Coordinator, Deputy Title IX Coordinators, investigators, hearing officer/decision makers and appeal officers, and any applicable designees, including any person who facilitates an Informal Resolution process as provided for herein, will receive training on the definitions of terms used in the Policy; the scope of the College's education programs or activities; issues related to dating violence, domestic violence, sexual assault, and stalking; how to conduct an investigation and procedures including hearings, appeals, and Informal Resolution processes, as applicable, that protects the safety of Complainants and promotes accountability; and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. The College also will ensure that Investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. Any hearing officer/decision maker will receive training on any technology to be used at a live hearing, as applicable, and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant. Any materials used to train will not rely on sex or gender stereotypes and will promote impartial investigations and adjudications of Complaints of Prohibited Conduct.

18. Truthfulness/Amnesty for Alcohol and Other Drug Violations

Individuals may be hesitant to report conduct that they have experienced or witnessed, to participate, or to speak truthfully because they fear College disciplinary action due to their own consumption of alcohol or other drugs at or near the time of the incident. To encourage truthfulness in reporting, an individual who reports Prohibited Conduct or participates in a proceeding under these Procedures, either as a Complainant, a Respondent, or a witness, will not be subject to disciplinary action by the College for their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. Educational options will be explored, but no conduct proceedings or record will result. However, records regarding the provision of amnesty will be maintained.