

# EMU Campus Safety and Fire Report 2023

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# 2023 CLERY ANNUAL CAMPUS SAFETY & FIRE REPORT (ASR)

## INTRODUCTION

*September, 2024*

### **Message from the President**

To Whom It May Concern:

Eastern Mennonite University is committed to maintaining a safe, environmentally responsible, and physically attractive environment for our students, faculty, staff, and visitors. To that end, I am pleased to present the EMU Campus Safety and Fire Report.

Although EMU is committed to creating a safe, caring, and cooperative campus culture, we cannot lose sight of the fact that no community is immune to, or completely safe from, a crisis or catastrophic event.

Use this report to become aware and to help make the EMU community an environment of mutual care and respect.

Sincerely,



Susan Schultz Huxman, PhD President

### **Message from the Campus Safety and Security Coordinator**

Eastern Mennonite University is committed to providing a safe place where individuals can grow and learn.

The Office of Safety and Security oversees campus safety, fire safety, and security. Safety and security services on campus are provided by contract security officers trained according to Virginia Department of Criminal Justice Services standards.

The university has a standing group of administrators and support staff who comprise the Incident Command Team (ICT). This team meets as necessary during the academic year explore and remediate concerns and issues relating to safety, security, and emergency preparedness. The university also works closely with our local emergency service partners in preparation and preparedness planning and training.

To proactively protect the campus community, EMU has undertaken numerous endeavors in the past few years to address safety and security. A few recent accomplishments have been working with the Department of Justice (DOJ) to extend a grant through the Office of Violence Against Women (OVW) focused on a trauma-informed approach to sexual assault investigations.

The Incident Command Team continues to update and optimize emergency operations, crisis management, and continuity of operations plans. The university works closely with the Harrisonburg City, Rockingham County, and James Madison University emergency management coordinators.

**All community members are encouraged to participate within the community by stepping up and being an advocate for campus safety. Campus safety takes a group effort and is an individual responsibility. Additional safety, security, and reporting information can be found at <http://www.emu.edu/safety-and-security/>**

Sincerely,  
Wayne Martin

## About the Clery Annual Security & Fire Report (ASR)

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act) requires that all postsecondary institutions participating in Title IV student financial assistance programs disclose campus crime statistics and other security information to students and the public. The VAWA amendments added requirements that institutions disclose statistics, policies, and programs related to dating violence, domestic violence, sexual assault, and stalking, among other changes. The

Institutions must publish and disseminate an Annual Security Report by October 1st of each year. Institutions with on-campus residential facilities must also post a Fire Safety Report by that date. The required contents of those reports, along with related notifications, procedures, and policy requirements, are discussed in this section.

The EMU Campus Safety and Security Coordinator facilitates compilation of the reportable data into this document. It is published annually, and provided to all students, prospective students, employees and prospective employees upon request. Incidents identified and reported at the satellite locations are recorded in their own respective charts in this document. Daily crime and fire logs of the main campus are maintained by the Campus Safety & Security Office. The logs are available for public inspection upon request during normal business hours.

Schools with on-campus student housing facilities must also submit an annual Fire Safety Report to the Department. The report must include statistics on the number of fires and causes of each fire and fire-related injuries, deaths, or fire-related property damage for each on-campus student housing facility. The Fire Safety Report is due at the same time as the Annual Security Report.

## The Clery Act Appendix for Federal Student Aid Handbook<sup>1</sup> (October 2020)

The U.S. Department of Education (Department) developed this Appendix to the Federal Student Aid Handbook to assist postsecondary institutions in meeting the campus safety and security requirements of the Higher Education Act 1965, as amended. This Appendix replaces the 2016 Handbook for Campus Safety and Security Reporting, which has been rescinded. Other than the statutory and regulatory requirements included in this document, the contents of the new Appendix do not have the force and effect of law and are not meant to bind the public. The Appendix only intends to clarify existing requirements under the applicable statutory and regulatory provisions to the public.

The Department will defer to an institution's designation of campus security authorities (CSA) as authoritative. The regulations do not require that an employee with minimal responsibilities for student or campus activities necessarily be considered a CSA.

Consistent with the statutory and regulatory framework, and interpretive principles, the Department will continue to apply the plain meaning of terms contained within each Clery requirement. The Department will accept an institution's reasonable interpretation of terms as long as those terms are defined clearly to individuals who review the campus' Clery Act reports. Suppose the Department

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<sup>1</sup> <https://www2.ed.gov/admins/lead/safety/cleryappendixfinal.pdf>

believes that more specific definitions are required. In that case, it will engage in future negotiated rulemaking to ensure that institutions and the public can comment on those definitions.

### **Campus Security Authorities (CSAs): 34 CFR 668.46(a)**

While not defined in the statute, regulations provide that CSAs include: campus police or security department personnel, individuals or organizations identified in institutional security policies, and individuals with security-related responsibilities. The definition at § 668.46(a)(iv) states that a CSA also includes an official "who has significant responsibility for student and campus activities." institutions should focus on the "significant responsibilities" of an employee when determining whether that employee is a CSA for Clery purposes. Clery purposes may or may not include employees who meet the definition of "any official...who has the authority to institute corrective measures" for Title IX purposes under 34 CFR 106.30(a).

Following these guidelines, EMU has designated the following university staff as campus security authorities. Further, if a designated CSA is also classified as a "confidential resource," only the crime statistic must be reported.

Campus Safety & Security Coordinator

Campus Security Officers

Vice President for Student Affairs

Dean of Students

Director for Campus Life

Director of Athletics

Director of Human Resources

Title IX Coordinators

Survivor Advocate (within scope of confidentiality constraints)

Executive Director – Lancaster

Professor -Washington Community Scholars' Center

### **Policy for Preparing the Annual Disclosure of Crime Statistics**

Under the Clery Act, EMU must report to the Department and disclose crime and fire data in its Annual Security & Fire Report (ASR)

EMU will report statistics for the three most recently completed calendar years. The university must also submit their crime statistics to the Department as part of the annual data collection and survey, including the number of Clery-defined crimes that occurred on or within its Clery Geography and are reported to local police agencies or campus security authorities (CSA). Clery Act reporting does not require the institution to initiate an investigation or disclose personally identifiable information (PII) about the victim.

Eastern Mennonite University (EMU) gathers information regarding reported criminal activity on and near the campuses and controlled properties. This information is collected through the EMU MAXIENT Case Manager system and information obtained from the Harrisonburg Police Department, the East Lampeter (PA) TWP Police Department, and the Metropolitan Police Department (Washington, DC).

The Campus Safety and Security Coordinator (Clery Coordinator) compiles the reportable data for inclusion in the Annual Security & Fire Report. The ASR is published annually, and provided to all students, prospective students, employees, and prospective employees upon request. This document's respective charts record incidents identified and reported at the satellite locations.

### **The Daily Crime and Fire Logs**

Daily crime and fire logs are maintained in the Safety and Security Office, Campus Center room 223, which serves as the central information hub for the Office of Safety and Security. These logs are available for public inspection upon request during regular business hours.

## About Our Campuses and Clery Geography

### The Purpose of EMU Clery Geography

Clery Geography requirements are intended to inform the campus community of crimes so that community members know about safety issues and may take steps to protect their safety. The U.S. Department of Education applies no specific, measurable distance definition to adjacent public property.

Consistent with the regulatory framework, EMU follows the principles for Clery Geography reporting purposes by determining which buildings, facilities, parking lots, and real estate are included in the definition of the "campus." In this Annual Security Report, EMU records crimes by location.

As explained below, the three categories of locations subject to reporting are:

**1) ON-CAMPUS** is defined in 34 CFR 668.46(a) as:

(i) Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or a manner related to, the institution's educational purposes, including residence halls; and

(ii) any building or property within or reasonably contiguous to the identified area. The Department does not apply any specific or measurable distance definition to a "reasonably contiguous geographic area." Many institutions employ an approach that any property included on a campus map or designated by signage as a campus facility is considered included in the definition of a "reasonably contiguous geography area." If an additional location, branch campus, school within the institution, or administrative location is not within a reasonably contiguous area, such site would be considered a separate campus for reporting purposes.

**2) NON CAMPUS BUILDING OR PROPERTY** is defined in 34 CFR 668.46(a), means "(i) [a]ny building or property owned or controlled by a student organization officially recognized by the institution; or (ii) [a]ny building or property owned or controlled by an institution that is used in direct support of, or relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution." To satisfy the second part of the definition, the property must:

- 1) be owned or controlled by the institution (e.g., leased by the institution);
- 2) be used in direct support of or concerning the institution's educational purposes;
- 3) be frequently used by students; and

4) not be within a reasonably contiguous geographic area of the institution. Examples of this type of property include but are not limited to, institution-owned, off-campus apartment units rented to students, ancillary research or athletic facilities utilized by students and faculty, and event facilities located off-campus and used for campus activities. or 3) public property.

**3) PUBLIC PROPERTY** is defined in statute as "all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, another thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by the institution if the facility is used



by the institution in direct support of, or a manner related to the institution's educational purposes." The regulatory definition of "public property" in 34 CFR 668.46(a) includes "all public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus." For this definition to apply, the property in question must satisfy all three conditions:

- 1) public (e.g., publicly owned);
- 2) within or immediately adjacent to campus; and
- 3) accessible from the campus. This definition excludes private property and may, in some cases, exclude areas such as property divided by a fence, wall, or property with clearly posted signs indicating that it is not part of the campus or that trespassing is prohibited. The private property where students have established regular usage – whether legal, illegal, open, or inconspicuous – that is not otherwise campus or non campus property is not a public property for Clery reporting purposes.

### **Clery Geography and Title IX**

Under Title IX, an institution's obligation to address sexual harassment in a recipient's "education program or activity" is a separate inquiry from an institution of higher education's obligations concerning Clery Geography. While the two concepts may overlap, they are not coterminous, and the two laws (Clery Act and Title IX) serve different purposes and have separate obligations for entities covered by both statutes. When an institution has officially recognized a student organization, and sexual harassment occurs in an off-campus location not owned or controlled by the student organization but involving members of the officially recognized student organization, the recipient's Title IX obligations depend upon whether the recipient exercised substantial control over the respondent and the context of the harassment, or whether the circumstances may otherwise be determined to have been part of the "operations of" the institution.

Sexual harassment, under Title IX and as defined in 34 CFR 106.30(a), covers a broader range of misconduct than the sex offenses covered under the Clery Act. At 34 CFR 106.44(a), the Title IX regulations cover incidents in an institution's "education program or activity," which includes "locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution." The 2020 Title IX regulations do not impose a geographical limit on an institution's responsibilities, except for the limitation of Title IX's scope to incidents that occur "against a person in the United States."

### **Main Campus**

EMU's main campus is in Harrisonburg, Virginia (population approximately 52,000 per U.S. 2020 Census). Additional locations are in East Lampeter Township, Lancaster, PA, and Washington, D.C.

The main campus is located in a portion of the city that is a residential neighborhood, a private Mennonite high school, and a retirement community bordering the main campus. The principal address is *1200 Park Road, Harrisonburg, VA.22802*.

### **Satellite Campus in Lancaster, PA**

EMU has a small, satellite, non-residential campus in Lancaster, PA. It is located in an attractive suburban office park. The address for this site in 2023 was *1846 Charter Lane, Lancaster, PA. 17605*. The University does not consider this location separately administered as all administrative, academic, and operational decision-making is centralized in the President's Office Executive Leadership Team.

### **Washington Community Scholars' Center**

EMU also has a property in Washington, D.C. It houses the Washington Community Scholars' Center. This facility has residential, office, and classroom space in it. It is located at *836 Taylor Street NE. Washington D.C. 20017*. The University does not consider this location a separately administered site as all administrative, academic, and operational decision-making is centralized in the President's Office Executive Leadership Team.

## About the Campus Safety & Security Office

Daily responsibility for the EMU Safety and Security Office is managed by the Campus Safety and Security Coordinator whose office (Room 123) is located in the Campus Center at 1200 Park Road Harrisonburg VA. The office of Safety and Security can be contacted at 540-432-4396 during normal business hours, or 540-432-4911 for emergencies.

EMU contracts with a private security company to provide security officers on-site of the main campus 24x7. The satellite campuses depend upon local law enforcement for security.

University representatives have the authority to ask for identification of individuals and determine whether they have lawful business on the campus. Designated university staff have the authority to issue parking tickets, which are billed to the accounts of students, faculty, and staff. Contract security officers do not possess arrest powers. Criminal incidents are referred to the local police who have jurisdiction on the campuses.

EMU has Memorandums of Understanding (MOUs) with the Harrisonburg Police Department and Virginia State Police, which define and establish procedures and practices for cooperation in the investigation of crimes and acts of violence on the main campus. The Safety and Security Office maintains a highly collaborative working relationship with the Harrisonburg Police Department, the Rockingham County Sheriff's Office, the Virginia State Police and the regional FBI Office.

The office also maintains annual contact with the law enforcement agencies responsible for the satellite campuses. All witnesses and victims of crime are strongly encouraged to immediately report to the office of Safety and Security or the appropriate police agency.

Prompt reporting will assure the safety of all campus community members, and expedite timely warning notices on campuses and the complete disclosure of crime statistics. EMU Safety and Security routinely conducts safety and security training with new employees. Topics covered include, emergency preparedness, fire safety, earthquake, tornado/severe weather, and active shooter training.

## Security and Access of Campus Facilities

### Security and Access

During business hours, the main university (excluding certain housing facilities) is open to students, faculty, staff, and the general public. During non-business hours, access to all facilities is by key, electronic card swipe, Campus Life staff, or Campus Security.

Residential dormitory buildings are secured 24 hours per day. Over extended breaks, the doors of all buildings will be secured 24/7. Some facilities may have individual hours which may vary at different times of the year. Examples are Hartzler Library, Eastern Mennonite Seminary, and the University Campus Center. In these buildings, doors are secured based on determined schedules developed by building usage.

The campus environment is assessed periodically by staff, security, and local law enforcement to reveal areas that could use improvements in areas such as landscaping, locks, alarms, and lighting.

Additionally, any issue of pressing concerns about security or safety will be addressed monthly in scheduled Crisis Management Preparedness Team (CMPT) meetings.

### Carry ID Cards at all Times

For protection, persons will be required to present a valid EMU ID card on the main campus in the evenings and for entrance into EMU events. Your ID card is also required for access to all residence halls floors. Specific student housing rules and procedures have been developed and implemented to make buildings a safe and secure home. Following are examples of some important rules designed to enhance the safety and security of residents. However, residents should keep in mind that the most foolproof, designed measures are ineffective unless these policies are followed.

Never admit an uninvited non-resident into the building.

Do not let strangers enter the building as a guest. Guests of residents should be escorted at all times by their hosts. This is for the guests' protection as well as the protection of other residents.

Report any unescorted stranger on a floor to a Community Advisor (CA). If there is no staff member on the floor at the time, call the Residence Director (RD), the residence director on-call (540-476-4578), or campus security (540-432-4911).

Do not give ID cards or keys providing access to residence halls to anyone. Residence halls are locked 24 hours a day, 7 days a week for the safety of the whole community.

Under no circumstances should an exterior door be propped open. Although doing so may seem convenient, this endangers the community. In addition, interior doors should not be propped open. Most are designed to function as fire doors, and propping them open eliminates their effectiveness in preventing the spread of smoke and fire.

### How to Stay Protected

Lock doors to residence hall rooms especially if alone or asleep. These are vulnerable moments and a locked door provides extra protection.

- Never lend out keys or ID cards with building access to anyone
- Never open doors to strangers.
- Never give names, addresses, or phone numbers to strangers.
- Whether traveling on foot, using public transportation, or operating a personal vehicle, bring a friend. It can be more fun to travel with company and there is always extra safety in numbers.
- Notify roommates, trusted friends, or staff members of location and expected time of return if leaving campus.

### **Safety and Security Guidelines**

Safety and Security guidelines can be found on the EMU website at <https://emu.edu/safety-and-security/safety>.<sup>2</sup>

Harrisonburg residents enjoy a relatively low crime rate. However, it is the responsibility of every member of the campus community to take reasonable precautions for maintaining personal safety as well as the safety of others. The university's campus safety and security program is an ongoing process that includes the development and enforcement of regulations, procedures and practices.

Safety and Security concerns may be addressed to:

Campus Safety and Security: (540) 432-4911

The following information is designed to give you “how to” information on staying safe and responding to emergencies should they occur.

### **Crime Awareness and Prevention**

Crime prevention is essentially being aware of one's environment, commonly referred to as situational awareness, and being alert to and avoiding situations that allows vulnerability to crime. Listing specific measures to protect people from every threatening situation that may arise is difficult; however, here are a few “crime prevention” suggestions to practice in day-to-day living. This is not an exhaustive list of crime prevention measures, but serves as examples to make life safer and more secure.

#### **Protect your car**

- Lock your car, close the windows, and take the keys. Many car burglaries and car thefts occur because the owner did not take time to secure the car. Don't make your car a target of opportunity by leaving it unlocked and open for all who care to enter.
- Do not park in isolated and/or dark places if these areas can be avoided. Park where there are people about and where the car will be lighted.
- Do not leave items of value unattended in your car. Expensive cameras, stereo equipment, and even textbooks and clothing left on the seat of an unattended car are invitations to theft. If you must leave items in your car, store them in a locked trunk. ***Weapons may not be kept in your vehicles or anywhere else on campus.***
- Specific parking regulations relate to lots dedicated to residential users. Familiarize yourself with these rules and obey them. Vehicles on campus are subject to inspection if deemed necessary.

#### **Protect your bicycle**

- Never leave your bicycle unlocked while unattended.

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<sup>2</sup> <https://emu.edu/safety-and-security/safety>

- Record your bicycle serial number and description of the bicycle. Many recovered bicycles will not be released by the police without proper serial number identification.
- Engrave your bicycle with your name or your driver's license number.
- Bicycles are not to be taken inside campus buildings. Keep your bicycle locked on one of the bicycle racks or store your bicycle in the designated bicycle sheds. Keys may be obtained from your Residence Director.

### **Protect yourself**

- Lock the door to your residence hall room when you are asleep or alone in the room. These are some of your most vulnerable moments; you need the extra protection a locked door affords.
- Do not lend keys to your room, or ID card with building access to anyone .
- Do not open your door to strangers. Immediately report any problems with your door's lock to your CA.
- Do not give your name, address, or phone number to strangers.
- Whether traveling on foot, using public transportation, or operating a personal vehicle, have a friend go with you. It's more fun to travel with company, and there is extra safety in numbers.
- When going out, let your roommate, a friend, or a staff member know where you are going and when you expect to return.
- ***EMU ID card should be carried at all times*** For your protection persons will be required to present a valid EMU I.D. card on campus in the evenings and for entrance into EMU events. Your ID card is also required for access to all residence halls floors.

### **Protect yourself in public areas**

- Do not leave your belongings unattended in public areas such as hall lobbies, restrooms, hallways, laundry rooms, and dining rooms; tables in public restaurants; hallways and classrooms in academic buildings; and public restrooms. If you want to keep it —keep it with you!
- Do not carry more cash with you than you anticipate needing in one trip. And do not flash large amounts of cash in public.
- Do not carry your identification cards and banking information in the same wallet. Keep them separate; IDs in your billfold in one pocket and account information in another pocket. If either are lost or stolen, the finder will not have access to your banking accounts.
- Mark items you regularly take to class, such as books, backpacks, and calculators. Persons in laboratory or studio classes should also mark all of their personal supplies with their name.
- Make a list of your credit cards, identification cards, and checking account numbers, and keep the list in a safe place. If your purse or wallet is lost or stolen, you will then have a list of numbers to use when notifying the proper authorities. Remember, you will need to contact not only the police, but all credit card companies and banks with which you do business. Immediately report these notifications.

### **Protect your possessions - for students in residence halls**

- ***Lock your door when you are away from your room.*** Most burglaries in student housing units occur in unlocked rooms. Lock your door to remove the easy opportunity for thieves.
- Engrave all personal items of value in your room with your student ID number. Engraving tends to deter theft and facilitates recovery of your possessions should they be stolen.

- Keep a record of the serial numbers of all your belongings. Items of value that do not have serial numbers should be photographed. Clothing can be marked on an inside label with an indelible laundry marker
- Do not advertise your valuables. Keep them out of sight. Arrange your room so that high risk items such as cameras, stereos, and televisions are not visible from the hallway when the door is open, or from ground-level windows.
- Items of high monetary value and minimal use in a college environment (such as expensive jewelry) should be left at home. Very expensive items should be stored in a safe deposit box
- All students should have insurance for their belongings. ***Insurance against loss of, or damage to, personal possessions must be provided by the student.*** Check with parents regarding coverage under the family's homeowner's policy. Tenant's insurance may be obtained from a local agency if desired.

### **Physical Facilities**

If you observe a hazardous condition in your residence hall, immediately notify your community advisor or residence director.

### **Safety and Security Awareness Training**

## Campus and Workplace Violence and Threat Assessment

Eastern Mennonite University provides violence prevention and awareness programs to all incoming students and new employees. Ongoing prevention and awareness programs are offered to the campus community in response to current events.

The Coordinated Community Response Team (CCRT) is a multidisciplinary team of campus and community partners that meet regularly to assess, plan, monitor, and evaluate campus sexual and relationship violence response and prevention efforts. The goal of the CCRT is to better equip EMU to have an effective, trauma-informed response to incidents of sexual and relationship violence; to increase services and resources for victims/survivors of sexual and relationship violence; and to establish new campus norms that are intolerant of sexual and relationship violence.

Eastern Mennonite University (EMU) trains all students, faculty, and staff to recognize and respond appropriately to potential workplace violence. These concepts include, but are not limited to:

**See Something Say Something** - <https://www.dhs.gov/see-something-say-something>

**Power of Hello** - <https://www.cisa.gov/employee-vigilance-and-de-escalation>

**Bystander Intervention** - <https://emu.edu/safer-together/green-dot>

VA Senate Bill 539 (SB 539) requires the board of visitors or other governing body of every public institution of higher education in the Commonwealth to establish a threat assessment team. The bill also requires identifying a campus-wide committee charged with education and prevention of violence on campus. Eastern Mennonite University, as a private higher education institution, is not required to adhere to this law, however the university takes seriously its responsibility to address violence and threats on campus. The university addresses workplace violence and threat assessment through its Incident Command Team and CARE (Concern, Assessment, Response, Evaluation) Team.

### Incident Command Team (ICT)

The university's Incident Management Team is made up of the following individuals

Vice President for Finance

Executive Advisor to the President

Director of Facilities Management

Campus Safety and Security Coordinator (Team Leader)

Director of Health Services

Director of Technology Services

Director of Communications

Director of Human Resources

Vice President of Student Affairs

Dean of Students



Director Campus Life

Administrative Assistant and receptionist Provost's Office (recorder)

Academic Dean designee (as necessary)

Director of Athletics (as necessary)

Director of Counseling Services (as necessary)

Associate Director of Development (as necessary)

Associate Provost, EMU at Lancaster (as necessary)

Director of Dining Services (as necessary)

Director of Intercultural Programs (as necessary)

The ICT regularly reviews policies and safety plans, discusses crisis scenarios and drills, and reviews communication plans. The ICT regularly participates in table top exercises and drills including:

- training seminars
- observing and participating in drills hosted by local fire, police and rescue personnel
- hosting law enforcement for on-campus training
- joining nationwide webinars hosted by FEMA
- hosting on-campus training

The ICT also oversees required campus drills and training, including building evacuation, lock-down situations such as active shooter training, the Great Southeast Shake Out each fall (earthquake drill), and the tornado preparedness drill each spring sponsored by the National Weather Service.

### **CARE Team**

The university's CARE (Concern, Assessment, Response, Evaluation) Team provides proactive and coordinated support for students in distress and addresses concerns about student behavior, academic progress, and personal issues, including mental health concerns.

The CARE Team consists of university personnel with expertise in residence life, campus safety/threat assessment, student affairs, medical and mental health, disability services and legal affairs. Core CARE Team members include:

Dean of Students (serves as Chair of Care Team)

Vice President of Student Affairs

Director for Campus Life

Lead Counselor

Associate Provost for Student Success

Athletics Department Representative

Each Core CARE team member's responsibilities are outlined in the Core CARE Team Responsibilities document. Additional EMU Faculty/Staff who may be included in CARE Team as necessary depending on type of concern include:

Office of Academic Access  
Director of Health Services  
Office of Multicultural Student Services  
Director of International Student Services  
Director of Campus Ministries  
Residence Life Staff  
Faculty (through teaching or advising roles)  
Campus Legal Counsel (as necessary)

Any faculty, staff, or student who is aware of a situation that could possibly result in harm to anyone at the university should submit a report to the CARE team. Information is found on the CARE team website <https://emu.edu/studentlife/care-team/>. This site includes a report form which anyone can use to make a report. The CARE team site also provides directions for what to do in the case of an emergency or situation needing to be addressed after business hours. If a student is in an emergency situation and needs immediate assistance then individuals should call the Campus Life On-call at 540-476-4578, or call Campus Safety and Security at 540-432-4911, or call 911 with their location. The CARE team uses Maxient software for reporting and record-keeping.

The CARE Team gathers information from personal contact with students, faculty, staff and family members, as well as from reports submitted by members of the community. A collaborative process to assess threats and concerns is used. The Core CARE Team meets weekly to evaluate, assess, and monitor reports and referrals to the CARE Team. Core members attend every meeting and have full access to the team's electronic records database. The CARE Team chair, or designee, will keep senior university officials advised of situations, directly reporting information to the Provost for further dissemination as needed. The CARE Team conducts work by three means:

### **(1) Preliminary Response**

When a report is received, a preliminary response meeting may be convened by the CARE Team chair and any CARE Team member having administrative responsibility for the person of concern. Other appropriate CARE Team members may be consulted and included during this initial assessment. As needed, these team members will gather additional information regarding the submitted report and, if appropriate, convene the CARE Team for an emergency meeting. Otherwise, these findings will be reported at the regular team meeting.

### **(2) Regular Team Meeting**

Regular team meetings occur on a weekly basis and are designed to review on-going cases, make appropriate recommendations with new cases, and provide regular opportunities for training. Case review will include:

- Briefing and review of preliminary responses by the CARE Team chair or designee;
- Review of documentation, interviews, and other relevant information;
- General discussion;
- Recommendations by the team.

### (3) Critical Incident Response/Emergency Meeting

In the event of a situation that requires the immediate attention of the CARE Team, the CARE Team chair, or designee, will call a critical incident response or emergency meeting. When Navigate cases are created for Health and Wellness concerns, the Director of Retention will submit an EMU Safety and Care report regarding the student so the above process can be aligned for students submitted through Navigate cases or EMU Safety and Care Report forms.

The CARE Team receives reports of students who are exhibiting concerning or disruptive behaviors. The team, in an effort to maintain student success capacity and protect the university community, investigates and responds to reported behavior through the procedures described above. As a result of follow through with the procedures, the CARE Team may recommend some or all of the following actions as part of an intervention/success plan:

1. Referral to EMU and/or community counseling or other medical resources for evaluation,
2. Referral of students to EMU Coachlink for specific goals and accountability related to academic or personal patterns of behavior,
3. Referral to appropriate university personnel for educational mentoring related to reported behavior,
4. Forward appropriate information to faculty related to student's current educational needs,
5. Recommend that the proper authority notify, within FERPA guidelines, the parents, guardians, and/or emergency contact,
6. Assist students in making changes to academic load and any financial aid adjustments for long-term success.

The CARE Team engages in on-going and active training. For this program to be effective, the university community must be aware of the CARE Team, the need and purpose of intervention, the procedure for filing a report, and how to contact members of the team with concerns or comments. The CARE Team provides campus-wide information to be incorporated into faculty and staff annual trainings, new employee and student orientation sessions, and regularly scheduled safety programs presented by the Student Life and other campus departments.

## Behavioral Threat Assessment Team

The EMU Behavioral Threat Assessment Team (BTAT) is a multidisciplinary team and component of the campus emergency management system. The primary responsibility of the BTAT is to address and respond to situations involving threats or acts of violence in the workplace, classroom, and on campus property.

### Policy

Code of Virginia §23.1-805. Violence Prevention Committee; Threat Assessment states each public institution of higher education shall establish policies and procedures for the prevention of violence on campus, including assessment of and intervention with individuals whose behavior poses a threat to the campus community's safety. §23.1-805 also requires identifying a campus-wide committee charged with education and prevention of violence on campus. Although Eastern Mennonite University is not

required by this law to do so, the institution voluntarily chooses to follow the intent of §23.1-805 by establishing a joint Violence Prevention/Behavioral Threat Assessment Team (BTAT).

### ***Introduction***

The 2007 tragedy at Virginia Tech reminds all in higher education of the vulnerability of our college campuses. Acts of violence and threats, whether from students or strangers, staff or faculty, can destroy the fabric of the community and the well-being of the campus. EMU is aware of the vulnerability of its open campus, which is, in many ways, seamless with the Harrisonburg community. Although the campus has in place crisis management systems to help us recognize and respond to potentially threatening individuals or situations, we continue to assess the need to improve our processes and procedures to ensure campus safety and security to the best of our ability and to respond to the mental health needs of our community members (students, faculty, and staff) to prevent danger to them and others. Therefore, the campus has established policies to deal with violence against or by all campus community members – in the workplace, classroom, and on-campus property. These guidelines apply to all students, faculty, staff, contractors, visitors, and guests to the campus.

Per best practices for safety, an EMU Incident Command team workgroup develops plans, policies, and procedures for threat assessment and violence prevention needs as defined in Code of Virginia §23.1-805.

### ***Description and Objectives of Behavioral Threat Assessment Team (BTAT)***

The EMU Behavioral Threat Assessment Team is a multidisciplinary team within the campus emergency management system. The primary responsibility of the BTAT is to address and respond to situations involving threats or acts of violence on campus. Team membership is based on situational needs. It will be drawn from administrators charged with specific functions related to campus safety and representatives of key campus constituencies. The BTAT will be led by the Dean of Students or Director of Human Resources, and will meet several times a year to review emergency plans and assess needs to meet the following objectives:

1. Develop protocols, communication, and documentation systems for interventions in behavioral threats by individuals or groups
2. Identify and review response options in consultation with on and off-campus resources
3. Ensure effective implementation of appropriate BTAT and intervention protocols
4. Assess the post-event needs of the campus community
5. Undertake training for BTAT members and campus personnel, as needed
6. Educate faculty, staff, and students on ways to identify risk for violence

## Emergency Management Plan

In collaboration with local emergency services, EMU's emergency management plan will be integrated into the Harrisonburg, Rockingham County, and James Madison University (JMU) Emergency Operations Plan.

### Emergency Response, Evacuation Notifications, and Timely Warnings: 34 CFR 668.46(g)

#### Emergency Notifications

Most reports of significant emergencies or dangerous events are received through phone calls to EMU security personnel or local emergency responders. Occasionally emergency reports are received by others or through other communication channels. In these cases, EMU security needs to be notified of the emergency to ensure appropriate warnings of an event occurring on or imminently threatening campus are sent to community members.

#### Timely Warnings

In addition to emergency messaging, timely warnings, as defined by the Clery Act and reported to university Campus Security Authorities (CSAs), will be issued in response to an event --either on- or off-campus--which, in the judgment of the designated university representatives, constitutes a crime that has occurred or poses an ongoing threat to the campus community.

#### Dissemination of warnings

Many warning channels can be activated individually or through the consolidated EMU Alerts system.

The university maintains a robust emergency warning system. Below is a non-comprehensive list of available warning channels for use.

- EMU Alerts (including email messages, text messages, and web-page messages)
- ALERTUS desktop and hallway beacons
- Building fire alarms
- Other

Many factors are taken into account when deciding to disseminate warnings. Below are some broad considerations.

- Type of hazard
- Life, safety, and property protection
- Urgency
- Audience
- System(s) capabilities

#### Emergency Evacuation Procedures

Emergency evacuation procedures and maps for individual buildings are posted in prominent locations throughout each campus building. In the event of the need to vacate the building quickly these items can be used as reference. In the event of a campus-wide emergency evacuation, the local jurisdiction's

Emergency Management Coordinator/Fire Chief or the designee will work cooperatively with university administration to determine the best means of transportation, relocation, and housing. If in the event that a crisis on campus requires the closing of residence halls for an extended duration, students who live within 300 miles of campus will be encouraged to return home (if conditions are such that they can do so safely). If a student's primary home residence is further than 300 miles from campus it is requested that they identify an alternate location within 300 miles for relocating. If there are no options within 300 miles, Residence Life will work with that student and Human Resources to obtain local housing. Student information is updated annually and is kept secure in the Residence Life Office.

## **Weather/Tornado Emergency**

In the event of a tornado warning, seek shelter as soon as possible in the pre-designated locations in buildings. These locations can be found by looking for the Tornado Shelter Location and the fire exit maps in all buildings on campus. Becoming familiar with these tools can promote safety. For satellite campuses, local authorities will issue weather related emergency warnings.

## **Emergency Notification to the Community**

Eastern Mennonite University utilizes multiple formats to distribute emergency notifications to the main campus community. The two primary systems, EMU Alerts and ALERTUS send the message by four distinct methods:

- Audible alarm and text notification on emergency notification to EMU-owned and active computers, common area ALERTUS beacons throughout the main campus.
- Splash screen notification on the EMU home page.
- E-mail message to EMU email accounts or other registered accounts
- Text messaging notifications to individual registered cell phone accounts

## **Emergency Response and Evacuation Policy**

### **Emergencies: How to Respond**

The following guidelines apply to many emergency conditions that could happen on the campuses. It is not possible to establish procedures for every conceivable type of emergency, but we do attempt to establish guidelines for various situations such as fire, active shooter, earthquakes, tornados, pandemics. These guidelines can be used for any similar emergency or hazardous situation. Please review them frequently so you will be prepared in an emergency.

### **Medical Emergencies**

For situations requiring emergency medical assistance on any campus, call 911. If on the main Harrisonburg campus, and involving students, notify the Campus Life On-call at (540-476-4578).

### **Intruder/Active Assailant Lockdown Emergencies**

In the event that it becomes necessary to activate an intruder/lockdown response, EMU has various tools to use for emergency notification on the main campus. - EMU Alerts and ALERTUS desktop and beacon notifications are a few of the resources available. If actions are required, the best response is to

be prepared through personal pre-planned response actions. Typically, in intruder situations, authorities suggest a stair-stepped approach to a response:

1. Exit the building; avoid the situation if at all possible.
2. Barricade or deny entry, and go into a lockdown mode, if needed.
3. Take decisive action against the intruder; defend yourself as a last resort.

Any response needs to be based on one's own personal safety. EMU has posted suggestions on how one might respond in Emergency Procedure guidelines. These can be found throughout the main campus and also by visiting the EMU website at: [www.emu.edu/crisis](http://www.emu.edu/crisis)<sup>3</sup>. It is imperative the guidelines are read to help with preparedness of multiple situations.

**Avoid** - Starts with your state of mind

**Deny** - When getting away is difficult or maybe even impossible

**Defend** - Because you have a right to protect yourself

### **Bomb Threats**

Immediately notify Campus Security at ext. 4911 from a main campus phone, or 540-432-4911 from cell or off main campus phone. Emergency personnel will advise necessary steps for calling 911 or evacuation if needed.

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<sup>3</sup> <http://www.emu.edu/crisis>

## Missing Student Protocol

Each institution of higher learning is required to establish a Missing Student Protocol for students who reside in on-campus housing. This protocol goes into effect once campus officials determine the student to be missing from campus for more than 24 hours. At EMU, Residence Life Professional Staff are often the group who determines that the student has been missing from campus for more than 24 hours.

Once it has been determined that the residential student has been missing from campus for over 24 hours, The Director for Campus Life, in consultation with the Vice President of Student Affairs/Dean of Students, institutes the emergency contact procedure in accordance with the student's designation on the Residence Hall Information Form (unless the student is under 18 years of age, in which case the custodial/parent or guardian must be notified).

Missing residential students will be reported to the Campus Safety and Security Coordinator. Once a missing persons' report has been filed with EMU Campus Safety and Security, the following emergency contact procedures will be initiated no later than 24 hours after a student is determined missing from campus:

- The Campus Safety and Security Coordinator will consult with the Vice President of Student Affairs/Dean of Students and the Director for Campus Life, and will notify law enforcement and may also contact the student's emergency contact (if VP/Dean of Students and/or Director for Campus Life has not already contacted the student's emergency contact).
- If a student is under 18 years of age and not emancipated, the missing student's parents or guardian will be notified by the Director for Campus Life or the VP/Dean of Students no later than 24 hours after the student is determined missing.
- The Campus Safety and Security Coordinator will notify other campus offices as applicable.

Details on the Clery Act, including EMU Campus Crime statistics, are found at <http://www.emu.edu/safety-and-security>



# Relationship Violence and Sexual Misconduct Policy

## Section 1: Introduction

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Eastern Mennonite University (EMU or the University) is committed to establishing and maintaining a community rich in equality and free from all forms of discrimination and harassment. Sexual harassment, relationship violence, and other forms of sexual misconduct are prohibited at EMU. The University will take prompt and equitable action to eliminate sexual harassment, relationship violence, and other sexual misconduct and prevent its recurrence. When the conduct has a propensity to create a hostile, manipulative, or coercive environment on campus, the University obligates itself to respond in support of all parties involved, the campus community, and others who have been impacted. The University strives to achieve this by ensuring the safety of those who have been harmed and holding accountable those who have done harm, consistent with its mission, values, and *Life Together*<sup>6</sup> commitment.

The purpose of this Relationship Violence and Sexual Misconduct Policy is to define sexual harassment, relationship violence, and sexual misconduct, describe the process for reporting alleged violations of this policy, outline the procedures used to investigate and resolve alleged policy violations, and identify the resources available to members of the EMU community who are involved in such reports.

In order to establish and maintain a campus community that values the dignity of all, this policy and resolution procedure commits the University to:

1. Identify the forms of sexual harassment, relationship violence and sexual misconduct that violate this policy;
2. Disseminate clear policies and procedures for responding to sexual harassment, relationship violence, sexual misconduct, and other forms of conduct prohibited under this policy that are reported to the University;
3. Develop an ongoing coordinated effort for delivering prevention and awareness programs and ongoing training and education programs (see *Appendix D: Training and Prevention Education*<sup>78</sup>). This will be done so that students, faculty, and staff:

<sup>4</sup> <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM>

<sup>5</sup> <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM>

<sup>6</sup> <https://emu.edu/about/life-together>

<sup>7</sup> <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081301047/Appendix+D+Training+and+Prevention+Education>

<sup>8</sup> <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081301047/Appendix+D+Training+and+Prevention+Education>

1. May identify what behavior constitutes sexual harassment, relationship violence, and sexual misconduct; and
2. Understand how to report such misconduct;

Engage in investigative inquiry and resolution of reports in a reliable, impartial, prompt, and equitable way;  
Support those who have been harmed and hold persons accountable for established violations of this policy; and  
Provide a written explanation of the rights and options for the process, supportive measures, process accommodations, and confidential services and community resources available to every student or employee that has experienced sexual harassment, relationship violence and/or sexual misconduct, regardless of when or where the conduct occurred (Appendix B<sup>910</sup> and Appendix C<sup>1112</sup>).

In addition, this policy:

1. Identifies and describes the various roles of the University's Title IX Coordinator, deputy Title IX Coordinators, Investigators, and Review Board;
2. Identifies how students, faculty, and staff can report sexual harassment, relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy to the University, confidentially;
3. Identifies access to on- and off-campus resources available to Complainant(s) and Respondent(s), including the right to notify local law enforcement, be assisted in that notification, and/or decline to notify such authorities; and
4. Provides the University with a means to take all reasonable steps to identify sexual harassment, relationship violence, and sexual misconduct, support prevention of its recurrence, and repair the harmful effects to the Complainant, as appropriate.

*Revised August 2020, in compliance with the Department of Education's Title IX Final Rule released May 6, 2020.*

*Revised August 2019*

*Approved by President's Cabinet, 2017*

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9 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5082480062/Appendix+B+Rights+of+the+Complainant>

10 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5082480062/Appendix+B+Rights+of+the+Complainant>

11 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5082480064/Appendix+C+Rights+of+the+Respondent>

12 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5082480064/Appendix+C+Rights+of+the+Respondent>

## **Section 2: Definitions**

### Information on this page

- ADVISOR(see page 27)
- CARE TEAM(see page 27)
- CLERY ACT(see page 27)
- COMPLAINANT(see page 29)
- CONFIDENTIAL EMPLOYEE(see page 29)
- DEPUTY TITLE IX COORDINATOR(see page 29)
- FERPA / FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT(see page 30)
- FORMAL COMPLAINT(see page 30)
- GENDER EXPRESSION(see page 31)
- GENDER IDENTITY(see page 31)
- GENDER IDENTITY BIAS / GENDER BIAS(see page 31)
- HOSTILE ENVIRONMENT(see page 31)
- MANDATED REPORTERS(see page 31)
- PREPONDERANCE OF THE EVIDENCE(see page 31)

The following terms are used throughout the course of this policy. Definitions of specific acts and behaviors related to sexual harassment, relationship violence, and sexual misconduct can be found in Section 4<sup>1415</sup> of the policy.

### ADVISOR

The Complainant and the Respondent may each choose to be accompanied by an Advisor during any part of the process outlined in this policy. An Advisor may not contribute any information or comments during Informal or Formal proceedings but may consult privately with the party they are advising at any time during the proceedings, as long as it does not pose undue disruption to the proceedings.

### CARE TEAM

The CARE (Concern, Assessment, Response, Evaluation) Team provides proactive and coordinated support for students in distress and addresses concerns about student behavior, academic progress, and personal issues, including mental health concerns for students based out of the Harrisonburg campus. The Title IX Coordinator will work with (a) CARE Team member(s) as needed to address possible academic accommodations. Core CARE Team Members include the head of the Student Life division, the Director of Residence Life, Student Accountability, and Restorative Justice, the Director of Counseling, the Coordinator of Campus Safety and Security, and the Associate Provost.

### CLERY ACT

The Clery Act<sup>16</sup> is a consumer protection law that aims to provide clarity around campus crime policy and statistics. The Clery Act requires all post-secondary institutions participating in the Higher Education Act's (HEA) Title IV<sup>17</sup> student financial assistance programs to disclose campus crime statistics and security information. The Clery Act offers specific rights and options to students and employees who experience sexual assault, domestic violence, dating violence, and/or stalking.

14 <https://conuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081301017/SECTION+4+PROHIBITED+CONDUCT>

15 <https://conuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081301017/SECTION+4+PROHIBITED+CONDUCT>

16 <https://clerycenter.org/policy-resources/the-clery-act/>

17 <http://www.higheredcompliance.org/resources/nps70-020614-12%20%284%29.pdf>

- RELATIONSHIP VIOLENCE(see page 32)
- RESPONDENT(see page 32)
- SEXUAL HARASSMENT(see page 32)
- SEXUAL MISCONDUCT(see page 33)
- SUPPORTIVE MEASURES(see page 33)
- THIRD PARTY(see page 33)
- TIMELY WARNING(see page 34)
- TITLE IX SAFETY TEAM(see page 34)
- TITLE IX(see page 34)
- TITLE IX ASSESSMENT TEAM(see page 35)
- TITLE IX COORDINATOR(see page 35)
- TITLE IX INVESTIGATOR(see page 36)
- TITLE VII(see page 36)

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## COMPLAINANT

The Complainant is an individual who is alleged to be the victim of conduct that could constitute a violation of this policy, including sexual harassment or retaliation for engaging in a protected activity. The Complainant may include any member of the University community (faculty, staff, or student) who experiences alleged sexual harassment, relationship violence, sexual misconduct, and/or any other conduct prohibited under this policy, even if they themselves do not make the initial report to the University. A Complainant does not have to seek formal disciplinary action to receive the supportive measures outlined for Complainants in this policy. See Appendix B: Rights of the<sup>18</sup> Complainant<sup>19,20</sup> .

## CONFIDENTIAL EMPLOYEE

Confidential Employees are those employees of EMU who are exempt from reporting incidents of conduct prohibited under this policy that are disclosed to them by students or employees while in particular confidential roles. Confidential Employees include licensed mental health clinicians, auxiliary staff working in Counseling Services, licensed medical health professionals, and licensed/credentialed campus pastors acting in their roles. Disclosures that occur when the Confidential Employee is not acting in their official capacity must be reported.

Confidential Employees are prohibited from breaching confidentiality unless there is an imminent threat of harm to self or others or the disclosure is otherwise legally required or is expressly permitted by the disclosing party. Non-personally identifying, aggregate data will be shared with EMU by Confidential Employees for statistical purposes consistent with the Clery Act<sup>21</sup> .

## DEPUTY TITLE IX COORDINATOR

On EMU's Harrisonburg campus, the Deputy Title IX Coordinators fulfill the duties of the Title IX Coordinator when the Title IX Coordinator is unavailable or as the Title IX Coordinator assigns duties to them. At EMU's Lancaster campus and Washington Community Scholars' Center site, Deputy Title IX Coordinators serve as the point

13 <https://resources.emu.edu/confluence/display/RVSM>

18 <https://resources.emu.edu/confluence/display/RVSM/Appendix+C%3A++Rights+of+the+Reporting+Party>

19 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5082480062/Appendix+B+Rights+of+the+Complainant>

20 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5082480062/Appendix+B+Rights+of+the+Complainant>

21 <https://clerycenter.org/policy-resources/the-clery-act/>

person for reports of sexual harassment, relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy, and they work with the Title IX Coordinator to meet the needs of the parties involved. Deputy Title IX Coordinators are eligible to serve as members of the Title IX Assessment Team (see definition below).

## **FERPA / FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT**

The Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g; 34 C.F.R. Part 99<sup>22</sup>, or FERPA, is a federal law designed to protect the privacy of student education records. Under FERPA, universities must receive explicit consent from a student (or a student's guardian if the student is under age 18) in order to release a student's education records or personally identifiable information contained therein. FERPA also allows a student (or their guardian, if under age 18) to report and have fixed any inaccuracies in the student's records.

FERPA protects and prohibits the disclosure of all documentation related to a formal complaint, investigation, and resolution of matters involving sexual harassment, relationship violence, sexual misconduct, and/or other forms of misconduct prohibited under this policy, except as otherwise required or permitted by law.

## **FORMAL COMPLAINT**

A Formal Complaint is a document signed electronically or in hard copy by a Complainant, or signed by the Title IX Coordinator or Deputy Title IX Coordinator alleging a violation of this policy against a Respondent and requesting that the University investigate the allegation(s). At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the University with which the Formal Complaint is filed. A Formal Complaint may be filed with the Title IX Coordinator by completing the EMU RVSM Complaint Form<sup>23</sup>. A Formal Complaint may alternately be filed in person, by mail, or by electronic mail, or by using the contact information found on the University's website. When the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party to the complaint.

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<sup>22</sup> <https://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&nnode=34:1.1.1.1.33>

<sup>23</sup> [https://cm.maxient.com/reportingform.php?EasternMennoniteUniv&layout\\_id=8](https://cm.maxient.com/reportingform.php?EasternMennoniteUniv&layout_id=8)

## **GENDER EXPRESSION**

Gender Expression is a person's outward expression of their gender through clothing, grooming, speech, hairstyle, body language, social interactions, and other behaviors. A person's gender expression may not conform with societal expectations of how a person of a perceived gender should present.

## **GENDER IDENTITY**

Gender Identity is a person's internal sense of being male, female, neither, both, or another gender. The internal sense of a person's gender may be different than the sex assigned to the person at birth.

## **GENDER IDENTITY BIAS / GENDER BIAS**

Gender Bias is a pre-formed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender identity, e.g., bias against transgender or gender nonconforming individuals.

## **HOSTILE ENVIRONMENT**

A Hostile Environment results from sexually harassing, written, graphic, or physical conduct that is severe *or* pervasive *and* objectively offensive. This term is further defined, with examples, in Section 4: Prohibited Conduct<sup>24,25</sup>.

## **MANDATED REPORTERS**

Every faculty, staff, volunteer, or third party who works with students or minors on campus is a Mandated Reporter. All Mandated Reporters and every person identified as a Campus Security Authority (defined above) under the Clery Act<sup>26</sup> must immediately report to the Title IX Coordinator any knowledge, notice, and/or reports of sexual harassment, relationship violence, sexual misconduct, or other form of conduct prohibited under this policy reported to them or observed by them, including the name of the Complainant or Respondent, if known, and all other known details. This reporting can be done by calling (540) 432-4849, emailing [titleixcoordinator@emu.edu](mailto:titleixcoordinator@emu.edu)<sup>27</sup>, or

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<sup>24</sup> <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081301017/SECTION+4+PROHIBITED+CONDUCT>

<sup>25</sup> <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081301017/SECTION+4+PROHIBITED+CONDUCT>

<sup>26</sup> <https://clerycenter.org/policy-resources/the-clery-act/>

<sup>27</sup> <mailto:titleixcoordinator@emu.edu>

completing a Campus Safety and Care Reporting Form<sup>28</sup> at <https://emu.edu/safecampus/> . The University requires everyone in the campus community, including Confidential Employees, to report the suspected abuse of those under the age of 18.

## **PREPONDERANCE OF THE EVIDENCE**

The Preponderance of the Evidence is the standard of proof used to determine whether a violation of this policy occurred. This is a standard of proof in which the totality of the evidence offered in support of a fact is greater or more convincing than the evidence that is offered in opposition to it. In other words, the Preponderance of the Evidence suggests that, with the totality of the available information, the reported version of events is more likely than not to have occurred.

Preponderance of the Evidence is understood to require more than 50 percent certainty to determine responsibility for violating this policy (51% or greater).

## **RELATIONSHIP VIOLENCE**

Relationship Violence is a broad term used by EMU to categorize types of violence, threats, coercion, or intimidation, other than sexual harassment, that occurs in the context of an intimate relationship. This term is further defined in Section 4: Prohibited Conduct.

## **RESPONDENT**

A Respondent is an individual who has been reported to be responsible for conduct that could constitute a violation of this policy, including sexual harassment or retaliation for engaging in a protected activity. A Respondent may be any member of the University community (current faculty, staff, students and contracted third parties) who is alleged to have carried out an incident of sexual harassment, relationship violence, sexual misconduct, or any other conduct prohibited under this policy. See Appendix C: Rights of the Respondent<sup>29,30</sup> .

## **SEXUAL HARASSMENT**

Sexual harassment is a broad term that includes quid pro quo, sexual harassment that results from unwelcome conduct, sexual assault, dating violence, domestic violence, and stalking. Each of these terms are defined, with examples, in Section 4: Prohibited Conduct.

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28 [https://cm.maxient.com/reportingform.php?EasternMennoniteUniv&layout\\_id=2](https://cm.maxient.com/reportingform.php?EasternMennoniteUniv&layout_id=2)

29 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5082480064/Appendix+C+Rights+of+the+Respondent>

30 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5082480064/Appendix+C+Rights+of+the+Respondent>



## SEXUAL MISCONDUCT

As opposed to sexual harassment defined above, sexual misconduct is a broad term used by EMU to refer to other violence of a sexual nature, and encompasses sexual exploitation and sexual misconduct that results in a hostile environment. Each of these terms are defined, with examples, in [Section 4: Prohibited Conduct](#)<sup>3132</sup>.

## SUPPORTIVE MEASURES

Supportive measures are the 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 the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or deter sexual harassment. The University will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair EMU's ability to provide Supportive Measures. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures which may include, for example, removal from campus housing, the issuance of a no contact order (see [Section 8.2.5.1](#)<sup>33</sup>), or adjustment of class schedule.

## THIRD PARTY

A third party is any person on campus that is not directly employed by the University but is contracted to provide services to the University community. For example, employees of Pioneer Catering, EMU's bookstore, and construction workers are third parties on campus. Third parties are considered Mandated Reporters and must disclose any sexual harassment, relationship violence, sexual misconduct, or other form of conduct prohibited under this policy reported to them or observed by them to the University.

<sup>31</sup> <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081301017/SECTION+4+PROHIBITED+CONDUCT>

<sup>32</sup> <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081301017/SECTION+4+PROHIBITED+CONDUCT>

<sup>33</sup> <https://resources.emu.edu/confluence/display/RVSM/>

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## TIMELY WARNING

A timely warning is a warning required by the Clery Act<sup>34</sup> that alerts the campus community to potentially dangerous circumstances. The need for a timely warning is determined by considering the nature of the act reported and the likelihood that continuing danger exists for the campus community. In cases of sexual harassment, relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy, the Title IX safety team will meet to determine the need for a timely warning. If warranted, a timely warning will be issued by the Coordinator of Campus Safety and Security, who has the final authority to make the determination according to Virginia law<sup>35</sup>.

## TITLE IX SAFETY TEAM

The Title IX Safety Team is composed of the Title IX Coordinator, the Coordinator of Campus Safety and Security, and the head of the Student Life Division. The Title IX Safety Team receives all electronic Campus Safety Incident Form submissions. After a report is received, the Safety Team will determine the need for administrative leave (in the case of employees), emergency removal (in the case of students), and/or a timely warning to be issued within the 72 hour notice to the Commonwealth's Attorney and local law enforcement, and will, if deemed necessary make those notifications. A timely warning is required by the Clery Act<sup>36</sup> and alerts the campus community to potentially dangerous circumstances. The need for a timely warning is determined by considering the nature of the act reported and the likelihood that continuing danger exists for the campus community. If warranted, a timely warning will be issued by the Coordinator of Campus Safety and Security, who has the final authority to make the determination. In cases involving an employee, the Director of Human Resources will also be consulted.

## TITLE IX

Title IX<sup>37</sup> is a federal law that prohibits sex discrimination in educational institutions that receive federal funding. Under Title IX<sup>38</sup>, no person in the United States shall, on the basis of sex, be excluded

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34 <https://clerycenter.org/policy-resources/the-clery-act/>

35 <http://law.lis.virginia.gov/vacode/title23.1/chapter8/section23.1-806/>

36 <https://clerycenter.org/policy-resources/the-clery-act/>

37 [https://www.ecfr.gov/cgi-bin/text-idx?](https://www.ecfr.gov/cgi-bin/text-idx?SID=69a8d5e1a8a4e43ee9%201685c254404%202c2&mc=true&node=pt34.1.106&rgn=div5#sp34.1.106.c)

[SID=69a8d5e1a8a4e43ee9%201685c254404%202c2&mc=true&node=pt34.1.106&rgn=div5#sp34.1.106.c](https://www.ecfr.gov/cgi-bin/text-idx?SID=69a8d5e1a8a4e43ee9%201685c254404%202c2&mc=true&node=pt34.1.106&rgn=div5#sp34.1.106.c)

38 [https://www.ecfr.gov/cgi-bin/text-idx?](https://www.ecfr.gov/cgi-bin/text-idx?SID=69a8d5e1a8a4e43ee9%201685c254404%202c2&mc=true&node=pt34.1.106&rgn=div5#sp34.1.106.c)

[SID=69a8d5e1a8a4e43ee9%201685c254404%202c2&mc=true&node=pt34.1.106&rgn=div5#sp34.1.106.c](https://www.ecfr.gov/cgi-bin/text-idx?SID=69a8d5e1a8a4e43ee9%201685c254404%202c2&mc=true&node=pt34.1.106&rgn=div5#sp34.1.106.c)

from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

### **TITLE IX ASSESSMENT TEAM**

The Title IX Assessment Team consists of the Title IX Coordinator<sup>39</sup> and one or more Deputy Title IX Coordinators, identified by the Title IX Coordinator for assistance according to their primary role in the University system. The Title IX Assessment Team will include the Director of Human Resources when an employee is involved in a report. The Title IX Assessment Team facilitates disciplinary outcomes, if any, for the Respondent in an informal resolution process or refers cases to a formal process as necessary. See [Appendix A, Section A.3.3.2](#)<sup>40</sup> for more information.

### **TITLE IX COORDINATOR**

The Title IX Coordinator is responsible for overseeing and coordinating the resolution of all reports of sex discrimination covered by this policy, and identifying and addressing any patterns or systemic concerns that arise during the review of such reports at EMU. The coordinator's responsibilities include oversight of a prompt, fair, equitable investigation and resolution process for reports of sexual harassment, relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy. The Title IX Coordinator also evaluates trends on campus by using information reported to them and makes recommendations for campus-wide training and education programs and other remedial actions designed to eliminate sexual harassment, relationship violence and sexual misconduct, prevent its recurrence, and address its effects.

In addition to the Title IX Coordinator's core responsibilities, additional services to the University community include working with campus resources to provide ongoing training to new and current students, faculty, and staff on Title IX issues and procedures. The University will ensure that Mandated Reporters know how to respond appropriately to reports of prohibited conduct, that they are obligated to report sexual harassment, relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy to the Title IX Coordinator, and that all employees understand how to respond to such reports.

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<sup>39</sup> <https://emu.edu/titleix/#coordinator>

<sup>40</sup> <https://resources.emu.edu/confluence/display/RVSM/Appendix+A%3A+Procedures#AppendixA:Procedures-A.3.3.2TitleIXAssessment>

Title IX Coordinator: 540-432-4849; [titleixcoordinator@emu.edu](mailto:titleixcoordinator@emu.edu)<sup>41</sup>

## TITLE IX INVESTIGATOR

Title IX Investigators serve as designees for the Title IX Coordinator to carry out the investigation of cases and prepare a written investigation report. Title IX Investigators conduct thorough and impartial investigations of a Formal Complaint, including interviewing the Complainant(s), the Respondent(s), witnesses, or others who may have relevant information, and collecting any other evidence deemed relevant to a case.

## TITLE VII

Title VII of the Civil Rights Act of 1964<sup>42</sup> is a federal law that prohibits employers from discriminating against employees on the basis of sex, race, color, national origin, and religion. Particularly of relevance to this policy are the prohibitions that Title VII establishes towards sex-based discrimination, including discrimination on the basis of pregnancy, childbirth, related medical conditions, or sexual harassment in the workplace carried out by either the institution or other coworkers.

## Section 3: Scope of Policy

### Information on this page

- 3.1. NOTICE OF NON-DISCRIMINATION (see page 37)
- 3.2. BIAS (see page 38)
- 3.3. CONFLICT OF INTEREST (see page 38)
- 3.4. PRIVACY AND CONFIDENTIALITY (see page 38)
  - 3.4.1. PRIVACY (see page 39)

Eastern Mennonite University prohibits harassment of, and discrimination against any and all EMU community members. This policy applies to students who are registered or enrolled in credit- or non-credit-bearing coursework (students); all University employees, consisting of full-time and part-time faculty and staff, including temporary and adjunct roles (employees); and contractors, vendors, visitors, volunteers, guests (third parties) on any EMU campus or site.

This policy pertains to acts of sexual harassment, relationship violence, sexual misconduct, and other forms of prohibited conduct that may be based on sex or gender and are committed by or against students, employees, and third parties (See Section 4: Prohibited Conduct)<sup>45,46</sup>

This policy applies when:

1. The conduct occurs on University property or other property owned or controlled by the University;

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<sup>41</sup> <mailto:titleixcoordinator@emu.edu>

<sup>42</sup> <https://www.eeoc.gov/laws/statutes/titlevii.cfm>

<sup>45</sup> <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081301017/SECTION+4+PROHIBITED+CONDUCT>

<sup>46</sup> <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081301017/SECTION+4+PROHIBITED+CONDUCT>

- 3.4.2. CONFIDENTIALITY (see page 40)
  - 3.5. EMPLOYEE REPORTING RESPONSIBILITIES (see page 40)
  - 3.6. REQUEST FOR ANONYMITY BY A REPORTING PARTY (see page 42)
2. The conduct occurs in the context of a University employment or educational program or activity including, but not limited to, University-sponsored cross-cultural, research, online, or internship/practicum programs;
  3. The conduct occurs off-campus but is likely to have a substantial adverse effect on a member of the EMU community;
  4. The conduct occurs outside the context of a University employment or educational program or activity but has continuing adverse effects on, or has the propensity to create a hostile environment for students, employees, or third parties while on University property, other property owned or controlled by the University, or in any University employment or education program/activity; or
  5. The Complainant must be participating in or attempting to participate in EMU's education programs or activities.

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Supportive Measures may be available to the Complainant(s) in the event that a report does not fall within any of the above criteria.

### 3.1. NOTICE OF NON-DISCRIMINATION

The University is committed to maintaining an environment free from harassment and discrimination for everyone. EMU does not discriminate on the basis of race, sex, national origin, religion, sexual orientation, gender identity or expression, or any other protected status in any of its education or employment programs and activities. This policy prohibits specific forms of behavior that may violate Title IX of the Education Amendments of 1972<sup>47</sup> (Title IX); relevant provisions of the Violence Against Women Reauthorization Act of 2013<sup>48</sup> (VAWA); Title VII of the Civil Rights Act of 1964<sup>49</sup> (Title VII); the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act<sup>50</sup> (Clery Act); and corresponding state laws and regulations in Virginia, Pennsylvania, and Washington, DC.

The University recognizes that it is important to coordinate this policy with other existing policies related to conduct, harassment and discrimination, knowing that sex discrimination can occur in conjunction with discrimination or harassment related to a person's

43 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM>

44 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM>

47 [https://www.ecfr.gov/cgi-bin/text-idx?](https://www.ecfr.gov/cgi-bin/text-idx?SID=69a8d5e1a8a4e43ee9%201685c254404%202c2&mc=true&node=pt34.1.106&rgn=div5#sp34.1.106.c)

[SID=69a8d5e1a8a4e43ee9%201685c254404%202c2&mc=true&node=pt34.1.106&rgn=div5#sp34.1.106.c](https://www.ecfr.gov/cgi-bin/text-idx?SID=69a8d5e1a8a4e43ee9%201685c254404%202c2&mc=true&node=pt34.1.106&rgn=div5#sp34.1.106.c)

48 <https://www.congress.gov/bill/113th-congress/senate-bill/47>

49 <https://www.eeoc.gov/laws/statutes/titlevii.cfm>

50 <https://clerycenter.org/policy-resources/the-clery-act/>

race, ethnicity, national origin, religion, age, disability, and/or other protected status, as well as other prohibited misconduct. Reports that include both sex discrimination and other prohibited discrimination, harassment, or misconduct may be adjudicated under this policy and any related University policies, including those pertaining to other protected status(es) (for example, EMU's bias policy). Questions about which policy applies in a specific instance should be directed to the Title IX coordinator.

This policy covers sexual harassment, relationship violence, sexual misconduct, and other prohibited misconduct. Employees should seek further information regarding equal opportunity, disability, harassment, discrimination, and retaliation that is not based on sex or gender discrimination with the Director of Human Resources at (540) 432-4148 or [hr@emu.edu](mailto:hr@emu.edu)<sup>51</sup>.

### **3.2. BIAS**

Bias is prejudice in favor of or against one thing, person, or group compared with another, usually in a way considered to be unfair. EMU makes every effort to recognize and mitigate the impacts of bias. The University strongly encourages all parties involved to identify, name, and work to address the various forms of bias that may impact the campus community.

### **3.3. CONFLICT OF INTEREST**

Conflict of interest means that a person may have the potential to undermine the impartiality of a process due to the possibility of a conflict between the person's self-interest and/or professional or public interest. The University makes every effort to identify and prevent conflicts of interest at any and every level. Should a conflict of interest be identified, the University will identify and utilize alternative (up to and including external) resources.

### **3.4. PRIVACY AND CONFIDENTIALITY**

The University is committed to protecting the privacy of all individuals involved in the investigation and resolution of a report under this policy. The University will provide assistance to help students, employees, and third parties make informed choices. With respect to any report under this policy, the University will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to

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<sup>51</sup> <mailto:hr@emu.edu>

assess the report and to take steps to eliminate the sexual harassment, relationship violence, sexual misconduct, and other misconduct; prevent its recurrence; and remedy its effects. Privacy and confidentiality have distinct meanings under this policy.

### 3.4.1. PRIVACY

Privacy means that information related to a report of sexual harassment, relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy will be shared with a limited circle of University employees who have a legitimate need to assist in the assessment, investigation, and adjudication of the report. All employees who are involved in the University's response to reports of sexual harassment, relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy receive guidance and must comply with practices that safeguard private information in accordance with federal and state law.

The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act<sup>52</sup> (FERPA). All documentation related to a student's report, investigation, and resolution are protected by FERPA<sup>53</sup> and will not be released, except as required by law. Non-identifying information about a report will be shared with Campus Safety and Security to comply with the Clery Act<sup>54</sup>. All publicly available record keeping, including those required under Clery such as the daily crime log, annual security report, and timely warnings, are maintained without the inclusion of personally identifiable information. In addition, any person involved in a case of sexual harassment, relationship violence, sexual misconduct, and/or any other form of conduct prohibited under this policy may request that their directory information on file be removed from public sources by contacting the Title IX Coordinator at [titleixcoordinator@emu.edu](mailto:titleixcoordinator@emu.edu)<sup>55</sup> or by calling 540-432-4849.

The privacy of an individual's medical and related records is generally protected by the Health Insurance Portability and Accountability Act<sup>56</sup> (HIPAA), except health records protected by FERPA<sup>57</sup> and by Virginia's Health Records Privacy Act, Va. Code § 32.1-127.1:03<sup>58</sup>. Access to an employee's personnel records may also be restricted.

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52 <https://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=34:1.1.1.1.33>

53 <https://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=34:1.1.1.1.33>

54 <https://clerycenter.org/policy-resources/the-clery-act/>

55 <mailto:titleixcoordinator@emu.edu>

56 <https://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/index.html>

57 <https://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=34:1.1.1.1.33>

58 <https://law.lis.virginia.gov/vacode/title32.1/chapter5/section32.1-127.1:03/>

### 3.4.2. CONFIDENTIALITY

Confidentiality means that information shared by an individual with Confidential Employees cannot be revealed to any other individual without the express permission of the disclosing party. The University has designated groups of individuals who can have privileged communications as Confidential Employees and are therefore exempt from reporting incidents prohibited under this policy that are disclosed to them while they are serving in particular confidential roles.

Disclosures which occur while Confidential Employees are acting in their role as a Confidential Employee will remain confidential. Disclosures that occur when the Confidential Employee is not acting in this official capacity must be reported on the Safety and Care Reporting Form<sup>59</sup> or directly to the Title IX Coordinator.

Confidential Employees, which include licensed mental health clinicians, auxiliary staff working in Counseling Services, licensed medical health professionals, and licensed/credentialed campus pastors acting in their roles, are prohibited from breaching confidentiality unless there is an imminent threat of harm to self or others or the disclosure is otherwise legally required or is expressly permitted by the disclosing party. Non-personally identifying, aggregate data will be shared with EMU by Confidential Employees for statistical purposes consistent with the Clery Act<sup>60</sup>.

The University will document non-identifying information in the campus incident log as required by the Clery Act<sup>61</sup>. Should the university determine there is a serious or imminent threat, a timely warning notice will be shared with the campus community.

The University will also honor the confidentiality of any Supportive Measures provided to the Complainant(s) and the Respondent(s), to the extent that maintaining such privacy does not impair the University's ability to provide the Supportive Measures.

### 3.5. EMPLOYEE REPORTING RESPONSIBILITIES

Title IX<sup>62</sup> uses the concept of notice, and imposes obligations for a “prompt and effective remedy” on colleges and universities when notice of sex and/or gender discrimination or harassment is given to an official

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<sup>59</sup> [https://cm.maxient.com/reportingform.php?EasternMennoniteUniv&layout\\_id=2](https://cm.maxient.com/reportingform.php?EasternMennoniteUniv&layout_id=2)

<sup>60</sup> <https://clerycenter.org/policy-resources/the-clery-act/>

<sup>61</sup> <https://clerycenter.org/policy-resources/the-clery-act/>

<sup>62</sup> [https://www.ecfr.gov/cgi-bin/text-idx?](https://www.ecfr.gov/cgi-bin/text-idx?SID=69a8d5e1a8a4e43ee9%201685c254404%202c2&mc=true&node=pt34.1.106&rgn=div5#sp34.1.106.c)

[SID=69a8d5e1a8a4e43ee9%201685c254404%202c2&mc=true&node=pt34.1.106&rgn=div5#sp34.1.106.c](https://www.ecfr.gov/cgi-bin/text-idx?SID=69a8d5e1a8a4e43ee9%201685c254404%202c2&mc=true&node=pt34.1.106&rgn=div5#sp34.1.106.c)



with authority. An Official with Authority (“OWA”) means an EMU employee who is explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of EMU. The following members of the EMU community are an OWA:

- University President
- Provost
- Associate & Assistant Provost
- Dean of School of Social Sciences & Professions
- Dean of School of Theology, Humanities, & Performing Arts
- Dean of School of Science, Engineering, Art, and Nursing
- Dean of Students
- Director of Human Resources
- Title IX Coordinator
- Director of Athletics
- Student Life Directors
- Deputy Title IX Coordinators

Notice means that an employee, student, or third-party informs the Title IX Coordinator or other OWA of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct, which includes the sexual harassment, relationship violence, and other sexual misconduct prohibited under this policy.

All Mandated Reporters must immediately report to the Title IX Coordinator any incident of alleged sexual harassment, relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy reported to them or observed by them, including the name of the Complainant and Respondent, if known, and all known details. This reporting can be done by calling (540) 432-4849, emailing [titleixcoordinator@emu.edu](mailto:titleixcoordinator@emu.edu)<sup>63</sup>, or completing a campus safety incident form at [Safety and Care Reporting Form](https://emu.edu/safecampus/)<sup>64</sup>. The University requires everyone in the campus community, including Confidential Employees, to report suspected abuse of children.

Faculty and staff who receive disclosures through classroom discussions or assignments are not under obligation to report to the Title IX Coordinator if the intent of the individual was not to seek support services or make an official report to the University. The determination as to intent may be made in conversation between the employee and student, and/or in consultation with the Title IX Coordinator.

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<sup>63</sup> <mailto:titleixcoordinator@emu.edu>

<sup>64</sup> <https://emu.edu/safecampus/>

Public awareness events, open forums or disclosures made during formal Institutional Review Board projects are not considered a report or notice under this policy and therefore will not initiate the University's obligation to investigate these particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts.

Complainants who wish to make a confidential disclosure have multiple Confidential Resources available to them. For a full listing see Appendix<sup>65</sup>E<sup>6667</sup>.

### 3.6. REQUEST FOR ANONYMITY BY A REPORTING PARTY

Complainants who experience sexual harassment, relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy may request anonymity, including that their name not be shared with the Respondent, that the Respondent not be notified of the report, and/or that no investigation occur. When the Complainant requests to either the Mandated Reporter or the Title IX Coordinator that their identity not be shared with the Respondent or that the University not pursue an investigation, the University will balance this request with the University's responsibility to provide a safe and non-discriminatory environment for all University community members as required under the Clery Act<sup>68</sup>. Consideration of requests for anonymity will take the following dynamics into account:

1. The respective ages and roles of the Complainant and the Respondent;
2. Whether there have been other reports of sexual harassment, relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy involving the Respondent;
3. Whether the circumstances suggest there is a risk of the Respondent committing additional acts of sexual harassment, relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy;
4. Whether the Respondent has a history of arrests or records indicating a history of violence;
5. Whether the report indicates the Respondent has threatened further sexual violence or other violence against the Complainant and other individuals involved;

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65 <https://resources.emu.edu/confluence/display/RVSM/Appendix+F%3A+Confidential+Resources>

66 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5100797230/Appendix+E+Confidential+Resources>

67 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5100797230/Appendix+E+Confidential+Resources>

68 <https://clerycenter.org/policy-resources/the-clery-act/>

6. Whether the reported conduct was committed by multiple individuals;
7. Whether the circumstances suggest there is a risk of future acts of sexual harassment, relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy under similar circumstances;
8. Whether the reported conduct was perpetrated with a weapon;
9. Whether the University possesses other means to obtain relevant evidence (e.g., security cameras or security personnel, physical evidence).

The Complainant's request for anonymity and allegations of misconduct will be communicated to the University via the EMU RVSM Complaint Form<sup>69</sup> reviewed and to the extent possible honored, while giving consideration to an assessment of the underlying allegation(s) and to determine if Supportive Measures can be provided while honoring such a request. Anonymous complaints typically limit the University's availability to investigate, respond, and provide remedies, depending on what information is shared. When the University is unable to act consistent with the Complainant(s) request for anonymity, the Title IX Coordinator will inform the Complainant(s).

As a part of the University's response to a Formal Complaint, the Complainant's identity will be disclosed to the Respondent(s) and other individuals who need to know in order to protect the safety of the campus community. In such cases, the University will notify the Complainant that it intends to move forward with its grievance process, including an investigation, but in no event will the Complainant(s) be required to participate in any such actions undertaken by the University.

## Section 4: Prohibited Conduct

### Information on this page

- 4.1. SEXUAL HARASSMENT<sup>(see page 43)</sup>
  - 4.1.1. QUID PRO QUO<sup>(see page 44)</sup>

The University prohibits the following forms of conduct under this policy no matter where the behavior occurs, whether in person or online:

### 4.1. SEXUAL HARASSMENT

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender

<sup>69</sup> [https://cm.maxient.com/reportingform.php?EasternMennoniteUniv&layout\\_id=8](https://cm.maxient.com/reportingform.php?EasternMennoniteUniv&layout_id=8)

- 4.1.2. SEXUAL HARASSMENT (see page 44)
- 4.1.3. SEXUAL ASSAULT (see page 44)
  - 4.1.3.1. Forcible Rape (see page 44)
  - 4.1.3.2. Forcible Fondling (see page 44)
  - 4.1.3.3. Non-Forcible Sex Offenses (see page 44)
  - 4.1.3.4. Forcible Sodomy (see page 45)
  - 4.1.3.5. Sexual Assault with an Object (see page 45)
  - 4.1.3.6. Examples of Sexual Assault (see page 45)

identity of those involved. Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

#### **4.1.1. QUID PRO QUO**

An employee of the University who conditions the provision of University aids, benefits, or services on an individual's participation in unwelcome sexual conduct.

#### **4.1.2. SEXUAL HARASSMENT**

Sexual harassment involves the unwelcome conduct determined by a reasonable person to be so severe, pervasive, *and* objectively offensive that it effectively denies a person equal access to the University's educational program or activity.

#### **4.1.3. SEXUAL ASSAULT**

Sexual assault is any sexual act directed against the Complainant, without their consent, including instances when the Complainant is incapable of giving consent. Sexual assault is any offense that meets the definition of rape, fondling, incest, or statutory rape.

##### **4.1.3.1. Forcible Rape**

Forcible rape is penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of the Respondent, without the consent of the Complainant.

##### **4.1.3.2. Forcible Fondling**

Forcible fondling is the touching of the Complainant's private body parts (including genitalia, groin, breasts, or buttocks) by the Respondent for the purpose of sexual gratification, without the Complainant's consent, including instances when the Complainant is incapable of giving consent because of age or because of temporary or permanent mental incapacity.

##### **4.1.3.3. Non-Forcible Sex Offenses**

1. Incest. Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by the Commonwealth of Virginia, the Commonwealth of Pennsylvania, or the District of Columbia, depending upon where the incident occurred.

- 4.1.4. DATING VIOLENCE<sup>(s)</sup> (see page 46)
- 4.1.5. DOMESTIC VIOLENCE<sup>(s)</sup> (see page 46)
- 4.1.6. STALKING<sup>(s)</sup> (see page 47)
- 4.2. RELATIONSHIP VIOLENCE<sup>(see page 47)</sup>
- 4.3. SEXUAL MISCONDUCT<sup>(see page 47)</sup>
  - 4.3.1. SEXUAL EXPLOITATION<sup>(see page 48)</sup>
  - Sexual exploitation is purposely or knowingly doing any of the following: (see page 48)
  - 4.3.2. SEXUAL DISCRIMINATION<sup>(see page 48)</sup>
  - 4.3.3. INDECENT EXPOSURE<sup>(s)</sup> (see page 48)
- 4.4. OTHER PROHIBITED CONDUCT<sup>(see page 49)</sup>

2. Statutory Rape. Statutory rape is non-forcible sexual intercourse with a person who is under the statutory age of consent, age 18 in the Commonwealth of Virginia and the District of Columbia, age 16 in the Commonwealth of Pennsylvania, depending upon where the incident occurred.

#### **4.1.3.4. Forcible Sodomy**

Forcible sodomy is the oral or anal sexual intercourse with the Complainant, forcibly, and against the Complainant's will. Forcible sodomy is also the oral or anal sexual intercourse with the Complainant, not forcibly or against the Complainant's will, in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

#### **4.1.3.5. Sexual Assault with an Object**

Sexual assault with an object is the use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of the Complainant, forcibly, and/or against the Complainant's will (non-consensually).

#### **4.1.3.6. Examples of Sexual Assault**

Examples of behavior that may constitute sexual assault include, but are not limited to, the following:

1. Engaging in sexual activity with an unconscious or semi-conscious person;
2. Engaging in sexual activity with someone who is asleep or passed out;
3. Engaging in sexual activity with someone who has said "no" or has otherwise indicated through non-verbal communication that they do not consent to sexual activity;
4. Engaging in sexual activity with someone who is vomiting, unable to stand without assistance, or has to be carried to bed;
5. Allowing another person to engage in sexual activity with your sexual partner without the partner's consent;
6. Requiring any person to perform any sexual activity as a condition of acceptance into any organization affiliated with the University;
7. Telling someone you will "out" them if they don't engage in sexual activity (e.g., threatening to disclose the person's sexual orientation without their consent); or
8. Facilitating or assisting in a sexual assault, including purchasing or providing alcohol or drugs to further a sexual assault.

- 4.4.1. GENDER-BASED HARASSMENT (see page 49)
- 4.5. RETALIATION (see page 49)
- 4.6. HOSTILE ENVIRONMENT (see page 49)
- 4.6. COMPLICITY (see page 50)
- 4.7. VIOLATIONS OF LAW (see page 51)

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#### **4.1.4. DATING VIOLENCE**

Dating violence means violence, on the basis of sex, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship will be determined based on the Complainant's statement, taking into consideration the following factors:

1. The length of the relationship;
2. The type of relationship; and
3. The frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include any acts covered under the definition of domestic violence.

#### **4.1.5. DOMESTIC VIOLENCE**

Domestic violence is violence, on the basis of sex, committed by a current or former spouse or intimate partner of the Complainant, by a person (a) with whom the Complainant shares a child in common; (b) who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner; (c) similarly situated to a spouse of the Complainant under the domestic or family violence laws of the Commonwealth of Virginia, the Commonwealth of Pennsylvania, or the District of Columbia, depending upon where the incident occurred; or (d) any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of the Commonwealth of Virginia, the Commonwealth of Pennsylvania, or the District of Columbia, depending upon where the incident occurred. To be an incident of domestic violence, the relationship between the Respondent and the Complainant must be more than two roommates living together.

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<sup>70</sup> <https://resources.emu.edu/confluence/display/RVSM>

#### **4.1.6. STALKING**

Stalking occurs when a person engages in a course of conduct, on the basis of sex, directed at a specific person under circumstances that would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress:

1. Course of conduct means two or more acts, including but not limited to acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about the Complainant, or interferes with the Complainant's property.
2. A reasonable person means a person under similar circumstances and with similar identities to the Complainant.
3. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
4. Stalking includes cyber-stalking, a particular form of stalking in which a Respondent uses electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact.

#### **4.2. RELATIONSHIP VIOLENCE**

Relationship violence is a broad term used by EMU to categorize types of violence, threats, coercion, or intimidation, other than sexual harassment, that occurs in the context of an intimate relationship, often including emotional, psychological, physical, or fiscal abuse, which results in a hostile environment. An incident of relationship violence can consist of a single act or a pattern of acts. Incidents of relationship violence can occur separate from or in tandem with incidents of sexual misconduct and/or sexual harassment.

#### **4.3. SEXUAL MISCONDUCT**

This policy prohibits sexual misconduct, which is defined to include other forms of misconduct, on the basis of sex, that is not within the definition of sexual harassment. Sexual misconduct encompasses sexual exploitation, indecent exposure, and sexual discrimination (definitions provided below). Sexual misconduct may occur through physical violence, the threat of violence, and/or coercion.

An incident of sexual misconduct can consist of a single act or a pattern of acts. Incidents of sexual misconduct can occur separate from or in tandem with incidents of relationship violence.

#### **4.3.1. SEXUAL EXPLOITATION**

Sexual exploitation is purposely or knowingly doing any of the following:

1. Causing the impairment or incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give affirmative consent to sexual activity;
2. Allowing third parties to observe sexual activity from a hidden location (e.g., a closet) or through electronic means (e.g., live-streaming of images);
3. Engaging in voyeurism (e.g., watching private sexual activity without the consent of the participants or viewing another person's private body parts in a place where that person would have a reasonable expectation of privacy);
4. Recording or photographing sexual activity and/or a person's private body parts (including genitalia, groin, breasts, or buttocks) without affirmative consent;
5. Disseminating or posting images of private sexual activity and/or a person's private body parts (including genitalia, groin, breasts, or buttocks) without affirmative consent;
6. Prostituting oneself or another person.

#### **4.3.2. SEXUAL DISCRIMINATION**

Sexual discrimination is defined as discrimination, on the basis of sex, in the form of unwelcome and harassing conduct that results in a hostile environment. Sexual discrimination includes unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome behavior of a sexual nature.

#### **4.3.3. INDECENT EXPOSURE**

Indecent exposure occurs when a University employee, student, or vendor purposely and knowingly exposes their sexual organs to the Complainant without the Complainant's consent.



## 4.4. OTHER PROHIBITED CONDUCT

### 4.4.1. GENDER-BASED HARASSMENT

Gender-based harassment includes harassment based on gender, sexual orientation, gender identity, or gender expression that may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature, when the conditions outlined below are present:

1. Submission to, or rejection of, such conduct is made, either explicitly or implicitly, a term or condition of a person's employment, academic standing, or participation in any University programs and/or activities (quid pro quo harassment); or
2. Submission to or rejection of such conduct is used as the basis for University decisions affecting the individual (quid pro quo harassment); or
3. Conduct that creates a hostile environment.

### 4.5. RETALIATION

Retaliation is the prohibited conduct of the University or any member of the EMU community to intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by law or this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sex harassment, but arise out of the same facts or circumstances as a report or formal complaint under this policy, for the purpose of interfering with any right or privilege secured by this policy constitutes retaliation.

### 4.6. HOSTILE ENVIRONMENT

A hostile environment is created when unwelcome conduct of a sexual or gender-based nature unreasonably interferes with, limits, or effectively denies an individual's ability to participate in or benefit from their employment or educational program/activity, or creates an intimidating, threatening or abusive employment, educational, and/or living environment. It will be necessary, but not enough, that the conduct was unwelcome to the person who was harassed. The

University will also need to find that a reasonable person in the individual's position would have perceived the conduct as undesirable or offensive in order for that conduct to create or contribute to a hostile environment. To make the ultimate determination of whether a hostile environment exists for an individual, the University considers a variety of factors, including:

1. The type, frequency, and duration of the conduct;
2. The identity and relationships of persons involved;
3. The number of individuals involved;
4. The location of the conduct and the context in which it occurred; and,
5. The degree to which the conduct affected one or more student's education or employee's employment.

A hostile environment results from harassing verbal, written, graphic, or physical conduct that is severe *or* pervasive *and* objectively offensive. A single, isolated incident of sexual or gender-based harassment may, based on the facts and circumstances, be sufficient to create a hostile environment. Likewise, a series of incidents, whether occurring close in time or not to each other, may be sufficient to create a hostile environment, even if each incident is not particularly severe. Examples of a hostile environment include:

1. Calling someone by a sexually oriented or demeaning name;
2. Giving someone unwanted gifts of a sexual nature;
3. Displaying sexually suggestive materials or sending notes, email, or jokes to a person that are sexually explicit;
4. Touching someone sexually without their consent;
5. Massaging someone without permission;
6. Brushing up against someone repeatedly;
7. Continuing to ask out a person who has already said no; or
8. Exposing private parts to another person.

#### **4.6. COMPLICITY**

Complicity is any act taken with the purpose of aiding, facilitating, protecting, promoting, or encouraging the commission of an act of relationship violence, sexual misconduct, sexual harassment, or other forms of conduct prohibited under this policy by another person.

Anyone who is Complicit in any of the prohibited acts outlined in this policy will be in violation of this policy and will be subject to disciplinary action.

## 4.7. VIOLATIONS OF LAW

Behavior that violates this policy may also constitute a crime under the laws of the jurisdiction in which the incident occurred. For example, the Commonwealth of Virginia criminalizes and punishes some forms of sexual assault, intimate partner violence, sexual exploitation, stalking, and physical assault. The criminal statutes that may apply in cases of physical assault and intimate partner violence are found in various sections of Chapter 4, Articles 1 (Homicide) and 4 (Assaults and Bodily Woundings), of Title 18.2 of the Code of Virginia.<sup>71</sup> The criminal statutes relating to sexual assault are found in Sections 18.2-61 to 18.2-67.10 of the Code of Virginia.<sup>72</sup> Section 18.2-60.3 of the Code of Virginia<sup>73</sup> defines and identifies the penalty for criminal stalking. Finally, Sections 18.2-386.1 and 18.2-386.2 of the Code of Virginia<sup>74</sup> provide for criminal penalties in some cases of sexual exploitation. This compilation of criminal statutes is not exhaustive, but is offered to notify the University community that some forms of conduct prohibited under this policy may also constitute crimes under Virginia, Pennsylvania and the District of Columbia law, which may subject a person to criminal prosecution and punishment in addition to any sanctions under this policy.

## Section 5: Consent

### Information on this page

- 5.1 CONSENT (see page 51)
  - 5.1.1. FORCE (see page 52)
  - 5.1.2. INCAPACITATION (see page 53)
    - 5.1.2.1. Incapacitation and the

### 5.1 CONSENT

Consent is the standard to which EMU holds its students and employees. Consent refers to consent to engage in sexual activity that is:

1. Informed, meaning knowingly given by both parties;
2. Voluntary, meaning freely given, not forced or coerced; and
3. Active, meaning that through the demonstration of clear words or actions, a person has indicated permission to engage in mutually agreed-upon sexual activity.

In the context of this definition, sexual activity is defined as sexual intercourse and/or sexual contact.

<sup>71</sup> <https://law.lis.virginia.gov/vacode/title18.2/chapter4/>

<sup>72</sup> <https://law.lis.virginia.gov/vacodefull/title18.2/chapter4/article7/>

<sup>73</sup> <https://law.lis.virginia.gov/vacode/title18.2/chapter4/section18.2-60.3/>

<sup>74</sup> <https://law.lis.virginia.gov/vacodefull/title18.2/chapter8/article5/>

- Use of Drugs or Alcohol (see page 54)
  - 5.1.3. OBTAINING CONSENT (see page 54)
- 5.1 AFFIRMATIVE CONSENT (see page 55)
  - 5.1.1. FORCE (see page 56)
  - 5.1.2. INCAPACITATION (see page 57)
    - 5.1.2.1. Incapacitation and the Use of Drugs or Alcohol (see page 57)
  - 5.1.3. OBTAINING AFFIRMATIVE CONSENT (see page 58)

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Sexual intercourse is any intentional penetration, however slight, with any object or body part (as described below), performed by a person upon another person. Sexual intercourse includes:

1. Vaginal penetration by a penis, object, tongue, or finger;
2. Anal penetration by a penis, object, tongue, or finger; and
3. Any contact, no matter how slight, between the mouth of one person and the genitalia of another person.

Sexual contact is any intentional sexual touching, however slight with any object or body part (as described below), performed by a person upon another person. Sexual contact includes:

1. Intentional touching of the breasts, buttocks, groin, or genitals, whether clothed or unclothed, or intentionally touching another with any of these body parts; or
2. Making another touch you or themselves with or on any of these body parts.

Nonconsensual sexual contact refers to sexual contact that is enacted upon one party by another party without the person(s) committing the act having obtained affirmative consent.

A person who wants to engage in a specific sexual activity is responsible for obtaining consent for that activity. Lack of protest does not constitute consent. Lack of resistance does not constitute consent. Silence and/or passivity also do not constitute consent. Relying solely on non-verbal communication before or during sexual activity can lead to misunderstanding and may result in a violation of this policy.

It is important not to make assumptions about whether a potential partner is consenting. In order to avoid confusion or ambiguity, participants must talk with one another before and during engaging in sexual activity in order to ensure that the activity is and remains consensual. If confusion or ambiguity (including emotional and/or physical freezing) arises during sexual activity, participants are encouraged to stop and clarify a mutual willingness to continue that activity.

### 5.1.1. FORCE

Consent cannot be obtained by force. Force includes the use of physical violence, threats, manipulation, intimidation, and/or coercion.

Physical violence means that a person is exerting control over another person through the use of physical force. Examples of physical violence

<sup>75</sup> <https://resources.emu.edu/confluence/display/RVSM>

include but are not limited to hitting, punching, slapping, kicking, restraining, choking, and brandishing or using any weapon.

Threats are words or actions that would compel a reasonable person to engage in unwanted sexual activity. Examples include threats to harm a person or their loved ones physically, to reveal private information to harm a person's reputation, or to cause a person professional, academic, or economic harm.

Intimidation is an implied threat that menaces or causes reasonable fear in another person. A person's size alone does not constitute intimidation; however, a person's size may be used in a way that constitutes intimidation (e.g., blocking access to an exit).

Coercion is the use of pressure to compel another individual to initiate, engage in, or continue sexual activity against that individual's will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include, but are not limited to:

1. Threatening to "out" someone based on sexual orientation, gender identity, or gender expression;
2. Threatening to harm oneself if the other party does not engage in the sexual activity; or
3. Grooming an individual for the purposes of sexual harassment, relationship violence, and/or sexual misconduct.

In evaluating whether coercion was used, the University will consider the frequency of the application of the pressure, the intensity of the pressure, the degree of isolation of the person being pressured, the duration of the pressure, and the power differential between parties.

### **5.1.2. INCAPACITATION**

Consent cannot be gained by taking advantage of the incapacitation of another, when the person initiating sexual activity knew or reasonably should have known that the other was incapacitated.

Incapacitation describes an individual who lacks the ability to make informed, rational judgments about whether or not to engage in sexual activity and therefore cannot consent to sexual activity. A person who is incapacitated is unable, temporarily or permanently, to give consent because of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that sexual activity is taking place. A person may be incapacitated as a result of the consumption of alcohol or other drugs,

or due to a temporary or permanent physical or mental health condition.

#### **5.1.2.1. Incapacitation and the Use of Drugs or Alcohol**

Incapacitation may result from the use of alcohol and/or drugs. Incapacitation is a state beyond drunkenness or intoxication. Warning signs that a person may be approaching incapacitation may include:

1. Slurred speech
2. Vomiting
3. Unsteady gait
4. Combativeness
5. Emotional volatility
6. Fainting or loss of consciousness

Incapacitation as a result of the consumption of alcohol and/or drugs impairs decision-making abilities, diminishes awareness of consequences, compromises one's ability to make informed judgments, and limits one's capacity to understand the implications and consequences of an act. It is not possible for a party to obtain consent from someone who is incapacitated. It is not possible for someone who is incapacitated to give consent. If there is any doubt as to the level or extent of an individual's intoxication or impairment, sexual contact or activity should not be initiated or should be immediately stopped.

In evaluating consent and in cases of alleged incapacitation, the University asks two questions: (1) did the person initiating sexual activity know that the other party was incapacitated? and if not, (2) should a sober, reasonable person in the same situation have known that the other party was incapacitated? If the answer to either of these questions is "yes," consent was absent, and the conduct was a violation of this policy.

#### **5.1.3. OBTAINING CONSENT**

Consent to one form of sexual activity does not, by itself, constitute consent to another form of sexual activity. For example, one should not presume that consent to oral-genital contact constitutes consent to vaginal or anal penetration. Consent to sexual activity on a prior occasion does not, by itself, constitute consent to future sexual activity. In cases of prior relationships, the manner and nature of prior communications between the parties and the context of the relationship may have a bearing on the presence of consent.

Consent may be withdrawn at any time. An individual who seeks to withdraw consent must communicate, through clear words or actions, a

decision to cease the sexual activity. Once consent is withdrawn, the sexual activity must cease immediately.

## 5.1 AFFIRMATIVE CONSENT

Affirmative consent is the standard to which EMU holds its students and employees. Affirmative consent refers to consent to engage in sexual activity that is:

- a. informed, meaning knowingly given by both parties;
- b. voluntary, meaning freely given, not forced or coerced; and
- c. active, meaning that through the demonstration of clear words or actions, a person has indicated permission to engage in mutually agreed-upon sexual activity.

In the context of this definition, sexual activity is defined as sexual intercourse and/or sexual contact.

Sexual intercourse is any intentional penetration, however slight, with any object or body part (as described below), performed by a person upon another person. Sexual intercourse includes:

- a. vaginal penetration by a penis, object, tongue, or finger;
- b. anal penetration by a penis, object, tongue, or finger; and
- c. any contact, no matter how slight, between the mouth of one person and the genitalia of another person.

Sexual contact is any intentional sexual touching, however slight with any object or body part (as described below), performed by a person upon another person. Sexual contact includes:

- a. intentional touching of the breasts, buttocks, groin, or genitals, whether clothed or unclothed, or intentionally touching another with any of these body parts; or
- b. making another touch you or themselves with or on any of these body parts.

Nonconsensual sexual contact refers to sexual contact that is enacted upon one party by another party without the person(s) committing the act having obtained affirmative consent.

A person who wants to engage in a specific sexual activity is responsible for obtaining affirmative consent for that activity. Lack of protest does not constitute affirmative consent. Lack of resistance does not constitute affirmative consent. Silence and/or passivity also do not constitute affirmative consent. Relying solely on non-verbal

communication before or during sexual activity can lead to misunderstanding and may result in a violation of this policy.

It is important not to make assumptions about whether a potential partner is consenting. In order to avoid confusion or ambiguity, participants are encouraged to talk with one another before engaging in sexual activity. If confusion or ambiguity (including emotional and/or physical freezing) arises during sexual activity, participants are encouraged to stop and clarify a mutual willingness to continue that activity.

### 5.1.1. FORCE

Affirmative consent cannot be obtained by force. Force includes the use of physical violence, threats, intimidation, and/or coercion.

Physical violence means that a person is exerting control over another person through the use of physical force. Examples of physical violence include but are not limited to hitting, punching, slapping, kicking, restraining, choking, and brandishing or using any weapon.

Threats are words or actions that would compel a reasonable person to engage in unwanted sexual activity. Examples include threats to harm a person physically, to reveal private information to harm a person's reputation, or to cause a person academic or economic harm.

Intimidation is an implied threat that menaces or causes reasonable fear in another person. A person's size alone does not constitute intimidation; however, a person's size may be used in a way that constitutes intimidation (e.g., blocking access to an exit).

Coercion is the use of pressure to compel another individual to initiate or continue sexual activity against that individual's will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include, but are not limited to:

- a. threatening to "out" someone based on sexual orientation, gender identity, or gender expression
- b. threatening to harm oneself if the other party does not engage in the sexual activity
- c. grooming an individual for the purposes of relationship violence and/or sexual misconduct.



In evaluating whether coercion was used, the university will consider the frequency of the application of the pressure, the intensity of the pressure, the degree of isolation of the person being pressured, the duration of the pressure, and the power differential between parties.

### 5.1.2. INCAPACITATION

Affirmative consent cannot be gained by taking advantage of the incapacitation of another, where the person initiating sexual activity knew or reasonably should have known that the other was incapacitated.

Incapacitation describes an individual who lacks the ability to make informed, rational judgments about whether or not to engage in sexual activity and therefore cannot consent to sexual activity. A person who is incapacitated is unable, temporarily or permanently, to give affirmative consent because of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that sexual activity is taking place. A person may be incapacitated as a result of the consumption of alcohol or other drugs, or due to a temporary or permanent physical or mental health condition.

#### 5.1.2.1. Incapacitation and the Use of Drugs or Alcohol

Incapacitation may result from the use of alcohol and/or drugs. Incapacitation is a state beyond drunkenness or intoxication. Warning signs that a person may be approaching incapacitation may include:

- a. slurred speech
- b. vomiting
- c. unsteady gait
- d. odor of alcohol
- e. combativeness
- f. emotional volatility

Incapacitation as a result of the consumption of alcohol and/or drugs impairs decision-making abilities, diminishes awareness of consequences, compromises one's ability to make informed judgments, and limits one's capacity to understand the implications and consequences of an act. It is not possible for a party to obtain affirmative consent from someone who is incapacitated. It is not possible for someone who is incapacitated to give affirmative consent. If there is any doubt as to the level or extent of an individual's intoxication or impairment, sexual contact or activity should not be initiated or should be immediately stopped.

In evaluating affirmative consent and in cases of alleged incapacitation, the university asks two questions: (1) did the person initiating sexual activity know that the other party was incapacitated? and if not, (2) should a sober, reasonable person in the same situation have known that the other party was incapacitated? If the answer to either of these questions is “yes,” affirmative consent was absent, and the conduct a violation of this policy.

### 5.1.3. OBTAINING AFFIRMATIVE CONSENT

Affirmative consent to one form of sexual activity does not, by itself, constitute affirmative consent to another form of sexual activity. For example, one should not presume that affirmative consent to oral-genital contact constitutes affirmative consent to vaginal or anal penetration. Affirmative consent to sexual activity on a prior occasion does not, by itself, constitute affirmative consent to future sexual activity. In cases of prior relationships, the manner and nature of prior communications between the parties and the context of the relationship may have a bearing on the presence of affirmative consent.

Affirmative consent may be withdrawn at any time. An individual who seeks to withdraw affirmative consent must communicate, through clear words or actions, a decision to cease the sexual activity. Once affirmative consent is withdrawn, the sexual activity must cease immediately.

## Section 6: Consensual Relationships

### Information on this page

- 6.1. EMPLOYEE-TO-EMPLOYEE<sup>(see page 58)</sup>
- 6.2. EMPLOYEE-TO-STUDENT<sup>(see page 59)</sup>

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### 6.1. EMPLOYEE-TO-EMPLOYEE

It is the policy of the University to discourage romantic relationships between employees; however, when they occur, they are to be disclosed in the following manner.

If an employee is engaged in a romantic or sexual relationship with another employee whom they supervise, evaluate, or advise, it is their professional responsibility to inform the Director of Human Resources immediately to discuss and assess the situation with the parties to determine whether it is appropriate to make changes to the advisory, evaluative, or supervisory relationship. Information disclosed in these discussions shall be treated as confidential, and disclosure to others shall be made only on a need-to-know basis.

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<sup>76</sup> <https://resources.emu.edu/confluence/display/RVSM>

In the event an employee is found to have engaged in a romantic or sexual relationship with someone whom they supervised, evaluated, or advised, and the Director of Human Resources was not advised of the existence of the relationship, disciplinary action will be taken, up to and including termination.

## 6.2. EMPLOYEE-TO-STUDENT

It is the policy of the University to discourage romantic relationships between employees and students. Romantic or sexual relationships between employees and students can be characterized by significant power differentials and are subject to significant liabilities. If they occur, they are to be disclosed in the following manner.

If an employee is interested in or is engaging in a romantic or sexual relationship with a student whom they instruct, supervise, evaluate, or advise, it is their professional responsibility to inform the Director of Human Resources immediately to discuss and assess the situation. The Director of Human Resources will report the relationship to the Title IX Coordinator. A review will be conducted of possible conflict of interest. The Title IX Coordinator and the Director of Human Resources will make the determination whether there is a substantive power differential or conflict of interest within the relationship. Should such a determination be made, one of the individuals may be required to leave EMU. Information disclosed in these discussions shall be treated as confidential and disclosure to others shall be made only on a need-to-know basis.

## Section 7: Reporting

### Information on this page

- 7.1. EMPLOYEE REPORTING OBLIGATIONS (see page 60)
- 7.2. CAMPUS SAFETY INCIDENT REPORTS (see page 61)
  - 7.2.1. CAMPUS REPORTING

All employees of EMU, with the exception of Confidential Employees, are required to report incidents of sexual harassment, relationship violence, sexual misconduct, and other conduct prohibited by this policy (“Prohibited Conduct”) in order to obtain assistance for impacted parties and maintain a safe campus environment. Students are also encouraged to report.

The University will take action to respond to allegations of Prohibited Conduct when the University has notice that Prohibited Conduct may have occurred. The Title IX Coordinator is charged with responding to allegations of Prohibited Misconduct to stop the behavior, prevent its recurrence, and remedy its effects. Specifically, the Title IX Coordinator or Deputy Title IX Coordinator will coordinate the initial inquiry, offer resources and support, and initiate an investigation when appropriate and/or requested.

- OPTIONS(see page 62)
- 7.3. REPORTING TO LAW ENFORCEMENT(see page 62)
- 7.4 PRESERVATION OF EVIDENCE(see page 63)
- 7.5. REPORTING CONSIDERATIONS(see page 64)
  - 7.5.1. TIMELINES OF REPORT, LOCATION OF INCIDENT(see page 64)
  - 7.5.2. PERSONAL USE OF ALCOHOL AND/OR DRUGS(see page 64)
  - 7.5.3. STATEMENT AGAINST RETALIATION(see page 64)
  - 7.5.4. FALSE REPORTING(see page 65)

The University will respond to every report it receives to the best of its ability. Anonymous or third-party reports may limit the response the University can provide. In addition, an individual does not have to be a member of the EMU community to file a report under this policy. The University encourages all individuals to seek immediate assistance from campus security, law enforcement, a medical provider, and/or an advisor of their choice. Though the University encourages immediate reporting, delayed reporting will not be considered as a factor when assessing the preponderance of the evidence in a future University process.

### 7.1. EMPLOYEE REPORTING OBLIGATIONS

With the exception of Confidential Employees (see Section 2: Definitions<sup>78</sup>, Confidential Employee<sup>79</sup>), all University Campus Security Authorities, employees, including faculty, staff, administrators, and contracted third parties are required to share with the Title IX Coordinator any report of Prohibited Conduct about which they become aware.

As outlined in the Privacy and Confidentiality section (Section 3.4<sup>80</sup>) of this policy, the University respects the privacy interests of students and employees. Information reported to the Title IX Coordinator will only be shared with the University officials who will assist in responding, investigating, and/or resolving a report. The University will document non-identifying information in the campus incident log as required by the Clery Act<sup>81</sup>. Should the University determine there is a serious or imminent threat, a timely warning notice will be shared with the EMU community.

The Title IX Coordinator will ensure that the University responds to all reports in a timely, fair, effective, and consistent manner. To accomplish this, the Title IX Coordinator may consult with members of the Title IX Assessment Team and others, as applicable.

The University will approach each report with the intent to understand the perspective and experiences of each individual involved to ensure fair and impartial evaluation and resolution. The University will also take every effort to ensure the safety of the campus community when evaluating and assessing Prohibited Conduct.

<sup>78</sup> <https://resources.emu.edu/confluence/display/RVSM/SECTION+2%3A+DEFINITIONS>

<sup>79</sup> <https://resources.emu.edu/confluence/display/RVSM/SECTION+2%3A+DEFINITIONS#SECTION2:DEFINITIONS-CONFIDENTIALEMPLOYEE>

<sup>80</sup> <https://resources.emu.edu/confluence/display/RVSM/SECTION+3%3A+SCOPE+OF+POLICY#SECTION3:SCOPEOFPOLICY-3.4.PRIVACYANDCONFIDENTIALITY>

<sup>81</sup> <https://clerycenter.org/policy-resources/the-clery-act/>

- 7.6. REPORTS INVOLVING MINORS<sup>(see page 65)</sup>
- 7.7. TIMEFRAME FOR PROCEDURES<sup>(see page 65)</sup>
- 7.8. RESOLUTION PROCEDURES<sup>(see page 66)</sup>

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## 7.2. CAMPUS SAFETY INCIDENT REPORTS

A report is a notification of Prohibited Conduct to the Title IX Coordinator by any person. Reports should be filed on EMU's Safety and Care Reporting Form<sup>82</sup>, or by completing the EMU RVSM Complaint Form<sup>83</sup>. Alternatively, a report may be made by contacting the Title IX Coordinator directly, 540-432-4849/[titleixcoordinator@emu.edu](mailto:titleixcoordinator@emu.edu).<sup>84</sup> Reports may be specified as a request for resources or information, a request for no further action, or a request to initiate an investigation.

The University will work cooperatively and equitably to ensure that the Complainant's and Respondent's health, physical safety, work, and academic status are protected, by offering Supportive Measures at any time during the process.

The procedures set forth below afford a prompt and equitable response to reports of Prohibited Conduct, as well as maintain privacy and fairness consistent with applicable legal requirements and EMU's guiding principles, values, and mission (See also our *Life Together Commitment*<sup>85</sup>), and hold responsible those who violate this policy, thereby harming others..

The University will complete an adequate, reliable, equitable, and impartial investigation of reports that are made in good faith and will uphold the rights of all parties. In instances of conflicts of interest between the Title IX or Deputy Title IX Coordinators, investigators, Complainant, and/or Respondent, an outside third party investigator will be contracted to conduct the investigation.

Anonymous reports are also accepted and should be directed to the Title IX Coordinator. The University will respond promptly and equitably to anonymous reports, but the response may be limited if the report does not include identifying information and/or a description of the facts and circumstances. Anonymous reports that provide enough information to constitute certain criminal offenses will be reported to Campus Safety and Security for purposes of inclusion in the University's annual security report and to assess whether the University should send a timely warning notice as required by the Clery Act<sup>86</sup>.

<sup>77</sup> <https://resources.emu.edu/confluence/display/RVSM>

<sup>82</sup> [https://cm.maxient.com/reportingform.php?EasternMennoniteUniv&layout\\_id=2](https://cm.maxient.com/reportingform.php?EasternMennoniteUniv&layout_id=2)

<sup>83</sup> [https://cm.maxient.com/reportingform.php?EasternMennoniteUniv&layout\\_id=8](https://cm.maxient.com/reportingform.php?EasternMennoniteUniv&layout_id=8)

<sup>84</sup> <mailto:titleixcoordinator@emu.edu>

<sup>85</sup> <https://emu.edu/about/life-together>

<sup>86</sup> <https://clerycenter.org/policy-resources/the-clery-act/>

### 7.2.1. CAMPUS REPORTING OPTIONS

Campus reporting options include:

1. Title IX Coordinator: 540-432-4849, [titleixcoordinator@emu.edu](mailto:titleixcoordinator@emu.edu)<sup>87</sup>
2. Campus Safety Incident Form: <https://emu.edu/safecampus/>
3. Campus Security (Harrisonburg campus): 540-432-4911
4. Title IX Deputies:
  1. EMU Harrisonburg campus: Director of Human Resources, 540-432-4148, [hr@emu.edu](mailto:hr@emu.edu)<sup>88</sup>
  2. EMU athletics: Katie Russo, Women's Lacrosse Coach, 540-432-4368, [katie.russo@emu.edu](mailto:katie.russo@emu.edu)<sup>89</sup>
  3. EMU academic programs: Emily North, Administrative Assistant, School of Theology, Humanities and Performing Arts, 540-432-4261, [emily.north@emu.edu](mailto:emily.north@emu.edu)<sup>90</sup>
  4. EMU Lancaster campus: Darla Shober, Coordinator of Student Financial Services, 717-690-8605, [darla.shober@emu.edu](mailto:darla.shober@emu.edu)<sup>91</sup>
  5. EMU WCSC site: Jamie Reich, WCSC's Program Administrator, (202) 529-5378, [jamie.reich@emu.edu](mailto:jamie.reich@emu.edu)<sup>92</sup>

All faculty and staff members, who are considered Mandated Reporters

### 7.3. REPORTING TO LAW ENFORCEMENT

In addition to a University response, EMU supports the Complainant's option to make a police report and pursue criminal action for incidents of Prohibited Conduct that may also be crimes under local criminal statutes. EMU also respects the Complainant's right to decline to file criminal charges.

A Complainant may simultaneously pursue criminal action and the University processes under this policy. The University will support Complainants in understanding and assessing their reporting options and assist in notifying law enforcement authorities if a Complainant so chooses. Upon receipt of a report, the University will provide written notification to individuals of their right to file (or decline to file)

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<sup>87</sup> <mailto:titleixcoordinator@emu.edu>

<sup>88</sup> <mailto:hr@emu.edu>

<sup>89</sup> <mailto:katie.russo@emu.edu>

<sup>90</sup> <mailto:emily.north@emu.edu>

<sup>91</sup> <mailto:darla.shober@emu.edu>

<sup>92</sup> <mailto:jamie.reich@emu.edu>

criminal charges as well as the availability of medical, counseling, and support services (see Appendix<sup>93</sup>B<sup>94</sup><sup>95</sup>). Making a report to the University does not require participation in any subsequent University proceedings, nor is a report required for a Complainant to receive Supportive Measures.

Note that definitions of local criminal law may differ from those used in this policy, which adheres to Clery Act definitions<sup>96</sup> and definitions required by the US Department of Education. The University also adjudicates cases under this policy according to the standard of proof known as Preponderance of the Evidence (see Section 2 for definitions); while criminal processes use the Beyond a Reasonable Doubt standard of proof. These differing standards of proof may result in different outcomes for the same case when adjudicated under this policy and under local criminal laws.

**Complainants may call 911 immediately in the event of an assault or in any other emergency. Complainants may also choose to file (or not to file) criminal charges at that time.**

## 7.4 PRESERVATION OF EVIDENCE

Preserving evidence to support the claims filed in a report and responding to a report is particularly helpful in order to assist in achieving the preponderance of evidence. In matters involving alleged sexual assault, if possible, the Complainant(s) should refrain from bathing, showering, using the restroom, changing clothes, combing hair, or cleaning up the area before reporting the assault in order to preserve evidence.

In instances of sexual assault, domestic violence, dating violence, intimate partner violence, or any other instances of sexual or physical abuse, the Complainant(s) may opt to have a Physical Evidence Recovery Kit (PERK kit<sup>97</sup>) collected. A PERK kit can be collected by a Sexual Assault Nurse Examiner (SANE nurse) at a local hospital for free.<sup>98</sup> The cost of a PERK exam and any related medication is paid for by the Commonwealth of Virginia. In Pennsylvania, Lancaster General Hospital<sup>99</sup> Emergency Department can facilitate emergency care. In the

93 <https://resources.emu.edu/confluence/display/RVSM/Appendix+C%3A++Rights+of+the+Reporting+Party>

94 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5082480062/Appendix+B+Rights+of+the+Complainant>

95 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5082480062/Appendix+B+Rights+of+the+Complainant>

96 <https://www2.ed.gov/admins/lead/safety/handbook.pdf>

97 <https://www.rainn.org/articles/rape-kit>

98 <https://goo.gl/maps/GEos1EkXbGK2>

99 [https://www.lancastergeneralhealth.org/?gclid=EAIaIQobChMIyYqM8vaH4wIVGYezCh06NQZuEAAAYASAAEgJuQPD\\_BwE](https://www.lancastergeneralhealth.org/?gclid=EAIaIQobChMIyYqM8vaH4wIVGYezCh06NQZuEAAAYASAAEgJuQPD_BwE)

District of Columbia, MedStar Washington Hospital Center<sup>100</sup> can be accessed.

A Complainant may choose not to notify law enforcement or file a police report but may still have a PERK kit collected. PERK kits from Complainants who elect not to file a report with law enforcement are known as Anonymous Physical Evidence Recovery Kits and will be stored for two years, although the holding facility, the Complainant, or the law enforcement agency may elect for the kit to be retained for a longer period.

## **7.5. REPORTING CONSIDERATIONS**

### **7.5.1. TIMELINESS OF REPORT, LOCATION OF INCIDENT**

The University encourages prompt reporting of Prohibited Conduct so that the University can respond promptly and equitably. However, the University does not limit the timeframe for reporting. Delayed reporting will not be considered as a factor when assessing the preponderance of the evidence. If the Complainant is not affiliated with the University or is no longer affiliated with the University at the time the report is made, the University will provide reasonably appropriate Supportive Measures, assist the Complainant in identifying external reporting options, and take other reasonable steps to respond.

### **7.5.2. PERSONAL USE OF ALCOHOL AND/OR DRUGS**

The University seeks to remove any barriers to reporting and will offer a student, Complainant(s), third party, and/or witness who reports Prohibited Conduct amnesty for violations related to the University's alcohol or other drugs policy. The University may choose, however, to recommend educational or therapeutic remedies in certain situations.

This policy does not grant immunity for criminal, civil, or legal consequences for violations of federal, state, and/or local laws.

### **7.5.3. STATEMENT AGAINST RETALIATION**

As stated in Section 4.5, retaliation is a violation of this policy and can take many forms, may be committed by or against an individual or group, and may be committed toward the Complainant by the Respondent and vice versa. An individual reporting Prohibited

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<sup>100</sup> <https://www.medstarwashington.org/>



Conduct is entitled to protection from any form of retaliation following a report made in good faith, even if the report is not later substantiated.

#### **7.5.4. FALSE REPORTING**

The allegation of Prohibited Conduct may have severe consequences and therefore the University takes very seriously the validity of reported information. An individual who makes a report that is later found to have been intentionally false or made maliciously without regard for the truth may be subject to disciplinary action. This provision does not apply to reports made in good faith, even if the facts alleged in the report are not substantiated by an investigation. Similarly, a party or witness who is later proven to have intentionally given false information during the course of an investigation or resolution may be subject to disciplinary action.

#### **7.6. REPORTS INVOLVING MINORS**

Complainants under the age of 18 that file a report with police may be deemed a child in need of services and the appropriate authorities will decide whether to pursue charges. If a parent or guardian of a minor refuses to consent to a physical evidence recovery kit (PERK) examination of the minor, the minor may consent on their own behalf. Any person, even those listed as Confidential Employees, is required by law to report the abuse and neglect against anyone under the age of 18.

#### **7.7. TIMEFRAME FOR PROCEDURES**

The University seeks to resolve all complaints of Prohibited Conduct within sixty (60) days. All time frames expressed in this policy are meant to be guidelines rather than rigid requirements. Circumstances may arise that require the shortening or lengthening of time frames, including extension beyond sixty (60) days. In general, a Complainant and Respondent can expect that the process will proceed according to the time frames provided in this policy. In the event that the investigation and resolution exceed this time frame, the Title IX Coordinator will notify all parties of the reason for the delay and the expected adjustment in time frames. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

## 7.8. RESOLUTION PROCEDURES

The specific procedures for reporting, investigating, and resolving Prohibited Conduct are based upon the nature of the Respondent's relationship to the University (student, employee, or third party). Each set of procedures referenced below is guided by the same principles of fairness and respect for Complainant and Respondent, consistent with the University's Life Together Commitment, history, mission, and values.

A student or employee determined by the University to have committed an act of Prohibited Conduct is subject to disciplinary action, up to and including separation from the University. Third parties who commit Prohibited Conduct may have their relationships with the University terminated and/or their privileges of being on University premises withdrawn.

Each set of procedures provide for prompt and equitable response to reports of Prohibited Conduct. The procedures designate specific timeframes for major stages of the process. They also provide for thorough and impartial investigations that afford all parties notice and an opportunity to present witnesses and evidence and to view the information that will be used in determining whether a policy violation has occurred.

Please see Appendix A<sup>101102</sup> for resolution procedures.

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101 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081301040/Appendix+A+Procedures>

102 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081301040/Appendix+A+Procedures>

## **Section 8: Resources and Supportive Measures**

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- 8.1. RESOURCES(see page 67)
  - 8.1.1. EMU COUNSELING SERVICES(see page 67)
  - 8.1.2. HEALTH SERVICES(see page 67)
    - 8.1.2.1. EMU Health Services (see page 67)
    - 8.1.2.2. Sentara RMH Medical Center(see page 69)
  - 8.1.3. SEXUAL ASSAULT, DOMESTIC VIOLENCE, & CRISIS SERVICES(see page 69)
    - 8.1.3.1. Collins Center(see page 69)
    - 8.1.3.2. First Step(see page 69)

## 8.1. RESOURCES

Resources are available to all EMU students and employees, whether they have filed a Formal Complaint using the EMU RVSM Complaint Form<sup>104</sup>, made a report to the Title IX Coordinator or a Mandated Reporter, or have otherwise sought support directly through various Confidential Employees on campus.

### 8.1.1. EMU COUNSELING SERVICES

EMU Counseling Services are available for direct service free of charge to all EMU students at the main campus. Off campus or online program faculty, staff, or students are able to consult with an EMU counselor via email or phone to locate resources or assistance in their own geographic area.

In collaboration with EMU's Health Services, a licensed psychiatrist is available once a month on campus for additional mental health services.

EMU Counseling Services is able to provide recommendations for off-campus counseling, therapy, and mental health services for EMU staff and for EMU students who do not wish to use on-campus counseling services. Please contact EMU Counseling Services at 540-432-4317 or [counselingservices@emu.edu](mailto:counselingservices@emu.edu)<sup>105</sup> for information.

### 8.1.2. HEALTH SERVICES

#### 8.1.2.1. EMU Health Services

EMU's Health Services is available to all current students, faculty and staff.

EMU's Health Services can provide referrals to local health specialists in the Harrisonburg area, including: Orthopedics, GI, dermatologists, etc.

To contact EMU's Health Services please call (540) 432-4308, email [healthservices@emu.edu](mailto:healthservices@emu.edu)<sup>106</sup>, or stop by their office in the University Commons, Room 240 (upstairs) through the Student Life Suite.

104 [https://cm.maxient.com/reportingform.php?EasternMennoniteUniv&layout\\_id=8](https://cm.maxient.com/reportingform.php?EasternMennoniteUniv&layout_id=8)

105 <mailto:counselingservices@emu.edu>

106 <mailto:healthservices@emu.edu>

- 8.1.4. SECURITY AND LAW ENFORCEMENT SERVICES(see page 70)
  - 8.1.4.1. EMU Office of Campus Safety & Security (see page 70)
  - 8.1.4.2. Harrisonburg Police Department(see page 70)
- 8.2. SUPPORTIVE MEASURES(see page 71)
  - 8.2.1. ACADEMIC ACCOMMODATIONS(see page 71)
  - 8.2.2. LIVING ACCOMMODATIONS(see page 71)
  - 8.2.3. TRANSPORTATION ACCOMMODATIONS(see page 71)

### **8.1.2.2. Sentara RMH Medical Center**

Harrisonburg's main hospital, Sentara RMH Medical Center, is located at 2010 Health Campus Dr. Harrisonburg, VA 22801. In an emergency, please dial 911. To contact the hospital in a non-emergency situation, call 540-689-1000. The Sentara RMH emergency room is open 24 hours a day, 7 days a week. PERK kits (see Section 2 and Section 7.4) are collected in the Sentara RMH Medical Center.

### **8.1.3. SEXUAL ASSAULT, DOMESTIC VIOLENCE, & CRISIS SERVICES**

#### **8.1.3.1. Collins Center**

The Collins Center<sup>107</sup> provides sexual assault and crisis services to the Harrisonburg community. Located at 217 S. Liberty St. Harrisonburg, the Collins Center provides a trained sexual assault crisis advocate who offers support and information at the hospital and assistance when reporting a sexual assault to the police (if reporting to the police is desired).

The Collins Center also provides short-term crisis support sessions, support groups, court advocacy and accompaniment, child advocacy, professional therapists with trauma-specific training, and information and referrals for other support services.

In a non-emergency situation, contact the Collins Center at 540-432-6430. In a crisis situation, contact the Collins Center's 24-hour sexual assault crisis hotline at 540-434-2272. The crisis hotline is staffed 24/7 by a trained Collins Center employee.

#### **8.1.3.2. First Step**

First Step<sup>108</sup> provides domestic and dating violence survivor services to the Harrisonburg community, including a 24/7 crisis hotline, safety planning, emergency shelter, support groups, court accompaniment, legal advocacy, financial empowerment, children's support and advocacy, and referrals.

Contact First Step at any time at 540-434-0295. If you are in immediate danger, dial 911 and local law enforcement can assist you in accessing First Step services after addressing your immediate safety needs.

107 <https://www.thecollinscenter.org/>

108 <https://www.firststepva.com/>

- DATIONS(see page 71)
    - 8.2.4. WORKING ACCOMMODATIONS(see page 72)
    - 8.2.5. PROTECTIVE ORDERS(see page 72)
      - 8.2.5.1. EMU No Contact Orders(see page 72)
      - 8.2.5.2. Court Order of Protection(see page 72)
  - 8.3. WRITTEN NOTIFICATION OF AVAILABLE RESOURCES(see page 73)

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## 8.1.4. SECURITY AND LAW ENFORCEMENT SERVICES

### 8.1.4.1. EMU Office of Campus Safety & Security

EMU provides 24-hour security services to the Harrisonburg campus. From 8am-4pm Monday-Friday, EMU Coordinator of Campus Safety and Security, Dave Emswiler, or his designee, responds to safety and security incidents. EMU contracts with Admiral Security<sup>109</sup> to provide non-sworn security officers from 4pm-8am on weekdays and 24 hours a day on Saturdays and Sundays.

In an emergency situation, please dial 911. In a non-emergency situation, EMU safety personnel can be reached 24/7 at 540-432-4911.

### 8.1.4.2. Harrisonburg Police Department

The Harrisonburg Police Department has jurisdiction for the investigation and enforcement of all state and local criminal laws on EMU's Harrisonburg campus. The Harrisonburg Police Department can investigate any reported sexual assault or other forcible sexual offense on EMU's Harrisonburg campus, in or on a non-campus building or property of EMU Harrisonburg, or on public property near EMU Harrisonburg.

Those who experience an incident of sexual violence can choose to:

1. Allow the local police department to investigate the allegation of sexual assault or other violation of this policy;
2. Press civil or criminal charges if an instance of unlawful activity has occurred;
3. Provide details of the incident even in cases where the act being reported is not unlawful under federal or state law;
4. Decline to have the local police department investigate the incident; or
5. Determine at a later date to press charges, if permission for an investigation was granted at the time of the incident.

In an emergency situation, please dial 911. In a non-emergency situation, contact:

1. Harrisonburg campus: Violent Crimes Against Women Detective Aaron Dove, major crimes unit, 540-437-2646, or the Harrisonburg Police Department switchboard at 540-434-4436.

<sup>103</sup> <https://resources.emu.edu/confluence/display/RVSM>

<sup>109</sup> <http://www.admiralsecurity.com/>

2. Lancaster campus: East Lampeter Township Police Department, 717-291-4676
3. Washington DC campus: DC Metro Police, 202-727-9099

## **8.2. SUPPORTIVE MEASURES**

EMU offers the following Supportive Measures, and others as appropriate, to all student and employee Complainants, regardless of whether a Formal Complaint has been filed. In the event that a Formal Complaint is filed, EMU will also offer the following Supportive Measures, and others as appropriate, to the Respondent.

EMU will take every measure to protect the privacy of those seeking Supportive Measures. Personal information will only be shared with those essential to making decisions about and enacting Supportive Measures. Those who are requesting Supportive Measures will always be notified before personally identifying information is shared for the purpose of arranging requested Supportive Measures.

### **8.2.1. ACADEMIC ACCOMMODATIONS**

As part of resolution processes, the Title IX Coordinator will work with (a) representative(s) of the EMU CARE Team and/or individual faculty members to change or make academic accommodations to the Complainant's or Respondent's course schedule if the request is made in writing and if the accommodation requests are reasonably available.

Student and staff requests for academic accommodations can be sent to the Title IX Coordinator, [titleixcoordinator@emu.edu](mailto:titleixcoordinator@emu.edu)<sup>110</sup>.

### **8.2.2. LIVING ACCOMMODATIONS**

As part of resolution processes, the Title IX Coordinator will work with residence life staff to change or make accommodations to the Complainant's or Respondent's living arrangements if the request is made in writing and if the accommodation requests are reasonably available. Requests for living accommodations can be sent to the Title IX Coordinator, [titleixcoordinator@emu.edu](mailto:titleixcoordinator@emu.edu)<sup>111</sup>.

### **8.2.3. TRANSPORTATION ACCOMMODATIONS**

As part of resolution processes, the Title IX Coordinator will work with appropriate authorities to change or make accommodations to the transportation arrangements for the Complainant or Respondent if the

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<sup>110</sup> <mailto:titleixcoordinator@emu.edu>

<sup>111</sup> <mailto:titleixcoordinator@emu.edu>

request is made in writing and if the accommodation requests are reasonably available.

Student and staff requests for transportation accommodations can be sent to the Title IX Coordinator, [titleixcoordinator@emu.edu](mailto:titleixcoordinator@emu.edu)<sup>112</sup>.

#### **8.2.4. WORKING ACCOMMODATIONS**

As part of resolution processes, the Title IX Coordinator will work with the Complainant's or Respondent's supervisor to change or make accommodations to the Complainant's or Respondent's work arrangement if the request is made in writing and if the accommodation requests are reasonably available.

Student and staff requests for working accommodations can be sent to the Title IX Coordinator, [titleixcoordinator@emu.edu](mailto:titleixcoordinator@emu.edu)<sup>113</sup>.

#### **8.2.5. PROTECTIVE ORDERS**

##### **8.2.5.1. EMU No Contact Orders**

Complainants and Respondents each have the right to request a no contact order that restricts contact between the Complainant and the Respondent on EMU's campus. Students and staff should initiate the request for a no contact order with the Title IX Coordinator, [titleixcoordinator@emu.edu](mailto:titleixcoordinator@emu.edu)<sup>114</sup>.

The Title IX Coordinator will work with the Coordinator of Campus Safety and Security to issue a no contact order from EMU's Office of Campus Safety and Security. No contact orders will be enforced by campus safety officials.

##### **8.2.5.2. Court Order of Protection**

Protective orders may be requested from a local judge or magistrate at the Harrisonburg Court House<sup>115</sup>. (53 Court Square, Harrisonburg). The following protective orders are available:

1. Emergency protective order: Emergency protective orders can be put in place for up to 72 hours
2. Preliminary protective order: Preliminary protective orders are put in place for 15 days

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<sup>112</sup> <mailto:titleixcoordinator@emu.edu>

<sup>113</sup> <mailto:titleixcoordinator@emu.edu>

<sup>114</sup> <mailto:titleixcoordinator@emu.edu>

<sup>115</sup> <http://www.courts.state.va.us/courts/gd/harrisonburg-rockingham/home.html>



3. Full protective order: Full protective orders extend up to two years

In Virginia, persons who wish to have a court-ordered protective order put in place must go before either the local magistrate or a local judge and make a case that they are fearful of harm, violence, or the threat of violence. More information is available from the [Virginia Court System](#)<sup>116</sup>. In Pennsylvania, persons who wish to have a court-ordered protective order put in place should go to the local courthouse. In Washington DC, persons who wish to have a court-ordered protective order put in place should visit a domestic violence intake center.

### **8.3. WRITTEN NOTIFICATION OF AVAILABLE RESOURCES**

Written notification about existing counseling, health, mental health, victim advocacy, legal assistance, and other services that may be available, both within the institution and in the community, are available from the Title IX Coordinator. Written notification of these resources will be provided to all Complainants in response to a report received by the Title IX Coordinator and to all Respondents upon receipt of a Formal Complaint.

Written notification about available options for, assistance in, and how to request changes to academic, living, transportation, on campus employment situations, and/or protective measures is available to anyone who experiences an incident of Prohibited Conduct whether or not the incident is reported. Written notification of these accommodations will be provided to all Complainants upon receipt of a report by the Title IX Coordinator and to all Respondents upon receipt of a Formal Complaint.

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<sup>116</sup> <http://www.courts.state.va.us/courts/home.html>

## **Appendix A: Procedures**

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- SECTION A.1:  
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(see page 74)
- SECTION A.2:  
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- SECTION A.3:  
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## SECTION A.1: INTRODUCTION<sup>119</sup>

The care and welfare of EMU students, faculty, and staff is of utmost importance. While policies and procedures can often feel cold and impersonal, we understand the stress and emotional trauma involved in such situations. Procedures are carried out by people who care about and are committed to trauma informed work with all parties involved.

The following procedures function in conjunction with the Relationship Violence and Sexual Misconduct Policy<sup>120121</sup>, and will be initiated when a report of an alleged occurrence of Prohibited Conduct is received. The intent of these procedures is to provide a prompt, fair, equitable, and impartial process from the initial report to the final outcome, consistent with applicable law and our commitment to the Anabaptist-Mennonite Christian tradition, as expressed in the University's Life Together Commitment, mission, and values. This process is not designed to take the place of making a criminal report to law enforcement or of a criminal investigation. The procedure as outlined below may take place whether or not a criminal report is made: it is a separate and independent process.

EMU is committed to a “prompt and equitable resolution” of complaints of Prohibited Conduct whether education is being conducted in person or remotely through online platforms. When these procedures must be applied during times of remote instruction, they will be followed as closely as possible in the investigative and adjudicative processes.

## SECTION A.2: GRIEVANCE PROCESS

The procedures that follow articulate the Grievance Process used by the University to address Formal Complaints under this policy. Upon the receipt of a Formal Complaint, the presumption followed by the University is that the Respondent will not be held responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of this process. The standard used to determine responsibility for all Formal Complaints against students and staff under this policy is the preponderance of the evidence.

119 <https://docs.google.com/document/d/11NY9SE434GPOLwuyokMssuFv4QksYv7T2b1phZvCnoo/edit?ts=5b7472ea#heading=h.99x88up2>

120 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM>

121 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM>

- (see page 79)
  - A.3.3.4. Notice of Allegations and Investigation(see page 79)
  - A.3.4. UNIVERSITY OUTREACH TO RESPONDENTS(see page 80)
- SECTION A.4: INVESTIGATION(see page 80)
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  - A.4.2. INTERVIEWS WITH INVOLVED PARTIES(see page 81)
  - A.4.3. WITNESS INTERVIEW S(see page 81)
  - A.4.4. DRAFT INVESTIGATIVE REPORT(see page 82)

This process is intended to provide the parties a reasonably prompt time frame for the conclusion of this process, as provided in Section 7.7<sup>122</sup> of this policy and as is otherwise provided in each section below. These timelines may be temporarily delayed or extended for good cause, which is defined to include considerations such as the absence of a party; concurrent law enforcement activity; the need for language assistance or accommodation of disabilities; difficulties obtaining or securing evidence; and other good and just cause. The University will notify both parties simultaneously if an extension is needed and the reasons for the extension.

At no time should this process be construed as requiring, allowing, relying upon, or otherwise using 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.

This process may conclude and the Formal Complaint may be dismissed at any time if (1) the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; (2) the Respondent is no longer enrolled in or employed by the University; or (3) specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or the allegations. Upon a dismissal permitted under this policy, the University will promptly notify both parties simultaneously of the dismissal and the reason(s) supporting the dismissal.

## SECTION A.3: REPORTING

### A.3.1. MAKING A REPORT

Reports can be made by submitting a completed Campus Safety and Care Reporting Form<sup>123</sup>; by contacting the Title IX Coordinator in person, via phone at 540-432-4849, or by email at [titleixcoordinator@emu.edu](mailto:titleixcoordinator@emu.edu)<sup>124</sup>; or by making a disclosure to a faculty or staff person, who serve as Mandated Reporters.

<sup>122</sup> <https://resources.emu.edu/confluence/display/RVSM/SECTION+7%3A+REPORTING#SECTION7:REPORTING-7.7.TIMEFRAMEFORPROCEDURES>

<sup>123</sup> [https://cm.maxient.com/reportingform.php?EasternMennoniteUniv&layout\\_id=2](https://cm.maxient.com/reportingform.php?EasternMennoniteUniv&layout_id=2)

<sup>124</sup> <mailto:titleixcoordinator@emu.edu>

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page 82)</sup>
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85)</sup>
  - A.6.2.  
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PANEL

### A.3.2. UNIVERSITY RESPONSE TO COMPLAINANT

After receiving a report, the Title IX Coordinator will contact the Complainant to assess safety and offer an opportunity for an intake meeting.

During the intake meeting, the Title IX Coordinator will make available and review copies of the Appendix B: Rights of the Complainant<sup>125126</sup>, outline the RVSM process and procedures, and provide a list of Section 8:<sup>127128</sup> Resources and Supportive Measures.

The Complainant will be offered the following options for moving forward:

1. No Further Action: the Complainant can indicate a preference that the Title IX Coordinator and/or the Deputy Title IX Coordinator take no further action to pursue an investigation into the reported incident;
2. File a Formal Complaint: the Complainant can indicate a preference that the Title IX Coordinator proceeds with an investigation of the reported incident;
3. Assist in making a Police Report. This option can be pursued regardless of whether or not option A or B has been selected. The Complainant may also choose to make a separate report to the local police department at a later time if they decide not to file a police report immediately.

The Complainant may choose which of the above options they want the University to take, and will indicate their choice by completing the EMU RVSM Complaint Form<sup>129</sup>, if they have not done so as part of their initial outreach to the University Title IX office. Once this form has been completed, Complainants may change their mind at any time as to the course of action they want the process to take and will indicate this decision by completing this form again. Regardless of the option selected, the Complainant may access certain campus resources and Supportive Measures, for example, counseling, health center support,

125 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5082480062/Appendix+B+Rights+of+the+Complainant>

126 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5082480062/Appendix+B+Rights+of+the+Complainant>

127 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081301031/SECTION+8+RESOURCES+AND+SUPPORTIVE+MEASURES>

128 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081301031/SECTION+8+RESOURCES+AND+SUPPORTIVE+MEASURES>

129 [https://cm.maxient.com/reportingform.php?EasternMennoniteUniv&layout\\_id=8](https://cm.maxient.com/reportingform.php?EasternMennoniteUniv&layout_id=8)

**OUTCOME**

S(see page 86)

- A.6.2.1. Determination Regarding Responsibility(s) (see page 86)
- A.6.2.2. Possible Sanctions (see page 87)
- A.6.2.3. Remedies (see page 88)
- SECTION A.7: APPEALS PROCESS (see page 88)
- SECTION A.8: CONFLICTS OF INTEREST (see page 90)
- SECTION A.9: TRAINING (see page 90)

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and pastoral services. For a full listing see Section 8:<sup>130131</sup> Resources and Supportive Measures.

**A.3.3. INITIAL ASSESSMENTS AND NOTICE TO PARTIES**

**A.3.3.1 Safety Assessment**

All Campus Safety and Care Reporting Form<sup>132</sup>s and EMU RVSM Complaint Form<sup>133</sup>s are received by the Title IX Coordinator<sup>134</sup>, the Coordinator of Campus Safety and Security<sup>135</sup>, and the Dean of Students, who comprise the Title IX Safety Team. After a report is received, the Safety Team will determine the need for administrative leave (in the case of employees), emergency removal (in the case of students), and/or a timely warning to be issued within the 72 hour notice to the Commonwealth’s Attorney and local law enforcement, and will, if deemed necessary make those notifications. A timely warning is required by the Clery Act<sup>136</sup> and alerts the campus community to potentially dangerous circumstances. The need for a timely warning is determined by considering the nature of the act reported and the likelihood that continuing danger exists for the campus community. If warranted, a timely warning will be issued by the Coordinator of Campus Safety and Security, who has the final authority to make the determination. In cases involving an employee, the Director of Human Resources will also be consulted.

**A.3.3.2 Title IX Assessment**

No Further Inquiry or Investigation. The Title IX Assessment team will assess the Complainant’s preference for no further action by considering the severity of the alleged misconduct and the factors set forth in Section 3.6<sup>137</sup>: Request for Anonymity. If the Complainant chooses not to move forward, the Title IX Assessment team may concur that no further process is required. The Title IX Assessment Team may also determine that the Title IX Coordinator must execute a Formal

117 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM>

118 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM>

130 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081301031/SECTION+8+RESOURCES+AND+SUPPORTIVE+MEASURES>

131 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081301031/SECTION+8+RESOURCES+AND+SUPPORTIVE+MEASURES>

132 [https://cm.maxient.com/reportingform.php?EasternMennoniteUniv&layout\\_id=2](https://cm.maxient.com/reportingform.php?EasternMennoniteUniv&layout_id=2)

133 [https://cm.maxient.com/reportingform.php?EasternMennoniteUniv&layout\\_id=8](https://cm.maxient.com/reportingform.php?EasternMennoniteUniv&layout_id=8)

134 <https://emu.edu/titleix/#coordinator>

135 <https://emu.edu/safety-and-security/>

136 <https://clerycenter.org/policy-resources/the-clery-act/>

137 <https://resources.emu.edu/confluence/display/RVSM/>

SECTION+3%3A+SCOPE+OF+POLICY#SECTION3:SCOPEOFPOLICY-3.6.REQUESTFORANONYMITYBYAREPORTINGPARTY

Complaint to move forward based upon the severity of the alleged misconduct and/or other factors set forth in Section 3.6 despite the wishes of the Complainant.

Formal Complaint. The Title IX Assessment team will assess the Formal Complaint to determine whether the Complainant's allegations are within the scope of this policy or whether another University policy controls. If it is determined that the Formal Complainant is not within the scope of this policy, the Title IX Coordinator will notify the Complainant that the Formal Complaint is dismissed and will refer the Complainant to the appropriate process.

#### **A.3.3.3.Consolidation**

The University may consolidate Formal Complaints as to allegations against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, when the allegations arise out of the same facts or circumstances.

#### **A.3.3.4. Notice of Allegations and Investigation**

Upon receipt of a Formal Complaint, the University will provide the following written notice to the Complainant and the Respondent which includes the following:

- A copy of this Appendix A;
- Notice of the allegations listed in the Formal Complaint, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview;
- Sufficient details include:
  - The identities of the parties involved in the incident, if known;
  - The conduct allegedly constituting Prohibited Conduct, if known;
  - The date and location of the alleged incident, if known;

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 this process;

Notice to the parties that they may have an Advisor of their choice, who may be, but is not required to be, an attorney;

- The parties will be provided a relevant consent form to share information consistent with this procedure

Notice to the parties that they may inspect and review evidence as provided below;

Notice to the parties of any provision in the University's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process; and Reminders to the parties that retaliation is prohibited.

If, during the course of the investigation, the University decides to investigate allegations about the Complainant or the Respondent that are not included in this notice, the University will provide notice of the additional allegations to the parties.

#### A.3.4. UNIVERSITY OUTREACH TO RESPONDENT

Once a Formal Complaint is filed, the Title IX Coordinator will make contact with the Respondent by phone call or email to set up a time for an intake meeting.

The Respondent may have an Advisor with them at this meeting. The Respondent also has the right to decline a meeting. During the intake meeting, the Title IX Coordinator will make available and review copies of the Appendix C:<sup>138139</sup> Appendix C:<sup>140141</sup> Rights of the Respondent<sup>142</sup>, outline the Title IX process and procedures, and provide a list of Section 8:<sup>143144</sup> Resources and Supportive Measures, both on and off campus.

### SECTION A.4: INVESTIGATION

#### A.4.1. INVESTIGATION

The Title IX Coordinator or their designee will conduct a prompt, thorough, impartial, and equitable investigation based on the following principles:

- The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on EMU and not on the parties;
- The University will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or

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138 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5082480064/Appendix+C+Rights+of+the+Respondent>

139 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5082480064/Appendix+C+Rights+of+the+Respondent>

140 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5082480064/Appendix+C+Rights+of+the+Respondent>

141 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5082480064/Appendix+C+Rights+of+the+Respondent>

142 <https://resources.emu.edu/confluence/display/RVSM/Appendix+D%3A++Rights+of+the+Responding+Party>

143 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081301031/SECTION+8+RESOURCES+AND+SUPPORTIVE+MEASURES>

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paraprofessional acting in the professional's or paraprofessional's capacity or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so in this process;

- Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other evidence in support of their position; and
- Provide written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate. The availability of a party's Advisor is irrelevant to this principle.

#### A.4.2. INTERVIEWS WITH INVOLVED PARTIES

As a part of the investigation, interviews will be conducted with all involved parties, beginning with the Complainant. The Complainant and the Respondent will not come into contact with one another during the interview process. The University will provide each party with at least 24 hours' notice of the date, time, location, participants, and purpose of each interview.

The involved parties may have an Advisor of their choosing present during all stages of the reporting, investigating, and adjudication process in a non-participatory role (See Section 2: Definitions<sup>145146</sup>). The interviewer may also choose to have a confidential unbiased third party included in the interview. Interviews with any witnesses will also be conducted. No unauthorized audio or video recordings of any kind are permitted during any stage of this process, including, without limitation, during the interviews.

#### A.4.3. WITNESS INTERVIEWS

If it is necessary to interview witnesses as a part of the investigation process, witnesses can expect preservation of their privacy, except as otherwise provided in this policy; to be treated with respect by University officials; appropriate accommodations and protective measures, including the right to bring a support person; and other forms of assistance (for a list of available Supportive Measures, see Section 8.2).

<sup>145</sup> <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081300999/SECTION+2+DEFINITIONS>

<sup>146</sup> <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081300999/SECTION+2+DEFINITIONS>

#### A.4.4. DRAFT INVESTIGATIVE REPORT

Prior to completion of the investigative report, the Title IX Coordinator will send to each party and the party's Advisor, if any, a copy of the draft investigation report and the evidence obtained as a part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility. This evidence will also include evidence in support of or against a party's position, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation. The evidence will be provided to each party on the same basis, whether in electronic format or hard copy. The parties will each have 10 calendar days to submit a written response, which the investigator will consider prior to the completion of the investigative report. The parties may elect to waive the full 10 days.

Either party may suggest additional witnesses and provide additional information after they review the draft investigative report. If additional witnesses or additional information is provided at this time, the Title IX Investigator will interview the additional witnesses and review the additional information.

#### A.4.5. INVESTIGATIVE REPORT

The Title IX Investigator will consider the responses to the draft investigative report, if any, and complete an investigative report that, at a minimum, sets out all the known facts, the disputed facts, summarizes all relevant evidence, and a list of all parties interviewed. The Title IX Investigator will provide a copy of the report to the Title IX Coordinator, who then convenes the Title IX Review Panel.

The Title IX Coordinator will provide the final copy of the investigative report to each party in the same format at least 10 calendar days prior to the Review Panel. Either party may choose to respond to the final report within 10 calendar days from the date of delivery.

The Title IX Investigator and/or the Title IX Coordinator/Deputy Title IX Coordinator will meet with the Complainant to review the report. Following this meeting, the Title IX Investigator and/or the Title IX Coordinator/Deputy Title IX Coordinator will meet with the Respondent to review the report.

## SECTION A.5: ADAPTIVE RESOLUTION

The Adaptive Resolution process is an optional, private, and confidential process. All persons present at any time during the Adaptive Resolution process are expected to maintain the privacy and confidentiality of this process and the related proceedings.

Adaptive Resolution is not available to resolve a Formal Complaint alleging sexual harassment when a University employee is the Respondent.

The parties may elect to pursue Adaptive Resolution at any time after a Formal Complaint is filed and before the Review-Panel proceedings begin. Adaptive Resolution may be pursued during intake; before the investigation commences; during the investigation; and after the investigation has concluded. When the parties agree to Adaptive Resolution, the Title IX Coordinator will provide the parties with written notice disclosing the allegations, the requirements of the Adaptive Resolution Process, and the reminders that Adaptive Resolution will pause the Formal Process and that any party has the right to withdraw from the Adaptive Resolution Process and pre-/ resume the Formal Process at any time.

Adaptive Resolution may occur in three separate scenarios:

1. When the parties agree to resolve the matter through an adaptive resolution process, such as mediation or various restorative justice options;
2. When the Respondent accepts responsibility for violating this policy, desires to accept a sanction, and end the process; or
3. When the Title IX Coordinator can resolve the matter informally by providing Supportive Measures to remedy the situation.

### A.5.1. ADAPTIVE RESOLUTION

All parties must consent to the use of Adaptive Resolution, which involves the mutually agreed upon resolution of an allegation. The Title IX Coordinator will ultimately decide whether Adaptive Resolution will be pursued. In doing so, the Title IX Coordinator will consider objective factors, such as:

- The severity, persistence or pervasiveness of the Prohibited Conduct;
- The nature or violence (if applicable) of the Prohibited Conduct;
- The impact of the Prohibited Conduct on the Complainant;

- The impact or implications of the Prohibited Conduct within the University community;
- Prior misconduct by the Respondent, including the Respondent's relevant prior disciplinary history, at the University or elsewhere, and any criminal convictions;
- Whether the Respondent has accepted responsibility for the Prohibited Conduct;
- The maintenance of a safe, nondiscriminatory and respectful environment conducive to learning; and
- Any other mitigating, aggravating, or compelling factors.

The Title IX Coordinator will maintain the records of any resolution that is reached. Failure to abide by the resolution may result in disciplinary action. Neither party may appeal the outcome of alternative resolution.

#### **A.5.2. RESPONDENT ACCEPTS RESPONSIBILITY**

The Respondent may accept responsibility for all or part of the allegations listed in the Formal Complaint at any time. The Respondent's intent to accept responsibility for all or part of the allegations will pause the process. The Title IX Coordinator will then determine whether Adaptive Resolution can be used and whether all parties are able to agree on responsibility, sanctions, and/or remedies. If an agreement is reached, the Title IX Coordinator promptly implements the agreed upon finding, sanctions, and remedies to address the harms, needs and obligations created by the situation (ending the harassment, preventing its recurrence, and remedying its effects).

The outcome is not subject to appeal. If the parties cannot agree on the terms of the resolution, the Formal Grievance Process will be initiated or will resume at the same point where it was paused.

#### **A.5.3. ADAPTIVE RESOLUTION AGREEMENT**

The Title IX Coordinator, with the consent of the parties, may navigate the implementation of an agreement to address and repair the alleged harm to the extent possible on behalf of both parties and the University, and that is as satisfactory as possible for all involved. The outcome of an Adaptive Resolution Agreement may not be appealed and the case is closed.

## SECTION A.6: REVIEW PANEL

Following the submission of the final investigative report, the Title IX Coordinator will convene the Title IX Review Panel, unless the Formal Complaint is otherwise resolved through Adaptive Resolution. The Review Panel consists of the Review Panel chair and two additional EMU employees (one faculty member and one staff member) who have received Title IX training and training specifically related to the Relationship Violence and Sexual Misconduct Policy and its procedures. The Title IX Coordinator and the Title IX Investigator will also attend the Review Panel meeting in order to answer questions and provide clarifications. The Review Panel process is consistent with the University's faith-based and religious-based principles rooted in the Anabaptist-Mennonite Christian tradition, including those principles of community, peacemaking, accountability, and discipleship (See *EMU and the Mennonite Faith Tradition*<sup>147</sup>, *Life Together: Commitments for a Community of Learning*<sup>148</sup>, *Mission, Vision, Values*<sup>149</sup>).

The Complainant and the Respondent will be simultaneously notified of the composition of the Review Panel by the Title IX Coordinator and have the right to raise any conflicts of interest.

### A.6.1. REVIEW PANEL PROCEEDINGS

The Review Panel process provides each party an objective evaluation of all relevant evidence. The Review Panel will not make credibility determinations based on a person's status as a complainant, respondent, or witness. The Review Panel will meet separately with the Complainant and the Respondent. An advisor may attend the Review Panel but may not participate in the panel process. Either the Complainant and/or the Respondent may choose not to attend the Review Panel. The Review Panel will proceed regardless.

The chair of the Review Panel will inform all persons present that the proceedings are being recorded for reference purposes only. The recording will be destroyed at the conclusion of the case, after the deadline for and/or completion of an appeal process, and will be available to each party for inspection and review during the Appeals Board process, if applicable.

Prior to the Review Panel proceeding, the Complainant and/or the Respondent may submit relevant questions and follow-up questions for

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<sup>147</sup> <https://emu.edu/about/faith-tradition>

<sup>148</sup> <https://emu.edu/about/life-together>

<sup>149</sup> <https://emu.edu/president/mission>

the Review Panel to consider asking the other party or witnesses as a form of cross-examination or other questioning. Review panel members may also ask their own relevant and follow-up questions to the Complainant, the Respondent, and/or witnesses during their separate Review Panel proceedings. Only relevant questions may be asked of a party or witness.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents about the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. If the Chair decides that a question submitted by either party is not relevant, the Chair must explain to the party the decision to exclude a question as not relevant.

Evidence gathered during the investigation will also be available for each party to access during the Review Panel proceedings.

The Complainant and/or the Respondent may also request to give testimony to the Review Panel during their separate Review Panel hearings. If a party or witness does not submit to questioning by the Review Panel, the Review Panel must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Review Panel cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the Review Panel proceeding.

## A.6.2. REVIEW PANEL OUTCOMES

### **A.6.2.1. Determination Regarding Responsibility**

The Review Panel will make a finding to determine whether or not a violation of the Relationship Violence and Sexual Misconduct Policy has occurred. This finding will be based on the standard of proof known as the preponderance of evidence. The Review Panel will make this determination based on the findings outlined in the final investigative report and the testimony heard.

At the conclusion of the Review Panel, the Review Panel chair will prepare a written summary of the proceedings. This documentation will include:

- Identification of the allegations of Prohibited Conduct;

- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interview with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
- Findings of fact supported by the determination;
- Conclusions regarding the application of the University's Code of Conduct to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions that the University imposes on the Respondent, and whether EMU will provide remedies to the Complainant designed to restore or preserve equal access to the University's educational program or activity; and
- The University's procedures and permissible bases for the Complainant and Respondent to appeal.

The Review Panel chair will deliver the panel summary to the Title IX Coordinator, who will provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the appeal, if an appeal is filed, or the date on which an appeal would no longer be considered timely, if an appeal is not filed.

In the case of dismissal, suspension or withdrawal while under investigation, notification will be sent to the parent/legal guardian(s), to the CARE Team, care of the Dean of Students (Harrisonburg campus) or the deputy Title IX Coordinator at the Lancaster (PA) site, in order to coordinate in a confidential manner with various offices on campus (University Registrar, Financial Aid, etc.).

#### **A.6.2.2. Possible Sanctions**

If the outcome of the Review Panel proceeding results in a determination of responsibility, by a preponderance of the evidence, the Review Panel will decide between a number of different outcomes for the Respondent(s).

A Formal Complaint may result in one or more of the following possible sanctions, based on the facts of the case and the considerations listed above:

1. In-school, temporary, or indefinite suspension/disciplinary withdrawal;
2. Dismissal;
3. Probation, with specific lengths being determined during the staff review;

4. Loss of University employment or volunteer position;
  5. Loss of University resources or services;
  6. No contact orders;
  7. Removal from dorm or other campus buildings;
  8. Community services;
1. Application of a behavioral contract;
  2. Alcohol and/or drug assessment and recommendations;
  3. Exclusion from co-curricular or leadership activities;
  4. Completion of issue-relevant education activities;
  5. Mentoring for regular relevant educational conversations;
  6. Fines;
  7. Monetary or other restitution;
  8. Referral to counseling;
  9. Transcript notation.

A prominent notation will be placed on the Respondent's academic transcript if the Respondent is suspended from, permanently dismissed from, or withdraws from the University while under investigation for an offense involving sexual harassment, as required by Virginia state law<sup>150</sup>. In compliance with Virginia state law<sup>151</sup>, a notation can be removed from a student's academic transcript if the student takes the actions identified in Virginia Code 23.1-900C as calling for such removal.

### **A.6.2.3. Remedies**

If the outcome of the Review Panel proceeding results in a determination of responsibility, remedies will be provided to the Complainant. Remedies must be designed to restore or preserve equal access to the University's education programs or activities. Such remedies may include the same individualized services provided as Supportive Measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

## **SECTION A.7: APPEALS PROCESS**

If the Complainant or Respondent does not agree with the findings and/or the outcomes, they may appeal the result to the Appeal Board. The appeal must be submitted in writing within three (3) business days following notification and should be directed to the Title IX Coordinator who will direct the appeal to the Appeal Board chair.

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<sup>150</sup> <http://law.lis.virginia.gov/vacode/title23.1/chapter9/section23.1-900/>

<sup>151</sup> <http://law.lis.virginia.gov/vacode/title23.1/chapter9/section23.1-900/>



Reasons for an appeal must be clearly stated and based on one of the following:

1. Relevant new evidence that was not reasonably unavailable at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
2. Procedural irregularity that affected the outcome of the matter;  
or
3. The Title IX Coordinator, investigator(s), or Review Panel members 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.

The Title IX Coordinator will simultaneously notify each party in writing within three (3) business days of the appeal when an appeal is filed. The Title IX Coordinator will then convene the Appeals Board, which will not consist of the same person(s) as the Review Panel.

The Appeals Board chair will review the reason for appeal to determine if it meets the above criteria. If the determination is made that it does not meet one of the above criteria, the request for appeal will be rejected and the chair of the Appeals Board will notify the requesting party that no appeal may be made. If the request for appeal does meet one of the above criteria, the Appeals Board chair will notify the parties in writing of the following:

1. Date, time, and location of the Appeals Board meeting, which will be scheduled within five (5) business days from the date of the request for an appeal, subject to extension for good cause;
2. The names of the Appeals Board members, and how to challenge participation by any member of the Appeals Board for bias or conflict of interest;
3. The grounds for the appeal request, including any new evidence provided.

The Complainant and the Respondent may respond to the disclosure of information or new evidence by contacting the Appeals Board chair within two (2) business days.

Following this two (2) business day response period, the Appeals Board will review the request for an appeal and the corresponding response or additional information offered by any party in addition to the final investigative report, the written summary of the Review Panel, and the appeal letter and will make a decision to either uphold or modify the outcome of the Review Panel.

The Appeals Board consists of the Appeals Board chair and two additional EMU employees (one faculty member and one staff member) who have received training related to Title IX and EMU's RVSM Policy and its procedures. The Title IX Coordinator and the Title IX Investigator will also attend the Appeals Board meeting in order to answer questions and provide clarifications.

The Appeals Board chair will prepare a letter reflecting the Appeals Board's decision of the appeal and the rationale for the result. The Title IX Coordinator will simultaneously provide the Complainant and the Respondent a copy of the letter of Appeals Board determination. The decision of the Appeals Board is final.

## **SECTION A.8: CONFLICTS OF INTEREST**

At any time during the reporting, investigation, review, or appeals process, the Complainant, Respondent, witness(es), Title IX Coordinator, Deputy Title IX Coordinator(s), Title IX Investigator, Review Panel members, or Appeals Board members may raise conflict of interest or bias concerns.

In cases where the Complainant, Respondent, and/or witness(es) are related to or in close relationship with faculty, staff, or other employees of the University, or in cases where there is reason to believe that the investigation may not be impartial if completed internally, an outside investigator will be retained. Conflicts of interest will be evaluated by the Title IX Coordinator or designee. It is a requirement under this policy that any individual designated by the University as a Title IX Coordinator, Deputy Title IX Coordinator, investigator, Review Panel member, Appeals Board member, any other decision-makers, or any other person investigating, reviewing, or facilitating an Adaptive Resolution of a Formal Complaint not have a conflict of interest or bias for or against complainants or respondents generally, or the parties specific to a Formal Complaint.

## **SECTION A.9: TRAINING**

The University will provide and require the Title IX Coordinator, Deputy Title IX Coordinator, HR Director, investigators, Review Panel members, Appeal Board members, any other decision-makers, and any other person investigating, reviewing, or facilitating an Adaptive Resolution of a Formal Complaint have had relevant training, to include training on the following, as applicable to their role in the process:

- The definitions (Section 2<sup>152153</sup>) related to this policy, including the definition of sexual harassment;
- The scope (Section 3<sup>154155</sup>) of this policy and the scope of EMU's education program and activities;
- How to conduct an investigation and grievance process including hearings, appeals, and Adaptive Resolution processes;
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
- Any technology to be used for the Review-Board and Appeals-Board proceedings;
- On issues of relevance, questions, and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant; and
- Issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Any materials used for training purposes must not rely on sex stereotypes and must promote impartial investigations and adjudications of Formal Complaints.

## Appendix B: Rights of the Complainant

At all times during the Title IX process, the Complainant has the following rights:

1. The right to investigation and appropriate resolution of all credible complaints of Prohibited Conduct made in good faith to University administrators;
2. The right to have all personally identifiable information kept private and only revealed as required by the Relationship Violence and Sexual Misconduct (RVSM) policy and law;
3. The right to be treated with respect by University officials;
4. The right not to be discouraged by University officials from reporting an incident of Prohibited Conduct to both on-campus and off-campus authorities;
5. The right to be informed by University officials of options to notify proper law enforcement authorities, including local police, and the option to be assisted by campus authorities in notifying such authorities, if the Complainant chooses. This also includes

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153 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081300999/SECTION+2+DEFINITIONS>

154 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081301009/SECTION+3+SCOPE+OF+POLICY>

155 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081301009/SECTION+3+SCOPE+OF+POLICY>

156 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM>

157 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM>

- the right not to report, if this is the Complainant's desire, unless required by law;
6. The right to seek medical intervention and care;
  7. The right to have reports of Prohibited Conduct responded to quickly, and with sensitivity, by all parties;
  8. The right to preservation of privacy, to the extent possible and allowed by law;
  9. The right to be informed of, and have, University policies and procedures followed without material deviation;
  10. The right to notification of options for changing academic and living situations after an incident of Prohibited Conduct, if the accommodations are reasonably available. No formal report or investigation, either campus or criminal, need occur before this option is available. For a list of available accommodations, see section 8.2<sup>158</sup>;
  11. The right to a no contact order against another student who has engaged in or threatens to engage in stalking, threatening, harassing or other retaliatory behavior that presents a danger to the welfare of the Complainant or others;
  12. The right to bring an Advisor to all phases of the Title IX process and related policy process;
  13. The right to be informed of available counseling, mental health, or student services both on-campus and in the community;
  14. The right to be fully informed of the nature, rules, and procedures of the process and to a timely written notice of all alleged violations within the report, including the nature of the violation and possible outcomes;
  15. The right to review the preliminary investigative report and offer additional relevant materials and relevant witnesses to be interviewed and considered before the final investigative report is created;
  16. The right to review the final investigative report, subject to the privacy limitations imposed by state and federal law, at least two working days prior to a review panel;
  17. The right to be informed of the names of all witnesses, except in cases where a witness' identity will not be revealed for compelling safety reasons;
  18. The right to have reports heard by persons who have received annual Title IX and trauma informed training;
  19. The right to identify and petition that any party be removed on the basis of bias and/or conflict of interest;

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<sup>158</sup><https://resources.emu.edu/confluence/display/RVSM/SECTION+8%3A+RESOURCES+AND+SUPPORTIVE+MEASURES#SECTION8:RESOURCESANDSUPPORTIVEMEASURES-8.2.SUPPORT>

20. The right to a finding based on the preponderance of the evidence presented during the investigation process. Such evidence should be credible, relevant, based on fact, and without prejudice. For a definition of preponderance of evidence, see Section 2<sup>159160</sup>;
21. The right to be informed in writing of the findings and outcomes, usually within five working days of the determination; and
22. The right to appeal the findings and/or outcomes, in accordance with the standards for appeal established in Section A.5<sup>161</sup> of the RVSM policy.

## Appendix C: Rights of the Respondent

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At all times during the Title IX process, the Respondent has the following rights:

1. The right to investigation and appropriate resolution of all credible complaints of Prohibited Misconduct made in good faith to University administrators;
2. The right to have all personally identifiable information kept private and only revealed as required by the Relationship Violence and Sexual Misconduct (RVSM) policy and law;
3. The right to be treated with respect by University officials;
4. The right to preservation of privacy, to the extent possible and allowed by law;
5. The right to be informed of, and have, University policies and procedures followed without material deviation; and the right to have an Advisor to guide and support them in the process;
6. The right to bring a Advisor to all phases of the Title IX process and policy related process;
7. The right to be informed of available counseling, mental health, or student services both on-campus and in the community, and other Supportive Measures (see Section 8<sup>164165</sup>);
8. The right to a no contact order against another student who has engaged in or threatens to engage in stalking, threatening,

<sup>159</sup> <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081300999/SECTION+2+DEFINITIONS>

<sup>160</sup> <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081300999/SECTION+2+DEFINITIONS>

<sup>161</sup> <https://resources.emu.edu/confluence/display/RVSM/Appendix+A%3A+Procedures#AppendixA:Procedures-SECTIONA.5:ADAPTIVERESOLUTION>

<sup>162</sup> <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM>

<sup>163</sup> <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM>

<sup>164</sup> <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081301031/SECTION+8+RESOURCES+AND+SUPPORTIVE+MEASURES>

<sup>165</sup> <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081301031/SECTION+8+RESOURCES+AND+SUPPORTIVE+MEASURES>

- harassing or other retaliatory behavior that presents a danger to the welfare of the Respondent or others;
9. The right to be fully informed of the nature, rules, and procedures of the process and to timely written notice of all alleged violations within the report, including the nature of the violation and possible outcomes;
  10. The right to review the preliminary investigative report and offer additional relevant materials and relevant witnesses to be interviewed and considered before the final investigative report is created;
  11. The right to review the preliminary and final report, subject to the privacy limitations imposed by state and federal law, at least two working days prior to a requested appeals hearing;
  12. The right to be informed of the names of all witnesses, except in cases where a witness' identity will not be revealed for compelling safety reasons;
  13. The right to have reports heard by persons who have received annual Title IX and trauma informed training;
  14. The right to identify and petition that any party be removed on the basis of bias and/or conflict of interest;
  15. The right to a finding based on the preponderance of evidence presented during the investigation process. Such evidence shall be credible, relevant, based on fact, and without prejudice. For a definition of preponderance of evidence, see Section 2<sup>166167</sup>;
  16. The right to be informed in writing of the findings and outcomes of any alleged relationship violence and/or sexual misconduct process, usually within five working days of the determination; and

The right to appeal the findings and/or outcomes, in accordance with the standards for appeal established in Section A.5<sup>168</sup> of the RVSM policy.

## Appendix D: Training and Prevention Education

### Information on this page

- Campus Education Activities(see page 94)
- Campus Prevention Activities(see page 95)

### Campus Education Activities

EMU provides the following educational activities for the campus community:

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<sup>166</sup> <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081300999/SECTION+2+DEFINITIONS>

<sup>167</sup> <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM/pages/5081300999/SECTION+2+DEFINITIONS>

<sup>168</sup> <https://resources.emu.edu/confluence/display/RVSM/Appendix+A%3A+Procedures#AppendixA:Procedures-SECTIONA.5:ADAPTIVERESOLUTION>

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1. SafeColleges - in accordance with federal regulations, all new and current students, faculty, and staff are required to complete this mandatory online awareness and education program at the beginning of each academic year.
2. NCAA It's On Us campaign - all student athletes receive annual training in topics related to sexual violence awareness and prevention
3. In-person training in Title IX regulations and university policies for all new faculty, staff, and students
4. Annual training for those involved in Title IX processes. All officials who conduct disciplinary proceedings related to complaints of sexual assault, domestic violence, dating violence, and stalking receive annual training on issues related to dating violence, domestic violence, sexual assault, and stalking, as well as how to conduct an investigation and a hearing process that protects the safety of victims and promotes accountability.

## Campus Prevention Activities

EMU provides the following prevention activities for the campus community:

1. Green Dot bystander trainings - bystander trainings are available to all students, faculty, and staff. Bystander overviews are provided to each incoming class as part of orientation

Additional annual awareness and prevention activities (such as Take Back the Night) are planned by EMU's student prevention organization and the Coordinated Community Response Team.

## Appendix E: Confidential Resources

Relationship Violence and Sexual Misconduct Policy<sup>171172</sup>

- Harrisonburg Confidential Resources(see page 95)
- Counseling Services(see page 95)

## Harrisonburg Confidential Resources

### Counseling Services

**counselingservices@emu.edu- 540-432-4317**

Counseling Services provides free, individual counseling sessions to any EMU student. Survivors of current and/or past sexual violence can use

169 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM>

170 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM>

171 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM>

172 <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM>

- Health Services(see page 96)
- Campus Ministries(see page 96)
- Sexual Violence Prevention Services(see page 96)
- Lancaster Confidential Resources(see page 96)
- Washington DC Confidential Resources(see page 96)

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this confidential service to process events, begin the healing journey, and receive referrals to other campus or community resources.

### **Health Services**

healthservices@emu.edu<sup>175</sup> - **540-432-4308**

#### **Irene Kniss, Director of Health Services**

Health Services provides a confidential space to discuss health concerns related to experiences of sexual violence. STI testing and pregnancy testing are available via self-pay or insurance billing. Transportation vouchers are available for students who need to access off-campus medical services and do not have their own transportation.

### **Campus Ministries**

campusministries@emu.edu<sup>176</sup> - **540-432-4115**

#### **Brian Martin Burkholder, University Campus Pastor**

Campus Ministries, including EMU's seminary campus pastor, provides a safe, confidential space for students to process experiences, receive spiritual support, and access campus and community resources.

### **Sexual Violence Prevention Services**

leda.werner@emu.edu<sup>177</sup> - **540-432-4325**

#### **Leda Werner, Sexual Violence Prevention Coordinator**

Located in the Counseling Services building, the Sexual Violence Prevention Coordinator provides confidential support to survivors who are seeking a safe space to process, information on university procedures and services, and referrals to community resources.

### **Lancaster Confidential Resources**

**Samaritan Counseling Ctr.- 717-560-9969**

**YWCA Sexual Assault Prevention & Counseling Center- 717-392-7273**

### **Washington DC Confidential Resources**

**Brookland Pastoral Counseling Center 646- 852-7404**

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<sup>173</sup> <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM>

<sup>174</sup> <https://emuhelpdesk.atlassian.net/wiki/spaces/RVSM>

<sup>175</sup> <mailto:healthservices@emu.edu>

<sup>176</sup> <mailto:campusministries@emu.edu>

<sup>177</sup> <mailto:leda.werner@emu.edu>



## National Veterans Crisis Line: 800-273-8255

### Appendix F: Transcript Notation

A transcript notation will be made as the result of a substantiated finding of responsibility of sexual violence perpetrated against a person's will or against a person incapable of giving consent, and will be placed on the respondent's academic transcript if the respondent is suspended from, permanently dismissed from, or withdraws from the University while under investigation for an offense involving sexual violence, as required by [ <http://law.lis.virginia.gov/vacode/title23.1/chapter9/section23.1-900/>] [Virginia state law](#)<sup>178</sup>.

Sexual harassment for purposes of transcript notation at EMU is defined by Title IX of the Education Amendments of 1972 and its implementing regulations. For Title IX-related purposes, sexual harassment is defined as follows:

1. Quid pro quo;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, *and* objectively offensive that it effectively denies a person equal access to the University's educational program or activity;
3. Sexual assault, dating violence, domestic violence or stalking as defined in the Clery Act and the Violence Against Woman Act

In addition to the above, the following conditions must also be met:

- Misconduct occurs within the school's program or activity;
- Misconduct occurs in the United States in/on/at a campus owned/controlled space

That said, the University will respond to sexual violence and misconduct that does not meet the definition of a Title IX violation but violates other University policies, such as prohibited conduct under EMU's RVSM Policy. These violations may also be tracked on transcripts.

Outcome letters are shared with the complainant, the respondent, and any named advisors, and serve as the conclusive document guiding the University's actions moving forward on a given case. Any definitions referenced throughout a procedure and in such case documentation, including the named policy violations, are outlined in the policy that is in place at the time and guide the University's handling of a matter.

If the respondent is found responsible under the RVSM Policy, including under the Title IX definition of sexual harassment, and after all rights to appeal have expired under the RVSM Policy, the respondent will receive a separate written notice from the University Provost that the respondent's suspension, permanent dismissal, or withdrawal will be documented on the respondent's academic transcript.

The Provost will communicate to the University Registrar the wording of the notation to be added to the respondent's transcript.

Additionally, in compliance with Virginia state law, a notation can be removed from a student's academic transcript in either of the following two circumstances:

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<sup>178</sup> <http://law.lis.virginia.gov/vacode/title23.1/chapter9/section23.1-900/>

1. Suspension. Following the conclusion of the student's suspension after being found responsible under the RVSM Policy, the transcript notation will be removed from the student's academic transcript upon (a) completion of the term and any conditions for the student to return to the University; and (b) upon the student's graduation or withdrawal from the University as long as the student is in good standing at the time of the graduation or withdrawal. Good standing is defined to include that the student has complied with the conditions of the suspension, and has not since been found responsible for violating any other University policy or rule, and has not been barred or banned from any other University activity.
2. Time. After three years or more have passed from the effective date of the student's dismissal or withdrawal from the University, provided that the student establishes good cause for the expungement. Good cause shall be defined to mean a compelling and necessitous need for the expungement.

Expungement will be granted upon the submission of a written request and supporting documentation from the student to the university Provost. The Provost, Title IX Coordinator and the Dean of Students will then review the student's record, including the RVSM Policy-related record and the student's written request and supporting documentation, to determine whether or not the student has met the above criteria. The student will receive written notice of the decision as to whether or not the expungement is granted. The decision, made jointly by the Provost, Title IX Coordinator, and the Dean of Students, will be final. Any decision to expunge a transcript notation will be communicated to the University Registrar by the Provost.

For FERPA reasons, the Virginia statute does not require notification to the complainant when the transcript notation is made or if/when when it is expunged, because transcript notation is not a sanction that directly relates to or involves the complainant.

## Monitoring and Recording Criminal Activity at Off-Campus Student Events, Activities, and Organizations

EMU does not have fraternities and sororities. However EMU does maintain one residence with classroom and office space in the District of Columbia utilized by the Washington Community Scholars' Center. EMU also has a satellite campus located with classroom space in East Lampeter Township, Lancaster, PA. The Student Life Office and the Campus Safety and Security Coordinator may and can receive monthly arrest record updates from the Harrisonburg Police Department for the main campus community. The university has a close working relationship with the other local police departments.

The university requires all students to participate in a cross-cultural study. These programs regularly take students around the world. As per the *Higher Education Act of 1965* and the *Crime Awareness and Campus Security Act of 1990*, prior to any international travel the university attempts to secure information about reportable criminal activity that is in proximity to students at non-campus facilities. While aware that cultural and political boundaries may exist, the university has established the following safety policy for cross-cultural events.

### Safety Policy for Intercultural Programs

The safety and welfare of Eastern Mennonite University's students and leaders participating in intercultural programs is always our priority.

#### *Pre-travel preparedness*

1. Our intercultural leaders are experienced EMU faculty who accompany students in all their academic travel. During independent travel, students follow additional safety precautions.
2. Students receive instruction on safety, cultural norms, behavioral expectations, and legal considerations as part of orientation activities.
3. Students receive identification letters from EMU to be carried on person to assist them in case of emergency.
4. Students (and parents) receive a detailed itinerary with contact information and emergency contact numbers. The faculty leaders and director of intercultural programs maintain regular communication at all times. Periodic updates are sent to parents.

#### *Geopolitical monitoring*

1. EMU carefully monitors the regions of all intercultural programs. Sources include U.S. Department of State advisories, consultants, travel agents, regional media sources, field contacts, local area partners, churches, and expatriate mission personnel. The intimate understanding of on-site field experts is invaluable for evaluating situations.
2. EMU intercultural groups are registered with the U.S. Department of State or directly with embassies and consulates to receive assistance in case of emergency.

#### *General Health precautions*

1. Students complete a Health History, Medical Permission, and Emergency Information form, including verification of international health insurance coverage, to assist faculty leaders and the

director of intercultural programs to arrange for appropriate medical care while traveling. Immunization requirements for each program are communicated to students in advance. For students under the age of 21, a parent/guardian provides written permission for student participation in an intercultural program. Faculty leaders identify health professionals and facilities for all locations of their program to assist in case of illness or accident.

2. EMU intercultural groups embrace an ethic of care for each other.

### ***Mental Health Precautions***

1. A student with concerns or identified need will be seen by the director of counseling services to assess safety for travel and the implication of lack of access to resources.
  1. If the student is a current client on campus, the director of counseling services will rely on records and the in person assessment.
  2. If the student already has a community counselor, the director of counseling services will request a release to consult with the provider.
  3. If the director of counseling services assesses no threat to safety, recommendations to allow the travel will be made to the student, parents, faculty and administration as appropriate.
  4. If the director of counseling services feels further evaluation is needed, recommendations will be made to the student, parents, faculty and administration as appropriate and may include requests for further assessment by an outside provider which can include a psychiatrist or psychologist.
- In consultation with the Director of Intercultural Programs, the Director of Counseling Services, and Dean of Students, the university may reserve the right to consult with parents or guardians and refuse permission to travel with an EMU program.

### ***Contingency plans***

1. EMU faculty leaders take care in planning programs, and design contingency plans in case of emergency. Contingency plans may include, for example, relocation to a nearby country in order to complete studies.
2. Any decision to evacuate, relocate, or cancel an intercultural program rest with the president of the university in consultation with the provost, director of intercultural programs, and faculty leaders. The director of intercultural programs calls for such a meeting. While traveling, faculty leaders are authorized to withdraw to a safe location or return home if:
3. there is a complete breakdown of communications systems making it impossible to contact the university; or,
4. the danger is so immediate that there is insufficient time to contact the university.

Should it be necessary to leave an intercultural program location prematurely, the intercultural leaders will:

1. make every effort to complete the program in a similar locality or region; or,
2. return to campus to complete the program with alternative learning experiences.
3. If it is impossible to satisfactorily complete the program, arrangements for reimbursement and academic credit will be determined in consultation with the faculty leaders, director of intercultural programs, and university registrar according to university policies.

### **Responsible Party**

Responsibility for this policy lies with the Director of Intercultural Programs.

**Policy Review**

This policy is to be reviewed every five years.

**Distribution**

This policy is distributed via the Intercultural Leaders Manual and the EMU Student Handbook.

*Revised by Cross-Cultural Committee, February 06, 2014*

*Approved by Academic Cabinet, April 9, 2014*

*Approved by President's Cabinet, September 10, 2014*

*This policy is a sub-section of the ICP Risk Management Policy since 2019*

## Alcohol, Tobacco, and Illegal Drug Policies

In accordance with the Drug-Free Schools and Communities Act of 1989 and in support of local, state and federal regulations pertaining to the illegal use of alcohol and other drugs, the possession or use of alcohol, tobacco and illegal drugs is prohibited from the EMU campus as well as all university-related functions.

Persons who misuse, obtain for others to use or distribute alcohol, tobacco, or illegal drugs on campus will be held responsible in accordance with the University Standards of Conduct. Students who misuse alcohol, tobacco or illegal drugs off campus will also be in violation of the university policy and may be held responsible by the appropriate university officials. Misuse is identified as consumption that compromises the safety of oneself or others, underage drinking and/or drinking to excess, intoxication, illegal personal use and/or rowdiness, and damage or destruction of property.

NOTE on Self-Reporting/Amnesty for Alcohol and Other Drugs: Individuals who self-report consumption or potential misuse of alcohol and other drugs will not face university disciplinary action. In cases of self-reporting, a member of the student life staff will meet with the student to determine the best educational and/or recovery options available for the student, if needed. In cases of self-reporting, the university will offer its own resources as well as community-based resources to help.

A number of services are available for persons dealing with addictions to alcohol or other substances. The following are treatment & rehabilitation programs and support services. The EMU Counseling Center ([counselingservices@emu.edu](mailto:counselingservices@emu.edu)<sup>179</sup>) will assist any student in making contact with any of these agencies. Any such referral is confidential.

A number of services are available for persons dealing with addictions to alcohol or other substances. The following are treatment & rehabilitation programs and support services. The EMU Counseling Center ([counselingservices@emu.edu](mailto:counselingservices@emu.edu)<sup>180</sup>) will assist any student in making contact with any of these agencies. Any such referral is confidential.

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<sup>179</sup> <http://emu.edu>

<sup>180</sup> <mailto:counselingservices@emu.edu>

## Addiction Resources in the Community (main campus)

### **Support Groups:**

#### **AA, Al-Anon, Alateen**

Websites for complete list of meetings:

Al-Anon: [www.vaalanon.org](http://www.vaalanon.org)<sup>181</sup>

AA: [www.aavirginia.org](http://www.aavirginia.org)<sup>182</sup>

#### **Augusta Health** (Fishersville)

(540) 213-2509 or (540) 941-2509

#### **Blue Ridge Area Intergroup** (Winchester)

24 hour hotline AA HOTLINES (540) 667-0322 or (800) 835-6130

#### **Twelfth Step Intergroup** (Harrisonburg)

24-hour answering service in English & Español (540) 434-8870

#### **Valley Intergroup** (Staunton, Verona, and Waynesboro)

Staunton, Verona: (540) 885-6912

Waynesboro: (540) 949-7777

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181 <http://www.vaalanon.org/>

182 <http://www.aavirginia.org/>

## Addiction Resources in the Community (main campus)

### **Substance Abuse Services:**

#### **Cambios** (Harrisonburg)

A Spanish-speaking group for people with alcohol or drug problems in the Harrisonburg area.  
Contact (540) 434-1941

#### **Harrisonburg-Rockingham Community Services Board**

Office: (540) 434-1941

Emergency Services: (540) 434-1766

#### **Narcotics Anonymous**

[www.shevana.org](http://www.shevana.org)<sup>183</sup> and (800) 777-1515

#### **Sentara RMH Addiction Services**

(540) 564-5960

#### **Local Substance Issues Resources**

[emu.edu/studentlife/counseling/resources/](http://emu.edu/studentlife/counseling/resources/)<sup>184</sup>

## Addiction Resources in the Lancaster Community

### **Support Groups:**

AL-Anon

Heart of Lancaster Hospital

1500 Highlands DR

Litiz, PA 17543

### **Substance Abuse Services:**

The Lancaster Freedom Center

436 North Lime Street, Lancaster, PA 17602

email: [info@lancasterfreedomcenter.com](mailto:info@lancasterfreedomcenter.com)<sup>185</sup>

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<sup>183</sup> <http://www.shevana.org/>

<sup>184</sup> <http://emu.edu/studentlife/counseling/resources/>

<sup>185</sup> <mailto:info@lancasterfreedomcenter.com>



## Addiction Resources in the District of Columbia

### **Support Groups:**

#### **Department of Behavioral Health**

Office Hours are Monday to Friday, 8:15 am to 5:00 pm, except District holidays

64 New York Avenue, NE, 3rd Floor, Washington, DC 20002

Phone: (202) 673-2200

Fax: (202) 673-3433

TTY: (202) 673-7500

Email: [dbh@dc.gov](mailto:dbh@dc.gov)<sup>186</sup>

### **Substance Use Disorder Services:**

#### **Department of Behavioral Health**

<https://dbh.dc.gov/page/apra>

The Department of Behavioral Health (DBH) certifies a network of community based providers in the public behavioral health system to provide substance use disorder services including detoxification, residential and outpatient services based on the level of need. It also provides a range of prevention and recovery services. DBH regulates and sets policy for substance use disorder prevention, treatment, and recovery services.

### **Laws Governing Alcohol & Other Drugs**

In accordance with federal legislation, known as the Drug-Free Schools and Communities Act, Eastern Mennonite University is required to communicate the information in this section regarding the unlawful possession, use or distribution of illicit drugs and alcohol to its students and employees. Federal regulations stipulate that this information be distributed annually.

### **Federal Illicit Drug Laws and Penalties**

#### **Federal Sanctions – Illicit Drug Laws**

Pursuant to federal law, the United States Sentencing Guidelines establish mandatory minimum penalties for categories of drug offenses and provide for penalty enhancements in specific cases. Under these federal guidelines, courts can sentence a person for up to 6 years for unlawful possession of a controlled substance, including the distribution of a small amount (less than 250 grams) of marijuana; a sentence of life imprisonment can result from a conviction of possession of a controlled substance that

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<sup>186</sup> <mailto:dbh@dc.gov>

results in death or bodily injury; and, possession of more than 5 grams of cocaine can trigger an intent to distribute penalty of 10-16 years in prison.

## Federal Penalties and Sanctions for Illegal Possession of Controlled Substances

### **21 U.S.C. 844 (a)**

1st conviction: Up to 1 year imprisonment and fined at least \$1,000 but not more than \$100,000, or both.

After 1 prior drug conviction: At least 15 days in prison, not to exceed 2 years and fined at least \$2,500 but not more than \$250,000, or both.

After 2 or more prior drug convictions: At least 90 days in prison, not to exceed 3 years and fined at least \$5,000 but not more than \$250,000, or both.

Special sentencing provisions for possession of crack cocaine: Mandatory at least 5 years in prison, not to exceed 20 years and fined up to \$250,000, or both, if: (a) 1st conviction and the amount of crack possessed exceeds 5 grams; (b) 2nd crack conviction and the amount of crack possessed exceeds 3 grams; or (c) 3rd or subsequent crack conviction and the amount of crack possessed exceeds 1 gram.

### **21 U.S.C. 853 (a) (2) and 881 (a) (7)**

Forfeiture of personal and real property used to possess or to facilitate possession of a controlled substance if that offense is punishable by more than 1 year imprisonment. (See specially sentencing provisions re: crack, above.)

### **21 U.S.C. 881 (a) (4)**

Forfeiture of vehicles, boats, aircraft or any other conveyance used to transport or conceal a controlled substance.

### **21 U.S.C. 844a**

Civil fine of up to \$10,000

### **21 U.S.C. 862**

Denial of Federal Benefits, such as student loans, grants, contracts, and professional and commercial licenses, up to 1 year for first offense, up to 5 years for second and subsequent offenses.

### **18 U.S.C. 922 (g)**

Ineligible to purchase, receive, or transport a firearm.

Revocation of certain Federal licenses and benefits, e.g. pilot licenses, public housing tenancy, etc., are vested within the authorities of individual Federal agencies. Federal Penalties for Illegal Trafficking of Controlled Substances The Controlled Substances Act (CSA), Title II of the comprehensive Drug Abuse Prevention and Control Act of 1970, is a consolidation of numerous federal laws regulating the manufacture and distribution of controlled substances. The CSA places all use, potential for abuse and safety or dependence liability. The CSA provides penalties for the unlawful manufacturing and distribution of controlled substances. The charts on pages 8-9 of the U.S. Department of Justice publication, Drug of Abuse, 1996 Edition, provides an overview of the penalties for trafficking of controlled substances.

For additional details about Federal illicit drug laws, visit the following websites:

U.S. Drug Enforcement Agency – [www.dea.gov](http://www.dea.gov)<sup>187</sup>

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<sup>187</sup> <http://www.dea.gov/>

## City of Harrisonburg Alcohol Ordinances

### Open Container and Drinking in Public Code 16.8.51

- a. If any person shall take a drink of alcoholic beverage or shall tender a drink thereof to another, whether accepted or not, at or in any public place, he shall be guilty of a Class 4 misdemeanor.
- b. It shall be unlawful for any person to possess an open or opened container, can, cup, glass or bottle containing an alcoholic beverage in any city park or playground or on any public street in the city.

City Ordinance Violations are enforced by both patrol and special enforcement officers of the Harrisonburg Police Department. Violations will receive enforcement action when they are observed, not only in response to complaints. This law does apply to sidewalks and parking lots open to the public. Persons who consume or are in possession of alcoholic beverages while sitting in vehicles are subject to this charge. To avoid being charged with this violation, all those participants at your event must stay on your property. Walking or driving from place to place with an open container of alcoholic beverages, including cups, is a violation of this law.

### Drunk in Public: Code 16-7-33

If any person profanely curses or swears or be drunk in public, he shall be guilty of a class 4 misdemeanor. Persons are arrested and taken to detoxify because of dangerous criminal behavior. The safety of the subject, safety of others, and protection of property are the main concerns regarding this code.

## Virginia Laws

### Underage Possession of Alcohol: VA Code 4.1-305

- a. No person to whom an alcoholic beverage may not lawfully be sold shall purchase or possess any alcoholic beverage.
- b. Any person found guilty of a violation of this section shall be guilty of a class 1 misdemeanor (with a minimum fine of \$500 or 50 hours of minimum community service and up to 12 months in jail and/or up to \$2500 in fines); and upon conviction, such person's license to operate a motor vehicle in the commonwealth shall be suspended for a period of not less than 6 months or more than one year.

Possession of alcohol by persons under the age of 21 no longer requires that the person be holding the beverage or container in their hand. Recent Virginia Court of Appeals rulings have made it clear that possession included alcohol which had been consumed and is in one's body. The evidence of this is based upon the officer's investigation, not on the existence of a cup, can or other container. If you have

consumed any alcoholic beverages illegally and you come into contact with a Law Enforcement Officer, you can be charged with under aged possession.

### **Purchase Alcohol for Another: VA Code 4.1-306**

If any person purchases alcoholic beverages for another person and at the time of the purchase knows or has reason to believe that the person for whom the alcoholic beverage was purchased was (a) less than 21 years of age, (b) interdicted, or (c) intoxicated, he/she shall be guilty of a Class 1 misdemeanor (up to 12 months in jail and/or up to \$2500 in fines).

### **Possession of Fictitious Identification: VA Code 18.2-204.2**

It shall be unlawful for any person to manufacture, advertise for sale, sell or possess any fictitious, facsimile or simulated driver's license issued by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any foreign country or government; United States Armed Forces identification card; United States passport or foreign government visa; Virginia Department of Motor Vehicles special identification card; official identification issued by any federal, state or foreign government agency; or official university or college student identification card, or in any way reproduce any identification card or facsimile thereof in such a manner that it could be mistaken for a valid license or identification of any type specified in this subsection. Any person manufacturing, advertising for sale, selling or reproducing such card or facsimile thereof shall be guilty of a Class 1 misdemeanor. Any person possessing any such card or facsimile thereof shall be guilty of a Class 2 misdemeanor.

### **DUI Penalties: VA Code 18.2-270**

(a) Except as otherwise provided herein, any person violating any provision of 18.2-266 shall be guilty of a Class 1 misdemeanor with a mandatory minimum fine of \$250. If the person's blood alcohol level as indicated by the chemical test administered as provided in the article was at least 0.15, but not more than 0.20, he shall be confined in jail for an additional minimum, mandatory period of 5 days or, if the level was more than 0.20, for an additional minimum, mandatory period of 10 days. The additional minimum, mandatory period of confinement shall not be suspended by the court.

- For sections (b and c), please refer to the Code of Virginia 18.2-270 ([legis.state.va.us](http://legis.state.va.us))

(d) In addition to the penalty otherwise authorized by this section or 16.1-278.9, any person convicted of a violation of 18.2-266 committed while transporting a person 17 of age or younger shall be

1. Fined an additional minimum of \$500 and not more than \$1000 and
2. Sentenced to perform forty hours of community service in a program benefiting children or, for a subsequent offense, eighty hours of community service in such a program.

### **DUI (Under 21): VA Code 18.2-266.1**

a. It shall be unlawful for any person under the age of 21 to operate any motor vehicle after illegally consuming alcohol.

Any such person with a blood alcohol concentration of 0.02 percent or more by weight by volume or 0.02 grams or more per 210 liters of breath but less than 0.08 by weight by volume or less than 0.08 grams per 210 liters of breath as indicated by a chemical test administered as provided in this article shall be in violation of this section.

b. A violation of this section shall be punishable by forfeiture of such person's license to operate a motor vehicle for a period of one year from the date of conviction and by a mandatory fine of \$500 or performance of a mandatory minimum of 50 hours of community service. The penalties and license forfeiture provisions set forth in 16.1-278.9, 18.2- 270 and 18.2-271 shall not apply to a violation of this section. Any person convicted of a violation of this section shall be eligible to attend an Alcohol Safety Action Program under the provisions of 18.2-271.1 and may, in the discretion of the court, be issued a restricted license during the term of license suspension.

c. Notwithstanding 16.1-278.8 and 16.1-278.9, upon adjudicating a juvenile delinquent based upon a violation of this section, the juvenile and domestic relations district court shall order disposition as provided in subsection B.

Harrisonburg Police Department, (540) 434-4436, <https://www.harrisonburgva.gov/police><sup>188</sup>

## Pennsylvania Laws

A minor in Pennsylvania may not buy (or attempt to buy), possess, or knowingly and intentionally transport alcohol; or knowingly use false identification (or other misrepresentations) to obtain alcohol. (Penn. Stat. & Con. Stats. Section 6307(a)& 6308(a).) It is also illegal for a minor to work serving or handling alcohol in an establishment that is licensed to sell alcohol (for example, a bar or night club). (Penn. Stat. & Con. Stats. Section 44.) There are few exceptions to these rules.

### Illegal alcohol possession

In addition to possible driver's license suspension (for all violations), second and subsequent convictions are subject to a fine of up to \$500 (as decided by the judge). Having consumed alcohol in a jurisdiction other than the jurisdiction where the citation was given is not a defense to these penalties. Breaking one of these laws is a "summary offense," meaning that the minor is not entitled to have a jury trial to determine his guilt. Instead, a judge considers the facts and situation, and rules on a punishment within the guidelines described above. (Penn. Stat. & Con. Stats. Section 6308(a)&(b).)

### Misrepresenting age

A minor who misrepresents the minor's age to buy or consume alcohol is guilty of a summary offense (for first violations). For second and subsequent violations, the minor may be charged with a misdemeanor of the third degree. In addition to possible driver's license suspension (for all violations), the judge may impose a fine of up to \$500 for second and subsequent violations. For all violations, the

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<sup>188</sup> <https://www.harrisonburgva.gov/police+>

judge may also rule that the minor is delinquent, and impose an additional fine of up to \$500. (Penn. Stat. & Con. Stats. Section 6307(a) & (b).)

## Cost of a DUI

The costs associated with an impaired driving arrest can vary greatly depending on several factors, including blood alcohol content, location of arrest, and number of offenses. The effect on a driver's wallet starts the moment they are stopped by police. Here are a few expenses associated with a DUI.

- Traffic fine: **\$300 - \$10,000** depending on blood alcohol content and number of offenses
- Towing vehicle: **\$50** flat fee plus mileage
- Impound: **\$75-\$175** per day
- Legal fees: **\$2,000-\$8,000** or more
- Alcohol evaluation: **\$35-\$100**
- Accelerated rehabilitative disposition (ARD): **\$100-\$1,800**
- Education and treatment: **\$100-\$1,000** or more
- License restoration: **\$25** non-commercial, **\$75** commercial
- Insurance premium: increase of about **\$1,000 a year** or cancellation of policy

Apart from the financial aspects of a DUI arrest, there may also be social ramifications. Court appearances, community service requirements or jail time lead to lost time and lost wages — possibly job loss. A DUI conviction can also impede attempts to get a job, and cause embarrassment to your family.

## Underage DUI

Pennsylvania's Zero Tolerance Law carries serious consequences for those under 21 who are convicted of driving with any amount of alcohol in their blood. For example, those under 21 who are convicted of driving under the influence with a .02 blood alcohol content, or greater, face severe penalties, including a 12-to 18-month license suspension, 48 hours to six months in jail, and fines from \$500 to \$5,000. A vehicle does not have to be involved in order for those under 21 to lose their driving privileges. It is against the law for an individual under the age of 21 to consume, possess or transport alcohol, or lie about their age to obtain alcohol and carry a fake identification card. If convicted, the minimum penalties are a fine of up to \$500, plus court costs; a 90-day license suspension for the first offense; a one-year suspension for the second offense; and a two-year suspension for the third and subsequent offenses.

## District of Columbia Laws

### Age Limit:

The District age limit for consumption, purchase, or possession of alcoholic beverages is 21 years of age. An exception for employees under age 21 exists which allows one to possess alcoholic beverages if it is necessary to perform lawful employment responsibilities. It is unlawful to falsely represent one's age or

possess or present **false identification** in order to purchase alcoholic beverages or for the purpose of entering an establishment that sells liquor.

Thus, the language and structure of the ABC Act, as well as its legislative history, lead us to conclude that the possession of alcoholic by a person under twenty-one is punishable only by a civil fine as described in D.C. Code § 25-130 (b-2) and suspension of driving privileges under D.C. Code § 25-130 (c), and is not a criminal offense. In response to this decision, in July of 2004 the DC Council adopted emergency legislation making possession or drinking when under age 21 a civil as opposed to a criminal offense. This is codified at **D.C. Code Ann. § 25-1002 (c) (4)(D)**.

False representation of age and fraudulent use of an ID are still misdemeanors under the code.

Violations of these laws will subject one to a fine of not more than \$300 and to revocation of driving privileges in the District for 90 days upon the first offense, \$600 and 180 days for the second, and \$1,000 and one (1) year for a third violation. For the penalties and further treatment see **D.C. Code Ann. § 25-1002**.

See **18 U.S.C. § 1028** for federal criminal penalties in connection with a false ID.

No licensee may permit minors to sell, give, furnish or distribute any alcoholic beverages. However, an individual at least 18 years old may sell, serve, or deliver the beverages on a licensed premise, but may not serve as a bartender. A bartender is defined as one who fixes, mixes, makes, or concocts the alcoholic beverages. See **D.C. Code Ann. §§ 25-784(a) and (b)**.

Recordkeeping is required. DC Code 25-773.

### Penalties for license violations regarding proof of age:

A first violation will result in a fine between \$1,000 and \$2,000, or a suspended license for 10 consecutive days. A second violation will result in a fine between \$2,000 and \$4,000 and a suspended license for 20 consecutive days. Upon a third violation, a fine between \$4,000 and \$10,000 will be issued and a suspended license for 30 days, or a revocation of the license. The Alcohol Beverage Control Division will post a notice on the premises regarding any suspension or revocation of a license and the reason for it. See D.C. Code Ann. §§ 25-1002(d) and (e).

### Operation of motor vehicles, etc.:

One may not be intoxicated and operate a train (as conductor or brakeman), streetcar, elevator, watercraft, or horse drawn vehicle. Penalties include a fine of no more than \$300, imprisonment for no longer than three (3) months, or both. See D.C. Code Ann. § 25-1009.

## Crime Reporting Procedures - Safety and Security Guidelines

Harrisonburg residents enjoy a relatively low crime rate. However, it is the responsibility of every member of the campus community to take reasonable precautions for maintaining personal safety as well as the safety of others. The university's campus safety and security program is an ongoing process that includes the development and enforcement of policies, regulations, procedures and practices.

### Definitions of reportable crimes in the Campus Security Act

Reported crime statistics citation 34 CFR 668.46(c)

The Clery Act requires each institution to disclose four general categories of crime statistics:

1. **Criminal Offenses** - Criminal Homicide, including Murder and Non-negligent Manslaughter, and Manslaughter by Negligence; Sexual Assault, including Rape, Fondling, Incest and Statutory Rape; Robbery; Aggravated Assault; Burglary; Motor Vehicle Theft; and Arson.
2. **Hate Crimes** - Any of the above-mentioned offenses, and any incidents of Larceny-Theft, Simple Assault, Intimidation, or Destruction/Damage/ Vandalism of Property that were motivated by bias;
3. **VAWA Offenses** - Any incidents of Domestic Violence, Dating Violence and Stalking.
4. **Arrests and Referrals for Disciplinary Action** - For Weapons Law Violations—Carrying, Possessing, Etc. , Drug Abuse Violations, and Liquor Law Violations.

### Crime Definitions

Per the Clery Act, you must classify crimes based on Uniform Crime Reporting Handbook.

The Federal Bureau of Investigation's (FBI's) Uniform Crime Reporting Handbook (UCR). For sex offenses only, use definitions from the FBI's National Incident-Based Reporting System (NIBRS) edition of the UCR. Classify hate crimes according to the FBI's Uniform Crime Reporting Hate Crime Data Collection Guidelines and Training Guide for Hate Crime Data Collection. Although the law states that institutions must use the UCR for defining and classifying crimes, it does not require Clery Act crime reporting to meet all UCR standards. You must disclose reported offenses, not the findings of a court, coroner or jury or the decision of a prosecutor. Classify and count crimes from the records of calls for service, complaints and investigations.

### Offense Definitions Relating to Hate Crimes

A hate crime is a criminal offense committed against a person or property, which is motivated, in whole or in part, by the offender's bias. Bias is a preformed negative opinion or attitude toward a group of persons based on their race, gender, religion, disability, sexual orientation or ethnicity/national origin. Although there are many possible categories of bias, under Clery, only the following eight categories are reported:

- **Race.** A preformed negative attitude toward a group of persons who possess common physical characteristics (e.g., color of skin, eyes, and/or hair; facial features, etc.) genetically transmitted by descent and heredity, which distinguish them as a distinct division of humankind (e.g., Asians, blacks, whites).



- Religion. A preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being (e.g., Catholics, Jews, Protestants, atheists).
- Sexual orientation. A preformed negative opinion or attitude toward a group of persons based on their sexual attraction toward, and responsiveness to, members of their own sex or members of the opposite sex (e.g., gays, lesbians, heterosexuals).
- Gender. A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender, e.g., male or female.
- Gender Identity. A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender identity, e.g., bias against transgender or gender non-conforming individuals.
- Ethnicity. A preformed negative opinion or attitude toward a group of people whose members identify with each other, through a common heritage, often consisting of a common language, common culture (often including a shared religion) and/or ideology that stresses common ancestry.
- National Origin. A preformed negative opinion or attitude toward a group of people based on their actual or perceived country of birth.
- Disability. A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments, whether such disability is temporary or permanent, congenital or acquired by heredity, accident, injury, advanced age or illness.

For Clery purposes, Hate Crimes are crimes or incidents of violence against persons characterized by bias against race, gender, gender identity, religion, sexual orientation, ethnicity, national origin and disability.

### **Categories of hate crime offenses**

- Murder and Non-negligent manslaughter
- Sexual Assault
- Robbery
- Aggravated assault
- Burglary
- Motor vehicle theft
- Arson
- Larceny-theft
- Simple assault
- Intimidation
- Destruction/damage/vandalism of property

### **To Report a Crime**

Contact main Campus Safety and Security by dialing 4911 from any campus phone or 540-432-4911 from off campus or from cell phone. Telephones and emergency telephones are located across campus. Any suspicious activity or persons seen in the parking lots or loitering around residential buildings should be reported to campus security or local police. Dial 911 for emergencies. For non-emergency

situations, the Harrisonburg Police Department can be contacted at 540-434-4436. Lancaster campus municipal police 717-291-4676, and the Washington D.C. police 202-727-9099. In addition, report crimes to the following people:

- Campus Safety and Security Coordinator
- Vice-President of Finance
- Vice President of Student Affairs
- Dean of Students,
- Director of Campus Life
- Residence Directors
- Director of Facilities Management
- Director of Intercollegiate Athletics
- Director of Counseling Services
- Title IX Coordinators

## Voluntary Confidential Reporting

Victims of a crime who do not want to pursue action within the university system or the criminal justice system may still want to consider making a confidential report. The reports can be found at [https://www<sup>189</sup>.wvu.edu/safecampus/<sup>190</sup>](https://www.wvu.edu/safecampus/) or, with permission, a security officer (or a designee of EMU) can file the incident without revealing the victim's identity. The purpose of a confidential report is to comply with the victim's wish to keep the matter confidential while taking steps to ensure the future safety of everyone on campus. With this information, the university can keep an accurate record of the number of incidents involving students, faculty, or staff, determine where there is a pattern of crime with regard to particular locations, methods, or assailants, and alert the campus community to potential danger. Reports filed in this manner are if applicable, counted and disclosed in the annual crime statistics for the institution. Because of the nature of some types of crimes, confidentiality may not be able to be assured within the criminal justice system.

## Timely Warning Reports

- Timely warnings may be issued for all *Clery Act* reportable offenses.
- Timely warnings are not limited to violent crimes or crimes against persons. The *Clery Act* does not specify what information shall be included in a timely warning; however, all attempts will be made to include information that promotes safety and aids in the prevention of similar crimes.
- If an incident occurs either on or off campus that in the judgment of the Safety and Security Coordinator, the Vice-President of Finance, or the Dean of Students, presents an ongoing or continued threat, a campus-wide timely warning or notice will be issued to all students, faculty, and staff.
- Depending on the circumstances of the crime and immediate threat to the community, timely warnings will be sent by one or more emergency notification systems.
- Anyone with information warranting a timely warning should report the circumstances to Campus Security at 4911 or 540-432-4911.

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<sup>189</sup> <http://www.wvu.edu/safecampus/>

<sup>190</sup> <http://www.wvu.edu/safecampus/>

The *Clery Act* does not require confidential reporting of crimes. Although personally identifiable information is generally precluded from disclosure, such information may be released in an emergency situation.

The *Family Education Rights and Privacy Act* (FERPA) does not preclude an institution's compliance with the timely warning provision of the campus security regulations. FERPA recognizes that information can, in the case of an emergency, be released without consent when needed to protect the health and safety of others. In addition, if institutions utilize information from the records of a campus safety and security department to issue a timely warning, FERPA is not implicated, as those records are not protected by FERPA.

## Emergency Notifications

- Emergency notifications will be issued upon the confirmation of a significant emergency or situation involving an immediate threat to the health or safety of students, employees or public occurring on the campuses without delay, unless notification will compromise efforts to assist victims or contain the response to, or otherwise mitigate the emergency.
- They will be issued by one or more methods of dissemination. EMU Alerts computer banner screen notifications, EMU Alerts phone texts, EMU emergency notification emails, ALERTUS systems desktop and beacons, or any other methods that may be deemed useful.
- Confirmation may come by way of the local municipal emergency 911 center, local emergency services, or by campus security or administration.
- Notifications will be issued to groups/sectors that are in the most imminent threat if possible first, then to the broader campus community by way of any number of the aforementioned methods.
- Content of the notification will be dependent upon the type of situation occurring.
- When confirmation of a situation warranting notification has been received, the university Office of Safety & Security, Information Systems department, or Facilities shall initiate the systems.
- Annual testing of the notification systems is conducted by all involved departments and records maintained.

## Criminal Offenses and Arrests and Judicial Referral Statistics

### All EMU Campus Crime Statistics for 2021 - 2023

Crimes reported in the on-campus student housing facilities column are also included within the on-campus category.

#### What **these statistics do and do not say**

- Statistics compiled for the annual security report and shared with the Department of Education DO INCLUDE those reported to the individuals listed in this report, and to those who have been identified as "campus security authorities" as determined by their roles and responsibilities.
- These statistics DO INCLUDE incidents documented by resident directors of students violating campus policies that are also violations of laws captured under Clery.
- These statistics DO INCLUDE all reports to campus security authorities of Clery crimes reported within Clery geography, regardless of whether the individual reporting was a member of the campus community.
- These statistics DO INCLUDE all reports to campus security authorities of Clery crimes reported within Clery geography, regardless of whether the person (victim) chose to move forward with the criminal justice system or the campus disciplinary process.
- These statistics **DO NOT** always represent incidents shared with confidential resources on campus such as counseling center, campus pastor, and health center. Although we encourage when they deem it appropriate, to inform the persons they are assisting of any procedures to report crimes on a voluntary, confidential basis.
- These statistics **DO NOT** include incidents that were not reported to the institution.
- These statistics **DO NOT** reflect incidents reported that occurred in areas that are not classified as Clery geography

<b>MAIN CAMPUS - HARRISONBURG, VA</b>					
<b>OFFENSE</b>	<b>YEAR</b>	<b>ON-CAMPUS PROPERTY</b>	<b>ON-CAMPUS STUDENT HOUSING FACILITIES</b>	<b>NON-CAMPUS PROPERTY</b>	<b>PUBLIC PROPERTY</b>
Murder/Non-Negligent Manslaughter	2021	0	0	0	0
	2022	0	0	0	0

	2023	0	0	0	0
Negligent Manslaughter	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Rape	2021	0	0	0	0
	2022	1	1	0	0
	2023	2	2	0	0
Fondling	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Incest	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Statutory Rape	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Robbery	2021	0	0	0	0
	2022	0	0	0	0
	2023	1	1	0	0

Aggravated Assault	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Burglary	2021	0	0	1	0
	2022	0	0	0	0
	2023	0	0	0	0
Motor Vehicle Theft	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Arson	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Arrests Weapons Carrying, Possessing, etc.	2021	1	1	0	0
	2022	0	0	0	0
	2023	2	2	0	0
Disciplinary Referrals- Weapons: Carrying, Possessing, etc.	2021	1	1	0	0
	2022	0	0	0	0
	2023	0	0	0	0

Arrests: Drug Abuse Violations	2021	0	0	0	0
	2022	0	0	1	0
	2023	0	0	0	0
Disciplinary Referrals: Drug Abuse Violations	2021	0	0	0	0
	2022	4	4	0	0
	2023	1	0	0	0
Arrests: Liquor Law Violations	2021	0	0	0	0
	2022	6	6	0	0
	2023	0	0	0	0
Disciplinary Referrals: Liquor Law Violations	2021	15	15	0	0
	2022	0	0	0	0
	2023	1	1	0	0
Stalking	2021	1	0	0	0
	2022	2	1	0	0
	2023	1	1	0	0
Dating Violence	2021	0	0	0	0
	2022	0	0	0	0
	2023	1	1	0	0
Domestic Violence	2021	0	0	0	0

	2022	0	0	0	0
	2023	0	0	0	1
Unfounded Crimes	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
<b>LANCASTER CAMPUS - LANCASTER, PA</b>					
<b>OFFENSE</b>	<b>YEAR</b>	<b>ON-CAMPUS PROPERTY</b>	<b>ON-CAMPUS STUDENT HOUSING FACILITIES</b>	<b>NON-CAMPUS PROPERTY</b>	<b>PUBLIC PROPERTY</b>
Murder/Non-Negligent Manslaughter	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Negligent Manslaughter	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Rape	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0



Fondling	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Incest	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Statutory Rape	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Robbery	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Aggravated Assault	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Burglary	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Motor Vehicle Theft	2021	0	0	0	0

	2022	0	0	1	0
	2023	0	0	0	0
Arson	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Arrests Weapons Carrying, Possessing, etc.	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Disciplinary Referrals- Weapons: Carrying, Possessing, etc.	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Arrests: Drug Abuse Violations	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Disciplinary Referrals: Drug Abuse Violations	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Arrests: Liquor Law Violations	2021	0	0	0	0
	2022	0	0	0	0

	2023	0	0	0	0
Disciplinary Referrals: Liquor Law Violations	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Stalking	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Dating Violence	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Domestic Violence	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	1	0
Unfounded Crimes	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
<b>WASHINGTON COMMUNITY SCHOLARS CENTER - WASHINGTON, D.C.</b>					

<b>OFFENSE</b>	<b>YEAR</b>	<b>ON-CAMPUS PROPERTY</b>	<b>ON-CAMPUS STUDENT HOUSING FACILITIES</b>	<b>NON-CAMPUS PROPERTY</b>	<b>PUBLIC PROPERTY</b>
Murder/Non-Negligent Manslaughter	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Negligent Manslaughter	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Rape	2021	0	0	0	0
	2022	0	0	1	0
	2023	0	0	0	0
Fondling	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Incest	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Statutory Rape	2021	0	0	0	0
	2022	0	0	0	0

	2023	0	0	0	0
Robbery	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Aggravated Assault	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Burglary	2021	0	0	0	0
	2022	0	0	0	0
	2023	1	1	0	0
Motor Vehicle Theft	2021	0	0	0	0
	2022	0	0	2	0
	2023	0	0	0	0
Arson	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Arrests Weapons Carrying, Possessing, etc.	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0

Disciplinary Referrals- Weapons: Carrying, Possessing, etc.	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Arrests: Drug Abuse Violations	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Disciplinary Referrals: Drug Abuse Violations	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Arrests: Liquor Law Violations	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Disciplinary Referrals: Liquor Law Violations	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Stalking	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Dating Violence	2021	0	0	0	0

	2022	0	0	0	0
	2023	0	0	0	0
Domestic Violence	2021	0	0	0	0
	2022	0	0	3	0
	2023	0	0	0	0
Unfounded Crimes	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0

## Fire Safety Report

The "Campus Fire Safety Right-to-Know Act" requires colleges and universities to prepare and have available an annual report that contains information with regard to fire safety standards and measures on the main campus which has residential housing. Eastern Mennonite University (EMU) prepares this report to inform the public of the university's policies and procedures for providing a fire safe campus community, and to comply with the act.

EMU strives to maintain a fire safe campus, through the implementation of proven safety standards and regulations. Though serious fire-related incidents are uncommon at EMU, it is imperative that all those on campus know how to respond to a given situation.

### About Our Residential Campuses

The main EMU campus is located in Harrisonburg, Virginia (population approx. 52,000 per US Census Bureau - 2020 Census). The campus is made up of approximately 90 acres with 54 buildings; 17 of which are student residence halls, apartment buildings or houses. The main campus is protected by the City of Harrisonburg Fire Department, a Class II career department, staffed 24/7, operating out of four fire stations. The Lancaster campus is protected by the Lafayette Fire Company. The Washington Community Scholars Center is protected by the District of Columbia Department of Fire and EMS, staffed 24/7 operating out of 34 stations.

Training is conducted for all main campus building and required annually for residence life staff. Fire drills are conducted regularly for all campus buildings as per the Virginia Statewide Fire Prevention Code (VSFPC), and other applicable codes for other campus jurisdictions.

For reporting purposes, any fire related incident requiring a local fire unit response, is to be reported to the EMU Facilities Management for recording in the daily Fire Log.

### Annual Right-to-Know Report

The Campus Fire Safety Right-to-Know Report includes information such as the number of fire-related incidents and causes, number of fire-related injuries and/or deaths, value of property loss, number of fire drills held the previous calendar year, and procedures for student housing evacuation. The report also includes a description of the fire safety systems in each on-campus student housing facility, along with policies for fire safety training and education for students, faculty and staff. It also covers policies on smoking, open flames and portable electrical appliances. It concludes with any plans for improvements in fire safety, as needed.

### Fire Alarms

If a fire alarm goes off, leave the building immediately via the stairways. Cooperate with all staff members and other authorities. Do not reenter the building until you are given permission to do so. If you discover a fire, immediately sound an alarm and call the fire department at 911 stating your location. Then call 540-432-4911 to alert the main campus security.



## Fire Safety Standards and Measures

No motorcycles, mopeds, and/or gasoline powered vehicles may be stored inside any buildings because of potential fire hazards. In the interest of health and safety, all fireworks are prohibited. Possession of firearms in the residence halls is prohibited. Open flames including candles are prohibited. Electrical heating devices such as hot plates or other appliances with exposed heating coils are prohibited because of the danger of fire. Acceptable heating devices are coffee pots, self-contained popcorn poppers, hair dryers and curling irons.

Fire safety is always a concern. Students should not tamper with alarms or make changes to or modify any existing electrical equipment such as lighting, wiring or switches. As well they should understand and abide by all storage policies and guidelines for campus living.

## Tampering with Fire Extinguishers, Alarms, Suppression Systems or Emergency Notification Devices

Tampering with any of these will incur a fine of \$500 and may result in additional outcomes (i.e. restitution for harmed parties).

## Reportable Incidents

The definition used to determine a reportable incident is defined as any instance of open flame or other burning in a place not intended to contain the burning, or in an uncontrolled manner.

## Fire Safety Report Summaries

### 2023 Harrisonburg (Main) Campus Fire Safety Report Summary

#### Fire Safety Systems in Residential Buildings

Building Name	Address	Detection System	Sprinkler System	Extinguishers	Placards	Drills Per Year
Bomberger House	880 Parkwood Drive	Single Station Detectors	No	Yes	Yes	0
Cedarwood	1080 Parkwood Drive	Multi Station Monitored Automatic	Yes	Yes	Yes	2

Elmwood	1304 Park Road	Multi Station Monitored Automatic	Yes	Yes	Yes	2
Hillside	1381 College Ave	Multi Station Monitored Automatic	Yes	Yes	Yes	2
Maplewood	1090 Parkwood Drive	Multi Station Monitored Automatic	Yes	Yes	Yes	2
Mt. Clinton Apt.	1240 Mt. Clinton Pike	Single Station Detectors	No	Yes	No	0
Northlawn	1301 College Ave	Multi Station Monitored Automatic	Yes	Yes	Yes	2
Parkwood Apt 902	902 Parkwood Drive	Multi Station Monitored Automatic	No	Yes	Yes	2
Parkwood Apt 912	912 Parkwood Drive	Multi Station Monitored Automatic	No	Yes	Yes	2
Parkwood Apt 922	922 Parkwood Drive	Multi Station Monitored Automatic	No	Yes	Yes	2
Parkwood Apt 942	942 Parkwood Drive	Multi Station Monitored Automatic	No	Yes	Yes	2
Redmond House	1098 Mt Clinton Pike	Single Station Detectors	No	Yes	Yes	0

Sprucelawn Apt	958 College Ave	Single Station Detectors	No	No	No	0
Suter II House	1161 Park Road	Single Station Detectors	No	Yes	Yes	0
Village Apt 1088	1088 Mt Clinton Pike	Single Station Detectors	No	No	No	0
Village Apt 1090	1090 Mt Clinton Pike	Single Station Detectors	No	No	No	0
Village Apt 1092	1092 Mt Clinton Pike	Single Station Detectors	No	No	No	0

### Harrisonburg campus fire statistics

Residential Building Name	Address	2021 Fires	No Injured / Deaths/ Damages(\$)	2022 Fires	No Injured / Deaths/ Damages(\$)	2023 Fires	No Injured / Deaths/ Damages(\$)	Date/ Time/ Cause
Bomberger House	880 Parkwood Drive	0	0	0	0	0	0	NA
Cedarwood	1080 Parkwood Drive	0	0	0	0	0	0	NA
Elmwood	1304 Park Road	0	0	0	0	0	0	NA
Hillside	1381 College Ave	0	0	0	0	0	0	NA

Maplewood	1090 Parkwood Drive	0	0	0	0	0	0	NA
Mt. Clinton Apt.	1240 Mt. Clinton Pike	0	0	0	0	0	0	NA
Northlawn	1301 College Ave	0	0	0	0	0	0	NA
Parkwood Apt 902	902 Parkwood Drive	0	0	0	0	0	0	NA
Parkwood Apt 912	912 Parkwood Drive	0	0	0	0	0	0	NA
Parkwood Apt 922	922 Parkwood Drive	0	0	0	0	0	0	NA
Parkwood Apt 942	942 Parkwood Drive	0	0	0	0	0	0	NA
Redmond House	1098 Mt Clinton Pike	0	0	0	0	0	0	NA
Spruce Lawn Apt	958 College Ave	0	0	0	0	0	0	NA
Suter II House	1161 Park Road	0	0	0	0	0	0	NA

Village Apt 1088	1088 Mt Clinton Pike	0	0	0	0	0	0	NA
Village Apt 1090	1090 Mt Clinton Pike	0	0	0	0	0	0	NA
Village Apt 1092	1092 Mt Clinton Pike	0	0	0	0	0	0	NA

### 2023 Lancaster Campus Fire Safety Report Summary

Fire statistics reporting not applicable due to no on-site housing.

### 2023 Washington Campus Fire Safety Report Summary

#### Fire Safety Systems in Residential Building

Building Name	Address	Detection System	Sprinkler System	Extinguishers	Placards	Drills Per Year
Washington Community Scholars Center	836 Taylor Street NE	Multi Station Monitored Automatic	Yes	Yes	Yes	2

### Campus Fire Safety - Prevention

Eastern Mennonite University (EMU) strives to provide a fire-safe campus and environment through the observance of proven safety standards. The university works to be in compliance with regulations that govern the campus operations and living environment of all students, as per the Virginia Statewide Fire Prevention Code (VSFPC), overseen and enforced by the Fire Marshal of the City of Harrisonburg Fire Department, the Local Governing Body (LGB). EMU works to monitor and enforce fire safety policies and train in fire-safety procedures with the staff and student body. The other university campuses are inspected by the authorities having jurisdiction (AHJ).

## Reporting of Fires and Emergencies

### Procedures for Evacuation:

If a fire alarm sounds, evacuate the building immediately. If a fire is suspected, activate the building alarm then evacuate the building. If the building does not have a centralized fire alarm system, notify as many people as possible in the building through all attempts possible before exiting. Other actions to take would follow in this sequential order:

- Dial 9-911 (on-campus phone) or 911 (cell) and report the location and nature of the fire clearly and concisely to the emergency communicator.
- Extinguish the fire if it is small and you have training in and feel safe attempting to use a fire extinguisher. (NOTE: If the initial use of a fire extinguisher does not suppress the fire, **exit** the building immediately).
- If you do not feel comfortable attempting to suppress the fire, **exit** the building immediately.
- Report to the designated meeting locations for the building (assembly areas).
- No circumstances would constitute reentry of the building until authorization is given by proper officials.
- Campus safety and security should be notified of the incident by calling ext. 4911. Each residence room or suite is equipped with a campus telephone line (residents provide their own telephones), and a phone is located on each floor and in the main entrance of every residence hall.

### Report Fires on Campuses to These Officials:

- Campus Safety and Security Coordinator
- Facilities Management Director
- Vice President of Finance

### On-Campus Smoking Policy

EMU does not allow smoking on campuses.

### Open Flame Policy

Open flame-producing items of any kind, including candles, lanterns/lamps or incense are prohibited in any student housing facility. Matches, lighters or anything that is a source of heat or ignition for a flame are also prohibited from use. Anything that requires an open flame, operates on fuel or produces heat from an open flame is prohibited in residential facilities.

### Religious Ceremonies

While it is strongly discouraged in buildings of public assembly, the importance is recognized for the utilization of open flame devices in religious ceremonies at times. Therefore, this is permissible following approved guidelines of the VSFPC in designated areas only.

NOTE: No religious ceremonies in student housing facilities may utilize open flame devices in any form, at any time, as per the VSFPC and Washington DC Fire Prevention Code (DCFPC).

### Open-air Fires

From time to time, it is desired to have open-air fires in designated locations on the main campus. EMU has developed with the fire official from the AHJ an Open Air Fire Policy along with a permit procedure that is enforced by the Campus Safety and Security Coordinator.

### **Fireworks**

The possession or use of fireworks is prohibited on any EMU campus.

### **Student Housing Fire Safety Systems**

EMU has on the main campus five residential halls, nine apartment-style buildings and three houses that are utilized for student housing, plus one residential facility in the District of Columbia. The fire safety/detection/suppression systems in use cover a variety of styles. The detection systems vary from those monitored 24/7 by an alarm company with multiple-station smoke alarms and alarm devices, to single station. The suppression devices range from fire extinguisher placement, to automatic wet/dry sprinkler systems with manual wet standpipe systems. The various types of detection and suppression systems in use are listed below, along with the units covered. Monitored automatic fire alarm system with multiple-station initiating devices and automatic sprinkler/standpipe systems:

- Cedarwood Residence Hall
- Elmwood Residence Hall
- Hillside Residence Hall
- Maplewood Residence Hall
- Northlawn Residence Hall

Monitored multiple-station initiating devices:

- Parkwood Apartments

Single station smoke detector initiating device:

- Mt. Clinton Apartments
- Redmond House
- Suter II
- Bomberger House\*\* Village Apartments
- Sprucelawn Apartments

Multi-station (local) initiating devices with automatic sprinkler system.

- Washington Community Scholars Center (WCSC)

## **Electrical Appliances Policy**

The use of electrical appliances in dormitories is limited because of safety and circuit overload factors. Appliances such as lamps (**NOTE:** the use of halogen bulb lamps is not permitted in residential facilities), hair dryers, curling irons, etc. are permitted. It is required that any item brought for use on campus be factory-manufactured and come with a UL listing attached.

### **Window Air Conditioners**

Window/personal air conditioners are not permitted in residence halls unless a physician's letter is on file stating the need for special health concerns and approved by the Student Life Office. The unit must be provided by the student, not be older than four years old, be equipped with a standard 120 volt plug and not exceed 6500 BTUs. It will be installed by EMU Facilities Management personnel.

### **Mini Refrigerators**

Refrigerators that do not exceed 2.5 cubic feet in size or 1 kwh per day in energy consumption and are UL- approved may be used in residential dorm rooms (not more than one per room).

### **Microwaves**

Microwaves are provided in the kitchen/lounge area of each residential hall, therefore they are not permitted in student rooms.

### **Fire Safety Improvement Plans for Student Housing**

Planning for additional capital projects will include fire alarm upgrades for campus buildings as necessary..

### **Student Housing Fire Drill Policy**

Fire drills are conducted in all residential halls as per the VSFPC and DCFPC. They are held two times per academic and calendar year. If properly documented, false alarms, local emergency response on campus, may also be reported as fire drills.

## **Campus Fire Safety Training & Education Plan**

Fire safety is taken seriously at EMU. The various types of organized fire safety training/education include:

- Classroom and hands-on fire extinguisher training for maintenance and student life staff, and any faculty deemed in need through their teaching assignment.
- Fire safety, and emergency preparedness training for new staff and faculty.
- Active participation from everyone when conducting campus-wide fire drills in all campus buildings.
- Fire safety training conducted by the Harrisonburg Fire Department public education officers for student life staff and students at the beginning of the school year

## **Fire Procedures for Persons with Physical Disabilities**

Living arrangements will be made on the ground level when the incoming student provides timely and necessary information on their housing questionnaire.

Residents who are identified as having a physical disability will be asked, in a private setting, whether he/she desires help in arranging for any needed assistance in evacuation. This includes persons who acquire a temporary disability. If the student declines assistance, documentation should be provided and the student must verify that he/she has made arrangements on his/her own. If the resident requests



assistance, the Community Advisor (CA) will solicit volunteers beginning with roommates, then suitemates, and then occupants in the nearest adjoining rooms. Carrying an individual downstairs requires training and a great deal of caution and care. It should not be attempted when the stairs are occupied by residents evacuating the building. Wait for a clearing to carry an individual down the stairs. Landings in the fire stairwells are used as an "area of safe refuge" for individuals who utilize wheelchairs or any other person who, for any reason, is unable to descend and leave the building. Individuals utilizing wheelchairs may evacuate in their chair from the hall to the landing, where they may await evacuation assistance from fire and rescue or other persons providing assistance, provided egress by others is not impeded.

In the event of an evacuation, the Resident Director (RD) on call will check to ensure that residents known to have a physical disability are safely evacuated, provided the RD is not endangering him/herself to accomplish the check.

## Definitions

- **Automatic Sprinkler Systems** – A sprinkler system for fire protection made up of overhead piping designed in accordance with fire protection engineering standards to which automatic sprinklers are connected in a systematic pattern and usually activated by heat from a fire to discharge water over the fire area.
- **AHJ** – Authority Having Jurisdiction
- **Building Wardens** – EMU personnel who have building specific responsibilities in the event of emergencies such as fire; intruder/lockdown and weather emergency.
- **DCFPC** – District of Columbia *Fire Prevention Code*: Established for the purpose of establishing statewide standards to safeguard life and property from the hazards of fire or explosion arising from the improper maintenance of life safety and fire prevention and protection materials, devices, systems and structures and the unsafe storage, handling, and use of substances, materials and devices, including fireworks, explosives and blasting agents, wherever located.
- **Emergency Communicator** – Person who takes emergency phone calls via 911, dispatches and maintains open communications with responding emergency apparatus.
- **Fire Official** – Executive official in charge of enforcing the VSFPC. They shall be appointed in a manner selected by the local government having jurisdiction.
- **Initiating Device** – A system component that originates transmission of a change-of-state condition, such as a smoke detector, manual fire alarm box, or supervisory switch.
- **kWh** – Standard unit of electricity or consumption equal to 1000 watts over one hour and equivalent to about 3412 British thermal units (Btu).
- **LGB** – Local Governing Body having jurisdiction as to code enforcement.
- **Manual Wet Standpipe System** – A wet standpipe system connected to a water supply for the purpose of maintaining water within the system but which does not have supply capable of delivering the system demand attached to the system without the use of a fire department pumper (or the like) to be pumped into the system in order to supply the system demand.
- **Multiple-station Alarm Device** – Two or more single-station alarm devices that can be interconnected such that actuation of one causes all integral or separate audible alarms to operate.

It also can consist of one single-station alarm device having connections to other detectors or to a manual fire alarm box.

- **Multiple-station Smoke Alarm** – Two or more single-station alarm devices that are capable of interconnection such that actuation of one causes all integral or separate audible alarms to operate.
- **Right-To-Know Law** – Federal law enacted in the 107th Congress that states: To provide for the disclosure of fire safety standards and measures with respect to campus buildings.
- **Safety and Security Coordinator**- serves as the safety/security authority for campus with responsibilities that include compliance with local and state fire codes, OSHA regulations, and other safety regulations and guidelines. This position supervises the contracted security services. Some other specific areas of safety and security are shared with other personnel such as the chemical hygiene officer, the director of residence life, the director of health services, the vice president for student life, and the vice president of finance.
- **VSFPC** - Virginia Statewide Fire Prevention Code - A state regulation promulgated by the Virginia Board of Housing and Community Development in cooperation with the Virginia Fire Services Board for the purpose of establishing statewide standards to safeguard life and property from the hazards of fire or explosion arising from the improper maintenance of life safety and fire prevention and protection materials, devices, systems and structures and the unsafe storage, handling, and use of substances, materials and devices, including fireworks, explosives and blasting agents, wherever located.
- **Single-Station Smoke Alarm** - An assembly incorporating the detector, the control equipment and the alarm sounding device in one unit, operated from a power supply either in the unit or obtained at the point of installation.
- **UL** - An independent product safety certification organization that has been testing products and writing standards for safety for more than a century. UL serves customers in 98 countries.