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SECTION 1: INTRODUCTION

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Eastern Mennonite University (EMU) is committed to establishing and maintaining a community rich in equality and free from all forms of discrimination and harassment. Relationship violence and sexual misconduct are prohibited at EMU. As a Christian institution of higher education, EMU affirms that relationship violence and sexual misconduct is harmful to the individuals involved as well as to the campus community. Furthermore, instances of relationship violence and sexual misconduct are often experienced as trauma and can thus have lasting impacts even many years after the originating event /incident.

The university will take prompt and equitable action to eliminate relationship violence and 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.

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

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 relationship violence and sexual misconduct that violate this policy;
2. Disseminate clear policies and procedures for responding to relationship violence and sexual misconduct or 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 to students, faculty, and staff so that they:
 - a. May identify what behavior constitutes relationship violence and sexual misconduct; and
 - b. Understand how to report such misconduct;
4. Engage in investigative inquiry and resolution of reports in an adequate, reliable, impartial, prompt, fair, and equitable way;
5. Support those who have been harmed and hold persons accountable for established violations of this policy; and
6. Provide a written explanation of the rights and options for the Title IX process, interim accommodations, process accommodations, confidential services and community resources to every student or employee that has experienced relationship violence and/or sexual misconduct, regardless of when or where the conduct occurred (Appendices C & D).

In addition, this policy identifies and describes the various roles of the university's Title IX Coordinator, deputy Title IX Coordinators, Title IX Investigators, and Title IX Review Board; identifies how students, faculty, and staff can report relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy to the university, confidentially; identifies access to on- and off-campus resources available to reporting and responding parties, including the right to notify local law enforcement, be assisted in that notification, and/or decline to notify such authorities; and provides the university with a means to take all reasonable steps to identify relationship violence and sexual misconduct, support prevention of its recurrence, and repair the harmful effects on the reporting party, as appropriate.

Revised August 2019

Approved by President's Cabinet, 2017

SECTION 2: DEFINITIONS

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

ADVISOR

Reporting and responding parties may choose to be accompanied by a support person during any part of the Title IX process. A support person may not contribute any information or comments during informal or formal proceedings but may consult with the party they are supporting at any time during the proceedings. An advisor be a participant or witness in an investigation.

ADVOCATE

Advocates are certified professionals who are available to accompany the reporting party(s) through medical, legal, and/or campus Title IX processes (reporting, investigating, adjudicating, etc.). Advocates are available through community organizations such as Collins Center and First Step or may be arranged through the Title IX office. An advocate cannot be called as a witness during the Title IX proceedings. An advocate may accompany the reporting party(s) to any meeting or hearing as desired.

CAMPUS SECURITY AUTHORITY

A campus security authority (CSA) is a [Clery Act](#)-specific role that includes any individual who works as a campus security officer or in the Office of Campus Safety and Security; any individual who has responsibility for aspects of campus security, even on an ad hoc basis (for example, those providing security at sporting events); any individual or department to whom EMU directs students and employees to report criminal offenses in addition to campus security officers or the Office of Campus Safety and Security; and any employee who has significant responsibility for student and campus activities including, but not limited to, student housing, student discipline, and campus judicial proceedings.

At EMU, the following groups or roles are defined as CSAs: Admiral Security officers; the Coordinator of Campus Safety and Security; the Title IX Coordinator; members of President's Cabinet; the Director of Athletics, all coaches, assistant coaches, and graduate assistants in the Athletics department; all employees of the Student Life division, including all residence directors (RDs) and community assistants (CAs); the Director of Facilities Management; the Director of Counseling Services; and representatives from the graduate programs, Lancaster campus, and Washington Community Scholars' Center.

CLERY ACT

The [Clery Act](#) 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](#) 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.

CONFIDENTIAL EMPLOYEE

Confidential employees are those employees of EMU who are exempt from reporting incidents of conduct prohibited under this policy that is 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](#).

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 person for reports of 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 in the absence of the Title IX Coordinator. Deputy Title IX Coordinators are eligible to serve as members of the Assessment Team.

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 preliminary investigation report and/or a final investigation report after the investigation is completed in cases which move through the formal investigation process. Title IX Investigators conduct thorough and impartial investigations into the facts of a case, including interviewing the reporting party(s), the responding party(s), witnesses, or others who may have relevant information, and collecting any other evidence deemed relevant to a case.

EMPLOYEE

An employee is any individual who receives compensation from EMU for the performance of their duties.

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](#), 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 all documentation related to a student's report, investigation, and resolution of cases of relationship violence, sexual misconduct, and/or other forms of misconduct prohibited under this policy, except as required by law.

GENDER EXPRESSION

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

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

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 is created when unwelcome conduct of a sexual or gender-based nature that affects an individual's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening or abusive educational and/or living environment and is the standard by which a Title IX violation will be determined to have occurred. 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 related to the severity, persistence, and pervasiveness of the sex-based harassment, 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.

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 of the incidents is not particularly severe.

PREPONDERANCE OF THE EVIDENCE

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 which is offered in opposition to it, given the totality of information the version of events that is more likely than not. Preponderance of the evidence is understood to require more than 50 percent certainty to determine responsibility for violating university policy (51% or greater). *Preponderance of the evidence* is the standard of proof used in university Title IX processes, in contrast with the *beyond a reasonable doubt standard*⁴ used in the criminal justice system.

RELATIONSHIP VIOLENCE

Relationship violence is a broad term used by EMU to categorize types of violence other than sexual violence that occur in the context of an intimate relationship, often including emotional, psychological, physical, or fiscal abuse. Relationship violence encompasses domestic violence, dating violence, and intimate partner violence. An incident of relationship violence can consist of a single act of violence or a pattern of violent acts. Incidents of relationship violence can occur separate from or in tandem with incidents of sexual misconduct.

REPORTING PARTY

Any member of the university community who alleges relationship violence, sexual misconduct, and/or any other conduct prohibited under the Relationship Violence and Sexual Misconduct Policy. A reporting party does not have to seek formal disciplinary action to receive the support services outlined for reporting parties in this policy. Rights of a reporting party can be found in Appendix C.

RESPONDING PARTY

Any member of the university community who has been alleged to have carried out an incident of relationship violence, sexual misconduct, or any other conduct prohibited under the Relationship Violence and Sexual Misconduct Policy. Rights of a responding party can be found in Appendix D.

RESPONSIBLE EMPLOYEE

A responsible employee is every faculty, staff, and volunteer on campus who works with students or minors (with the exception of confidential employees, defined above). All responsible employees and every person identified as a campus security authority (defined above) under the [Clery Act](#) must immediately report to the Title IX Coordinator any 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 reporting and the responding party(s), if known, and all known details. This reporting can be done by emailing titleixcoordinator@emu.edu, calling (540) 432-4849, or completing a campus incident form 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.

SEXUAL MISCONDUCT

Sexual misconduct is a broad term used by EMU to refer to violence of a sexual nature. Sexual misconduct encompasses sexual assault, sexual exploitation, and sexual harassment. 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.

STUDENT

A student will be considered enrolled if the student is pre-registered for courses in any term (fall, spring, or summer) and the student's attendance in at least one class has been verified. After classes begin, students need to be attending classes to continue their enrollment status. Students are considered continuously enrolled when they are registered for consecutive fall and spring terms. Please note that those who arrive to campus prior to the start of classes for official university functions, including but not limited to student employment, trainings, athletics, orientation, etc., are considered Eastern Mennonite University students.

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.

TIMELY WARNING

A timely warning is a warning required by the [Clery Act](#) 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 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](#).

TITLE IX

[Title IX](#) is a federal regulation that prohibits sex discrimination in educational institutions that receive federal funding. Under [Title IX](#), no person in the United States shall, on the basis of sex, be excluded 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](#) 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 assessment team will include the Director of Human Resources when an employee is involved in a report. The Title IX assessment team determines disciplinary outcomes, if any, for the responding party(s) in an informal RVSM policy or Title IX issue resolution process, or refers cases to a formal process if there is any question of a hostile environment. See Appendix A, Section A. 3.2.2. for more information.

TITLE IX COORDINATOR

The Title IX Coordinator is responsible for overseeing and resolving all reports of sex discrimination covered by the Relationship Violence and Sexual Misconduct Policy, including possible Title IX reports, and identifying and addressing any patterns or systemic concerns that arise during the review of such reports. The coordinator's responsibilities include oversight of a prompt, fair, equitable investigation and resolution process for reports of 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 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 responsible employees with the authority to address sexual violence, including sexual harassment, know how to respond appropriately to reports of prohibited conduct, that they are obligated to report 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.

Title IX Coordinator: 540-432-4849; titleixcoordinator@emu.edu

TITLE VII

[Title VII of the Civil Rights Act of 1964](#) 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 EMU's Relationship Violence and Sexual Misconduct 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.

In addition to bringing a case under EMU's Relationship Violence and Sexual Misconduct Policy, employees may also file a complaint directly with the [Equal Employment Opportunity Commission](#) (EEOC). Complaints must be [filed with the EEOC](#) within 180 days of the discriminatory act in order to preserve the rights of the reporting party in a court of law.

¹ The standard of proof used in a court of law, which means that no other logical explanation can be derived from the facts except that a defendant committed a crime, thereby overcoming the presumption that a person is innocent until proven guilty. If a reporting party chooses to pursue legal action in a court of law, the beyond a reasonable doubt standard will be used, in contrast with the preponderance of evidence standard that is used by the university to determine responsibility in Title IX processes.

SECTION 3: SCOPE OF POLICY

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Eastern Mennonite University prohibits harassment of, and discrimination against any and all 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, or other third parties (third parties) on any EMU campus or site.

This policy pertains to acts of relationship violence and sexual misconduct or other forms of prohibited conduct that may be based on sex or gender and are committed by or against students, employees, and third parties. This policy applies when:

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

Some conduct prohibited under the Relationship Violence and Sexual Misconduct Policy, if not a form of sex discrimination (e.g., stalking or hazing) and/or not done in retaliation for acts or reports of relationship violence or sexual misconduct (e.g., bullying and intimidation) will be adjudicated under EMU's student conduct policy or, in the case of an employee, under processes administered by EMU's human resources office.

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](#) (Title IX); relevant provisions of the [Violence Against Women Reauthorization Act of 2013](#) (VAWA); [Title VII of the Civil Rights Act of 1964](#) (Title VII); the [Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act](#) (Clery Act); and corresponding state regulations in Virginia, Pennsylvania, and Washington, DC.

The university recognizes that it is important to coordinate this policy with other existing policies related to harassment and discrimination, knowing that sex discrimination can occur in conjunction with discrimination and misconduct related to a person's race, ethnicity, national origin, religion, age, disability, and/or other protected status. Reports that include both sex discrimination and discrimination related to another protected status may be adjudicated under this policy and any university policies related to the 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 relationship violence and sexual 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.

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 assess the report and to take steps to eliminate relationship violence and sexual 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 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 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 relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy receive guidance about sharing and safeguarding private information in accordance with federal and state law.

Further, the university will privately maintain any accommodations or protective measures provided to the reporting or responding party(s) to the extent that maintaining such privacy would not impair the university's ability to provide the accommodations or protective measures.

The privacy of student education records will be protected in accordance with the [Family Educational Rights and Privacy Act](#) (FERPA). All documentation related to a student's report, investigation, and resolution are protected by FERPA 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](#). 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 about reporting parties. In addition, any person involved in a case of 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 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](#) (HIPAA), except health records protected by FERPA and by [Virginia's Health Records Privacy Act, Va. Code § 32.1-127.1:03](#). Access to an employee's personnel records may be restricted in accordance with the [Virginia Freedom of Information Act](#) (FOIA).

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](#). Should the university determine there is a serious or imminent threat, a timely warning notice will be shared with the community.

3.4.2. CONFIDENTIALITY

Confidentiality means that information shared by an individual with designated confidential campus or community professionals 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 of relationship violence, sexual misconduct, and/or other forms of conduct prohibited under this policy that are disclosed to them while they are serving in particular confidential roles.

Disclosures must occur when confidential employees are in their role as a confidential employee in order for the disclosure to remain confidential. Disclosures that occur when the confidential employee is not acting in this official capacity must be reported on the [Campus Safety Incident Form](#) or directly to the Title IX coordinator.

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](#).

The following classifications of individuals are confidential employees under university policy when serving in these official capacities:

1. Licensed mental health clinicians and those working in auxiliary roles within EMU's Counseling Services. Mental health clinicians licensed by the state in which they practice and those clinicians in training whose official university responsibilities include providing mental health counseling to members of the campus community.
2. Medical health professionals who are registered with the state in which they practice with the and whose official university responsibilities include providing health services to members of the campus community.
3. Pastors who are licensed and/or credentialed and whose official university responsibilities are to provide pastoral services to members of the university community. For example, students may disclose sexual abuse to a pastor who is their faculty member. If this disclosure is received in the context of the pastor's role as a faculty member, the incident must be reported.

The university will document non-identifying information in the campus incident log as required by the [Clery Act](#). Should the university determine there is a serious or imminent threat, a timely warning notice will be shared with the community.

3.5. EMPLOYEE REPORTING RESPONSIBILITIES

[Title IX](#) 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 a responsible employee. A school has notice if a responsible employee knew, or in the exercise of reasonable care should have known, about the harassment. A responsible employee is every faculty, staff, and volunteer on campus who works with students or minors (with the exception of the confidential employees named above).

All responsible employees must immediately report to the Title IX coordinator any 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 reporting and the responding party(s), if known, and all known details. This reporting can be done by calling (540) 432-4849, emailing titleixcoordinator@emu.edu, or completing a campus safety incident form at <https://emu.edu/safecampus/>. 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.

Public awareness events, open forums or disclosures made during formal Institutional Review Board projects are not considered a report of relationship violence, sexual misconduct 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.

Reporting parties who wish to make a confidential disclosure have multiple confidential resources available to them. For a full listing see Appendix F.

3.6. REQUEST FOR ANONYMITY BY A REPORTING PARTY

Reporting parties who experience 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 responding party(s), that the responding party(s) not be notified of the report, and/or that no investigation occur. Where the reporting party(s) requests that their identity not be shared with the responding party(s) 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](#).

The university, through the Title IX coordinator, will take all reasonable steps to investigate and respond to the report consistent with the request not to share identifying information or pursue an investigation, but their ability to do so may be limited. If the reporting party wants to tell the Title IX coordinator what happened, but also wants to maintain anonymity, the Title IX coordinator will tell the reporting party that the university will consider the request but cannot guarantee anonymity. Requests for anonymity are balanced against the following factors:

1. The respective ages and roles of the reporting and the responding parties;
2. Whether there have been other reports of relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy involving the responding party(s);
3. Whether the circumstances suggest there is a risk of the responding party(s) committing additional acts of relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy;
4. Whether the responding party(s) has a history of arrests or records indicating a history of violence;
5. Whether the report indicates the responding party(s) threatened further sexual violence or other violence against the reporting party(s) and other individuals involved;
6. Whether the reported conduct was committed by multiple individuals;
7. Whether the circumstances suggest there is a risk of future acts of 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).

Where the university is unable to act consistent with the request of the reporting party(s), the Title IX coordinator will inform the reporting party(s) about the chosen course of action, which may include the university seeking disciplinary action against the responding party(s). Alternatively, the course of action may also include steps to eliminate the effects of the relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy and prevent its recurrence that do not involve formal disciplinary action against a responding party(s) or revealing the identity of the reporting party(s).

Where the university determines that it must move forward with an investigation despite a reporting party's request for anonymity, the university will notify the reporting party(s) and will make reasonable efforts to protect the privacy of the reporting party(s) to the extent possible. However, certain actions that may be required as part of the university's response, including an investigation and disciplinary resolution, will involve speaking with the responding party(s) and others who may have relevant information, in which case the responding party's identity may have to be disclosed only to those individuals who need to know in order to protect the safety of the campus community. In such cases, the university will notify the reporting party(s) that it intends to move forward with an investigation, but in no event will the reporting party(s) be required to participate in any such actions undertaken by the university.

SECTION 4: CONDUCT PROHIBITED UNDER THIS POLICY

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The University prohibits the following forms of conduct under this policy:

Relationship Violence, which includes domestic violence and dating violence.

Sexual Misconduct, which includes sexual assault, sexual exploitation, and sexual harassment.

Other Prohibited Conduct, which includes stalking, hazing, and gender-based harassment.

Retaliation, which includes bullying and intimidation. These forms of conduct are prohibited regardless of the sex, sexual orientation, and/or gender identity/expression of the reporting party(s) and the responding party(s). Forms of complicity to any of these behaviors are also prohibited and will be adjudicated under this policy.

In addition to violating EMU's Relationship Violence and Sexual Misconduct Policy any of these prohibited forms of conduct may also be violations of federal Title IX regulations and constitute a **Hostile Environment**, which exists when sex discrimination is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from the university's education or employment programs and/or activities.

4.1. RELATIONSHIP VIOLENCE

Relationship violence is a broad term used by EMU to categorize types of violence other than sexual violence that occur in the context of an intimate relationship, often including emotional, psychological, physical, or fiscal abuse. Relationship violence encompasses domestic violence and dating violence (definitions provided below).

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

4.1.1. DOMESTIC VIOLENCE

Domestic violence is a misdemeanor or felony crime of violence, force, or threats that results in physical injury or places a family or household member in fear of injury or harm. Family or household members may include spouses, former spouses, parents, children, grandparents, siblings, in-laws who live in the same house, people who have children together, and people who live together or have lived together in the past year. Domestic violence is committed by a current/former spouse or sexual/intimate partner of the reporting party, by a person who is living with or has lived with the reporting party as a spouse or intimate partner, or by a person with whom the reporting party shares a child in common. Depending on the local jurisdiction, certain offenses, including but not limited to rape, aggravated assault, and stalking, can be deemed domestic violence depending on the relationship of the parties involved.

4.1.2. DATING VIOLENCE

Dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the reporting party. The existence of such a relationship will be determined based on the reporting party's statement, taking into consideration the following factors: a) the length of the relationship; b) the type of relationship; and c) 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.

4.2. SEXUAL MISCONDUCT

Sexual misconduct is a broad term used by EMU to refer to violence of a sexual nature. Sexual misconduct encompasses sexual assault, sexual exploitation, indecent exposure, and sexual harassment (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.

4.2.1. SEXUAL ASSAULT

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

4.2.1.1. Rape

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 responding party, without the consent of the reporting party(s).

4.2.1.2. Fondling

Fondling is the touching of private body parts of the reporting party(s) by the responding party(s) for the purpose of sexual gratification, without the consent of the reporting party(s), including instances where the reporting party(s) is incapable of giving consent because of age or because of temporary or permanent mental incapacity.

4.2.1.3. Incest

Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

4.2.1.4. Statutory Rape

Statutory rape is 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.

4.2.1.5. 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);
8. Telling someone you will fail them or give them a grade different from what they deserve if they don't agree to engage in sexual activity; or
9. Facilitating or assisting in a sexual assault, including purchasing or providing alcohol or drugs to further a sexual assault.

4.2.2. 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 another person; or
7. Exposing another person to a sexually transmitted infection or virus without the other's knowledge.

4.2.4. SEXUAL HARASSMENT

Sexual harassment is a form of unlawful sex discrimination. Sexual harassment means unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome behavior of a sexual nature. Sexual harassment violates university policy when:

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; or
2. Submission to or rejection of such conduct is used as the basis for university decisions affecting the individual (often referred to as "quid pro quo" harassment); or
3. Such conduct creates a hostile environment.

[Title VII of the Civil Rights Act of 1964](#) explicitly prohibits sexual harassment against employees, including when an employee or application is exposed to unwelcome physical or verbal advances where the advances are made a condition of employment or the basis of employment decisions. Sexual harassment also occurs when the work environment interferes with job performance because of the extent of the sex-based offensive conduct and/or the hostile work environment the sex-based conduct creates.

In addition to bringing a case under EMU's Relationship Violence and Sexual Misconduct Policy, employees may also file a complaint directly with the [Equal Employment Opportunity Commission](#) (EEOC). Complaints must be [filed with the EEOC](#) within 180 days of the discriminatory act in order to preserve the rights of the reporting party in a court of law.

4.3. OTHER PROHIBITED CONDUCT

4.3.1. STALKING

Stalking occurs when a person engages in a course of conduct 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.

Course of conduct means two or more acts, including but not limited to acts in which a responding party directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about the reporting party, or interferes with the reporting party's property.

A reasonable person means a person under similar circumstances and with similar identities to the reporting party.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Stalking includes cyber-stalking, a particular form of stalking in which a responding party uses electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact.

Stalking of a sexual nature and/or stalking that interferes with a student's ability to receive an education will be resolved under the Relationship Violence and Sexual Misconduct Policy.

4.3.3. GENDER-BASED HARASSMENT

Gender-based harassment includes harassment based on gender, sexual orientation, gender identity, or gender expression which 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; or
2. Submission to or rejection of such conduct is used as the basis for university decisions affecting the individual (often referred to as quid pro quo harassment); or
3. Such conduct creates a hostile environment. A hostile environment exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in, or benefiting from, the university's education or employment programs and/or activities.

[Title VII of the Civil Rights Act of 1964](#) explicitly prohibits gender-based discrimination against employees on the basis of pregnancy, childbirth, or related medical conditions. In addition to bringing a case under EMU's Relationship Violence and Sexual Misconduct Policy, employees may also file a complaint directly with the [Equal Employment Opportunity Commission](#) (EEOC). Complaints must be [filed with the EEOC](#) within 180 days of the discriminatory act in order to preserve the rights of the reporting party in a court of law.

4.4. RETALIATION

Retaliation is any act or attempt to retaliate against or seek retribution from any individual or group of individuals, including bullying and intimidation (defined below). Retaliation can take many forms, including continued abuse or violence, threats, and attempts at coercion. Retaliation can occur in many venues, including face-to-face or group-to-group, in content on public bulletin boards, in classroom discussions, or on social media.

Retaliation in response to the filing of a report of relationship violence and/or sexual misconduct is prohibited, including retaliation against reporting party(s), responding party(s), witnesses, advocates, or others involved in reporting, investigation, and/or adjudication procedures. Retaliation against those reporting incidents or participating in investigation or adjudication processes under the Relationship Violence and Sexual Misconduct policy will be adjudicated under this policy.

4.5. HOSTILE ENVIRONMENT

A hostile environment exists when sex discrimination is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from the university's education or employment programs and/or activities.

Conduct must be deemed severe, persistent, or pervasive from both a subjective and an objective perspective. In evaluating whether a hostile environment exists, the university will consider the totality of known circumstances, including, but not limited to:

1. The frequency, nature and severity of the conduct;
2. Whether the conduct was physically threatening;
3. The effect of the conduct on the reporting party's mental or emotional state;
4. Whether the conduct was directed at more than one person;
5. Whether the conduct arose in the context of other discriminatory conduct;
6. Whether the conduct unreasonably interfered with the reporting party's educational or work performance and/or university programs or activities; and
7. Whether the conduct implicates concerns related to academic freedom or protected speech.

A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical. A single incident of sexual assault, for example, may be sufficiently severe to constitute a hostile environment. In contrast, the perceived offensiveness of a single verbal or written expression, standing alone, is typically not sufficient to constitute a hostile environment. The conduct does not have to be directed at a specific person or persons to constitute harassment.

Examples of behavior that may constitute sexual harassment, if sufficiently severe, persistent, or pervasive, include the following:

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, 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](#). The criminal statutes relating to sexual assault are found in [Sections 18.2-61 to 18.2-67.10 of the Code of Virginia](#). [Section 18.2-60.3 of the Code of Virginia](#) defines and identifies the penalty for criminal stalking. Finally, [Sections 18.2-386.1 and 18.2-386.2 of the Code of Virginia](#) 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: AFFIRMATIVE CONSENT

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 - [5.1.1. FORCE](#)
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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

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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 a prescribed manner.

If an employee is engaged in a romantic or sexual relationship with another employee or 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 with the parties to determine whether it is appropriate to make changes to the instructional, 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.

In the event an employee is found engaged in a romantic or sexual relationship with someone whom they instructed, 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

In the event an employee is the subject of a report of sexual misconduct and it is determined there is/was a romantic or sexual relationship with another employee or student whom they instructed, supervised, evaluated, or advised, and the Director of Human Resources was not advised, in the prescribed manner listed above, of the existence of that relationship so that steps could have been taken to address, review, and change if appropriate or necessary, the university may decline to assist the employee in their legal defense against the allegation(s), and the employee, not the university, may bear any litigation costs or fees associated with legal defense.

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 a prescribed manner.

If a student and employee are engaged in a romantic or sexual relationship, the employee must register the relationship with the Director of Human Resources. 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

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Employees of EMU are required to report incidents of relationship violence and/or sexual misconduct in order to obtain assistance for impacted parties and maintain a safe campus environment. Students are also encouraged to report. The university encourages all individuals to seek immediate assistance from campus security, law enforcement, a medical provider, and/or a victim advocate. Though the university encourages immediate reporting, delayed reporting will not be considered as a factor when assessing the preponderance of the evidence.

To the best of its ability, the university will respond to every report it receives. 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 university community to file a report under this policy.

The university will take action to respond to allegations of relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy when the university knows or reasonably should know based on any available information that relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy have occurred. The Title IX coordinator is charged with responding to allegations of relationship violence and sexual misconduct to stop the behavior, prevent its recurrence, and remedy its effects on behalf of the university. Specifically, the Title IX coordinator, or their deputy designee, will coordinate the initial inquiry, offer resources and support, and initiate an investigation when appropriate and/or requested.

7.1. EMPLOYEE REPORTING OBLIGATIONS

With the exception of those employees who have recognized confidentiality, called confidential employees (see Section 3.4, Privacy and Confidentiality), all university employees, including faculty, staff, administrators, and student employees or volunteers who have responsibility for the welfare of other students are required to share with the Title IX coordinator any report of relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy about which they become aware.

As outlined in the Privacy and Confidentiality section (Section 3.4) 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. Should the university determine there is a serious or imminent threat, a timely warning notice will be shared with the 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 any reported relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy.

7.2. CAMPUS SAFETY INCIDENT REPORTS

A report is a notification of an incident of relationship violence, sexual misconduct, or other form of conduct prohibited under this policy to the Title IX coordinator by any reporting person. Reports should be filed on EMU's campus safety incident form. A report may be accompanied by a request for resources or information, a request for no further action, or a request to initiate an investigation.

To the extent of the reporting party's cooperation and consent, university offices will work cooperatively to ensure that the reporting party's health, physical safety, work, and academic status are protected, including taking interim safety measures before the final outcome of an investigation.

The university will provide resources to any person who has experienced relationship violence, sexual misconduct, and/or any other form of conduct prohibited under this policy, no matter where that conduct is reported to have occurred, and will apply disciplinary procedures to those who violate this policy, if the violation occurred on an EMU campus, at an EMU event, or at any other place where EMU has jurisdiction as defined by the Clery Act.

The procedures set forth below afford a prompt and equitable response to reports of relationship violence, sexual misconduct, and/or any other forms of conduct prohibited under this policy, maintain privacy and fairness consistent with applicable legal requirements, and impose appropriate sanctions on violators of this policy.

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 and reporting or responding parties, 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.

7.2.1. CAMPUS REPORTING OPTIONS

Campus reporting options include:

1. Title IX Coordinator: Rachel Roth Sawatzky, 540-432-4849, titleixcoordinator@emu.edu
2. Campus Safety Incident Form: <https://emu.edu/safecampus/>
3. Campus Security (Harrisonburg campus): 540-432-4911
4. Title IX Deputies:
 - a. EMU Harrisonburg campus: Marybeth Showalter, Director of Human Resources, 540-432-4148, hr@emu.edu
 - b. EMU athletics: Katie Russo, Women's Lacrosse Coach, 540-432-4368, katie.russo@emu.edu
 - c. EMU undergraduate programs: Todd VanPatter, Asst Dir, Survey Research, Institutional Research, 540- 432-4398
 - d. EMU graduate programs: Emily North, Office Coordinator, Seminary, 540-432-4261
 - e. EMU Lancaster campus: Mary Jensen, Associate Provost, 717-690-8600, assocprovost.lancaster@emu.edu
 - f. EMU WCSC site: Kimberly Schmidt, Washington Community Scholars' Center Department Chair, 202-529-5378, kimberly.schmidt@emu.edu

7.3. REPORTING TO LAW ENFORCEMENT

In addition to a university response, EMU encourages the reporting party to make a police report and supports their right to pursue criminal action for incidents of relationship violence and/or sexual misconduct that may also be crimes under Virginia, Pennsylvania, or District of Columbia criminal statutes, depending on where the incident took place. EMU also respects the reporting party's right to decline to file criminal charges against the responding party(s).

Reporting parties may simultaneously pursue criminal and university disciplinary action. The university will support reporting parties in understanding and assessing their reporting options and assist in notifying law enforcement authorities if the reporting party so chooses. Upon receipt of a report, the university will provide written notification to individuals of their right to file (or decline to file) criminal charges as well as the availability of medical, counseling, and support services (see Appendix C). The university will provide written notification to the reporting party(s) of any additional interim measures available to prevent contact between the reporting party(s) and the responding party(s), such as housing, academic, transportation, and working accommodations, if reasonably available. Making a report to the university does not require participation in any subsequent university proceedings, nor is a report required for a reporting party to receive support or remedial measures.

Note that definitions of criminal law used within Virginia, Pennsylvania, and the District of Columbia may differ from those used in this policy, which adheres to Clery Act definitions as required by the US Department of Education. Also note that, in compliance with the Clery Act, the university adjudicates cases under this policy according to the standard of proof known as preponderance of the evidence; law enforcement uses the beyond a reasonable doubt standard of proof (see Section 2 for definitions). These differing standards of proof may result in different outcomes for the same case when adjudicated under EMU's Relationship Violence and Sexual Misconduct policy and under Virginia, Pennsylvania, or District of Columbia criminal laws.

Reporting parties may call 911 immediately following an assault and may choose to file (or not to file) charges at that time. In an instance of delayed reporting, the reporting party may contact their local police department to file a police report.

7.4 PRESERVATION OF EVIDENCE

Preserving evidence to support the claims filed in a report is particularly helpful when the reporting party(s) desire a protection order, in order to assist in achieving the preponderance of evidence standard in a case of stalking, or when the reporting party(s) wishes to or believes they may wish to bring legal action, now or in the future. If possible, 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 reporting party(s) may opt to have a Physical Evidence Recovery Kit (PERK kit) collected. A PERK kit can be collected by a Sexual Assault Nurse Examiner (SANE nurse) at a local hospital. In Harrisonburg, if a SANE nurse is not available at Sentara RMH Medical Center, Sentara will coordinate expedited transport to Augusta Health or another nearby facility with a SANE nurse on duty. The cost of a PERK exam and any related medication is paid for by the state of Virginia. In Pennsylvania, Lancaster General Hospital Emergency Department can facilitate emergency care. In the District of Columbia, MedStar Washington Hospital Center can be accessed.

A reporting party may choose not to notify law enforcement or file a police report but may still have a PERK kit collected. PERK kits from reporting parties 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 reporting party, or the law enforcement agency may elect for the kit to be retained for a longer period. If the reporting party later elects to report the sexual assault to the police and file criminal charges, the reporting party's kit will be released to law enforcement and the evidence preserved therein used in the case.

7.5. REPORTING CONSIDERATIONS

7.5.1. TIMELINESS OF REPORT, LOCATION OF INCIDENT

The university encourages prompt reporting of relationship violence, sexual misconduct, and/or other forms of conduct prohibited under this policy 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 responding party(s) is no longer affiliated with the university at the time the report is made, the university will provide reasonably appropriate remedial measures, assist the reporting party(s) in identifying external reporting options, and take other reasonable steps to respond under Title IX. The university may continue to investigate for purposes of complying with Title IX and take steps to prevent the recurrence of such conduct and remedy the effects, if appropriate.

An incident does not have to occur on campus to be reported to the university. Off-campus conduct is covered under this policy.

7.5.2. PERSONAL USE OF ALCOHOL AND/OR DRUGS

The university seeks to remove any barriers to reporting. The university will offer a student, reporting party(s), third party, and/or witness who reports relationship violence, sexual misconduct, and/or other forms of conduct prohibited under this policy 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 4.4, retaliation is a violation of this policy. Retaliation can take many forms, may be committed by or against an individual or group, and may be committed toward the reporting party(s) by the responding party(s) and vice versa. An individual reporting relationship violence, sexual misconduct, or any other forms of conduct prohibited under this policy 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 relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy 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 university disciplinary action.

7.6. REPORTS INVOLVING MINORS

Reporting parties 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. Please see Virginia Code § 16.1-278.4 or applicable local code for further information. 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 (see Section 3.4.2), is required by law to report any incident of relationship violence or sexual misconduct known to have occurred against anyone under the age of 18.

7.7. TIMEFRAME FOR PROCEDURES

The university seeks to resolve all complaints of relationship violence, sexual misconduct, or other forms of conduct prohibited under this policy within sixty 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 days. In general, a reporting party(s) and a responding party(s) 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 responding party'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 reporting parties and responding parties.

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 relationship violence, sexual misconduct, and/or other forms of conduct prohibited under this policy. 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. The university applies the preponderance of the evidence standard when determining whether this policy has been violated.

Please see Appendix A for student resolution procedures and Appendix B for employee resolution procedures.

SECTION 8: RESOURCES AND ACCOMMODATIONS

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8.1. RESOURCES

Resources are available to all EMU students and employees, including those who have not filed a Title IX report and those who are not involved in a Title IX adjudication process.

8.1.1. EMU COUNSELING SERVICES

EMU Counseling Services center is available for direct services 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 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, or stop by their office in the University Commons, Room 240 (upstairs) through the Student Life Suite.

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 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 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.

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 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:

- a. Allow the local police department to investigate the allegation of sexual assault or other violation of this policy;
- b. Press civil or criminal charges if an instance of unlawful activity has occurred;
- c. Provide details of the incident even in cases where the act being reported is not unlawful under federal or state law;
- d. Decline to have the local police department investigate the incident; or
- e. 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:

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

8.2. ACCOMMODATIONS

EMU will provide the following accommodations to all student and employee reporting parties, regardless of whether the reported incident rose to the level of initiating a disciplinary process for the responding party(s).

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

8.2.1. ACADEMIC ACCOMMODATIONS

As part of resolution processes, the Title IX coordinator in instances of Title IX reports, or the director of human resources in instances of Title VII reports, will work with the EMU registrar and individual faculty members to change or make accommodations to the course schedule of the reporting party(s) if the request is made in writing and if the accommodation requests are reasonably available.

In situations where the incident has not been reported to campus security or local law enforcement, student requests for academic accommodations can be sent to Title IX coordinator (titleixcoordinator@emu.edu) and employee requests for academic accommodations can be sent to director of human resources (hr@emu.edu).

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 living arrangements of the reporting party(s) if the request is made in writing and if the accommodation requests are reasonably available.

In situations where the incident has not been reported to campus security or local law enforcement, requests for living accommodations can be sent to Title IX coordinator (titleixcoordinator@emu.edu).

8.2.3. TRANSPORTATION ACCOMMODATIONS

As part of resolution processes, the Title IX coordinator in instances of Title IX reports, or the director of human resources in instances of Title VII reports, will work with appropriate authorities to change or make accommodations to the transportation arrangements of the reporting party(s) if the request is made in writing and if the accommodation requests are reasonably available.

In situations where the incident has not been reported to campus security or local law enforcement, student requests for transportation accommodations can be sent to Title IX coordinator (titleixcoordinator@emu.edu) and employee requests for transportation accommodations can be sent to director of human resources (hr@emu.edu).

8.2.4. WORKING ACCOMMODATIONS

As part of resolution processes, the Title IX coordinator in instances of Title IX reports, or the director of human resources in instances of Title VII reports, will work with the reporting party's supervisor to change or make accommodations to the work arrangement of the reporting party(s) if the request is made in writing and if the accommodation requests are reasonably available.

In situations where the incident has not been reported to campus security or local law enforcement, student requests for working accommodations can be sent to Title IX coordinator (titleixcoordinator@emu.edu) and employee requests for working accommodations can be sent to director of human resources (hr@emu.edu).

8.2.5. PROTECTIVE ORDERS

8.2.5.1. EMU No Contact Orders

Reporting and responding parties have the right to request a no contact order that restricts contact between reporting and responding parties on EMU's campus. Students should initiate the request for a no contact order with Title IX coordinator (titleixcoordinator@emu.edu). Employees should initiate the request for a no contact order with director of human resources (hr@emu.edu); 540-432-4148).

The Title IX coordinator or the director of human resources, respectively, 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 Harrisonburg Court House. (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
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](#). 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, visa and immigration assistance, student financial aid, and other services available, both within the institution and in the community, are available at any time for any EMU student or employee from the Title IX coordinator. Written notification of these resources will be provided to all reporting parties upon receipt of a report by the Title IX coordinator.

Written notification about available options for, assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures is available to anyone who experiences an incident of relationship violence and/or sexual misconduct, whether or not the incident is reported. Written notification of these accommodations will be provided to all reporting parties upon receipt of a report by the Title IX coordinator.

Appendix A: Procedures for Students

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SECTION A.1: INTRODUCTION

The care and welfare of students 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 work with all involved.

The following procedures function in conjunction with the Relationship Violence and Sexual Misconduct Policy, and will be activated when a report of an alleged occurrence of relationship violence and/or sexual misconduct is received. The intent of these procedures is to provide a prompt, fair, and impartial process from the initial contact to the final result. 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, and is a separate and independent process.

SECTION A.2: REPORTING

A.2.1. MAKING A REPORT

Reports can be made by filling out a [Campus Safety Incident Form](https://emu.edu/safecampus/) (<https://emu.edu/safecampus/>) or by contacting the Title IX coordinator in person or via phone at 540-432-4302.

A.2.2. SAFETY ASSESSMENT

All Campus Safety Incident Forms are received by the [Title IX coordinator](#), the [coordinator of campus safety and security](#), and the head of the student life division, who comprise the Title IX Safety Team. After a report is received, the Safety Team will determine the need for a timely warning. A timely warning is a warning required by the [Clery Act](#) 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 according to [Virginia law](#).

If the safety of the reporting party(s) and/or the safety of the responding party(s) are determined to be at risk, interim safety measures may be implemented, such as removal from campus housing, the issuance of a no contact order (see Section 8.2.5.1 of the Relationship Violence and Sexual Misconduct Policy), or adjustment of class schedule.

A.2.3. UNIVERSITY RESPONSE TO REPORTING PARTY(S)

After receiving a report, the Title IX coordinator will make contact first with all of the reporting party(s) by phone call or email to ensure that the reporting party(s) have access to available resources and that the reporting party's needs for safety and accommodations are met. During this initial contact the Title IX coordinator will arrange a time for an initial in-person intake meeting.

During the intake meeting with the reporting party(s), the Title IX coordinator will make available and review copies of the rights of the reporting party(s), outline the Title IX process procedures, and provide a list of on and off campus resources. The reporting party will be offered the following options for moving forward:

- a. No further inquiry or investigation, confidentiality: the reporting party(s) can specify that the Title IX coordinator and/or the deputy Title IX coordinator take no further action to pursue an investigation into the reported incident.
- b. Further investigation: the reporting party(s) can specify that the Title IX coordinator proceed with an investigation of the reported incident.
- c. Assist in making a Police Report if requested. This option can be pursued regardless of whether or not option 1 or 2 has been selected. Reporting parties 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.

It is the reporting party's right to choose which of the above options they want the university to take. However, in certain cases, if the conduct reported constitutes a criminal offense under Virginia law or endangers the immediate safety of the broader campus community, the university may still undertake a further process even if the reporting party(s) have requested that no further action be taken in regards to the incident (for example, if the responding party has previously been reported for violating the Relationship Violence and Sexual Misconduct policy). In these instances, the reporting party(s) does not have to be involved in the ongoing process.

Based on the severity of the alleged misconduct, the outcome of the intake meeting and with respect to the wishes of the reporting party, the Title IX coordinator, in consultation with the Title IX assessment team, may determine that no further investigation is required. This decision is based on the fact that the harm has not constituted a hostile environment and there are no disputed facts between the parties.

A.2.4. UNIVERSITY OUTREACH TO RESPONDING PARTY(S)

After receiving a report and speaking with the reporting party(s), depending on the wishes of the reporting party(s), the Title IX coordinator will make contact with the responding party(s) by phone call or email to ensure that the responding party(s) has access to available resources and that the responding party's safety needs are met. During this intake meeting, the Title IX coordinator will set up a time for an interview. Again, in certain cases, if the conduct reported constitutes a criminal offense under Virginia law or if the safety of the broader campus community is at risk, the university may still undertake a further process of investigation even if the reporting party(s) have requested that no further process or investigation be made in regards to the incident (for example, if the responding party has previously been reported for violating the Relationship Violence and Sexual Misconduct policy). In these instances, the reporting party(s) do not have to be involved in the ongoing process.

During the intake meeting with the responding party(s), the Title IX coordinator will make available and review copies of the rights of the responding party(s), an outline of the process and procedures, and a list of on- and off-campus resources.

SECTION A.3: INTERVIEWS

A.3.1. INTERVIEWS WITH INVOLVED PARTIES

Interviews will be conducted with all involved parties, beginning with the reporting party(s). The reporting and the responding parties will not come into contact with one another during the interview process.

The Title IX coordinator, a deputy Title IX coordinator, or a Title IX investigator will conduct the interviews.

The reporting party(s) and the responding party(s) always have the right to have an advocate of their choosing present during all stages of the reporting, investigating, and adjudication of the process. The interviewer may also choose to have a confidential unbiased third party included in the interview; typically this would be a deputy Title IX coordinator.

All interviews may be audio recorded. The only person outside of the Title IX Coordinator who may listen to the recording is the party that has been recorded. The recording must be listened to in the presence of the investigator. Verbal permission to record the interview will be obtained at the start of the interview process. Recordings will be stored by the Title IX Coordinator in a secure location and will be destroyed upon completion of the case, after the deadline for and/or completion of an appeals process has passed.

The completion of the investigation process will be within sixty days from the initial receipt of the report or as soon thereafter as feasible. If the report is made just prior to a scheduled university break, the time of the break will not be included within those sixty days.

Interviews with any witnesses will also be conducted.

A.3.1.1. INTERVIEW WITH THE REPORTING PARTY

If a reporting party has chosen, during the intake meeting with the Title IX coordinator, not to pursue any further action related to the reported incident, no interview will be required. The reporting party will be asked to sign a statement noting this choice, with the option of opening the case at any time by notifying the Title IX coordinator.

If the reporting party has chosen to pursue further action, they will be interviewed by either the Title IX coordinator, a deputy Title IX coordinator, or a Title IX investigator.

Additionally, the reporting party always has the option of filing a report with the local police department. If the reporting party chooses this course of action, they have the option to have a local police officer present during the interview. They may also choose to make a separate report to the local police department at a later time, or to not make a report to the police.

A.3.1.2. INTERVIEW WITH THE RESPONDING PARTY

If a reporting party has chosen, during the intake meeting with the Title IX coordinator, not to pursue any further action related to the reported incident, no interview will be required.

If the reporting party has chosen to pursue further action, the responding party(s) will be interviewed by either the Title IX coordinator, a deputy Title IX coordinator or a Title IX investigator.

A.3.2. INFORMAL RESOLUTION

Following the interviews with all reporting parties, responding parties, and named witnesses, the Title IX coordinator, deputy Title IX coordinator, or Title IX investigator will write an investigative report. The investigative report will be reviewed with all parties. If no parties dispute any of the facts in the investigative report, and if the case will move to an informal resolution process, described below.

If, following the interviews with the reporting parties, responding parties, and named witnesses, there are discrepancies or disagreements between the facts as recounted by the reporting and the responding party, the investigation will continue with the formal resolution process, described in Section A.3.3 and following.

A.3.2.1. DETERMINATION OF RESPONSIBILITY

In an informal resolution process, if it is determined that there is sufficient evidence, based on the preponderance of the evidence, to support a finding of responsibility under the policy, any one or more outcomes may be imposed. A staff review will be conducted by the Title IX Assessment Team to determine the appropriate outcome(s) to impose.

If, based on the investigative report and in consultation with the Title IX Assessment Team, it is determined that the violation of the Relationship Violence and Sexual Misconduct policy has risen to the level of a Title IX infraction, it will continue to a formal resolution process, described in Section A.3.3 and following.

A.3.2.2. STAFF REVIEW TO DETERMINE OUTCOMES

The staff review will be conducted by the Title IX Assessment Team, which includes the Title IX coordinator and deputy Title IX coordinator(s), selected by the Title IX coordinator for their assistance in a particular case with an aim of mitigating any possibility of conflict of interest due to their primary role within the university. The Title IX assessment team will review the case and determine outcomes for the responding party(s) guided by a number of considerations, including:

- A.** the severity, persistence or pervasiveness of the prohibited conduct;
- B.** the nature or violence (if applicable) of the prohibited conduct;
- C.** the impact of the prohibited conduct on the reporting party;
- D.** the impact or implications of the prohibited conduct within the university community;
- E.** prior misconduct by the responding party, including the responding party's relevant prior disciplinary history, at the university or elsewhere, and any criminal convictions;
- F.** whether the responding party has accepted responsibility for the prohibited conduct;
- G.** the maintenance of a safe, nondiscriminatory and respectful environment conducive to learning; and
- H.** any other mitigating, aggravating, or compelling factors.

A case may result in the following possible outcomes, based on the facts of the case and the considerations listed above. The following outcomes are effective immediately, unless otherwise specified:

- A.** in-school, temporary, or indefinite suspension/disciplinary withdrawal
- B.** dismissal
- C.** probation, with specific lengths being determined during the staff review
- D.** loss of university employment or volunteer position
- E.** loss of university resources or services
- F.** no contact orders
- G.** removal from dorm or other campus buildings
- H.** community services
- I.** application of a behavioral contract
- J.** alcohol and/or drug assessment and recommendations
- K.** exclusion from co-curricular or leadership activities
- L.** completion of issue-relevant education activities
- M.** fines
- N.** monetary or other restitution
- O.** referral to counseling
- P.** transcript notation

A prominent notation will be placed on the responding party's academic transcript if the responding party is suspended from, permanently dismissed from, or withdraws from the university while under investigation for an offense involving sexual violence, as required by [Virginia state law](#).

A.3.2.3. INFORMING REPORTING & RESPONDING PARTIES OF OUTCOMES

The reporting party(s) and the responding party(s) will be notified simultaneously in writing of the outcome of the proceedings. The Title IX Assessment Team will also meet with each party, if desired, to allow opportunity for clarification. The outcomes determination in an informal process cannot be appealed.

A.3.3. FORMAL RESOLUTION

If, following reporting (Section A.2) and investigation (Section A.3), discrepancies exist between the accounts of the reporting party(s) and the responding party(s), a formal resolution process will be conducted. The formal resolution process includes a preliminary and final investigative report, review panel proceedings, and the determination of outcomes (described below). Either party may appeal the decision of the review panel as described in Section A.5.

A.3.3.1. PRELIMINARY INVESTIGATIVE REPORT

After the interviews with the reporting party(s), responding party(s), and witnesses are completed and other information gathered, the deputy Title IX investigator(s) will complete a preliminary investigative report that sets out all the known facts of the case, the disputed facts of the case, and a list of all parties interviewed. The deputy Title IX investigator(s) will provide a copy of the preliminary report to the Title IX coordinator.

The deputy Title IX investigator(s) and the Title IX coordinator will meet with the reporting party(s) to review the preliminary report. Following this meeting, the deputy Title IX investigator(s) and the Title IX coordinator will meet with the responding party(s) to review the report.

The reporting party(s) and the responding party(s) may suggest additional witnesses and provide additional information after they review the preliminary investigative report. If additional witnesses or additional information is provided at this time, the deputy Title IX investigator(s) will interview the additional witnesses and review the additional information.

If changes are made to the preliminary report based on the additional witnesses or information provided, these changes will be reviewed with both the reporting and the responding parties. If no additional witnesses or additional information is provided by the reporting and/or the responding parties, the deputy Title IX investigator(s) will prepare the final investigative report.

A.3.3.2. FINAL INVESTIGATIVE REPORT

The final investigative report includes all known facts of the case, disputed facts of the case, and a list of all parties interviewed. The deputy Title IX investigator(s) will provide the final report to the Title IX coordinator, who then convenes the Title IX Review Panel.

SECTION A.4: REVIEW PANEL

Following the submission of the final investigative report, the Title IX coordinator will convene the Title IX Review Panel. 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 deputy Title IX investigator(s) will also attend the review panel meeting in order to answer questions and provide clarifications.

The reporting party(s) and the responding party(s) will be separately notified of the composition of the review panel by the Title IX coordinator and have the right to raise any conflicts of interest.

A.4.1. REVIEW PANEL PROCEEDINGS

The review panel will meet separately with the reporting and the responding parties. An advocate may attend the review panel but may not participate in the panel process. Either the reporting and/or the responding parties may choose not to attend the review panel. The review panel will proceed regardless.

The review panel proceedings will be recorded. 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.

If the chair of the review panel determines that clarifying questions are required, the panel may ask questions of the reporting and/or the responding party(s) during their separate review panel proceedings. The reporting and/or the responding party(s) may also request to give a testimony to the review panel during their separate review panel hearings.

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, in accordance with Title IX regulations (see Section 2 for definition). The review panel will make this determination based on the factual findings outlined in the final investigative report and the testimony heard.

If the review panel has determined that there is sufficient evidence, by a preponderance of the evidence, to support a finding of responsibility under the policy, the review panel will decide between a number of different outcomes for the responding party(s).

At the conclusion of the review panel, the review panel chair will prepare a summary of the proceedings. Included in this panel summary will be documentation of determination by of preponderance of evidence, documentation of outcomes determined, and a description of the appeal process.

The review panel chair will deliver the panel summary to the Title IX coordinator, who will prepare and send a letter to each party reflecting the panel's findings, any sanctions imposed, the rationale for the results and the sanctions, and appeal process information.

In the case of dismissal, suspension or withdrawal while under investigation, notification will be sent to the parent/legal guardian(s) (per [FERPA](#) release), to the Director of Retention, and to any other departments on campus that will be impacted by the consequences.

If the reporting or responding party does not agree with the findings and/or the outcomes, they may appeal the result to the appeal board.

A.4.2. REVIEW PANEL OUTCOMES

The review panel has jurisdiction to determine outcomes for responding parties. In determining the appropriate outcome(s), the review panel will be guided by a number of considerations, including:

- A. the severity, persistence or pervasiveness of the prohibited conduct;
- B. the nature or violence (if applicable) of the prohibited conduct;
- C. the impact of the prohibited conduct on the reporting party;
- D. the impact or implications of the prohibited conduct within the university community;
- E. prior misconduct by the responding party, including the responding party's relevant prior disciplinary history, at the university or elsewhere, and known criminal convictions;
- F. whether the responding party has accepted responsibility for the prohibited conduct;
- G. the maintenance of a safe, nondiscriminatory and respectful environment conducive to learning, and
- H. any other mitigating, aggravating, or compelling factors.

A case may result in the following possible outcomes, based on the facts of the case and the considerations listed above. The following outcomes are effective immediately, unless otherwise specified:

- A. in-school, temporary, or indefinite suspension/disciplinary withdrawal
- B. dismissal
- C. probation, with specific lengths being determined during the staff review
- D. loss of university employment or volunteer position
- E. loss of university resources or services
- F. no contact orders
- G. removal from dorm or other campus buildings
- H. community services
- I. application of a behavioral contract
- J. alcohol and/or drug assessment and recommendations
- K. exclusion from co-curricular or leadership activities
- L. completion of issue-relevant education activities
- M. fines
- N. monetary or other restitution
- O. referral to counseling
- P. transcript notation

A prominent notation will be placed on the responding party's academic transcript if the responding party is suspended from, permanently dismissed from, or withdraws from the university while under investigation for an offense involving sexual violence, as required by [Virginia state law](#).

If the reporting or responding party does not agree with the findings and/or the outcomes, they may appeal the result to the appeal board.

SECTION A.5: APPEALS PROCESS

The Title IX appeals board is a standing board consisting of three EMU employees appointed by EMU's president. The EMU president will name one of the three designated EMU employees to be the appeals board chair. Both the reporting and the responding parties may appeal the outcomes of the review panel by submitting an appeal in writing within three business days following notification of the review panel findings to the chair of the appeals board. The appeal form is located at <https://files.acrobat.com/a/preview/322cf35d-c215-4e4b-a868-96894038ce94>. The appeals board meeting will usually be scheduled within five calendar days from the date of the request for an appeal, subject to extension for good cause.

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

- A. relevant new evidence that was previously unavailable and could significantly affect the outcome;
- B. alleged procedural error, which may have materially affected the outcome; or
- C. the outcome is substantially disproportionate to the findings.

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 date, time, and location of the appeals board meeting, 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.

The appeals board chair will also supply the responding and the reporting parties with the grounds for the appeal request, including any new evidence provided. The reporting and the responding parties have 48 hours to respond to this disclosure of information by contacting the appeals board chair. The parties will be informed how and who to respond to when they receive the grounds for the appeal request and any new evidence provided.

Following this 48 hour response period, the appeals board will review the appeal and make a decision to either uphold or modify the outcome of the review panel. The appeals board will have access to the final investigative report and any new evidence from the reporting and/or responding parties. The appeals board will also have access to the written summary of the review panel as well as the appeal letter.

The findings will be communicated to the Title IX coordinator by the appeals board chair, who will prepare a letter reflecting the appeals board's findings and outcomes. The Title IX coordinator will provide the reporting and responding parties a copy of the letter of appeals board determination. The decision of the appeals board is final.

SECTION A.6: CONFLICTS OF INTEREST

At any time during the reporting, investigation, review, or appeals process, the reporting party(s), responding party(s), witness(es), Title IX coordinator, Title IX coordinator(s), Title IX investigator(s), review panel members, or appeals board members may raise conflict of interest concerns.

In cases where the reporting party(s), responding party(s), 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, and outside investigator will always be brought in.

If the services of a Title IX investigator are utilized and a conflict of interest exists between the reporting and/or responding parties and the Title IX investigator(s), another outside investigator will be brought in to conduct the investigation. The process will proceed as outlined in Section A.3, with the external investigator taking on the role of the Title IX investigator(s).

Appendix B: Procedures for Employees

SECTION B.1: INTRODUCTION

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- [SECTION B.2: REPORTING](#)
 - [B.2.1. MAKING A REPORT](#)
 - [B.2.2. SAFETY ASSESSMENT](#)
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The following procedure functions in conjunction with the Relationship Violence and Sexual Misconduct Policy, and will be activated when a mandated reporter or reporting party reports an alleged occurrence of relationship violence and/or sexual misconduct involving a faculty or staff member of EMU to Human Resources or the Title IX office. This process is not designed to take the place of making a criminal report to law enforcement. The procedure as outlined below may take place whether or not a criminal report is made. It is a separate and independent process. These procedures will include a prompt, fair, and impartial process from the initial investigation to the final result.

These procedures are carried out by people who care about and are committed to walk with all involved and understand that individuals can experience stress and emotional trauma with such situations. The care and welfare of EMU faculty, staff, and students is of utmost importance.

SECTION B.2: REPORTING

B.2.1. MAKING A REPORT

Reports can be made by filling out a [Campus Safety Incident Form \(https://emu.edu/safecampus/\)](https://emu.edu/safecampus/) or by contacting the Title IX Coordinator in person or via phone at 540-432-4302.

1. If the case involves a student and an employee, a copy of the report will go to the Dean of Students and the Director of Human Resources. Additional personnel may be notified on a need-to-know basis. The reporter and/or the reporting party will be advised of additional personnel who are notified.
2. If the case involves only employees, a copy of the report will go to the Director of Human Resources. Additional personnel may be notified on a need-to-know basis. The reporter and/or the reporting party will be advised of additional personnel who are notified.

B.2.2. SAFETY ASSESSMENT

After a report is received, the Safety Team will determine the need for a timely warning. A timely warning is a warning required by the [Clery Act](#) 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 according to [Virginia law](#).

1. The Safety Team will be comprised of the following people or their designees:
 - a. Situations involving a student and an employee: Title IX Coordinator, Coordinator of Campus Safety and Security, Dean of Students.
 - b. Situations involving only employees: Title IX Coordinator, Coordinator of Campus Safety and Security, and the Director of Human Resources.
2. The Safety Team will confer to determine next steps within the 72 hour notice requirement of notifying the Commonwealth's Attorney and local law enforcement, and will, if deemed necessary make those notifications. Note: safety officer has final authority on making the assessment as to whether to make a notification.¹
3. The safety officer will notify the reporting and/or the responding party(s) as necessary.
4. Concurrently, any possible threats to the reporting party and campus safety will be addressed (see Section 8.2.5.1 of the Relationship Violence and Sexual Misconduct Policy):
 - a. Interim measures may be implemented to maintain safety for all involved. Interim measures may include, but are not limited to: removal from campus facilities, no contact orders, adjustment of class, work or teaching schedule depending on the parties involved in the case.
 - b. The Title IX Coordinator or Director of Human Resources(or their designees) will follow up with the author of the report if not completed by reporting party to confirm that a process has been initiated, while maintaining confidentiality for all parties.

B.2.3. UNIVERSITY RESPONSE TO REPORTING PARTY(S)

Initial Inquiry & Investigation, Basic Guidelines:

1. The Title IX Coordinator will meet with the Director of Human Resources to coordinate the process for initial inquiry and investigation.
2. The reporting party will always be contacted/responded to and coordinated with first.
3. The Director of Human Resources will review the case under Title VII of the Civil Rights Act during the Title IX process. Additional investigation and response may occur to respond to Title VII obligations.

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Initial Inquiry with Reporting Party:

1. The reporting party is contacted to set up an initial inquiry meeting and they are informed that they may bring an advocate with them. The reporting party has the right to decline this meeting. If the meeting is declined, the process may continue without the reporting party if the Title IX Coordinator determines that there is a safety concern based on Virginia statute.²
2. Initial inquiry with reporting party involves:
 - a. No further inquiry or investigation: the reporting party(s) can specify that the Title IX Coordinator and/or the deputy Title IX Coordinator take no further action to pursue an investigation into the reported incident.
 - b. Further investigation: the reporting party(s) can specify that the Title IX Coordinator proceed with an investigation of the reported incident.
 - c. Assist in making a Police Report: this option can be pursued regardless of whether or not option one (1) or two (2) has been selected. Reporting parties 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.
 - d. Title IX Coordinator provides general support and listens to the reporting party.
 - e. At the discretion of the Title IX Coordinator, the Director of Human Resources may be present.
 - f. Review Rights of the Reporting Party document, including the right to report to local law enforcement. The reporting party is encouraged to report to local law enforcement for criminal matters, and will be supported through this process if they choose to make a report.
 - g. Reporting party will determine how they wish to proceed in regards to their own personal process:
3. It is the reporting party's right to choose which of the above options they want the university to take. However, in certain cases, if the conduct reported constitutes a criminal offense under Virginia law or endangers the immediate safety of the broader campus community, the university may still undertake a further process even if the reporting party(s) have requested that no further action be taken in regards to the incident (for example, if the responding party has previously been reported for violating the Relationship Violence and Sexual Misconduct policy). In these instances, the reporting party(s) does not have to be involved in the ongoing process.
4. If a reporting party chooses not to participate in a further process, even in circumstances where investigation is required due to safety issues, the reporting party will sign a statement of release, indicating they do not wish to be involved in the investigation at the time. The reporting party is informed of their right to participate or decline to participate in any investigation to the extent permitted under state or federal law.³
5. Based on the severity of the alleged misconduct and with respect to the wishes of the reporting party, the Title IX Coordinator, in consultation with the Title IX Assessment Team, may determine that no further investigation is required. This decision is based on the fact that the harm has not constituted a hostile environment and there are no disputed facts between the parties.

B.2.4. UNIVERSITY RESPONSE TO RESPONDING PARTY(S)

1. After receiving a report and speaking with the reporting party(s), depending on the wishes of the reporting party(s), the Title IX Coordinator will make contact with the responding party(s).
2. Initial Inquiry with Responding Party:
 - a. The responding party is contacted to set up an initial inquiry meeting and they are informed that they may bring an advocate with them. The responding party has the right to decline this meeting. If the meeting is declined, the process may continue without the responding party if the Title IX Coordinator determines that there is a safety concern based on Virginia statute.⁴
 - b. Initial inquiry with responding party involves:
 - i. Title IX Coordinator provides general support and listens to the reporting party.
 - ii. Review Rights of the Responding Party document.

SECTION B.3: INTERVIEWS

B.3.1. INTERVIEWS WITH INVOLVED PARTIES

1. If the reporting party wishes to pursue further process or if the university has determined that further process is required, interviews will be conducted with all involved parties, beginning with the reporting party(s) and including witnesses. The reporting and the responding parties will not come into contact with one another during the interview process.
2. The Title IX Coordinator, a deputy Title IX Coordinator, or a Title IX Investigator will conduct the interviews. An external Title IX Investigator would be used if there is a conflict of interest or there are other extenuating circumstances exist.
3. The reporting party(s) and the responding party(s) always have the right to have an advocate of their choosing present during all stages of the reporting, investigating, and adjudication of the process. The interviewer may also choose to have a confidential unbiased third party included in the interview; typically this would be a deputy Title IX Coordinator.

4. All interviews may be audio recorded. The only person outside of the Title IX Coordinator who may listen to the recording is the party that has been recorded. The recording must be listened to in the presence of the investigator. Verbal permission to record the interview will be obtained at the start of the interview process. Recordings will be stored by the Title IX Coordinator in a secure location and will be destroyed upon completion of the case, after the deadline for and/or completion of an appeals process has passed.
5. The completion of the investigation process will be within sixty days from the initial receipt of the report or as soon thereafter as feasible. If the report is made just prior to a scheduled university break, the time of the break will not be included within those sixty days.

If a reporting party has chosen, during the intake meeting with the Title IX Coordinator, not to pursue any further action related to the reported incident, no interview will be required. The reporting party will be asked to sign a statement noting this choice, with the option of opening the case at any time by notifying the Title IX Coordinator.

B.3.2. INFORMAL RESOLUTION

When the preliminary investigative report has been reviewed with all parties and if there are no disputed facts by any party, the case moves to an informal resolution process, described below.

B.3.2.1. STAFF REVIEW TO DETERMINE OUTCOMES

1. In an informal resolution process, if it is determined that there is sufficient evidence, based on the preponderance of the evidence, to support a finding of responsibility under the policy, any one or more outcomes may be imposed. A staff review will be conducted by the Title IX Assessment Team to determine the appropriate outcome(s) to impose.
2. The staff review will be conducted by the Title IX Assessment Team, which includes the Title IX Coordinator and deputy Title IX Coordinator(s), selected by the Title IX Coordinator for their assistance in a particular case with an aim of mitigating any possibility of conflict of interest due to their primary role within the university. The Title IX Assessment Team will review the case and determine outcomes for the responding party(s) guided by a number of considerations, including:
 - a. The severity, persistence or pervasiveness of the prohibited conduct;
 - b. The nature or violence (if applicable) of the prohibited conduct;
 - c. The impact of the prohibited conduct on the reporting party;
 - d. The impact or implications of the prohibited conduct within the university community;
 - e. Relevant prior disciplinary history at the university involving the responding party;
 - f. Whether the responding party has accepted responsibility for the prohibited conduct;
 - g. The maintenance of a safe, nondiscriminatory and respectful environment conducive to learning; and
 - h. Any other mitigating, aggravating, or compelling factors.
3. A case may result in the following possible outcomes, based on the facts of the case and the considerations listed above. The following outcomes are effective immediately, unless otherwise specified:
 - a. In-school, temporary, or indefinite suspension/disciplinary withdrawal
 - b. Dismissal
 - c. Probation, with specific lengths being determined during the staff review
 - d. Loss of university employment or volunteer position
 - e. Loss of university resources or services
 - f. No contact orders
 - g. Removal from dorm or other campus buildings
 - h. Community services
 - i. Application of a behavioral contract
 - j. Alcohol and/or drug assessment and recommendations
 - k. Exclusion from co-curricular or leadership activities
 - l. Completion of issue-relevant education activities
 - m. Fines
 - n. Monetary or other restitution
 - o. Referral to counseling
 - p. Transcript notation ⁵

B.3.2.2. INFORMING REPORTING & RESPONDING PARTIES OF OUTCOMES

In an informal process, the reporting party(s) and the responding party(s) will be notified simultaneously in writing of the outcome of the staff review. The Title IX Assessment Team will also meet with each party, if desired, to allow opportunity for clarification. The outcomes determination in an informal process cannot be appealed.

B.3.3. FORMAL RESOLUTION

If, following reporting (Section B.2) and investigation (Section B.3), discrepancies exist between the accounts of the reporting party(s) and the responding party(s), a formal resolution process will be conducted. The formal resolution process includes a preliminary and final investigative report, review panel proceedings, and the determination of outcomes (described below). Either party may appeal the decision of the review panel as described in Section B.5.

B.3.3.1. PRELIMINARY INVESTIGATIVE REPORT

After the interviews with the reporting party(s), responding party(s), and witnesses are completed and other information gathered, the Title IX Investigator will complete a preliminary investigative report that sets out all the known facts of the case, the disputed facts of the case, and a list of all parties interviewed. The Title IX Investigator will provide a copy of the preliminary report to the Title IX Coordinator and the Director of Human Resources.

The Title IX Investigator and the Title IX Coordinator will meet with the reporting party(s) to review the preliminary report. Following this meeting, the Title IX Investigator and the Title IX Coordinator will meet with the responding party(s) to review the report.

The reporting party(s) and the responding party(s) may suggest additional witnesses and provide additional information after they review the preliminary 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.

If changes are made to the preliminary report based on the additional witnesses or information provided, these changes will be reviewed with both the reporting and the responding parties. If no additional witnesses or additional information is provided by the reporting and/or the responding parties, the Title IX Investigator(s) will prepare the final investigative report.

A.3.3.2. FINAL INVESTIGATIVE REPORT

The final investigative report includes all known facts of the case, disputed facts of the case, and a list of all parties interviewed. The Title IX Investigator will provide the final report to the Title IX Coordinator and the Director of Human Resources.

SECTION B.4: REVIEW PANEL

Following the submission of the final investigative report, the Title IX Coordinator will convene the Title IX Review Panel.

B.4.1. REVIEW PANEL PROCEEDINGS

1. The Title IX review panel consists of a standing the Title IX review panel chair and two additional employees who serve on an ad hoc basis when a case arises, to avoid possible conflicts of interest or negative bias. In addition to the chair, the panel will consist of one faculty member and one staff member who have received training in Title IX and the EMU RVSM.
2. The Title IX Coordinator, Director of Human Resources, and Title IX Investigator will be available for questions and clarifications throughout the process.
3. The reporting party and responding party will be separately notified of the composition of the review panel, and have the right to raise any conflicts of interest.
4. The review panel meets separately with the reporting party and the responding party. An advisor or advocate may attend the review panel but may not participate in the panel process.
5. If the chair of the review panel determines that clarifying questions are required, the panel may ask questions of the reporting and/or the responding party(s) during their separate review panel proceedings. The reporting and/or the responding party(s) may also request to give a testimony to the review panel during their separate review panel hearings.
6. The reporting party or respondent may choose not to attend the review panel. The review panel process will proceed regardless.
 - a. The chair of the panel will inform all persons present that the proceedings are being recorded for reference purposes only;
 - b. The recording will be destroyed at the conclusion of the case, after the deadline for and /or completion of an appeal process.
 - a. The review panel proceedings will be recorded by EMU
7. The review panel will make a finding to determine whether or not a violation of the Relationship Violence and Sexual Misconduct Policy has occurred based on the factual findings outlined in the final investigative report and the testimony heard. This finding will be based on the standard of proof known as the preponderance of evidence, in accordance with Title IX regulations (see Section 2 for definition). The review panel will make this determination based on the factual findings outlined in the final investigative report and the testimony heard.
8. If the review panel has determined that there is sufficient evidence, by a preponderance of the evidence, to support a finding of responsibility under the policy, the review panel will decide between a number of different outcomes for the responding party(s).
9. At the conclusion of the review panel, the review panel chair will prepare a summary of the proceedings to deliver to the Title IX Coordinator and the Director of Human Resources. The panel summary will include:
 - a. documentation of determination of preponderance of evidence;
 - b. documentation of outcomes proposed;
 - c. a description of the appeal process.
10. The Title IX Coordinator will prepare a letter reflecting the panel's findings and outcomes as well as appeal process information.

11. The Title IX Coordinator and/or the Director of Human Resources will meet with the reporting party and the responding party and shares the letter:
 - a. For employees, the Director of Human Resources will ensure that the employee's file is properly updated
 - b. The Title IX Coordinator may nevertheless ensure that remedial measures remain in effect to support the parties.
12. If the reporting or responding party does not agree with the findings and/or the outcomes, they may appeal the result to the appeal board.

B.4.2. REVIEW PANEL OUTCOMES

The review panel has jurisdiction to determine outcomes for responding parties. In determining the appropriate outcome(s), the review panel will be guided by a number of considerations, including:

1. The severity, persistence or pervasiveness of the prohibited conduct;
2. The nature or violence (if applicable) of the prohibited conduct;
3. The impact of the prohibited conduct on the reporting party;
4. The impact or implications of the prohibited conduct within the university community;
5. Relevant prior disciplinary history at the university involving the responding party;
6. Whether the responding party has accepted responsibility for the prohibited conduct;
7. The maintenance of a safe, nondiscriminatory and respectful environment conducive to learning, and
8. Any other mitigating, aggravating, or compelling factors.

A case may result in the following possible outcomes, based on the facts of the case and the considerations listed above. The following outcomes are effective immediately, unless otherwise specified:

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
9. Application of a behavioral contract
10. Alcohol and/or drug assessment and recommendations
11. Exclusion from co-curricular or leadership activities
12. Completion of issue-relevant education activities
13. Fines
14. Monetary or other restitution
15. Referral to counseling
16. Transcript notation

If the reporting or responding party does not agree with the findings and/or the outcomes, they may appeal the result to the appeal board.

SECTION B.5: APPEALS PROCESS

1. The Title IX appeal board consists of a standing appeal board chair and two additional employees who serve on an ad hoc basis when a case arises, to avoid possible conflicts of interest or negative bias. In addition to the chair, the panel will consist of one faculty member and one staff member who have received Title IX training.
2. Either the reporting party or the responding party may appeal the determined outcomes. The appeal must be submitted in writing within three (3) business days following notification and should be directed to the Title IX Coordinator and/or the Director of Human Resources who will direct the appeal to the appeal board chair. Reasons for an appeal must be clearly stated and based on one of the following:
 - a. Relevant new evidence that was previously unavailable and could significantly affect the outcome;
 - b. Alleged procedural error, which may have materially affected the outcome;
 - c. Outcome is substantially disproportionate to the findings.
3. 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 date, time, and location of the appeals board meeting, 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.
4. The appeal board chair will notify both parties that an appeal has been requested, as well as the grounds for the appeal. Disclosure of the grounds for appeal will include provision of new evidence to the reporting party and/or respondent with two (2) business days allowed for response.
5. The appeal board meeting will be scheduled within five (5) business days from the date of the request for an appeal, subject to extension for good cause.

6. The appeal board will have access to the final investigative report and any new information or evidence from the reporting party and/or respondent. The appeal board will also have access to the written summary of the review panel as well as the appeal letter.
7. The appeal board may choose to uphold, modify, or dismiss the findings and/or outcomes of the review panel.
8. The appeal board chair prepares a letter reflecting the appeal board's findings and outcomes. The findings are communicated to the Title IX Coordinator and the Director of Human Resources by the appeal board chair.
9. The Title IX Coordinator and/or the Director of Human Resources provides the reporting party and respondent a copy of the letter of appeal board determination and a copy of the outcome letter will also become part of the respondent's (employee or student) file.
10. The decision of the appeal board is final.
11. In addition to bringing a case under EMU's Relationship Violence and Sexual Misconduct Policy, employees may also file a complaint directly with the [Equal Employment Opportunity Commission](#) (EEOC). Complaints must be [filed with the EEOC](#) within 180 days of the discriminatory act in order to preserve the rights of the reporting party in a court of law. [Title VII of the Civil Rights Act of 1964](#) 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 EMU's Relationship Violence and Sexual Misconduct 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.

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

²<http://law.lis.virginia.gov/vacode/title23.1/chapter8/section23.1-806/>

³ <http://law.lis.virginia.gov/vacode/title23.1/chapter8/section23.1-806/>

⁴ <http://law.lis.virginia.gov/vacode/title23.1/chapter8/section23.1-806/>

⁵. A prominent notation will be placed on the responding party's academic transcript if the responding party is suspended from, permanently dismissed from, or withdraws from the university while under investigation for an offense involving sexual violence, as required by [Virginia state law](#)

Appendix C: Rights of the Reporting Party

- SECTION 1: INTRODUCTION
- SECTION 2: DEFINITIONS
- SECTION 3: SCOPE OF POLICY
- SECTION 4: CONDUCT PROHIBITED UNDER THIS POLICY
- SECTION 5: AFFIRMATIVE CONSENT
- SECTION 6: CONSENSUAL RELATIONSHIPS
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- Appendix A: Procedures for Students
- Appendix E: Training and Prevention Education
- Appendix B: Procedures for Employees
- Appendix C: Rights of the Reporting Party
- Appendix D: Rights of the Responding Party

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

1. The right to investigation and appropriate resolution of all credible complaints of relationship violence and/or sexual 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 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 relationship violence or sexual misconduct 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 reporting party chooses. This also includes the right not to report, if this is the reporting party's desire, unless required by law;
6. The right to seek medical intervention and care;
7. The right to have reports of relationship violence and/or sexual misconduct 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, and the right to have a support person to guide and support them in the process.
10. The right to notification of, options for, and available assistance in, changing academic and living situations after an incident of relationship violence and/or sexual misconduct, if requested by the reporting party and 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;
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 reporting party or others;
12. The right to bring a support person to all phases of the Title IX process;
13. The right to be informed of available counseling, mental health, or student services for victims of relationship violence and/or sexual misconduct, 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 a review panel comprised of representatives of sex, ethnicity, and culture;
20. The right to identify and petition that any party be removed on the basis of bias and/or conflict of interest;
21. The right to have a support person during an investigation and/or hearing;
22. The right not to have any prior unrelated sexual history admitted as evidence;
23. 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;
24. 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
25. The right to appeal the findings and/or outcomes, in accordance with the standards for appeal established in section A.5 of the Relationship Violence and Sexual Misconduct policy.

Appendix D: Rights of the Responding Party

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

- [SECTION 1: INTRODUCTION](#)
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- [Appendix A: Procedures for Students](#)
- [Appendix E: Training and Prevention Education](#)
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- [Appendix C: Rights of the Reporting Party](#)
- [Appendix D: Rights of the Responding Party](#)

1. The right to investigation and appropriate resolution of all credible complaints of relationship violence and/or sexual 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 (RSVM) policy and law;
3. The right to be treated with respect by university officials;
4. The right to be informed of, and have, university policies and procedures followed without material deviation; and the right to have a support person to guide and support them in the process;
5. The right to bring a support person to all phases of the investigation proceeding;
6. The right to be informed of and have access to campus resources for medical, counseling, and advisory services, both on-campus and in the community;
7. 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;
8. 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;
9. 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;
10. 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;
11. The right to have reports heard by persons who have received annual Title IX and trauma informed training;
12. The right to a review panel comprised of representatives of sex, ethnicity, and culture;
13. The right to identify and petition that any party be removed on the basis of bias and/or conflict of interest;
14. The right to have a support person during an investigation and/or hearing;
15. The right not to have any prior unrelated sexual history admitted as evidence;
16. 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;
17. 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
18. The right to appeal the findings and/or outcomes, in accordance with the standards for appeal established in section A.5 of the Relationship Violence and Sexual Misconduct policy.

Appendix E: Training and Prevention Education

Information on this page

- [Campus Education Activities](#)
- [Campus Prevention Activities](#)

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Campus Education Activities

EMU provides the following educational activities for the campus community:

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 F: Confidential Resources

Relationship Violence and Sexual
Misconduct Policy

- [Harrisonburg Confidential Resources](#)
 - [Counseling Services](#)
 - [Health Services](#)
 - [Campus Ministries](#)
 - [Sexual Violence Prevention Services](#)
- [Lancaster Confidential Resources](#)
- [Washington DC Confidential Resources](#)

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Harrisonburg Confidential Resources

Counseling Services

counselingservices@emu.edu - 540-432-4317

Stewart Nafziger, Interim Director of Counseling Services

Counseling Services provides free, individual counseling sessions to any EMU student. Survivors of current and/or past sexual violence can use this confidential service to process events, begin the healing journey, and receive referrals to other campus or community resources.

Health Services

healthservices@emu.edu - 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 - 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 - 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

National Veterans Crisis Line: 800-273-8255