

# SECTION 7: REPORTING

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

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

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

## 7.1. EMPLOYEE REPORTING OBLIGATIONS

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

As outlined in the Privacy and Confidentiality section ([Section 3.4](#)) 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 EMU community.

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

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

## 7.2. CAMPUS SAFETY INCIDENT REPORTS

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

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

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

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

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

### 7.2.1. CAMPUS REPORTING OPTIONS

Campus reporting options include:

1. Title IX Coordinator: Rachel Roth Sawatzky, 540-432-4849, [titleixcoordinator@emu.edu](mailto: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](mailto:hr@emu.edu)
  - b. EMU athletics: Katie Russo, Women's Lacrosse Coach, 540-432-4368, [katie.russo@emu.edu](mailto:katie.russo@emu.edu)
  - c. EMU undergraduate programs: Todd VanPatter, Asst Dir, Survey Research, Institutional Research, 540-432-4398, [todd.vanpatter@emu.edu](mailto:todd.vanpatter@emu.edu)
  - d. EMU graduate programs: Emily North, Administrative Assistant, School of Theology, Humanities and Performing Arts, 540-432-4261, [emily.north@emu.edu](mailto:emily.north@emu.edu)
  - e. EMU Lancaster campus: Mary Jensen, Associate Provost, 717-690-8600, [assocprovost.lancaster@emu.edu](mailto:assocprovost.lancaster@emu.edu)
  - f. EMU WCSC site: Jamie Reich, WCSC's Program Administrator, (202) 529-5378, [jamie.reich@emu.edu](mailto:jamie.reich@emu.edu)
5. All faculty and staff members, who are considered Mandated Reporters

### 7.3. REPORTING TO LAW ENFORCEMENT

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

A Complainant may simultaneously pursue criminal action and the University processes under this policy. The University will support Complainants in understanding and assessing their reporting options and assist in notifying law enforcement authorities if a Complainant so chooses. Upon receipt of a report, the University will provide written notification to individuals of their right to file (or decline to file) criminal charges as well as the availability of medical, counseling, and support services (see [Appendix B](#)). Making a report to the University does not require participation in any subsequent University proceedings, nor is a report required for a Complainant to receive Supportive Measures.

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

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

### 7.4 PRESERVATION OF EVIDENCE

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

In instances of sexual assault, domestic violence, dating violence, intimate partner violence, or any other instances of sexual or physical abuse, the Complainant(s) may opt to have a Physical Evidence Recovery Kit ([PERK kit](#)) collected. A PERK kit can be collected by a Sexual Assault Nurse Examiner (SANE nurse) [at a local hospital for free](#). The cost of a PERK exam and any related medication is paid for by the Commonwealth 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 Complainant may choose not to notify law enforcement or file a police report but may still have a PERK kit collected. PERK kits from Complainants who elect not to file a report with law enforcement are known as Anonymous Physical Evidence Recovery Kits and will be stored for two years, although the holding facility, the Complainant, or the law enforcement agency may elect for the kit to be retained for a longer period.

### 7.5. REPORTING CONSIDERATIONS

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

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

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

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

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

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

As stated in Section 4.5, retaliation is a violation of this policy and can take many forms, may be committed by or against an individual or group, and may be committed toward the Complainant by the Respondent and vice versa. An individual reporting Prohibited Conduct is entitled to protection from any form of retaliation following a report made in good faith, even if the report is not later substantiated.

### **7.5.4. FALSE REPORTING**

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

## **7.6. REPORTS INVOLVING MINORS**

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

## **7.7. TIMEFRAME FOR PROCEDURES**

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

## **7.8. RESOLUTION PROCEDURES**

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

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

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

Please see [Appendix A](#) for resolution procedures.