

## INTRODUCTION

On January 8, 2016, Dr. Luke Hartman, former Vice President of Enrollment at Eastern Mennonite University (EMU), was arrested for solicitation. He was suspended on January 9 and resigned January 11. On April 12, 2016 Lauren Shifflett released a public statement through a blog posting which, among other things, included a recounting of her relationship with Dr. Hartman.

Following Shifflett's April 12, 2016 statement, the Board of Trustees of EMU immediately began measures to engage an independent firm to conduct two reviews and submit a report to the Board of Trustees:

- 1. Policy Review:** A review of EMU's sexual misconduct policy and procedures to ensure compliance with Title IX, the Clery Act and other higher-education-specific state and federal rules, restrictions and requirements. All EMU policies related to sexual misconduct/abuse, whether or not required by governmental mandates, were included in the review to determine whether they were in compliance and were adequate to prevent sexual misconduct/abuse and to enable administrative staff and/or faculty to appropriately handle allegations of sexual misconduct or abuse.
- 2. Administrative Review:** A review of EMU's administrative policies and procedures used to prevent sexual misconduct/abuse and to handle allegations of sexual misconduct/abuse by administrative staff or faculty; a review of hiring policies and procedures; and to determine the facts in the Luke Hartman matter of who knew what information when, and whether appropriate administrative actions were taken based on the available information.

**Investigative organization:** D. Stafford & Associates (DSA), which conducted both reviews, is a woman-owned and operated professional consulting firm specializing in campus safety, campus security, and law enforcement issues on college and university campuses, including specialization in Clery Act and Title IX compliance issues. Services offered by the company include comprehensive audits of Clery compliance records and the institutional process/ methodology in place to appropriately comply with the Clery Act; assessment or development of sexual harassment and sexual misconduct policies and procedures that demonstrate compliance with the Clery Act and Title IX; external investigations of sexual misconduct on behalf of institutions; assessment or development of institutional emergency response policies and procedures; search services for the positions of Chief of Police, Director of Public Safety, Clery Compliance Officers, and Title IX Coordinators; and training, both on site at client institutions as well as in courses offered at various locations around the United States, on all facets of safety and security issues facing higher education administrators.

**Methodology:** The reviews conducted by DSA included fact-finding into allegations of sexual misconduct alleged to have been perpetrated by Dr. Hartman; an assessment of EMU's hiring process and specifically, the hiring of the employee alleged to have engaged in the sexual misconduct incidents in question; an assessment to determine if EMU's policies and procedures related to the intake and resolution of complaints of sexual harassment and gender-based harassment are adequate to prevent sexual misconduct/abuse; and an assessment of whether EMU's policies enable administrators to appropriately handle complaints that they are aware of or reasonably should be aware of based on the information known at the time. In the course of this inquiry DSA interviewed 49 witnesses, received affidavits from two who declined to be interviewed and examined more than 1,000 pages of documents.

## FINDINGS AND RECOMMENDATIONS

### A. Assessment of EMU's Sexual Misconduct Policy and Procedures and their Adequacy to Stop and Prevent Sexual Misconduct/Sexual Abuse at EMU

#### FINDINGS

EMU has extensive and detailed policies addressing sexual discrimination and/or sexual misconduct. The responsible employees at EMU are informed on the procedures and committed to the intake and equitable resolution of complaints of sex and gender-based discrimination and misconduct. The policies have developed over time and are currently found in seven separate areas. This multiplicity of statements makes it cumbersome to monitor the updating of policies to ensure they are fully compliant with the constant stream of regulatory updates and may make it difficult for both victims and reporters to easily determine all the options for reporting. Some gaps were found, e.g. the need for continuous designation and training of all Campus Security Authorities (CSA) and Responsible Employees (RE), as defined by Title IX and the Clery Act, who have an obligation to report harassment, abuse or violence.

Currently, responsibility for coordination and implementation of Title IX functions is concentrated in a few individuals who also fill other unrelated roles.

#### RECOMMENDATIONS

Combine the current seven policy statements addressing matters of discrimination and misconduct into one comprehensive institutional sexual misconduct policy and procedure in order to ensure consistency, clarity and ease-of-use. The combined policy would clarify that it applies to all members of the EMU community (students, faculty, administration and staff) and to third parties as applicable. The Policy Review identified specific items that may need to be updated, clarified or strengthened.

Create a new full-time dedicated Title IX Coordinator position and appoint two to three Deputy Title IX Coordinator positions. The deputy positions could be integrated with other roles such as Human Resources director or the Vice President for Student Life. This would facilitate separation of duties. (For example, the Title IX Coordinator would review all cases of reported misconduct but would not conduct investigations. Deputies could conduct investigations.)

Develop and implement a comprehensive system for tracking and maintaining documentation of reports, investigations, interim measures, and resolutions of acts that may constitute sexual or gender-based harassment or misconduct.

Conduct a comprehensive assessment of all employees and whether they should be designated as CSAs under the Clery Act and/or REs under Title IX and ensure there is a procedure to regularly notify these designees of their status and duties to report sexual harassment and misconduct to the Title IX Coordinator promptly. Maintain an active list of REs who have the right and responsibility of confidentiality as licensed professional counselors, pastors engaged in pastoral counseling or health care providers who are required to maintain confidentiality based on their licensures. In addition, regularly provide thorough training to CSAs and REs, including adjunct professors as REs, at all EMU geographic locations.

Continue to provide annual training for all incoming students and for all student leaders of student groups (e.g., athletes, students in residence halls) addressing sexual misconduct and information on EMU's Title IX policies and procedures.

Conduct bi-annual climate surveys for students regarding their knowledge of sexual discrimination, harassment and sexual assault/violence or any experiences with sexual discrimination while attending the University, and the students' awareness of the University's Title IX policies and procedures.

## B. Analysis of the Hiring Processes for Dr. Luke Hartman

Hartman was employed at EMU in several capacities from 2003 to 2016, beginning as an adjunct instructor in 2003. From 2004 to 2006 he was a full-time Instructor in the Education Department. He left EMU in 2006 to work in the Harrisonburg City schools until 2011 when he returned to EMU as Vice President of Enrollment. Prior to and between assignments at EMU, Hartman taught special needs and at-risk middle and high school students and had experience lecturing and supervising future teachers at the college level at James Madison University, Hesston College, Wichita State University and EMU. He was a popular keynote speaker at Mennonite Church USA conferences and other events and was an alumnus of EMU.

### FINDINGS

The investigation found that EMU follows a hiring process consistent with most institutions of higher education and has additional steps in the process including the submission of a faith statement and the signing of a Community Lifestyle Commitment (CLC) document. The exact timing of submission of the Faith Statement and CLC related to each of his employment periods is not totally clear but Hartman did submit the required statements. Nothing in his faith statements indicate any disagreement or misunderstanding of the mission of EMU or of the requirements of the CLC.

Hartman received high performance ratings for his teaching while on the Education Department faculty in 2004-2006 and was regarded as a gifted teacher. When he resigned to take a position with the Harrisonburg City Public Schools his EMU Education faculty colleagues encouraged him to return to Mennonite higher education in the future.

When EMU recruited Hartman for the Vice-President of Enrollment position at the end of 2010 he was strongly endorsed for the position by several people inside and outside the EMU community.

Reference calls made by President Swartzendruber when hiring Hartman, including calls to Hesston College, yielded positive endorsements of Hartman for the role and did not reveal any concerns regarding misconduct by Hartman while at Hesston. From his own service as President of Hesston College, when he worked with Hartman, Swartzendruber was not aware of any issues which indicated Hartman should not be hired for the position. After he was hired as Vice President of Enrollment Hartman's supervisor at the Skyline Middle School submitted a positive reference.

Following Lauren Shifflett's April 2016 public disclosure, there were rumors from third parties (not persons who are alleging being a victim themselves) of inappropriate conduct by Hartman while at Hesston College and allegations that Swartzendruber should have known about them. The investigators followed up on leads provided to them yet were unable to confirm any inappropriate incidents by Hartman while at Hesston College beyond the rumor stage and more importantly found no evidence that Swartzendruber was aware of any incidents that would have impacted Hartman's hiring at EMU. No rumor alleged non-consensual sexual touching of any kind.

Hartman's criminal background check prior to employment at EMU as Vice President for Enrollment was also clear. In sum, no evidence was found that EMU should have been on notice of any inappropriate behavior by Hartman disqualifying him for the position prior to his hire as a Vice-President.

Tracking of the normal sequence of all the steps in the hiring process is not fully documented in Hartman's personnel file but the investigators found that this was not unusual in the hiring practices of EMU. To this end, the investigation concluded that all the requirements for hiring were met.

Former President Swartzendruber also followed up on a Facebook posting following Hartman's hiring in which the posting individual related a texting relationship between the individual's wife and Hartman. There was no indication that the texting was non-consensual or was anything other than texting. DSA concluded that the employment offer should not have been rescinded based upon the information that was provided. The reporting individual declined to be interviewed for the investigation.

#### **RECOMMENDATIONS**

DSA recommends that EMU upgrade its system for tracking the progress of the hiring process in order to easily verify that all steps are completed and signed off in the proper sequence. They also recommend regular training of staff with hiring responsibilities on when and how to inquire about a candidate's support of EMU's philosophy and mission and also provide training for trustees who have responsibility for assessing faith statements of candidates.

### **C. EMU's Knowledge of and Response to Allegations of Sexual Misconduct by Dr. Luke Hartman**

#### **FINDINGS**

Both Lauren Shifflett and Luke Hartman declined to be interviewed as did Shifflett's sister and advocates. However, Shifflett informed the assessors that her April 2016 blog and follow-up statement was her formal statement of what actually occurred. For purposes of assessing EMU's responsibility to respond under Title IX, the statements from Shifflett were accepted and treated as credible. Hartman himself provided no statement directly to the investigators for consideration.

On September 2, 2014, Luke Hartman and his pastor, Duane Yoder, met with President Swartzendruber to report that some years earlier Hartman had been involved in what they described as a consensual affair of approximately six months with a 19 to 20-year-old woman from the Lindale Mennonite congregation. Yoder and Hartman made it clear they were not free to reveal the identity of the woman at her request. Hartman stated that this was the only extra-marital affair he had engaged in but acknowledged several instances of "flirtatious behavior via phoning and texting" with two other women.

Pastor Yoder also informed Swartzendruber that the church disciplinary process required Hartman to meet weekly with an "Accountability Group," to meet with a professional counselor, to cease all contact with the woman, to cancel all public speaking engagements and to inform EMU of the affair. Swartzendruber affirmed these measures, including Hartman's withdrawal from all EMU related speaking engagements. Additionally, Swartzendruber required Hartman to meet with the full Cabinet to inform them about what happened. Swartzendruber also consulted Human Resources and board leadership in considering his decisions about Hartman's continued employment, accountability structures, and possible termination.

Hartman and Yoder went from the meeting with Swartzendruber to a meeting with Hartman's four direct reports to inform them of the extra-marital affair. On September 8, 2014, Hartman and Yoder met with the EMU Cabinet to report the same information they had reported to Swartzendruber.

The investigation confirmed that, as set out in her blog in April 2016, Lauren Shifflett, several days before September 2, 2014, reported to her associate pastor the story of her relationship with Hartman. From Shifflett's accounts, it appears that she expected that her story would be reported to EMU. DSA found that Yoder and Hartman did not share with Swartzendruber or the Cabinet in September 2014 all the critical information that Shifflett had reported and subsequently published in her blog.

Until the publication of her blog in April 2016, EMU officials were unaware of Shifflett's identity as the woman involved with Hartman and that she had been an EMU student several years earlier.

The investigation found that Hartman engaged in an additional extra-marital relationship while employed at EMU. This relationship was unknown to administration officials until after Hartman's resignation. The investigators determined that based on EMU's practice and policy, the response to Hartman's behavior in this case, had EMU administrators been notified, would have been dismissal. Other third-party rumors of sexual misconduct while Hartman was employed by EMU were not substantiated.

Hartman was highly regarded by many of his direct reports; they considered him to be supportive and empowering. However, some witnesses reported experiencing bullying, demeaning, and disempowering behaviors on occasion in the course of carrying out his work at EMU. Hartman's supervisor coached him on professional conduct towards others, particularly those with whom he had differences of opinion.

DSA concluded that "EMU officials did not receive notice of the full scope of Hartman's behavior and did respond appropriately given the information they were provided."

### **RECOMMENDATIONS**

DSA recommends that EMU improve its administrative process for investigating reports of misconduct and violations of the CLC to ensure, to the extent possible, that all relevant information is uncovered in order to take appropriate action.

## **D. Actions Approved by the Board of Trustees on November 12, 2016**

**Action I:** We receive the D. Stafford & Associates Report with appreciation for the professionalism, thoroughness, and integrity in conducting the external independent review authorized by the EMU Board of Trustees. We appreciate the cooperation of EMU's administration and staff, former President Loren Swartzendruber, Lindale Mennonite Church, Virginia Mennonite Conference and the many witnesses who participated in the inquiry.

**Action II:** Based on the evidence reported in the inquiry, former President Loren Swartzendruber and EMU's administration acted promptly and appropriately to the allegations of Dr. Luke Hartman's misconduct, based on information that was provided at the time. We affirm the clear commitment of EMU's administration to prevent sexual violence and ensure a safe and secure campus community for all students, faculty, staff and visitors. We reaffirm the institution's commitment to investigate reports of employee and student misconduct or violations of the Community Lifestyle Commitments to the fullest extent possible, regardless of the position of or familiarity with the reporting party.

**Action III:** We request that EMU's President/Administration present a plan of action in response to D. Stafford & Associates' report to EMU's Board of Trustees' meeting in March 2017, with a particular focus on recommendations regarding 1) updating and adoption of a comprehensive policy and procedures on sexual misconduct; 2) staffing and infrastructure to support Title IX and Clery Act requirements; and 3) training of students, faculty, staff and board on their responsibilities related to Title IX and reporting of sexual misconduct.

The purpose of these actions is to strengthen the resolve and capacity of the whole EMU community – trustees, faculty, staff, and students – to stopping abuse, preventing its recurrence, remedying its effects, acknowledging the harm done to the victim and others, and to support an environment where sex-based harassment, misconduct and discrimination are not tolerated.