

## **TITLE IX POLICY OF THE SALON PROFESSIONAL ACADEMY: PROHIBITION OF SEXUAL HARASSMENT**

The Salon Professional Academy is committed to providing a work and educational environment free of unlawful harassment, discrimination and retaliation. In accordance with Title IX of the Education Amendments of 1972, TSPA does not discriminate on the basis of sex in its Education Programs or Activities, which extends to admission and employment. TSPA also prohibits Sexual Harassment (as defined below) committed against persons in the United States as part of its Education Programs or Activities.

TSPA reserves the right to make changes to this policy as necessary, and once those changes are posted online, they are in effect. If government laws, regulations or court decisions change requirements in a way that affects this policy, the policy will be construed to comply with the most recent government regulations or holdings.

### **NOTICE OF NON-DISCRIMINATION**

TSPA is committed to maintaining a work and learning environment free from unlawful harassment and discrimination for all employees and students. TSPA does not discriminate on the basis of an individual's sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, gender expression or identity, physical or mental disability, or any other basis protected by federal, state or local law.

### **Statement Regarding Sex Discrimination under Title IX**

Salon Professional Academy does not discriminate in its employment practices or in its Educational Programs or Activities on the basis of sex. TSPA also prohibits retaliation against any person opposing discrimination or participating in any discrimination investigation or complaint process internally or externally. Reports of misconduct, questions regarding Title IX, and concerns about noncompliance should be directed to the Title IX Coordinator. For a complete copy of the policy or for more information, please contact the Title IX Coordinator or the Assistant Secretary of Education within the Office for Civil Rights (OCR) <https://www2.ed.gov/about/offices/list/ocr/contactus2.html>.

### **SCOPE OF POLICY**

#### **Sexual Harassment under Title IX**

This policy prohibits sexual harassment (which includes Sexual Assault, Dating Violence, Domestic Violence and Stalking) under Title IX in all programs, Activities, and operations of The Salon Professional Academy. Individuals who engage in such acts are in violation of this policy and are subject to disciplinary action.

When the school has Actual Knowledge of sexual harassment under Title IX in an Education Program, Activity, or operation of the school against an individual, including a student or

employee, the school shall respond promptly in a manner that is not deliberately indifferent.

The Salon Professional Academy has jurisdiction over Title IX sexual harassment complaints regarding conduct that occurs at locations, events, or circumstances over which the school exercises substantial control over both the individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment under Title IX and the context in which the sexual harassment occurred. This may include conduct that occurs on and off campus. If the alleged conduct does not constitute sexual harassment under Title IX, The Salon Professional Academy reserves the right to address the conduct under other policies or codes of conduct.

### **All Other Unlawful Discrimination**

This policy, including the grievance process, apply only to complaints alleging sexual harassment under Title IX. All other complaints involving discrimination based on any other legally protected status including race, color, national origin, disability, religion, sex (other than sexual harassment under Title IX), pregnancy, and age, are addressed in other policies of The Academy. Please see the Student Handbook for more information.

### **TITLE IX COORDINATORS**

Pursuant to Title IX of the Educational Amendments of 1972 and 34 C.F.R. Part 106, the Title IX Coordinator is responsible for coordinating TSPA's Title IX compliance efforts. The Title IX Coordinator is responsible for implementing TSPA's Title IX policy, intaking Reports and Formal Complaints of Sexual Harassment, providing supportive measures and maintaining accurate Clery Act crime statistics.

**Title IX Coordinator: Penny Nelson**

**566 Theater Rd.**

**Onalaska, WI 54650**

**(608) 792-4091 / pennynelson@salonproacademy.com**

Any person can Report sex discrimination, including Sexual Harassment (whether or not the person reporting is the alleged victim) in person, by mail, telephone, or e-mail, using the contact information listed above for the Title IX Coordinator. A Report can be made at any time, including during non-business hours. However, responses to Reports made outside of business hours, including during weekends and holidays, may be delayed.

### **Definition of Sexual Harassment under Title IX**

“**Sexual Harassment**” under Title IX means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee conditioning educational benefits or participation on an individual's participation in unwelcome sexual conduct;

- (2) Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Education Program or Activity; or
- (3) Sexual Assault, as defined in 20 U.S.C. § 1092(f)(6)(A)(v), Dating Violence, as defined in 34 U.S.C. § 12291(a)(10), Domestic Violence, as defined in 34 U.S.C. § 12291(a)(8), or Stalking, as defined in 34 U.S.C. § 12291(a)(30) (collectively referred to as “Sexual Violence”).<sup>1</sup>

“**Sexual Assault**” under 20 U.S.C. § 1092(f)(6)(A)(v), means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, including but not limited to rape, Sexual Assault with an object, and groping.

Sexual Assault includes, but is not limited to:

- a. Intentional touching of another person’s intimate parts without that person’s Consent; or b.

Other intentional sexual contact with another person without that person’s Consent; or

- c. Coercing, forcing, or attempting to coerce or force a person to touch another person’s intimate parts without that person’s Consent; or
- d. Rape, which is penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person’s Consent.

“**Dating Violence**” under 34 U.S.C. § 12291(a)(10) means violence committed by a person:

- (1) Who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and
- (2) Where the existence of such a relationship shall be determined based on the reporting party’s statement and a consideration of the following factors:
  - a. the length of relationship
  - b. the type of relationship
  - c. frequency of interaction between the persons involved in the relationship.

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<sup>1</sup> In accordance with the Violence Against Women Reauthorization Act of 2013 (“VAWA”), state<sup>1</sup> definitions for Sexual Assault, Dating Violence, Domestic Violence, Stalking and Consent are contained in TSPA’s Annual Security Report (“ASR”). VAWA crime statistics are reported in the ASR based on the definitions above.

Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

“**Domestic Violence**” under 34 U.S.C. § 12291(a)(8) includes but is not limited to felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant 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 jurisdiction.

While not exhaustive, the following are examples of conduct that can constitute Domestic Violence: (1) physical harm, bodily injury or assault; (2) the infliction of fear of imminent physical harm, bodily injury, or assault; or (3) terroristic threats, criminal sexual conduct, or interference with an emergency call.

“**Stalking**” under 34 U.S.C. § 12291(a)(30) means engaging in conduct directed at a specific person that would cause a safe reasonable person to fear for his or her or the safety of others or to suffer substantial emotional distress.

Examples include acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property. Stalking behavior includes, but is not limited to:

- a. Repeated, unwanted, intrusive, or frightening communications by phone, mail, text, email and/or social media;
- b. Repeatedly leaving or sending an individual unwanted items, presents, or flowers;
- c. Following or lying in wait for an individual at places such as home, school, work, or recreation place;
- d. Making direct or indirect threats to harm an individual, an individual’s children, relatives, friends, or pets;
- e. Damaging or threatening to damage an individual’s property;
- f. Posting information or spreading rumors about an individual on the internet, in school, or by word of mouth.
- g. Unreasonably obtaining personal information about an individual by using internet search services, hiring private investigators, going through an individual’s garbage, following an individual, contacting an individual's friends, family, work, or neighbors, etc.

## **Other Key Definitions**

**“Actual Knowledge”** means notice of Sexual Harassment or allegations of Sexual Harassment under Title IX to (1) the Title IX Coordinator; or (2) any officials of the school who have authority to institute corrective measures on behalf of The Salon Professional Academy. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute Actual Knowledge. This standard is not met when the only official with Actual Knowledge is the alleged perpetrator. The mere ability or obligation to report Sexual Harassment or to inform a student about how to report Sexual Harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of Salon Professional Academy. “Notice” as used in this paragraph includes, but is not limited to, a Report of Sexual Harassment to the Title IX Coordinator.

**“Advisor”** means an individual chosen by a party to accompany the party to meetings related to the resolution process, to advise the party on that process and to conduct cross-examination for the party at any hearing, if any. If a party does not have an Advisor at the hearing portion of the Grievance Process, TSPA will appoint an Advisor.

**“Complainant”** means the individual who is alleged to have been the victim of conduct that could constitute Sexual Harassment, regardless of whether a Formal Complaint has been filed. A Complainant must be the alleged victim unless a parent or legal guardian has a legal right to act on the alleged victim’s behalf.

**“Consent”** means words or overt actions by a person who is competent to give informed Consent indicating a freely given agreement to have sexual intercourse or sexual contact. The following persons are presumed incapable of Consent: a person suffering from a mental illness or defect which impairs capacity to appraise personal conduct, and a person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

There is no Consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress are used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining Consent.

- a. Silence or absence of resistance does not imply Consent.
- b. Past Consent to sexual activity with another person does not imply ongoing future Consent with that person or Consent to that same sexual activity with another person.
- c. If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no Consent; this includes impairment or incapacitation due to alcohol or drug consumption that meets this standard, or being asleep or unconscious.

**“Day”** when used in this policy means a business day and does not include Saturday, Sunday,

legal holidays, or days the school is closed.

“**Education Program or Activity**” includes on or off campus locations, events, or circumstances over which the Salon Professional Academy exercises substantial control over both the Respondent and the context in which the Sexual Harassment occurred.

“**Exculpatory Evidence**” is evidence that tends to clear or excuse a Respondent from allegations of Sexual Harassment.

“**Formal Complaint**” means a document (hardcopy or electronic) filed by a Complainant or signed by the Title IX Coordinator, alleging Sexual Harassment against a Respondent and requesting the school to investigate the allegation of Sexual Harassment. At the time a Formal Complaint is filed (either by the Complainant or guardian, or the Title IX Coordinator), the named Complainant must be participating in or attempting to participate in the Education Program or Activity of The Salon Professional Academy.

“**Inculpatory Evidence**” is evidence that tends to establish a Respondent’s responsibility for alleged Sexual Harassment.

“**Preponderance of the Evidence**” is the standard applied by the decision-makers under the grievance process in this policy and means that there is sufficient relevant evidence for the decision-makers to find that the Respondent has more likely than not engaged in conduct that violates this policy.

“**Report**” means a written or verbal communication in person or via electronic communication, U.S. mail, facsimile, voicemail or telephone or notification made by any person for the purpose of providing information about alleged Sexual Harassment under Title IX. The grievance procedure is triggered only when a Report is made or provided to the Title IX Coordinator or an individual who has authority to institute corrective measures on behalf of the school. A Report of Sexual Harassment does not constitute a Formal Complaint under the grievance process in this policy.

“**Respondent**” means an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.

“**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 TPSA’s Education

Program or Activity without unreasonably burdening the other party, while protecting the safety of all parties and the educational environment; and deterring 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, leaves of absence, and other similar measures.

## REPORT OF SEXUAL HARASSMENT UNDER TITLE IX

If you believe that you have experienced or witnessed Sexual Harassment (including Sexual Violence) discrimination or retaliation, TSPA encourages you to notify the Title IX Coordinator as soon as possible after the incident. A Report may be made to either or both the police and the Title IX Coordinator. The criminal process is separate from TSPA's Title IX Grievance Process.

A Report of Sexual Violence may be made to either or both the police and the Title IX Coordinator. The criminal process is separate from TSPA's process. It is TSPA's policy not to notify local law enforcement when Sexual Violence occurs, unless a Complainant wishes or there is an emergency threat to health or safety. Complainants have the option to notify law enforcement directly or be assisted in doing so. If requested, TSPA will assist a victim of Sexual Violence in contacting the police. A Complainant is not required to contact the police in order to pursue TSPA's grievance process.

TSPA does not issue orders of protection. Orders of protection, restraining orders, injunctions or similar lawful orders may be obtained through the court system and can be enforced by TSPA. Individuals who have obtained an order of protection is encouraged to provide a copy to the Title IX Coordinator as soon as possible. Although TSPA does not issue orders of protection, information on how to obtain a protective order is located in the ASR.

In order to make informed choices, it is important to be aware of confidentiality and reporting requirements when consulting TSPA resources. The School Director and Director of Education will share knowledge, notice and/or Reports of Sexual Harassment (including Sexual Violence), discrimination and/or retaliation with the Title IX Coordinator. Other employees, including educators, will only report instances of Sexual Harassment (including Sexual Violence), discrimination or retaliation to the Title IX Coordinator with the Complainant's Consent.

Any person (including a person not alleged to be the victim of Sexual Harassment) **may** report Sexual Harassment at any time, including during non-business hours, to the Title IX Coordinator by mail, by telephone, by electronic mail, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written Report. Reports may be made orally or may be in writing. The Report should identify the alleged victim, perpetrator, and witnesses, and describe the Sexual Harassment in detail including date, time, and location.

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to TSPA's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible. Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer Supportive Measures and/or remedies, and/or engage in informal or formal action, as appropriate

## **CONFIDENTIALITY**

An individual who seeks completely confidential assistance may do so by speaking with professionals who have legally protected confidentiality. TSPA does not have confidential reporting resources, such as pastoral or professional counselors on campus. Crisis, mental health and victim resource hotline information is available in the “If you Experience Sexual Violence” section of the ASR. Information shared with confidential resources will not be shared with TSPA (including the Title IX Coordinator) or anyone else without express, written permission of the individual seeking services unless required by law or court order.

The school shall keep confidential the identity of any person who has made a Report or complaint of Sexual Harassment under Title IX, any Complainant, any individual who has been reported to be the perpetrator of Sexual Harassment, any Respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (“FERPA”), as required by law, or to carry out the purposes of this Policy or Title IX, including the conduct of any investigation, hearing, or judicial proceeding arising under Title IX.

TSPA may 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 and which are made and maintained in connection with the provision of treatment to the party, unless voluntary written Consent of the party or the party’s parent or guardian is obtained.

## **INITIAL RESPONSE TO REPORT OF SEXUAL HARASSMENT UNDER TITLE IX**

TSPA will treat Complainants and Respondents equitably by offering Supportive Measures to a Complainant, and by following a grievance process that complies with Title IX before the imposition of any disciplinary sanctions or other actions that are not Supportive Measures as against a Respondent.

When TSPA is required to provide notice to parties identified in the grievance process, notice shall be acceptable if it is in writing and delivered to the parties and Advisors: (a) In person by the Title IX Coordinator or designee; (b) U.S. mail to the local or permanent address of the individual as indicated in official school records. In all circumstances, the parties must confirm receipt to the Title IX Coordinator within five (5) business Days. A Respondent who fails to confirm receipt of a notice of outcome as required herein, may be subject to disciplinary sanctions.

### **Supportive Measures**

The Title IX Coordinator will provide Supportive Measures as necessary. Initially, the Title IX Coordinator will:

1. Contact the Complainant (individual alleged to be the victim of Sexual Harassment) to (a) discuss the availability of Supportive Measures; (b) consider the Complainant’s wishes with respect to Supportive Measures and inform the Complainant of the



availability of Supportive Measures with or without filing a Formal Complaint; and (c) explain to the Complainant the process for filing a Formal Complaint.

2. Determine appropriate Supportive Measures and coordinate with appropriate administration to provide supportive services to the Complainant.
3. Document the provision of Supportive Measures or if Supportive Measures are not provided, document the reasons why such response was not clearly unreasonable in light of the known circumstances.

The Supportive Measures needed by the Complainant and/or Respondent may change over time, and the Title IX Coordinator will communicate with each party to ensure that any Supportive Measures are necessary and effective based on evolving needs.

TSPA will maintain as confidential any Supportive Measures provided to the Complainant to the extent that maintaining such confidentiality would not impair the ability of the school to provide the Supportive Measures.

Victims of Sexual Violence will also be provided with written notification about existing counseling, health and/or mental health services, victim advocacy, legal assistance, visa and immigration assistance, safety planning, timely warnings, student financial aid and other services available to victims within TSPA and in the community.

**Emergency Removal of a Student.** Upon receipt of actual notice, the Title IX Coordinator (in consultation with administration) may consider whether a Respondent should be removed from the Education Program, Activity, or operation of the Academy on an emergency basis. Before any emergency removal is permitted, the school shall:

1. Undertake an individualized safety and risk analysis;
2. Determine that an immediate threat to the health or safety of students or other individual justifies removal; and
3. Provide Respondent notice of the removal and of the opportunity to challenge the decision by submitting a written statement challenging the decision and the reasons therefore, to the Title IX Coordinator within twenty-four (24) hours following the removal.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion or termination.

**Administrative Leave of an Employee.** The school may place a non-student employee Respondent on administrative leave, including during the pendency of a grievance process. TSPA shall comply with any applicable requirements under Section 504 of the Rehabilitation Act of

1973 and the Americans with Disabilities Act when removing a Respondent from the Education Program, Activity, or operation or placing a Respondent on administrative leave.

TSPA will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: temporarily re-assigning an employee, restricting a student's or employee's access to the campus, allowing a student to withdraw or take grades of incomplete without financial penalty, and authorizing an administrative leave.

## **FORMAL COMPLAINT**

4. A Complainant may file a Formal Complaint with the Title IX Coordinator in person, by mail, by electronic mail, by using the contact information for the Title IX Coordinator, or by any additional method designated by school. The Complainant may be required to fill out additional information on a Formal Complaint document.
5. A document filed by a Complainant means a document or electronic submission that contains the Complainant's physical or digital signature or otherwise indicates that the Complainant, or a guardian acting on behalf of a Complainant, is the person filing the Formal Complaint. If TSPA receives a Formal Complaint, the school will follow the grievance process below.

### **Title IX Coordinator May Sign a Formal Complaint**

6. If a Complainant chooses not to file a Formal Complaint, the Title IX Coordinator may engage in a determination of whether to sign a Formal Complaint. This determination may not be delegated to any other individual.
7. In making this determination, the Title IX Coordinator shall consult with other school administration as deemed necessary or appropriate, to consider whether the schools interest in the safety of others as well as potential disciplinary sanctions against the Respondent, warrants signing by the Title IX Coordinator.
8. Upon signing the Formal Complaint, the Title IX Coordinator does not become a Complainant or party to the Formal Complaint.

### **Dismissal of Formal Complaint**

Upon receipt of a Formal Complaint or if appropriate, at other points in the grievance process, TSPA must determine whether a Formal Complaint should be dismissed pursuant to the following provisions. The dismissal of a complaint is appealable to the extent allowed by this policy.

9. **Mandatory Dismissal.** The school must dismiss a Formal Complaint if the conduct alleged:

- a. Would not constitute Sexual Harassment as defined under Title IX even if proved; b.
- Did not occur within the school's program or activity.
- c. Did not occur against a person in the United States.

If dismissal is required, TSPA will promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties. Dismissal of a Formal Complaint does not preclude action under the TSPA code of conduct.

**10. Permissive Dismissal.** The school **may** dismiss a Formal Complaint if, at any time during the investigation, any of the following occurs:

- a. The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint;
- b. The Respondent is no longer enrolled in or employed by TSPA; or
- c. Specific circumstances prevent TSPA from gathering evidence sufficient to reach a determination as to the Formal Complaint.

If such dismissal occurs, TSPA will promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties. If dismissed, TSPA will review whether the complaint should be investigated under other applicable policies or codes of conduct.

### **Consolidation of Formal Complaints**

TSPA may consolidate Formal Complaints as to allegations of Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against another party, where the allegations of Sexual Harassment arise out of the same facts or circumstances.

### **Informal Resolution**

Following the filing of a Formal Complaint, and at any time prior to reaching a determination regarding responsibility, the Academy may facilitate an informal resolution process, including mediation, which does not involve a full investigation and adjudication. The Complainant and Respondent must voluntarily Consent in writing. The Title IX Coordinator will organize an appropriate Informal Resolution process depending on the nature of the allegations, the parties involved, and the overall circumstances. Informal Resolution will be conducted by a facilitator, who may or may not be the Title IX Coordinator. It is not necessary to pursue Informal Resolution first in order to pursue TSPA's Grievance Process. 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. Informal Resolution is unavailable to resolve allegations that an employee sexually harassed a student.

## **BASIC REQUIREMENTS OF THE GRIEVANCE PROCESS**

The grievance process shall include all the basic requirements under Title IX and all Title IX Coordinators, investigators, decision-makers, appeal decision-makers, and facilitators of informal resolution, and any other employees engaged in the grievance process shall adhere to the following:

11. Engage in an objective evaluation of all relevant evidence – including both Inculpatory and Exculpatory Evidence.
12. Refrain from making credibility determinations based on a person’s status as a Complainant, Respondent, or witness.
13. Be free from a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent, and disclose facts which are relevant to this issue prior to serving in a designated role in the grievance process.
14. Apply 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.
15. Adhere to the time frames herein for conclusion of the grievance process.
16. Apply the Preponderance of the Evidence Standard for Formal Complaints against students, employees, and all other individuals.
17. 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.

## **GRIEVANCE PROCESS**

### **Notice of a Formal Complaint**

Normally within ten (10) Days of receiving a Formal Complaint, but no less than five (5) Days before an initial interview, the Title IX Coordinator shall provide a written notice to the parties who are known. The written notice shall include:

18. Notice of grievance process, including any informal resolution process;
19. Notice of the allegations potentially constituting Sexual Harassment, including sufficient details known at the time of the notice (identities of the parties involved in the incident, the conduct allegedly constituting Sexual Harassment, and the date and location of the alleged incident);
20. 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;

21. A statement that the parties may request to inspect and review evidence that is directly related to the allegations raised in the Formal Complaint;
22. A statement that the parties may have an Advisor of their choice.
23. Notice to the parties of any provision in the TSPA code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, during an investigation, TSPA decides to investigate allegations about the Complainant or Respondent that are not included in the notice, the school shall provide notice of the additional allegations to the parties whose identities are known.

The parties will also be provided with separate written notice of any investigative interview, meeting or hearing. Interview/meeting notices will include the date, time, location, participants and purpose of the investigative interview or meeting.

### **Designated Roles in the Grievance Process**

During the grievance process, TSPA will designate individuals to serve as Advisors, if necessary, investigators, decision-makers, appeal decision-maker, and facilitator of an informal resolution.

The Complainant and Respondent will be notified in writing of the individuals assigned to the process. The Complainant or Respondent may request the removal of an individual on the grounds of personal bias or other conflict of interest by submitting a written statement to the Title IX Coordinator setting forth the basis for the request (2) Days after receiving the notice of the identity of the individual assigned. The Title IX Coordinator will determine whether to accept or deny the request. If the request is accepted, a replacement will be appointed and notice will be provided to the Complainant and Respondent. The decision of the Title IX Coordinator with regard to the request is final and is not appealable. To raise a concern involving bias or conflict of interest by the Title IX Coordinator, contact Sue Kolve-Feehan at 566 Theater Road Onalaska, WI 54650; (608) 783-7400; or [suekolve@salonproacademy.com](mailto:suekolve@salonproacademy.com).

### **Investigation of the Formal Complaint**

TSPA shall designate an investigator to investigate the allegations in a Formal Complaint and ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the TSPA and not on the parties. The investigator shall not restrict the ability of either party to gather and present relevant evidence, or to discuss the allegations under investigation.

During the investigation, the investigator shall:

24. Provide to the party whose participation is invited or expected, written notice of the date,

time, location, participants, and purpose of investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

25. Provide equal opportunity for the parties to present witnesses and other Inculpatory and Exculpatory Evidence.
26. Conduct interviews and gather evidence. No unauthorized audio or video recording of any kind is permitted during investigation interviews/meetings.
27. The Parties (and their Advisors) will be provided with evidence directly related to the allegations, in electronic format or hardcopy, with at least 10 Days for the Parties to inspect, review, and respond to the evidence. The Investigator will consider the responses received from the Parties before issuing the investigative Report.
28. Once the investigation has concluded, create an investigative Report (hardcopy or electronic) that fairly summarizes relevant evidence. The investigative Report will be sent to the parties (and their Advisors) at least ten (10) Days prior to a Live Hearing. The parties may provide a written response to the investigative Report.
29. 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.

Formal Complaints involving employees will also be simultaneously evaluated under employee conduct policies and procedures.

### **Advisors**

A party may be accompanied by an Advisor of their choice during the Grievance Process. The parties may choose Advisors from inside or outside TSPA. If the Complainant or Respondent does not have an Advisor present at the Live Hearing, TSPA will select and provide an Advisor, without fee or charge, to conduct cross-examination of witnesses on behalf of that party. A party may reject a TSPA-appointed Advisor and choose their own Advisor, but they may not proceed without an Advisor. The Complainant and Respondent may not conduct cross-examination.

Choosing an Advisor who is a witness in the Grievance Process creates potential for bias and conflict of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Decision-Maker.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the Grievance Process. Advisors are expected to advise without disrupting proceedings. For example, Advisors should not address TSPA officials in a meeting or interview unless invited to. An Advisor may not make a presentation during any meeting or proceeding and may not speak on behalf of the party to the investigation or other Decision-Maker except during a Live Hearing, during cross-examination. If an Advisor is disruptive or otherwise fails to respect the limits of the Advisor role, the meeting or interview may be ended.

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by TSPA. TSPA may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by TSPA's privacy expectations.

### **Determinations of Responsibility**

If a Formal Complaint is not or cannot be resolved through Informal Resolution, TSPA will conduct a Live Hearing. TSPA shall designate a panel of decision-makers (separate from the Title IX Coordinator or Investigator) to review the evidence and make a determination of responsibility based upon the Preponderance of the Evidence Standard.

Prior to a hearing (below), the decision-makers will review the investigation Report, file, and if applicable, the Complainant's and Respondent's written response to the investigation Report. The decision-makers will make all such evidence subject to the parties' inspection and review available at the hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross examination.

### **Hearing Procedures**

The decision-makers will provide for a live hearing for any Formal

Complaint. 30. Location and Accommodations

- a. Live Hearings may be conducted with all parties physically present in the same geographic location, or at the decision-maker'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.
- b. At the request of either party, the decision-makers must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-makers and parties to simultaneously see and hear the party or the witness answering questions.
- c. Parties who have visual, hearing, or speech disabilities will be provided accommodations necessary to effectively participate in the hearing. Parties must submit a request for accommodations to the Title IX Coordinator at least twenty four (24) hours prior to the hearing.

31. Hearing Procedures

- a. The decision-makers will conduct the hearing in a professional and orderly manner, including establishing reasonable time restrictions that will be applied equally to all parties.

- b. Prior to the presentation of witnesses, the decision-makers may allow each party's Advisor to make an opening statement.
- c. The decision-makers will allow each party to present witnesses to provide testimony related to the allegations within the Formal Complaint.
- d. The decision-makers will administer an oath for each witness before the witness is permitted to answer questions. During any witness testimony, relevant evidence may also be submitted.
- e. The decision-makers may also ask witnesses to provide testimony related to the allegations within the Formal Complaint.
- f. Each party's Advisor(s) will be permitted to ask any witnesses (including the other party) all relevant questions and follow-up questions, including questions challenging credibility of the witness. The decision-makers may limit questioning that the decision-makers determine is cumulative.
- g. Questions, including cross examination questions, must be conducted directly, orally, and in real time by the party's Advisor and never by a party personally.
- h. Each party's Advisor will only be permitted to ask cross examination questions and other questions that are relevant to the allegations.
  - 4a. Before a witness (including the Complainant and the Respondent) answers a cross-examination or other question, the decision-makers must first determine whether the question is relevant.
  - b. If a question is not relevant, the decision-maker(s) will not allow the question and must explain any decision to exclude a question as not relevant.
- i. 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:
  - 5a. That someone other than the Respondent committed the conduct alleged by the Complainant, or
  - b. If the questions and evidence concerns specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove Consent.
- j. If a party or witness does not submit to cross-examination at the live hearing, the decision makers:



- a. Must not rely on any statement of that party or witness in reaching a determination regarding responsibility; and
- b. Cannot draw any inference about a determination regarding responsibility based solely on the party's or witness's absence from the live hearing or refusal to answer cross examination or other questions.
- k. After both parties have had an equal opportunity to ask relevant questions of witnesses, the decision-makers may determine that the opportunity to present witnesses has ended. At that time, the decision-makers may permit each party to make a closing statement. The decision makers may then close the hearing.
- l. An audio or audiovisual recording or transcript of any Live Hearing will be created and maintained for seven (7) years.

### **Written Determination**

The decision-makers must conduct an objective evaluation of all relevant evidence (including both Inculpatory and Exculpatory Evidence) and must make credibility determinations that are not based on the person's status as Complainant, Respondent, or witness.

The decision-makers will render a decision based upon the investigation Report, file, response submitted by the Complainant and/or Respondent, evidence at the hearing, and any other information the decision makers may deem appropriate (and allowable under Title IX) and which is made available to both the Complainant and Respondent. While the Title IX Coordinator is available for consultation, the Title IX Coordinator will not participate in making a decision.

The decision-makers will use a Preponderance of the Evidence Standard in making a determination whether a violation of this policy has occurred.

The written determination must include:

- m. Identification of the allegations potentially constituting Sexual Harassment;
- n. 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;
- o. Findings of fact supporting the determination;
- p. Conclusions regarding the application of TSPA code of conduct to the facts;
- q. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions TSPA imposes

on the Respondent, and whether remedies designed to restore or preserve equal access to TSPA Education Program or Activity will be provided by the school to the Complainant; and

- r. TSPA's procedures and permissible bases for the Complainant and Respondent to appeal.

If the decision is made that there is not sufficient basis to believe that it is more likely than not that the Respondent violated this policy, the Complainant and Respondent will be notified of that determination and informed of other resources that may be available.

If the decision is made that it is more likely than not that the Respondent violated this policy, the decision-makers or the decision-makers' designee shall determine appropriate sanction(s), except as provided below with respect to employees. The determination will include steps to take to prevent recurrence of any such violations, and as appropriate, remedies for the Complainant. Disciplinary actions will be determined on a case-by-case basis. Factors considered when determining Sanctions may include but are not limited to: Nature, severity of, and circumstances surrounding the violations(s); Respondent's disciplinary history; Previous allegations or allegations involving similar conduct; Need for disciplinary action to bring an end/prevent future reoccurrence of the violation; Need for disciplinary action to remedy the effects on the

Complainant and TSPA community; Impact on the parties; Any other information deemed relevant by the decision-makers.

### **Sanctions for Student Respondents**

Sanctions imposed upon students who are determined to have violated this policy may include a variety of institutional responses or requirements, including, but not limited to, the following: warning, restriction on contact, removal from campus, required attendance at educational programs, required assessment or counseling, restriction of privileges, probation, suspension and/or expulsion, and any other sanctions listed in the Code of Student Conduct or deemed appropriate under the circumstances. Sanctions will be placed in a student's permanent academic file. Failure to abide by imposed Sanctions (whether by refusal, neglect or any other reason), may result in additional disciplinary action, including suspension or expulsion.

### **Sanctions for Employee Respondents**

Appropriate sanctions for faculty, staff, or administrators deemed to have violated this policy include, but are not limited to a disciplinary warning, unpaid suspensions, and/or termination of employment, or any other available sanctions as specified by the Personnel Policies Handbook. Sanctions will be placed in an employee's personnel file. Employees are also subject to processes and discipline determined by the Owner/Director and/or The Director of Education. . The HR process is separate and apart from the Title IX Process and not constrained by the outcome of the Title IX process. Failure to abide by imposed Disciplinary Actions (whether by refusal, neglect or any other reason), may result in additional Disciplinary Action, including suspension or termination.

## **Remedies to Benefit Complainants**

If a determination was made that the Respondent was responsible for Title IX Sexual Harassment, TSPA may provide the Complainant with remedies designed to restore or preserve equal access to the Academy's Education Program or Activity, including providing a safe educational or working environment. Remedies are determined on a case-by-case basis.

Such remedies may include the continuation or addition of "Supportive Measures." Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

## **APPEAL PROCEDURES**

The determination of the decision-makers may be appealed as provided below. In the event that no appeal is filed within the time periods prescribed below, the decision will be final.

32. Both parties have the right to appeal a determination regarding responsibility, TSPA's dismissal of a Formal Complaint or any allegations therein if:
  - a. Procedural irregularity affected the outcome of the matter;
  - b. 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/or
  - c. The Title IX Coordinator, investigators, or decision-makers 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.
  
33. The request for an appeal must be submitted in writing to the Title IX Coordinator within five (5) business Days of receiving the written determination. If an appeal is filed, the determination regarding responsibility becomes final on the date that TSPA provides the parties with the written determination of the result of the appeal. Failure to file a timely appeal constitutes a waiver of any right to an appeal. If an appeal is not filed, the determination regarding responsibility becomes final on the sixth business Day after receiving the written determination.
  
34. The appeal decision-maker must:
  - a. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
  - b. Give both parties five (5) Days (which may be extended for good cause) to submit a written statement in support of, or challenging, the outcome;
  - c. Issue a written decision describing the result of the appeal and the rationale for the

result; and

d. Provide the written decision simultaneously to both parties.

35. If the appeal decision-maker determines one of the above basis for an appeal is satisfied, the matter may be returned for further review of the investigation Report by new decision-makers. If the basis for appeal related to the investigation, or warrant additional investigation, the new decision-makers may refer the matter to for further investigation before proceeding. The new decision-makers shall utilize the same process as required for all Formal Complaints under this Policy.
36. If there is not adequate reason to believe that one or more grounds for appeal has been satisfied, the appeal decision-maker may dismiss the appeal. This decision is final and is not appealable.
37. The appeal decision-maker will provide a written determination to the parties within ten (10) business Days of the filing of the appeal.

#### **TIMEFRAME FOR DETERMINATION**

Generally, the grievance process consists of a Formal Complaint, investigation, Live Hearing, determination, Sanctions, Remedies and appeal (if applicable). The grievance process, barring extenuating circumstances, will conclude within ninety (90) Days from the date the Formal Complaint is received. The parties may agree to an extension of the 90-Day timeframe to complete the grievance process or extend this timeline for good cause, as permissible by law.

#### **RETALIATION PROHIBITED**

Both Title IX and the Clery Act provide protections for individuals who bring allegations of non-compliance with the Clery Act and/or Title IX to the attention of appropriate campus administrators. Retaliation (including intimidation, threats, coercion or discrimination) against an individual for raising an allegation of Sexual Harassment, for cooperating in the grievance process is prohibited.

TSPA does not retaliate against those who raise concerns of non-compliance. Any concerns should be brought to the immediate attention of the Title IX Coordinator.

#### **RECORDKEEPING**

TSPA shall maintain for a period of seven years, records of:

38. Each Sexual Harassment investigation, including any determination regarding responsibility, any audio or audiovisual recording or transcript, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve access to the Academy's Education Program or Activity;
39. Any appeal and the result therefrom;

40. Informal resolution and the result therefrom; and

41. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process with regard to Sexual Harassment.

The Academy shall create and maintain for a period of seven years, records of any actions, including any Supportive Measures, taken in response to a Report or Formal Complaint of Sexual Harassment.

With respect to each response, TSPA shall document the basis for its conclusion that its response was not deliberately indifferent, and document that it took measures designed to restore or preserve access to the school's Educational Program or Activity. The documentation of certain bases or measures does not limit the school in the future from providing additional explanations or detailing additional measures taken.

Privacy of the records specific to the investigation is maintained in accordance with state law and the federal FERPA statute. Any public release of information needed to comply with the timely warning provisions of the Clery Act will not include the names of Complainant or information that could easily lead to a Complainant's identification. Irrespective of state law or public records access provisions, information about Complainants is maintained privately in accordance with Title IX and FERPA.

## **TRAINING**

The School shall ensure that the following training is provided:

42. Title IX Coordinators, investigators, decision-makers, appeal decision-makers, and any person who facilitates an informal resolution process shall receive training on the definition of Sexual Harassment under Title IX, the scope of The Salon Professional Academy's Education Program or Activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

43. The Salon Professional Academy shall ensure investigators receive training on how to create an investigative Report that fairly summarizes relevant evidence.

44. The Salon Professional Academy shall ensure decision-makers receive training on issues of relevance of questions and evidence, including questions and evidence about a Complainant's prior sexual behavior. Decision-makers shall also receive training on any technology to be used at a live hearing.

45. Informal Resolution facilitators will receive training on the informal resolution process.

Any materials used to train Title IX Coordinators, investigators, decision-makers, appeal decision-makers, and facilitators of informal resolutions may not rely on sex stereotypes and

must promote impartial investigations and adjudications of Formal Complaints of Sexual Harassment.

All materials used for mandatory training will be posted on The Salon Professional Academy's website.

## **ADDITIONAL INFORMATION**

### **The Clery Act**

TSPA administrators will issue timely warnings for incidents reported that pose a substantial threat of bodily harm or danger to other members of the campus community. TSPA will make every effort to ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger. TSPA reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, or a change in student status.

Personally identifiable information for victims of Sexual Assault, Dating Violence, Domestic Violence and Stalking will not be included in any publicly available recordkeeping, including Clery Act Reporting and disclosures such as the ASR. The school policy on the Clery Act can be found here: <https://salonproacademy.com>

### **1. Office of Civil Rights**

Students and employees may contact the Title IX Coordinator with any questions related to this policy. In addition, the U.S. Department of Education Office for Civil Rights ("OCR") investigates complaints of unlawful harassment of students in Educational Programs or Activities. This agency may serve as a neutral fact finder and will attempt to facilitate the voluntary resolution of disputes with the Parties. For more information, visit the OCR website at <http://www.hhs.gov/ocr/>. To the extent that an employee or contract worker is not satisfied with TSPA's handling of a complaint, he or she may also contact the appropriate state or federal enforcement agency for legal relief.

### **Sexual Violence –Immediate Care and Preservation of Evidence**

If you experience Sexual Violence, some or all of these safety suggestions may guide you after an incident has occurred:

1. Go to a safe place. If there is any immediate danger, call 911.
2. Consider securing immediate professional support (e.g., counseling, victim advocacy, medical services, etc.) to assist you. TSPA does not have a confidential counselor but local resources are available that can provide confidential assistance. See the "If you Experience Sexual Violence" section of the ASR for more information.
3. For your safety and well-being, immediate medical attention is encouraged. Further, being examined (through a forensic examination) as soon as possible, ideally within 120 hours, is important in the case of rape or Sexual Assault. Completing a forensic examination does not

require someone to file a police Report. To find a location near you that performs free forensic examinations, call the National Sexual Assault Hotline at (800) 656-4673. Resources are also available through the Rape Abuse & Incest National Network (RAINN); [www.RAINN.org](http://www.RAINN.org).

To preserve evidence, it is recommended that you do not bathe, shower, douche, eat, drink, smoke, brush your teeth, urinate, defecate, or change clothes before receiving medical attention. Even if you have already taken any of these actions, you are still encouraged to have prompt medical care, and evidence may still be recoverable.

Typically, if police are involved or will be involved, they will obtain evidence from the scene, and it is best to leave things undisturbed until their arrival. They will gather bedding, linens or unlaundered clothing, and any other pertinent items that may be used for evidence. It is best to allow police to secure items in evidence containers, but if you are involved in transmission of items of evidence, such as to the hospital, secure them in a clean paper bag or clean bedsheet to avoid contamination.

If you have physical injuries, photograph or have them photographed, with a date stamp on the photo.

Record the names of any witnesses and their contact information. This information may be helpful as proof of a crime, to obtain an order of protection, or to offer proof of a TSPA policy violation.

Try to memorize details (e.g., physical description, names, license plate number, car description, etc.), or even better, write notes to remind you of details, if you have time and the ability to do so.

### **Prevention and Education**

In accordance with the Clery Act and VAWA, TSPA offers a range of strategies to promote awareness, education, risk reduction, and prevention in an effort to reduce the frequency of sex or gender-based discrimination, harassment, and violence amongst members of the campus community.

TSPA offers resources to identify and prevent Sexual Assault, Dating Violence, Domestic Violence (including stranger and known offender assaults), and Stalking each year. Resources are offered to raise awareness for all incoming students and employees and are often conducted during new student and new employee orientation.

Resources offered throughout the year to students and employees include information regarding awareness and primary prevention and discuss TSPA's policies. Resources provided also offer information on risk reduction that strives to empower individuals who experience these incidents, how to recognize warning signs, and how to avoid potential attacks, and do so without biased approaches.

Bystander engagement is encouraged through safe and positive intervention techniques and by

empowering third-party intervention and prevention such as calling for help, using intervention based apps, identifying allies, and/or creating distractions. Bystander empowerment resources highlight the need for those who intervene to ensure their own safety in the intervention techniques they choose and motivates them to intervene as stakeholders in the safety of the TSPA community when others might choose to be bystanders.



## **Record of Changes and Reviews**

Location of Change or reviewed section/ summary of changes/ date & entered by at end of changes(format). Corrections of typos and formatting will not be noted.

Page 2: Updated contact information for Title IX Coordinator.

Page 18: Added owner/director and/or director of education as the determining parties under sanctions for employee respondents.

Becky Karpinsky 3/2/2022