

SECTION 2: DEFINITIONS

Information on this page

[CAMPUS SECURITY AUTHORITY](#)
[CLERY ACT](#)
[CONFIDENTIAL EMPLOYEE](#)
[DEPUTY TITLE IX COORDINATOR](#)
[TITLE IX INVESTIGATOR](#)
[EMPLOYEE](#)
[FERPA / FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT](#)
[GENDER EXPRESSION](#)
[GENDER IDENTITY](#)
[GENDER IDENTITY BIAS / GENDER BIAS](#)
[HOSTILE ENVIRONMENT](#)
[PREPONDERANCE OF THE EVIDENCE](#)
[RELATIONSHIP VIOLENCE](#)
[REPORTING PARTY](#)
[RESPONDING PARTY](#)
[RESPONSIBLE EMPLOYEE](#)
[SEXUAL MISCONDUCT](#)
[STUDENT](#)
[SUPPORT PERSON](#)
[THIRD PARTY](#)
[TIMELY WARNING](#)
[TITLE IX](#)
[TITLE IX ASSESSMENT TEAM](#)
[TITLE IX COORDINATOR](#)
[TITLE VII](#)
[VICTIM ADVOCATE](#)

[Return to Table of Contents](#)

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.

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*¹ 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.

SUPPORT PERSON

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.

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.

VICTIM 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.

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.