

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.