

# 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 will 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
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- 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).