

Policy on Sexual Harassment

A. Notice of Nondiscrimination

As a recipient of federal funds, Sovah School of Health Professions (SOHP), must comply with the rules and regulations of Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § et seq. ("Title IX"). This law prohibits discrimination on the basis of sex in educational programs or activities, admission and employment. Sexual harassment, sexual violence, sexual assault, and domestic and dating violence are referred to as sexual misconduct which constitutes sexual discrimination prohibited by Title IX. This policy also addresses requirements under the Violence Against Women Reauthorization Act of 2013 and the Code of Virginia §23-234 and §23-9.2:15-17.

B. Policy

Sovah SOHP prohibits sex (gender) discrimination as well as any of the above mentioned sexual misconduct within our program. This policy applies to students, faculty, staff, and third parties (ex. student observers, visitors, patients) in **ALL** didactic and clinical assignments and any school related activities. Our program is committed to provide a non-hostile educational environment free of retaliation for reporting and aiding in an investigative procedure.

Anyone that feels they have been a victim of sexual and domestic violence, dating violence, or stalking should contact law enforcement authorities. This policy **DOES NOT** replace criminal or civil law. The Title IX Coordinator will work along with faculty members to insure a timely internal investigation, resolve the sexual misconduct, provide interim measures, and prevent recurrence.

Any questions, comments, concerns, or reporting related to Title IX can be directed to the Title IX Coordinator.

Title IX Coordinator

Mary Thomas
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Danville, VA 24541
(434) 799-2271
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C. Definitions

1. Actual Knowledge – Actual knowledge means notice of sexual harassment or allegations of sexual harassment to the School's Title IX Coordinator (and/or any other official of the School who has authority to institute corrective measures on behalf of the School).

2. Advisor – An advisor is an individual who provides the complainant or respondent support, guidance, and advice. Advisors may be present at any meeting or live hearing but may not

speak directly on behalf of the complainant or respondent, except to conduct cross-examination during a live hearing. Advisors may be but are not required to be licensed attorneys.

3. Appeal Officer – The Appeal Officer is the designated employee who reviews the complete record of the formal complaint and written statements of the parties during an appeal of a written determination. The Appeal Officer decides whether to grant the appeal and determines the result of the appeal.

4. Campus – Campus refers to (i) any building or property owned or controlled by the School within the same reasonably contiguous geographic area of the School and used in direct support of, or in a manner related to, the School’s educational purposes, and (ii) any building or property that is within or reasonably contiguous to the area described in clause (i) that is owned by the School but controlled by another person, is frequently used by students, and supports institutional purposes, such as a food or other retail vendor.

5. Complainant – A complainant is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. A complainant may file a formal complaint against faculty, staff, students, or third parties.

6. Consent – Consent is knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Silence does not necessarily constitute consent. Past consent to sexual activities, or a current or previous dating relationship, does not imply ongoing or future consent. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). An individual cannot consent who is under the age of legal consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred. Any sexual activity or sex act committed against one’s will, by the use of force, threat, intimidation, or ruse, or through one’s mental incapacity or physical helplessness is without consent.

a) *Mental incapacity* means that condition of a person existing at the time which prevents the person from understanding the nature or consequences of the sexual act involved (the who, what, when, where, why, and how) and about which the accused knew or should have known. This includes incapacitation by using drugs or alcohol. Intoxication is not synonymous with incapacitation.

b) *Physical helplessness* means unconsciousness or any other condition existing at the time which otherwise rendered the person physically unable to communicate an unwillingness to act and about which the accused knew or should have known. Physical helplessness may be reached through the use of alcohol or drugs.

7. Cumulative Evidence – Cumulative evidence is additional evidence that has been introduced already on the same issue and is therefore unnecessary. The Hearing Officer has the discretion to exclude cumulative evidence.

8. Dating Violence – Dating violence is violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury committed by a person who is or has been in a close relationship of a romantic or intimate nature with the other person. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

9. Domestic Violence – Domestic violence is violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person against such person's family or household member, which includes a current or former spouse, a person with whom the victim shares a child in common, or who is cohabitating with or has cohabitated with the person as a spouse or intimate partner.

10. Due Process – Due process is a right guaranteed by the Fifth and Fourteenth Amendments of the U.S. Constitution. Basic procedural due process guarantees that an individual receives notice of the matter pending that relates to the possible deprivation of a property or liberty interest and the opportunity to be heard. For example, students and employees facing suspension or expulsion/termination for disciplinary reasons must be given notice of the allegations against them prior to any hearing or determination of responsibility.. Any disciplinary process must be fair and impartial . Additionally, the opportunity to respond must be meaningful.

11. Education Program or Activity – An education program or activity encompasses all of the School's operations and includes locations, events, or circumstances over which the School exercises substantial control over both the respondent and the context in which the sexual harassment occurs. Examples of education programs or activities includes, but are not limited to, college-sponsored conferences, student organizations, and wi-fi network.

12. Exculpatory Evidence – Exculpatory evidence is evidence that shows, or tends to show, that a respondent is not responsible for some or all of the conduct alleged in the notice of allegations. The School must provide the respondent with all exculpatory evidence.

13. Final Decision – A final decision is the written document that describes any sanctions imposed and remedies provided to the respondent and complainant, respectively, at the conclusion of the formal resolution process.

14. Formal Complaint – A formal complaint is a document filed and signed by a complainant or signed by the Title IX Coordinator that alleges sexual harassment against a respondent and requests the School to investigate the allegation of sexual harassment. The complainant must be participating in or attempting to participate in an education program or activity of the School when the formal complaint is filed. A complainant cannot file a formal complaint anonymously. The Title IX Coordinator may sign on a complainant's behalf in matters where it is in the best interest of the complainant or the School to do so.

15. Freedom of Speech – The freedom of speech is a right guaranteed by the First Amendment of the U.S. Constitution to express one’s thoughts and views without unlawful governmental restrictions. As governmental entities, Colleges must not infringe on this right. This Policy expressly prohibits censorship of constitutionally protected expression.

16. Hearing Officer – A Hearing Officer is the presiding official of a live hearing who must issue a written determination on responsibility.

17. Inculpatory Evidence – Inculpatory evidence is evidence that shows, or tends to show, that a respondent is responsible for some or all of the conduct alleged in the notice of allegations.

18. Preponderance of the Evidence – A preponderance of the evidence is evidence that shows that the fact sought to be proved is more probable than not to be true. A preponderance of the evidence means evidence that is of greater weight or more convincing than the evidence that supports the contrary position.

19. Relevance – Relevance refers to evidence that tends to prove or disprove whether the respondent is responsible for the alleged conduct. In determining whether a question is relevant, the Hearing Officer must focus on evidence pertinent to proving whether facts important to the allegations in the formal complaint are more or less likely to be true.

20. Remedies – Remedies are actions taken or accommodations provided to the complaint after a determination or responsibility for sexual harassment has been made against the respondent. Remedies are designed to restore or preserves equal access to the School’s education program or activity. Remedies may be disciplinary or non-disciplinary.

21. Report of Sexual Harassment – A report of sexual harassment occurs when anyone reports an allegation of sexual harassment to the Title IX Coordinator, or that reaches the Title IX Coordinator through a Responsible Employee. An individual need not be participating or attempting to participate in an education program or activity of the School to file a report. The respondent also does not need to be an employee, student, or otherwise affiliated with the School for a person to file a report against a respondent. A report of sexual harassment does not trigger an investigation or the formal or informal resolution process, but it does require the Title IX Coordinator to meet with the complainant.

22. Respondent – A respondent is an individual who has been reported to have engaged in conduct that could constitute sexual harassment as defined under this Policy. In most cases, a respondent is a person enrolled or employed by the School or who has another affiliation or connection with the School. The School may dismiss a formal complaint when the School has little or no control over the respondent, but will offer supportive measures to the complainant and set reasonable restrictions on an unaffiliated respondent when appropriate.

23. Responsible Employee – A Responsible Employee is an employee who has the authority to take action to redress sexual harassment; who has been given the duty to report sexual

harassment to the Title IX Coordinator; or an employee a student could reasonably believe has such authority or duty.

24. Sex Discrimination – Sex discrimination is the unlawful treatment of another based on the individual’s sex that excludes an individual from participation in, separates or denies the individual the benefits of, or otherwise adversely affects a term or condition of an individual’s employment, education, or participation in an education program or activity. The School’s treatment of a complainant or a respondent in response to a formal complaint of sexual harassment constitutes sex discrimination under Title IX when such response is deliberately indifferent.

25. Sexual Assault – Sexual assault is any sexual act directed against another person without consent or where the person is incapable of giving consent. Sexual assault includes intentionally touching, either directly or through clothing, the victim’s genitals, breasts, thighs, or buttocks without the person’s consent, as well as forcing someone to touch or fondle another against his or her will. Sexual assault includes sexual violence.

26. Sexual Exploitation – Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit, or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual offenses. Examples of sexual exploitation include prostituting another person; non-consensual video or audio-taping of otherwise consensual sexual activity; going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex), and knowingly transmitting HIV or an STD to another.

27. Sexual Harassment – Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

a) *Quid Pro Quo* – The submission to or rejection of such conduct is used as the basis for educational or employment decisions affecting the student or employee either explicitly or implicitly;

b) *Hostile Environment*: Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an education program or activity of the School, including a student’s educational experience or an employee’s work performance;

c) *Clery Act/VAWA Offenses*: Sexual assault/sexual violence, dating violence, domestic violence, and stalking, as defined by this Policy.

28. Sexual Violence – Sexual violence means physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent. Sexual violence includes rape and sexual assault.

29. Stalking – Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. Such conduct can occur in person or online, but the conduct must involve an education program or activity of the School.

30. Statement – A statement is a person’s intent to make factual assertions, including evidence that contains a person’s statement(s). Party or witness statements, police reports, Sexual Assault Nurse Examiner (SANE) reports, medical reports, and other records may not be relied upon in making a final determination after the completion of a live hearing if they contain statements of a party or witness who has not submitted to cross-examination.

31. Supportive Measures – Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

32. Third Party – A third party is any person who is not a student or employee of the School.

33. Title IX – Title IX means Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in any education program or activity receiving Federal financial assistance.

34. Title IX Coordinator – The Title IX Coordinator is the employee designated and authorized to coordinate the School’s effort to comply with its responsibilities under Title IX.

35. Workday – A workday is any day that the School is open for business. Workdays include days when classes are not held, but when employees are expected to be at work.

36. Written Determination – A written determination is the written decision by a Hearing Officer that a respondent is responsible or not responsible for a violation of this Policy.

D. Retaliation

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Retaliation against an individual for an allegation, for supporting a reporting party, or for assisting in providing information relevant to an allegation is a serious violation of this policy. Sovah SOHP prohibits retaliation against a complainant, witness, or bystander for reporting an alleged violation to this policy or participating in any capacity of an investigation. Discipline will be administered if there is a violation of this policy up to and including being removed from the School or termination of employment.

E. Reporting Incidents of Sexual Harassment

a) Formal Reporting Options

All school faculty have a duty to report, unless they fall under the “Confidential Reporting” section below. Reporting parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared by the employee with the Title IX Coordinator. Employees must share all details of the reports they receive. Generally, climate surveys, classroom writing assignments, human subjects research, or events such as Take Back the Night marches or speak-outs do not provide notice that must be reported to the Coordinator by employees. Remedial actions may result without formal action.

If a victim does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the victim may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. In cases indicating pattern, predation, threat, weapons and/or violence, the School will likely be unable to honor a request for confidentiality. In cases where the victim requests confidentiality and the circumstances allow the School to honor that request, the School will offer interim supports and remedies to the victim and the community, but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have reports taken seriously by the School when formally reported, and to have those incidents investigated and properly resolved through these procedures.

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told, including but not limited to: School faculty, supervisors/directors of clinical sites, and the security department of the clinical sites. Information will be shared as necessary with witnesses and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party’s rights and privacy. Additionally, anonymous reports can be made by victims and/or third parties using the online reporting form. Note that these anonymous reports may prompt a need for the institution to investigate.

Reports to the Title IX Coordinator can be made via email, phone or in person at the contact information below:

Mary Thomas

109 Bridge Street, Suite 200

Danville, VA 24541

(434) 799-2271

Mary.thomas1@lpnt.net

Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sex or gender harassment or discrimination of which they become aware, is a violation of School policy and can be subject to disciplinary action for failure to comply with School policies.

b) Confidential Reporting

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with:

- On-site:
 - Darlene Hankins, Pastoral Care Services
(434) 799-4473 *or* call the Switch Board at (434) 799-2100
 - Ray Garassino, License Clinical Social Worker
(434) 799-3782
 - Kesshia Brown, License Professional Counselor
(434) 799-2242

- Off-campus: (A List of Community Resources are in the Appendix)
 - Licensed professional counselors
 - Local rape crisis counselors
 - Domestic violence resources,
 - Local or state assistance agencies,
 - Clergy/Chaplains

All of the above employees will maintain confidentiality except in extreme cases of immediate threat or danger, or abuse of a minor. On-site counselors (and/or the Employee Assistance Program) are available to help free of charge and can be seen on an emergency basis during normal business hours. These employees will submit yearly anonymous, aggregate, statistical information for Clery Act purposes unless they believe it would be harmful to a specific client, patient or parishioner.

F. Timely Warnings

Victims of sexual misconduct or any other incidents should also be aware that the Program Director must issue immediate timely warnings for incidents reported to the School that are confirmed to pose a substantial threat of bodily harm or danger to members of the hospital or campus community. The School will 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. The warning will be sent out via *Crew*.

G. Interim Remedies and Long-Term Remedies

During an investigation, or as a result of an informal resolution, interim remedies may need to be put in place to protect the complainant depending on the nature of the sexual misconduct. These interim steps will be taken promptly, and at no cost to the complainant. Sovah SOHP will continue to take these steps if sexual violence is found to have occurred. These remedies may include, but are not limited to:

- retaking a test
- making up a late assignment
- a no-contact order
- a change to parking status
- increased security while in the building or walking in the parking lot, and/or
- filing a leave of absence following the school's policy.

H. Sanctions

Sovah School of Health Professions will take the appropriate steps to prevent the recurrence of any violations of this policy and correct any discriminatory effects. Sanctions for a respondent who violated any part of this policy are based on the nature and severity of the misconduct, any record of prior discipline for a similar violation, or both. Any sanctions against the faculty will be addressed appropriately with Sovah Health's Human Resources Department.

If the respondent poses a threat to the complainant or on the premises, sanctions may be applied before the investigation/appeals process is complete.

The following sanctions may be imposed upon any member of the community found to have violated the Sex/Gender Harassment, Discrimination and Misconduct Policy. The following are the typical sanctions that may be imposed upon students or employees singly or in combination:

Student Sanctions

- Warning
- Probation
- A No-Contact Order
- Suspension
- Suspension Pending Investigation
- Expulsion
- Withholding Degree
- Revocation of Degree
- Transcript Notation
- Other Actions

Employee Sanctions (listed below and defined in Sovah Health's Corrective Counseling/Discipline & Behavioral Accountability Policy)

- Verbal Counseling
- Written Counseling
- Suspension
- Suspension Pending Investigation
- Termination

I. Notice/Complaint

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the Policy, the Title IX Coordinator initiates a prompt initial assessment to determine the next steps the School needs to take.

The Title IX Coordinator will initiate at least one of three responses:

- 1) Offering supportive measures because the Complainant does not want to file a formal complaint or the School does not have jurisdiction over the alleged act; and/or
- 2) An informal resolution (upon submission of a formal complaint); and/or
- 3) A Formal Grievance Procedure including an investigation and a hearing (upon submission of formal complaint).

J. Formal Grievance Procedure

The Formal Grievance Procedure will take place when the Title IX Coordinator assesses the complaint and determines that the alleged incident of sexual harassment, sexual assault, domestic violence, dating violence, and/or stalking (as defined by the School's policy, if proven)

AND the conduct:

- Happened in the United States;
- Occurred where the college controls the context of the incident;
- The School has jurisdiction over the respondent as a student or employee; and
- Happened to a complainant who at the time of the complaint was participating in or attempting to participate in the School's educational program.

In order maintain an unbiased Formal Grievance Procedure, the entire process, from investigation to appeals, will be handled by an outsourced entity which will include trained individuals that will hold the formal roles that are required by the 2020 Title IX Regulations.

Once the decision is made to commence a formal investigation, the trained investigator(s) will conduct the investigation. Investigations are completed within 30 business days, though some investigations take weeks or even months, depending on the nature, extent and complexity of the allegations, availability of witnesses, police involvement, etc.

The School may undertake a short delay in the investigation process when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The School will promptly resume its investigation and resolution process once notified by law enforcement that the initial evidence collection process is complete. The School action will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. The complainant has the right to proceed with a criminal investigation and a Title IX complaint simultaneously.

All investigations will be thorough, reliable, impartial, prompt, and fair. Investigations entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, as necessary.

These are the steps of a formal investigation (not necessarily in this order):

- Initiate any necessary remedial actions;
- Determine the identity and contact information of the reporting party;
- Conduct an immediate preliminary inquiry to determine if there is reasonable cause to believe the responding party has violated policy.
 - If there is insufficient evidence to support reasonable cause, the inquiry should be closed with no further action;
- Identify all policies allegedly violated;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party, who may be given notice prior to or at the time of the interview;

- Prepare the notice of allegation on the basis of the preliminary inquiry;
- Meet with the reporting party to finalize their statement, if necessary;
- Provide written notification to the parties prior to their interviews that they may have an advisor of their choosing present for all meetings attended by the advisee;
- Provide reporting party and responding party with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures and a statement of the potential sanctions/responsive actions that could result;
- Prior to the conclusion of the investigation, provide the reporting party and the responding party with a list of witnesses whose information will be used to render a finding;
- Allow each party the opportunity to suggest questions they wish the investigator to ask of the other party and witnesses;
- Provide parties with all relevant evidence to be used in rendering a determination and provide each with a full and fair opportunity to address that evidence prior to a finding being rendered;
- Complete the investigation promptly, and without reasonable deviation from the intended timeline;
- Provide regular updates to the reporting party throughout the investigation, and to the responding party, as appropriate;

At any point during the investigation, if it is determined there is no reasonable cause to believe that Sovah SOHP policy has been violated, the Title IX Coordinator has authority to terminate the investigation and end resolution proceedings.

No unauthorized audio or video recording of any kind is permitted during investigation meetings or other Equity Resolution Process proceedings.

K. Informal Resolution

The informal resolution process is often used for less serious, yet inappropriate, behaviors. The Title IX Coordinator will determine if the informal resolution is appropriate. If the alleged incident does not meet the School's definition of sexual harassment, sexual assault, domestic violence, dating violence, and/or stalking AND/OR the conduct doesn't meet the following criteria:

- Happened in the United States;
- Occurred where the college controls the context of the incident;
- The School has jurisdiction over the respondent as a student or employee; and
- Happened to a complainant who at the time of the complaint was participating in or

attempting to participate in the School's educational program then the School is not required to follow the formal grievance procedure.

In an informal resolution meeting, a Title IX Coordinator will facilitate a dialogue with the parties to an effective resolution, if possible. Remedies will be offered to assist both the complainant and the respondent, as appropriate. The Title IX Coordinator will keep records of any resolution that is reached, and failure to abide by the accord can result in appropriate responsive actions. Any disciplinary actions will fall under our School's Code of Conduct Policy.

L. Failure to Complete Sanctions/Comply with Interim and Long-term Remedies/Responsive Actions

All responding parties are expected to comply with conduct sanctions, responsive actions and corrective actions within the timeframe specified by the Title IX Coordinator. Failure to abide by the conduct sanctions, responsive actions and corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/responsive/corrective actions and/or suspension, expulsion and/or termination. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

M. Revision

These policies and procedures will be reviewed and updated annually by the Title IX Coordinator. Sovah SOHP reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect. The Title IX Coordinator may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party. The Title IX Coordinator may also vary procedures materially with notice (on the School Website, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure. Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred. Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such codes generally.

This policy and procedure was implemented in December 2020.