



2025-2026

## Title IX and University-Defined Sexual Misconduct Policy

These policies and procedures are effective January 1, 2025. Eastern University reserves the right to modify them in accordance with business necessity and applicable legal and regulatory guidance and requirements. The most up-to-date version of these policies is available online at [www.eastern.edu](http://www.eastern.edu).

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## **I. Statement of Intent**

As a Christian academic community, Eastern University affirms the biblical position that sexual intimacy should be reserved to the context of marriage. Eastern University hopes that members of the University community will aspire to conform their own sexual lifestyles to this ideal. Eastern University is committed to providing an environment free from all forms of sex discrimination, including sex-based assault, violence, and harassment for all members of its community; the policy standards outlined below also apply to visitors, contractors, and other third parties.

Eastern University is committed to establishing and maintaining a community rich in equality and free from all forms of discrimination and harassment. The University seeks to create an environment in which the greatest holistic academic potential of students and professional potential of employees may be realized. In order to create and maintain such an inclusive climate, all who work and learn at the University are partners in the endeavor to ensure that the community is free from discrimination based on sex or gender, including sex-based harassment, assault, and other forms of misconduct. These behaviors threaten our learning, living, and work environments and will not be tolerated.

Prohibited conduct under this policy may also be crimes under Pennsylvania law. Title IX of the Education Amendments of 1972 ("Title IX") is a federal civil rights law that prohibits discrimination on the basis of sex in education programs and activities. All public and private elementary and secondary schools, school districts, colleges, and universities receiving any federal funds must comply with Title IX. Under Title IX, discrimination on the basis of sex can include sex-based harassment, gender-based harassment, sex-based violence, sexual assault, domestic violence, dating violence, and stalking. Title IX says that "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."

Further, The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) is federal legislation that requires educational institutions that participate in federal student aid programs to maintain and disclose non-identifying information about the crimes that occur on or near their campus including allegations of sexual misconduct, specifically sexual assault, domestic violence, dating violence, and stalking. In compliance with the Clery Act, the University will publish non-identifying information about Clery criminal offenses and annually submit the University's Annual Fire Safety and Security Report (AFSSR) to the U.S. Department of Education. For further details on Clery Act compliance or to obtain a copy of the AFSSR, contact the Department of Public Safety. The University, an officer, employee, or agent of the University, may not retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights or responsibilities in this policy as required under the Violence Against Women Act.

In compliance with Title IX, the University will address reported sex discrimination violations covered under Title IX. The University is also committed to addressing acts that violate our community standards and are not covered under Title IX but fall within the definitions of University-defined sexual misconduct.

Eastern University is an institution that strives to achieve its mission as a Christian liberal arts University by encouraging the free, open, and civil exchange of ideas. Ideas, creativity, and free expression thrive and can only exist for the entire community in an atmosphere free of sex and gender-based discrimination and harassment.

## **II. Scope of Policy**

Eastern University's Title IX and University-Defined Sexual Misconduct Policy ("Policy") applies to all of Eastern University's education programs and activities (defined as including locations, events, or circumstances in which the Eastern University exercises substantial control over both the Respondent and the context in which the conduct occurred), circumstances where Eastern University has disciplinary authority, and to misconduct occurring within

any building owned or controlled by an Eastern University-recognized student organization.

This Policy prohibits all forms of sex discrimination, and may be applied to incidents, to patterns, and/or to the institutional culture/climate, all of which may be addressed in accordance with this Policy.

This Policy may also apply to the effects of off-campus misconduct that limit or deny a person's access to Eastern University's education program or activities. Eastern University may also extend jurisdiction to off-campus and/or to online conduct when the conduct affects a substantial Eastern University interest.

A substantial Eastern University interest includes:

1. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
2. Any situation in which it is determined that the Respondent poses an imminent and serious threat to the health or safety of any student, employee, or other individual.
3. Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder.
4. Any situation that substantially interferes with the Eastern University's educational interests or mission.

For disciplinary action to be issued under this Policy, the Respondent must be an Eastern University student or employee (including administration, faculty, and staff) at the time of the alleged incident.

Eastern University community members who are volunteers, independent contractors, visitors, or any other individuals regularly or temporarily employed, studying, living, visiting, conducting business, or having any official capacity at the University may be subject to Eastern University sanctions to the extent possible.

Alleged misconduct subject to this Policy ("prohibited conduct") includes both Title IX sex discrimination (which is defined by law) and University defined sexual misconduct (which includes allegations that do not meet the definitions under Title IX, but nonetheless violate Eastern University's community standards), as discussed further in the Sections VI and VII below.

All community members have a responsibility to adhere to University policies and local, state, and federal law.

### **III. Notice of Non-Discrimination**

The University expressly prohibits any form of discrimination and harassment on the basis of any University recognized protected classification, including sex, race, color, age, religion, national or ethnic origin, sexual orientation, gender identity, expression, and transition status, pregnancy and related conditions, marital status, medical condition, veteran status, or disability in any decision regarding admissions, employment, or involvement in a University program or activity in accordance with the letter and spirit of federal, state, and local non-discrimination and equal opportunity laws, such as Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, The Age Discrimination in Employment Act, The Americans with Disabilities Act and ADA Amendments Act, The Equal Pay Act, the Pennsylvania Human Relations Act, and the Borough of Eastern Ordinance on Non-Discrimination.

Eastern University, as an educational community, will promptly and equitably respond to all reports of sexual misconduct in order to eliminate the misconduct, prevent its recurrence, and address its effects on any individual or the community. Please see Section XIII for discussion of how to make a report of prohibited conduct or to file a complaint.

#### **IV. Privacy and Confidentiality**

Eastern University respects the privacy of individuals involved in any report of alleged prohibited conduct, meaning the Title IX Coordinator and others responsible for carrying out this Policy will disclose information only as required to implement this Policy or by law. If a Complainant requests that a report of prohibited conduct remain confidential (i.e., with the Complainant's identity not being disclosed to the Respondent and an investigation not being commenced), the Title IX Coordinator will evaluate that request in the context of the University's responsibility to provide a safe and nondiscriminatory environment for all members of its community. The University may question an employee-Respondent about alleged prohibited conduct without disclosing the identity of the Complainant, provided that it does not take disciplinary action against that Respondent without implementing the processes in Procedures for Resolution of Title IX Complaints against Faculty/Staff or Procedures for Resolution of University-Defined Sexual Misconduct Complaints against Faculty/Staff.

- A. **Unauthorized disclosure** – Parties and advisors are prohibited from disclosing information obtained by Eastern University through any resolution process to the extent that information is the work product of Eastern University (meaning it has been produced, compiled, or written by Eastern University for purposes of its investigation and resolution of a complaint), without authorization. It is also a violation of Eastern University Policy to publicly disclose institutional work product that contains a party or witness's personally identifiable information without authorization or consent. Violation of this Policy is subject to significant sanctions.

The Complainant is not required to file a complaint to receive supportive measures (Section XII), but there may be instances when disclosing the Complainant's identity is necessary to provide certain supportive measures (e.g., where the Respondent would need to know the identity of the Complainant in order to comply with a contact restriction).

Eastern University will maintain as private any supportive measures provided to the parties, to the extent that maintaining such privacy would not impair its ability to provide the supportive measures.

Privacy and confidentiality have distinct meanings under this policy:

Privacy generally means that information related to a complaint will be shared with a limited number of individuals who "need to know" to assist in providing supportive measures or evaluating, investigating, or resolving the complaint. All employees who are involved in the University's response to a complaint receive specific training and guidance about sharing and safeguarding private information in accordance with federal and state law.

Confidentiality means that information shared by an individual with designated confidential campus or community professionals cannot be revealed to any other individual without express permission of the disclosing individual. Those campus and community professionals include medical providers, mental health providers, religious / pastoral counselors, and the violence prevention advocate, all of whom have legally protected confidentiality. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others or the disclosure is otherwise legally permitted or required. Non-identifying, aggregate data may be shared for statistical purposes consistent with the Clery Act.

#### **V. Limitations to Confidentiality**

University employees designated as "mandatory reporters" are required to share a report of prohibited conduct with the Title IX Coordinator or deputy Title IX Coordinator. (See Section XIII below for full discussion of reporting requirements). The Title IX Coordinator, in consultation with the Title IX assessment team (as necessary), will conduct an initial evaluation of the conduct, the Complainant's desired course of action, and the necessity for any supportive measures or services to protect the safety of the Complainant and/or the community. The goal is to

eliminate and deter any sex discrimination, sex-based harassment, and/or retaliation.

If a report of misconduct discloses a serious or immediate threat to the campus community, the University will issue a timely notification to the community to protect the health or safety of the community. The timely notification will not include any identifying information about the Complainant. The University may also share non-identifying information about reports received in aggregate form, including data about outcomes and sanctions. At no time will the University release the name of the Complainant to the general public without the express consent of the Complainant or as otherwise permitted or required by law.

All University proceedings are conducted in compliance with the requirements of the Family Educational Rights and Privacy Act (FERPA), the Clery Act, Title IX, the Violence Against Women Act (VAWA), state and local law, and University policy. No information shall be released from such proceedings except as required or permitted by law and University policy.

## **VI. Prohibited Conduct**

### **A. Sex Discrimination**

Sex discrimination is different treatment with respect to a person's employment or participation in an education program or activity based, in whole or in part, upon the person's actual or perceived sex.

Discrimination can take two primary forms:

#### **1) Disparate Treatment Discrimination:**

- Any intentional differential treatment of a person or persons that is based on a person's actual or perceived sex and that:
  - Excludes a person from participation in;
  - Denies a person benefits of; or
  - Otherwise adversely affects a term or condition of a person's participation in a University program or activity.

#### **2) Disparate Impact Discrimination:**

- Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on the basis of sex that:
  - Excludes a person from participation in;
  - Denies a person benefits of; or
  - Otherwise adversely affects a term or condition of a person's participation in a University program or activity.

### **B. Sex-based Harassment**

**Sex-based Harassment** is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex,<sup>1</sup> including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; sexual assault, dating violence, domestic violence, and stalking.

#### **1) Quid Pro Quo:**

- an employee agent, or other person authorized by the University,

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<sup>1</sup> Throughout this Policy, "on the basis of sex" means conduct that is sexual in nature, or that is directed to the Complainant because of his/her/their actual or perceived sex or gender identity.

- to provide an aid, benefit, or service under the University's education program or activity,
- explicitly or impliedly conditioning the provision of such aid, benefit, or service,
- on a person's participation in unwelcome sexual conduct.

2) **Hostile Environment Harassment:**

- unwelcome sex-based conduct, that
- based on the totality of the circumstances,
- is subjectively and objectively offensive, and
- is so severe or pervasive,
- that it limits or denies a person's ability to participate in or benefit from the University's education program or activity

3) **Sexual Assault**

a. **Rape:**

- Penetration, no matter how slight,
- of the vagina or anus,
- with any body part or object, or
- oral penetration by a sex organ of another person,
- without the consent of the Complainant.

b. **Fondling:**

- The touching of the private body parts of the Complainant (buttocks, groin, breasts),
- for the purpose of sexual gratification,
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental incapacity.

c. **Incest:**

- Sexual intercourse,
- between persons who are related to each other,
- within the degrees wherein marriage is prohibited by Pennsylvania law.

d. **Statutory Rape**

- Sexual intercourse,
- With a person who is under the statutory age of consent of Pennsylvania.

4) **Dating Violence**, defined as:

- violence,
- on the basis of sex,
- committed by a person,
- who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
  - The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
    - Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
    - Dating violence does not include acts covered under the definition of domestic violence.

- 5) **Domestic Violence**,<sup>2</sup> defined as:
- a. violence,
  - b. on the basis of sex,
  - c. committed by a current or former spouse or intimate partner of the Complainant,
  - d. by a person with whom the Complainant shares a child in common, or
  - e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
  - f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Pennsylvania, or
  - g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Pennsylvania.
- 6) **Stalking**, defined as:
- a. engaging in a course of conduct,
  - b. on the basis of sex,
  - c. directed at the Complainant, that
    - i. would cause a reasonable person to fear for the person's safety, or
    - ii. the safety of others, or
    - iii. suffer substantial emotional distress.

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

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

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 the concept of cyberstalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

Examples of stalking include:

- Unwelcome and repeated visual or physical proximity to a person;
- Repeated oral or written threats;
- Extortion of money or valuables;
- Unwelcome/unsolicited written communication, including letters, cards, emails, instant messages, and messages on online bulletin boards;
- Unwelcome/unsolicited communications about a person, their family, friends, or co-workers;
- Sending/posting unwelcome/unsolicited messages with an assumed identity;
- Implicitly threatening physical contact;

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<sup>2</sup> To categorize an incident as Domestic Violence under this Policy, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

- Any combination of these behaviors directed toward an individual person.

**C. University-defined sexual harassment (UDSH)** is any unwelcome conduct of a sexual nature or based on sex or gender when at least one of the following conditions under the definition of Hostile Environment Harassment or Quid Pro Quo is not met.

A single, isolated incident of UDSH alone may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to create a hostile environment, particularly if the harassment is physical.

Conduct creates a hostile environment when it has the purpose or effect of unreasonably interfering with an individual's work or academic performance, i.e. it is sufficiently serious, pervasive, or persistent as to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment under both an objective and subjective standard. UDSH also includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex/gender or sex/gender-stereotyping, even if the acts do not involve conduct of a sexual nature.

Both Hostile Environment Harassment (B2) and UDSH (C) can take many forms and may:

- Include, but not be limited to sexual advances or requests for sexual favors, inappropriate comments, jokes or gestures, or other unwanted verbal or physical conduct of a sexual nature.
- Be blatant and intentional and involve an overt action, a threat of reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.
- Not include intent to harm, be directed at a specific target, or involve repeated incidents.
- Be committed by anyone, regardless of gender, age, position, or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational, or employment relationships, harassment can occur in any context.
- Be committed by a stranger, an acquaintance, or someone with whom the Complainant has an intimate or sexual relationship.
- Be committed by or against an individual or may be a result of the actions of an organization or group.
- Occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation.
- Occur in the classroom, in the workplace, in residential settings, over electronic media (including the internet, telephone, and text), or in any other setting.
- Be a one-time event or part of a pattern of behavior.
- Be committed in the presence of others or when the parties are alone.
- Affect the Complainant and/or third parties who witness or observe the harassment.

The specific implicated provision of prohibited sex-based harassment will depend upon the applicability of conditions described above. Key determining factors are that the behavior is unwelcome, is sex or gender based, and is reasonably perceived as offensive and objectionable under both a subjective and objective assessment of the conduct.

## **VII. Definitions of Additional Prohibited Conduct**

The following conduct constitutes additional prohibited conduct under the Policy:

**D. Sexual Exploitation:** An act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or



any other non legitimate purpose. The act or acts of University-defined sexual exploitation are prohibited even though the behavior does not constitute one of the other sexual misconduct offenses.

Examples of sexual exploitation include:

- Observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- Non-consensual streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved;
- Prostituting another individual;
- Exposing another's genitals in non-consensual circumstances;
- Knowingly exposing another individual to a sexually transmitted disease or virus without that individual's knowledge; and
- Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

**E. Indecent Exposure:** A person commits an act of indecent exposure if that person exposes their genitals in any public place or in any place where there are other persons present under circumstances in which one knows or should know that this conduct is likely to offend, affront, or alarm.

**F. Bullying and Intimidation:** Bullying includes any intentional electronic, written, verbal, or physical act or a series of acts of physical, social, or emotional domination that cause physical or emotional harm that is sex or gender based to another student or group of students. Bullying conduct may not only cause a negative effect on individuals targeted but also others who observe the conduct. Bullying conduct is severe, persistent, or pervasive and has the effect of doing any of the following:

- Substantially interfering with a community member's education, employment, or full enjoyment of the University;
- Creating a threatening or intimidating environment; or
- Substantially disrupting the orderly operation of the University.

Bullying is prohibited, and participating in such acts will result in disciplinary action.

Intimidation is any verbal, written, or electronic threats of violence or other threatening behavior directed toward another person or group that reasonably leads the person(s) in the group to fear for their physical well-being. Intimidation is prohibited and participating in such acts will result in disciplinary action.

Anyone who attempts to use bullying or intimidation to retaliate against someone who reports an incident, brings a complaint, or participates in an investigation in an attempt to influence the student conduct process will be in violation of retaliation as described in this Policy and will be subject to disciplinary action.

When acts of bullying and intimidation occur in the context of intimate-partner violence or when the behavior is perpetrated on the basis of sex or gender, the student conduct will be resolved under either Procedures for Resolution of Title IX Complaints against Students or Procedures for Resolution of University-Defined Sexual Misconduct Complaints against Students; employee conduct will be resolved under either Procedures for Resolution of Title IX Complaints against Staff and Faculty or Procedures for Resolution of University-Defined Sexual Misconduct Complaints against Staff and Faculty.

**G. Physical Assault:** Any purposeful action meant to hurt another person. Examples include, but are not limited to, kicking, punching, hitting with or throwing an object, or biting. When these acts occur in the context of dating or domestic violence or when the behavior is perpetrated on the basis of sex or gender,

the student conduct will be resolved under either Procedures for Resolution of Title IX Complaints against Students or Procedures for Resolution of University-Defined Sexual Misconduct Complaints against Students; employee conduct will be resolved under either Procedures for Resolution of Title IX Complaints against Staff and Faculty or Procedures for Resolution of University Defined Sexual Misconduct Complaints against Staff and Faculty.

## **VIII. Related Definitions**

- A. Coercion:** The use of pressure to compel another individual to initiate or continue sexual activity against an 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:

- Threatening to harm oneself if the other party does not engage in the sexual activity.
  - Threatening to "out" someone based on sexual orientation, gender identity, or gender expression.
- B. Complainant:** Any member of the University community seeking a formal disciplinary process in response to prohibited conduct and/or seeking resources or support in response to sexual misconduct.
- C. Consent:** Consent to engage in sexual activity must be knowing and voluntary; it must exist from the beginning to end of each instance of sexual activity and for each form of sexual contact. Consent should not be assumed. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage freely in sexual activity. Either party may withdraw consent at any time. Withdrawal of consent should be outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease immediately.

Guidance for assessing consent:

- Prior to initiating any sexual activity, the person(s) initiating and/or continuing the sexual activity is expected to obtain consent. If at any time during the sexual activity, any confusion or ambiguity arises, individuals should pause and seek clarification regarding consent.
- Consent to one form of sexual activity does not constitute consent to engage in all forms of sexual activity.
- Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. Relying on non-verbal communication can lead to misunderstandings. Consent should not be inferred solely from silence, passivity, lack of resistance, or lack of an active response alone. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent.
- Consent to previous sexual activity and/or in the context of an intimate relationship does not presume consent is given in any subsequent sexual encounter.
- Consent is not effective if it results from the use or threat of physical force, intimidation, or coercion, or any other factor that would eliminate an individual's ability to exercise their own free will.
- Consent cannot be obtained from an individual who is incapacitated. A full discussion of incapacitation follows in Section IX.F below.
- In the Commonwealth of Pennsylvania, the age of majority is 18. Under state law, consent cannot be given by minors under the age of 13 and can only be given by a minor under the age of 16, if the

- other party is fewer than four (4) years older than the minor.
- Consent cannot be given for sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

**D. Force:** Force is the use or threat of physical violence or intimidation to overcome an individual's freedom to choose whether or not to participate in sexual activity. There is no requirement that a party resists the sexual advance or request, but resistance will be viewed as a clear demonstration of non-consent.

**E. Incapacitation:** Incapacitation describes an individual who lacks the ability to make informed, rational judgments and cannot consent to sexual activity. Incapacitation is defined as the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring.

Incapacitation may result from the use of alcohol and/or drugs. Incapacitation is a state beyond drunkenness or intoxication. The impact of alcohol and other drugs varies from person to person.

Warning signs that a person may be approaching incapacitation may include:

- Slurred speech
- Vomiting
- Unsteady gait
- Odor of alcohol
- Combativeness
- Emotional volatility

Guidance for evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects an individual, with respect to:

- Decision-making ability
- Awareness of consequences
- Ability to make informed judgments
- Capacity to appreciate the nature and the quality of the act

Evaluating incapacitation also requires an assessment of whether a Respondent should have been aware of the Complainant's incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the Respondent's position.

In general, the University considers sexual contact while under the influence of alcohol or other drugs to be risky behavior. Alcohol and drugs impair a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. If there is any doubt as to the level or extent of the other individual's intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.

**F. Intentional:** Intentional is defined as knowingly and/or recklessly engaging in sexual contact without an individual's consent and does not include accidental contact. Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual misconduct in any form and does not negate one's intent nor diminish one's responsibility to obtain informed and freely given consent.

**G. Prohibited Conduct:** Prohibited conduct includes Title IX-defined misconduct and University-defined sexual misconduct.

- H. Reporting Person:** Any person who makes a report to the Title IX Coordinator or deputy Title IX Coordinator about prohibited conduct.
- I. Respondent:** Any member of the University community accused of engaging in prohibited conduct and/or violations of the Policy.

#### **IX. Retaliation**

Retaliation is defined as adverse action, including intimidation, threats, coercion, or discrimination against any person by the University, a student, employee, or a person authorized by the University to provide an aid, benefit, or service under the University's education program or activity for the purpose of interfering with any right or privilege secured by law or Policy, or because the person has engaged in protected activity, including reporting information, making a Complaint, testifying, assisting, or participating or refusing to participate in any manner in an investigation or Resolution Process, including an Informal Resolution process, or in any other appropriate steps taken by the University to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects. Any individual or group of individuals, not just a Complainant or Respondent, can engage in retaliation.

#### **X. Sanction Ranges**

The following sanction ranges apply for Prohibited Conduct under this Policy. Sanctions can be assigned outside of the specified ranges based on aggravating or mitigating circumstances, or the Respondent's cumulative conduct record.

- Sex Discrimination: warning through expulsion, involuntary withdrawal, or termination.
- Quid Pro Quo Harassment: warning through expulsion or termination.
- Hostile Environment Harassment: warning through expulsion or termination.
- University-Defined Sexual Harassment: warning through expulsion or termination.
- Rape: suspension through expulsion or termination.
- Fondling: warning through suspension (termination for employees).
- Incest: warning through probation.
- Statutory Rape: warning through suspension (termination for employees).
- Stalking: probation through expulsion or termination.
- Dating/Domestic Violence: probation through expulsion or termination.
- Sexual Exploitation: warning through expulsion or termination.
- Indecent Exposure: warning through expulsion or termination.
- Bullying and Intimidation: warning through expulsion or termination.
- Physical Assault: warning through expulsion or termination.
- Retaliation: warning through expulsion or termination.
- Unauthorized Disclosure: warning through expulsion or termination.
- Failure to Comply/Process Interference: warning through expulsion or termination.

#### **XI. Role of the Title IX Coordinator**

The Title IX Coordinator oversees the University's centralized review, investigation, and resolution of reports of sexual misconduct. The coordinator also coordinates the University's compliance with Title IX deputies, steering committee, Director of Public Safety, and Provost. The Title IX Coordinator can be contacted by telephone, email, or in person during regular office hours.

The Title IX Coordinator and Deputy Coordinator acts with independence and authority, free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this Policy and these procedures. Title IX Coordinators, investigators, adjudicators, advisors, case managers, and all other Title IX-related personnel are vetted and trained to ensure they are not biased for or against any party in a specific Complaint, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Title IX Coordinator, contact Dr. Delano M. Shane, Dean of Students and Title IX Coordinator. Concerns of bias, misconduct, discrimination, or a potential conflict of interest by any other Title IX-related personnel should be raised with the Title IX Coordinator.

Dean of Students and Title IX Coordinator  
Dr. Delano M. Shane  
(610) 341-5823  
email: [tix@eastern.edu](mailto:tix@eastern.edu)

The Title IX Coordinator is:

- Responsible for oversight of the investigation and resolution of all reports of sexual misconduct;
- Knowledgeable and trained in relevant state and federal laws and University policy and procedures;
- Available to advise any individual, including a Complainant, a Respondent, or a third party, about the courses of action available at the University, both informally and formally;
- Available to assist any University community member regarding how to respond appropriately to reports of sexual misconduct;
- Responsible for oversight of sexual violence prevention education and employee training;
- Responsible for monitoring full compliance with all requirements and timelines specified in the complaint procedures and
- Responsible for compiling annual and semiannual reports.

In addition, trained deputy Title IX Coordinators are also available to offer assistance.

Caroline Tate  
Deputy Title IX Coordinator for Faculty & Staff  
Chief Human Resources Officer  
610-341-1389  
[caroline.tate@eastern.edu](mailto:caroline.tate@eastern.edu)

Timothy Urner  
Deputy Title IX Coordinator-Investigator  
Assistant Director, Department of Public Safety  
610-341-1737  
[timothy.urner@eastern.edu](mailto:timothy.urner@eastern.edu)

## **XII. Supportive Measures**

The University is committed to treating all members of the community with dignity, care, and respect. Any community member affected by sexual misconduct, whether as a Complainant, Respondent, witness, or third party, will have equal access to support and counseling services through the University. The University recognizes that deciding whether to make a report and choosing how to proceed can be difficult decisions. The University encourages any individual who has questions or concerns to seek the support of campus and community resources. These professionals can provide information about available resources, procedural options, and assistance to any party in the event that a report and/or resolution under this policy are pursued. Individuals are encouraged to use all available resources, regardless of when or where the incident occurred and whether it is reported to the University or law enforcement.

Supportive measures are non-disciplinary, non-punitive individualized services that may be provided to parties upon request, when deemed by the Title IX Coordinator to be appropriate and reasonably available. Supportive measures may also be imposed at the initiative and in the sole discretion of the Title IX Coordinator. Supportive measures are available beginning at any time after the submission of a report of prohibited conduct. Supportive measures are highly subjective to the needs of the individuals involved and the circumstances presented, so for the best understanding of available options, community members are strongly encouraged to contact the Title IX office at 610-341-5823, Walton Hall, Room 200,

A Complainant may seek and be provided supportive measures prior to or without ever filing a formal complaint.

Supportive measures are designed to restore or preserve equal access to the University's educational programs and activities, without unreasonably burdening the other party. Supportive measures may be of any duration and may be modified at the discretion of the Title IX Coordinator, as circumstances warrant. Supportive measures will be kept confidential to the extent that doing so does not impair the University's ability to provide them.

Supportive measures may include, but are not limited to, the following:

- Access to counseling services;
- Extensions of deadlines or other course-related adjustments (with agreement of the faculty of the course);
- Modification of work or class schedules;
- Mutual restrictions on contact between the parties (i.e., contact restrictions);
- Changes in work or housing locations;
- Leaves of absence;
- Increased security and monitoring of certain areas; and/or
- Any other measures deemed appropriate by the Title IX Coordinator to preserve equal access to the University's programs and activities.

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing complaint under this Policy.

In general, all supportive measures that require action by the University are implemented through the Title IX Coordinator. The violence prevention advocate can also assist with referrals to medical assistance, counseling, campus resources, and provide detailed information about other supportive measures available.

The parties are provided with a timely opportunity to seek modification or reversal of the University's decision to provide, deny, modify, or terminate supportive measures applicable to them. A request to do so should be made in writing to the Title IX Coordinator. An impartial employee other than the employee who implemented the supportive measures, who has authority to modify or reverse the decision, will determine whether to provide,

deny, modify, or terminate the supportive measures if they are inconsistent with the Title IX regulatory definition of supportive measures. The University will also provide the parties with the opportunity to seek additional modification or termination of supportive measures applicable to them if circumstances materially change. The University typically renders decisions on supportive measures within seven (7) business days of receiving a request and provides a written determination to the impacted party(ies) and the Title IX Coordinator.

### **XIII. Pregnancy and Related Conditions**

#### **A. Non-Discrimination Statement**

Eastern University does not discriminate in its education program or activity against any applicant for admission, student, applicant for employment, or employee on the basis of current, potential, or past pregnancy or related conditions as mandated by Title IX of the Education Amendments of 1972 (Title IX). Eastern University prohibits members of Eastern University community from adopting or implementing any policy, practice, or procedure which treats an applicant for admission, student, applicant for employment, or employee differently on the basis of current, potential, or past parental, family, or marital status.<sup>3</sup> This policy and its pregnancy-related protections apply to all pregnant persons, regardless of gender identity or expression.

#### **B. Information Sharing Requirements**

Any Eastern University employee who becomes aware of a student's pregnancy or related condition is required to provide the student with the Title IX Coordinator's contact information and communicate that the Coordinator can help take specific actions to prevent discrimination and ensure equal access to Eastern University's education program and activity. If the employee has a reasonable belief that the Title IX Coordinator is already aware of the pregnancy or related condition, the employee is not required to provide the student with the Title IX Coordinator's contact information.

Upon notification of a student's pregnancy or related condition, the Title IX Coordinator will contact the student and inform the student of Eastern University's obligations to:

- Prohibit sex discrimination.
- Provide reasonable modifications.
- Allow access, on a voluntary basis, to any separate and comparable portion of the institution's education program or activity.
- Allow a voluntary leave of absence.
- Ensure lactation space availability.
- Maintain a Resolution Process for alleged discrimination.
- Treat pregnancy as comparable to other temporary medical conditions for medical benefit, service, plan, or policy purposes.

The Title IX Coordinator will also notify the student of the process to file a complaint for alleged discrimination, harassment, or retaliation, as applicable.

#### **C. Reasonable Modifications for Students**

Students who are pregnant or are experiencing related conditions are entitled to Reasonable Modifications to prevent sex discrimination and ensure equal access to Eastern University's education program and

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<sup>3</sup> "Title IX does not prohibit discrimination based on marital status *per se*, as discrimination based on marital status does not necessarily require consideration of a person's sex. Title IX does, however, prohibit a recipient from applying rules concerning marital status that treat individuals differently on the basis of sex (e.g., treating married women more or less favorably than married men, treating an unmarried mother worse than a married mother based on sex stereotypes, treating a man who is married to a man worse than a woman who is married to a man)." Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 89 F.R. 33474, April 29, 2024, codified at 34 C.F.R. 106.

activity. Any student seeking Reasonable Modifications must contact the Title IX Coordinator to discuss appropriate and available Reasonable Modifications based on their individual needs. Students are encouraged to request Reasonable Modifications as promptly as possible, although retroactive modifications may be available in some circumstances. Reasonable Modifications are voluntary, and a student can accept or decline the offered Reasonable Modifications. Not all Reasonable Modifications are appropriate for all contexts.

Reasonable Modifications may include:

- Breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom
- Intermittent absences to attend medical appointments
- Access to online or homebound education
- Changes in schedule or course sequence
- Time extensions for coursework and rescheduling of tests and examinations
- Allowing a student to sit or stand, or carry or keep water nearby
- Counseling
- Changes in physical space or supplies (for example, access to a larger desk or a footrest)
- Elevator access
- A larger uniform or other required clothing or equipment
- Other changes to policies, practices, or procedures determined by the Title IX Coordinator

In situations such as clinical rotations, performances, labs, and group work, the institution will work with the student to devise an alternative path to completion, if reasonable. In progressive curricular and/or cohort-model programs, medically necessary leaves are sufficient cause to permit the student to shift course order, substitute similar courses, or join a subsequent cohort when returning from leave. Students are encouraged to work with their faculty members and Eastern University's support systems to devise a plan for how to best address the conditions as pregnancy progresses, anticipate the need for leaves, minimize the academic impact of their absence, and get back on track as efficiently and comfortably as possible. The Title IX Coordinator will assist with plan development and implementation as needed.

Supporting documentation for reasonable modifications will only be required when it is necessary and reasonable under the circumstances to determine which reasonable modifications to offer to determine other specific actions to take to ensure equal access.

Information about pregnant students' requests for modifications will be shared with faculty and staff only to the extent necessary to provide the reasonable modification.

Students experiencing pregnancy-related conditions that manifest as a temporary disability under the Americans with Disabilities Act (ADA) or Section 504 of the Rehabilitation Act are eligible for reasonable accommodations just like any other student with a temporary disability. The Title IX Coordinator will consult with The Office of Disability and Access to ensure the student receives reasonable accommodations for their disability as required by law.

#### D. Certification to Participate

All students should be informed of health and safety risks related to participation in academic and co-curricular activities, regardless of pregnancy status. A student may not be required to provide health care provider or other certification that the student is physically able to participate in the program or activity, unless:

1. The certified level of physical ability or health is necessary for participation;
2. The institution requires such certification of all students participating; and



3. The information obtained is not used as a basis for pregnancy-related discrimination.
- E. Eastern University provides students and employees with access to lactation spaces that are functional, appropriate, and safe. Such spaces are regularly cleaned, shielded from view, and free from the intrusion of others.

Lactation spaces are located in the following locations:

Eagle Learning Center: 3rd floor, turn right when exiting the staircase or elevator

Harold Howard Center: 1st floor, outside of the 24-hour study room (HHC 118). Located under the staircase

## F. Leaves of Absence

### 1. Students

Students are permitted to take a voluntary leave of absence for a reasonable time as deemed medically necessary by their healthcare provider because of pregnancy and/or the birth, adoption, or placement of a child. The leave term may be extended in the case of extenuating circumstances or medical necessity. [Students who elect to take leave under this policy may register under an “on leave/inactive” status to continue their eligibility for certain benefits.] While registered under that status, students who choose to take a leave of absence under this policy can elect to keep their health insurance coverage and continue residing in Eastern University housing, subject to the payment of applicable fees.

To the extent possible, Eastern University will take reasonable steps to ensure that students who take a leave of absence or medical leave return to the same position of academic progress that they were in when they took leave, including access to the same or an equivalent course catalog that was in place when the leave began.

Continuation of students’ scholarships, fellowships, or similar Eastern University-sponsored funding during the leave term will depend on student registration status and the policies of the funding program regarding registration status. Students will not be negatively impacted by or forfeit their future eligibility for their scholarship, fellowship, or similar Eastern University-supported funding by exercising their rights under this policy.

The <<office>> can and will advocate for students with respect to financial aid agencies and external scholarship providers in the event that a leave of absence places eligibility into question.

In order to initiate a leave of absence, the student must contact the Title IX Coordinator at least 30 calendar days prior to the initiation of leave, or as soon as practicable. The Coordinator will assist the student in completing any necessary paperwork.

### 2. Employees

Information on employment leave can be found in the Staff Handbook.

If an employee, including a student-employee, is not eligible for leave under the aforementioned leave policy because they either (1) do not have enough leave time available under that policy, or (2) have not been employed long enough to qualify for leave under that policy, they are eligible to qualify for pregnancy or related condition leave under Title IX. Pregnancy and related conditions will be regarded as a justification for a leave of absence without pay for a reasonable period of time.

Employees who take leave under Title IX must be reinstated to the status held when leave began or a comparable position without negatively affecting any employment privilege or right.

- G. A copy of this policy will be made available to faculty and employees in annually required training and posted on the Eastern University website. Eastern University will alert all new students about this policy and its location as part of the orientation. The Title IX Office will make educational materials available to all members of the Eastern University community to promote compliance with this policy and familiarity with its procedures.

#### **XIV. Education and Prevention Programs**

Eastern University as a community is committed to the prevention of sexual misconduct through education and awareness programs. Throughout the year, programs designed to promote awareness are presented by a variety of inclusive campus resources. Eastern University's Title IX Coordinator works with the violence prevention advocate and other campus partners to tailor programming to meet campus needs and climate. Prevention and education programs include an overview of the University's policies and procedures; relevant definitions, including prohibited conduct; discussion of the impact of alcohol and illegal drug use; effective consent; safe and positive options for bystander intervention; and information about risk reduction, resources, and reporting options.

Incoming first-year students and new employees will receive primary prevention and awareness programming as part of their orientation. Returning students and employees will receive ongoing training on a periodic basis.

#### **XV. Emergency Support Services for Prohibited Conduct**

The University encourages all individuals to seek assistance from a medical provider and/or law enforcement as soon as possible after an incident of sexual misconduct. This option can provide for physical safety, emotional support, and medical care to the victim/survivor. It is the best option to ensure medical care, if necessary, and may assist in an investigation by preserving potential evidence. The University will offer to escort any Eastern community member to a safe place, provide transportation to the hospital, assist in coordination with law enforcement, and provide information about the University's resources and complaint processes.

Assistance is available from the University and Radnor law enforcement 24 hours a day, year-round, by calling the Department of Public Safety and/or the Radnor Police Department. Any individual can request that a member of the Department of Public Safety and/or Radnor Police respond and take a report. The University can also assist individuals in obtaining a Protection from Abuse (PFA) order, Sexual Violence Protection order, or Protection from Intimidation order (for minors) from local Pennsylvania authorities. The University can also assist with obtaining orders outside of Pennsylvania. We request that all University community members who obtain a protection order notify public safety to enable the University to provide appropriate assistance. The University will comply with and implement applicable restrictions described in any court-issued protection order. An individual can also contact a campus Health Center nurse or nurse practitioner (during the academic year) and/or a local medical provider 24 hours/day.

Emergency Response Resources: Department of Public Safety  
610-341-1737/publicsafety@Eastern.edu  
Eagle Learning Center; Ground Floor Rear, St. Davids, PA

Public Safety officers are available 24/7/365 to respond to emergency/crisis incidents and non-emergency reports. Public Safety staff can assist with medical escorts, connecting students after hours, the on-call division of student affairs staff, or an on-call nurse. They can help by contacting the Radnor Police Department to make a report to law enforcement or obtain a Protection from Abuse order.

911 or Radnor Police Department, 301 Iven Avenue, Wayne, PA 19087, Monday thru Friday  
8:00 AM to 4:00 PM  
610-688-5600

Delaware County Women Against Rape (WAR)  
610-566-4342 (24-hour hotline)

Domestic Abuse Project of Delaware County (DAP)  
610-565-6272 or 610-565-4590 (24-hour hotline)

### On-Campus Resources

#### *Confidential Resources*

For individuals who are seeking confidential consultation and support, there are several resources available on campus. The trained professionals designated below can provide counseling, information, and support under legally protected confidentiality. Because these relationships involve privileged conversations, these confidential resources will not share information with the Title IX Coordinator or any other employee of the University without the individual's express permission. They may, however, submit non-identifying aggregate information (nature, date, time, and general location of the incident) about the incident for purposes of making a statistical report under the Clery Act.

Cushing Center for Counseling & Psychological Support (CAPS) 210 Walton Hall, 1300 Eagle Road, St. Davids, PA 19087 Hours: Mon- Fri- 8:30am - 5pm  
(Limited evening hours by appointment.)  
Phone: 610-341-5837 | Fax: 610-225-5036 | E-mail: [caps@eastern.edu](mailto:caps@eastern.edu)

Student Health Center  
Doane Hall A, Ground Floor Rear, 1300 Eagle Road, St. Davids, PA 19087 610-341-5955 (daytime) | 610-710-9583 (weekdays 4:00 pm – 8:00 pm) | Email: [healthcenter@eastern.edu](mailto:healthcenter@eastern.edu)

Student health and wellness is available during business hours Monday through Friday (during the academic year) to assist students as a confidential resource. The student health and wellness confidential staff includes: counselor, nurse, and physicians.

In case of emergency: contact public safety at 610-341-1737 or dial 911  
CAPS offers a wide range of free and confidential services in a safe space to help students who have experienced violence or trauma of any kind. Initial consultation, individual and group counseling, crisis intervention, and support are available. In the event of an acute psychological crisis, consultation is available on a walk-in basis during open hours, or by proceeding to Resident Directors and/or Public Safety after hours.

Office of Faith and Practice | Joseph B. Modica, Ph.D.  
University Chaplain, Walton Hall, 2nd Floor | Office: 610-341-5826 | Email: [jmodica@eastern.edu](mailto:jmodica@eastern.edu)

These individuals act as religious counselors to provide spiritual guidance along with confidential support on a range of matters. In this policy, "religious counselor" is synonymous with "pastoral counselor" as defined by the U.S. Department of Education and refers to a person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor. (See The Handbook for Campus Safety and Security Reporting, U.S. Department of Education, p. 77, 2011.)

### Additional Campus Resources

In addition to the confidential resources listed above, Eastern community members have access to a variety of resources provided by the University. The professionals listed below are trained to support individuals affected by sexual misconduct and to coordinate with the Title IX Coordinator consistent with the University's commitment to a safe and healthy educational environment. While not bound by confidentiality, these resources will maintain the privacy of an individual's information within the limited circle of those involved in the Title IX resolution process.

Public Safety Director

Michael Bicking

Eagle Hall

Ground Floor Rear

Phone: 610-341-1737

[michael.bicking@Eastern.edu](mailto:michael.bicking@Eastern.edu)

Student Development Division

The Eastern University division of student affairs oversees the academic support, residential, and social resources available to students at the University. Students are encouraged to reach out to the staff of the division for academic affairs and support, and disability services. A student's dean can help them access all resources in the division of student affairs.

Department of Public Safety

Public safety officers are available 24/7/365 to respond to emergency/crisis incidents as well as non-emergency reports. Public safety staff can assist with medical escorts, connecting students to the on-call division of student affairs staff, or an on-call nurse. They can provide assistance by contacting Radnor Police Department to make a report to law enforcement or obtain a Protection from Abuse order.

## Off-Campus Resources

### *Community Medical Providers*

A medical provider, such as Bryn Mawr Hospital, Riddle Memorial Hospital, Crozer-Chester Medical Center, or Springfield Hospital, can provide emergency and/or follow-up medical services and provide a forum to discuss any health care concerns related to the incident in a confidential medical setting. These are the current local hospitals, which identify as having Sexual Assault Nurse Examiners (SANE) trained to work to collect evidence in a manner consistent with evidence-collecting requirements in Pennsylvania.

If the incident involves a sexual assault that happened within 72 to 96 hours, the victim/survivor has the option and is encouraged to have evidence collected and preserved by a Sexual Assault Nurse Examiner (SANE) at a local hospital. Preserving the evidence can be used if the victim/survivor chooses to seek resolution through the campus complaint process or take criminal action. If the victim/survivor chooses to have evidence collected, they can be escorted to the nearest hospital by the Department of Public Safety or will be transported by taxi (voucher provided by either student health and wellness or public safety) to the medical provider of the victim/survivor's choice. The victim/survivor can later return to student health and wellness for follow-up medical care.

Under Pennsylvania law, a medical provider may be required to notify law enforcement of a sexual assault under certain circumstances. The medical provider, however, will share limited information with law enforcement, and a Complainant may decline to speak with a law enforcement officer or participate in a

criminal prosecution. The medical provider will typically also notify the local rape crisis-counseling center, Delaware County Women Against Rape (WAR).

Bryn Mawr Hospital (484) 337-3000, S. Bryn Mawr Ave. | Bryn Mawr, PA 19010. ·

Lankenau Medical Center, (484) 476-2000, 100 E. Lancaster Ave, Wynnewood, PA 19096 ·

Springfield Hospital 610-328-8700, 190 W. Sproul Road, Springfield, Pa. 19064

Mazzoni Center 215-563-0652 or 215-563-0658 (<http://mazzonicenter.org>)

A lesbian, gay, bisexual, and transgender (LGBT) health care and wellness center with two locations in Center City Philadelphia. At its location on 21 S. 12th St., 8th floor, this organization provides counseling and behavioral health, case management, legal services, prevention and education, housing, and food-bank services. Its location on 809 Locust Street in Philadelphia provides comprehensive primary health care services focusing on the needs of LGBT individuals.

#### *Off-Campus Confidential Resources*

Delaware County Women Against Rape (WAR)

Phone: 610-566-4342 (24-hour hotline)

Offers comprehensive direct services to victims/survivors of sexual assault including a 24-hour hotline, accompaniment services, counseling services, and assistance with victim compensation. All direct victim services are free and confidential.

Domestic Abuse Project (DAP) of Delaware County

Phone: 610-565-4590 | 14 West Second St., Media, Pa. 19063

DAP provides immediate crisis intervention, safety planning, and information and referral on their 24/7 hotline. Staff offers short and long-term supportive/educational counseling, as well as therapeutic counseling designed to address the emotional barriers around abuse.

#### *Off-Campus Legal Assistance*

Equality Pennsylvania & Equality Advocates Pennsylvania

Phone: 215-731-1447 | 1211 Chestnut Street, Suite 605, Philadelphia, Pa. 19107

Delaware County Bar Association

Phone: 610-566-6625 | 335 W Front Street, Media, Pa. 19063

Legal Aid of Southeastern Pennsylvania

Phone: 610-436-4510 | 222 N. Walnut Street, Second Floor, West Chester, Pa. 19380

Philadelphia Legal Assistance

Phone: 215-981-3800 | 718 Arch Street, Suite #300N, Philadelphia, Pa. 19106

Women Against Abuse Legal Center

Phone: 215-686-6311, ext. 19217

Women's Law Project

Phone: 215-928-980 | 125 South 9th Street, Suite #300, Philadelphia, Pa. 19107

## **XVI. Standard of Proof**

Eastern University uses the preponderance of the evidence standard of proof when determining whether a Policy violation occurred. This means that the University will decide whether it is more likely than not, based upon the available information at the time of the decision, that the Respondent is in violation of the alleged Policy violation(s).

## **XVII. Reporting**

- A) Overview. The University encourages all community members to report prohibited conduct in order to obtain assistance and maintain a safe campus environment. As outlined above in Section XII.C of this Policy, the University encourages all individuals to immediately seek assistance from law enforcement, public safety, a medical provider, and/or a violence prevention advocate. All Eastern community members, even those who are not obligated by this Policy, are strongly encouraged to report information regarding any incident of prohibited conduct to the Title IX Coordinator. 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.

The Title IX Coordinator is charged with responding to allegations of sexual misconduct to stop the behavior, prevent its recurrence, and remedy its effects. Specifically, the Title IX Coordinator, or their designee, will coordinate the initial assessment, offer resources and support, and initiate an investigation when appropriate and/or requested.

- B) How to Report. Any person may report conduct constituting possible prohibited conduct to the Title IX Coordinator in person, by mail, by telephone, by email or via the online reporting form. The Title IX Coordinator will promptly contact the Complainant to discuss the availability of supportive measures (see Section XII) and to explain the process for filing a formal complaint (if applicable). Reporting parties are not required to proceed with a formal complaint to access supportive measures.

Anonymous reporting is permitted via the online reporting form. Depending on the information provided, the University's ability to take action in response to an anonymous report may be limited.

If the Complainant desires to proceed with a formal complaint, the Title IX Coordinator or designee will initiate the applicable procedures. If the Complainant decides not to submit a formal complaint, the Title IX Coordinator may sign a formal complaint when the Title IX Coordinator deems an investigation is necessary to address the prohibited conduct, including in order to provide a safe and nondiscriminatory environment for all members of Eastern University's community. In deciding whether to sign a complaint, if the Complainant elects not to do so, the Title IX Coordinator may, but is not required to, consider factors such as whether the conduct alleged included threats, violence, serial predation, or weapons. A Complainant is not required to submit a formal complaint in order to receive supportive measures.

- C) Reports to Authorized and Responsible Employees – There may be instances when a student or employee discloses alleged prohibited conduct to an employee of Eastern University. Whether that disclosure constitutes actual notice to the University, triggering its response obligations under this Policy, depends on the role of the employee to whom the disclosure is made, as follows:
- D) Authorized Employees – A disclosure or report of prohibited conduct made to an authorized employee (regardless of whether the disclosure is made by the Complainant or a third party) constitutes a report to

the University (i.e., actual knowledge), triggering a response under this Policy. All authorized employees are required to promptly report disclosures of prohibited conduct to the Title IX Coordinator, including all information that has been disclosed to the authorized employee, such as the names of those involved, the location of the incident, the alleged prohibited conduct, etc. The following individuals are authorized employees:

- Title IX Coordinator
- Director for Public Safety
- President
- Chief Human Resource Officer
- Vice President for Student Development

- E) Responsible Employees – With the exception of those employees who have recognized confidentiality, all faculty and staff members of the University are designated as responsible employees. Student-employees who serve as resident advisors, student academic mentors, and student chaplains members are also designated as responsible employees because of the unique functions of their student employment role. All responsible employees are required to share with the Title IX Coordinator a report of prohibited conduct about which they become aware. These employees must promptly share all details of the reports they receive.

All students and employees, even if not authorized or responsible employees, are encouraged to report instances of possible prohibited conduct to the Title IX Coordinator.

The University will generally not investigate information and statements provided in classroom writing assignments or discussions, research projects, or community public awareness events related to issues of sexual misconduct, unless the Complainant clearly indicates that they wish a report to be made. During such situations and if appropriate, the Title IX Coordinator or designee will provide the person making the statement with campus and community resources.

Those employees with reporting obligations do not need to report when incidents of sexual misconduct are communicated during a classroom discussion, in a writing assignment for a class, or as part of a research project.

- F) Making a Report vs. Filing a Complaint – A report is defined as notification of an incident of prohibited conduct to the Title IX Coordinator by any responsible employee or reporting person. A report may be accompanied by a request for resources, no further action, adaptable remedies, and/or to initiate a formal complaint process. Filing a complaint is the request to initiate the University's formal disciplinary process.

At the time a report is made, a reporting person does not have to decide whether to file a complaint. The University recognizes that not every individual will be prepared to file a complaint with the University or law enforcement, and individuals are not expected or required to pursue a specific course of action. Choosing to make a report and deciding how to proceed after making the report can be a process that unfolds over time. To the extent possible, the University will respect an individual's autonomy in making these important decisions and provide support that will assist each individual in making that determination. A report may become a complaint, either initiated by the Complainant or the Title IX Coordinator.

To file a complaint, please contact the Title IX office located at Student Development, Walton 200.

- G) Emergency Removal – If at any point following the receipt of a report of prohibited conduct, the University determines that the Respondent poses an immediate threat to the physical health or safety of the Complainant or any other person(s), including the Respondent, the University may immediately and

temporarily remove the Respondent from any or all of its programs or activities. The imposition of an emergency removal does not suggest a finding of responsibility for any prohibited conduct.

Before imposing an emergency removal of a student, the university designated emergency team will undertake an individualized safety and risk analysis concerning the Respondent at the request of the Title IX Coordinator. The designated emergency removal team is composed of the student conduct administrator and the director of public safety. A designated emergency removal will be imposed only if the emergency removal team concludes that the threat to physical health or safety arises from the allegations of prohibited conduct and warrants the removal.

An emergency removal may involve the denial of access to some or all of the University's campus facilities, academic program, or other programs or activities. While the University may provide alternative academic or employment opportunities during an emergency removal, it is not required to do so. Non-punitive actions taken as supportive measures (e.g., changes in housing) do not constitute emergency removals.

The Title IX Coordinator will notify the Respondent of the terms imposed in connection with an emergency removal. The Respondent has the opportunity to challenge the emergency removal upon receipt of that notice. In order to challenge the emergency removal, the Respondent shall submit an appeal via email to the Title IX Coordinator within three (3) calendar days from the date of the notice of emergency removal, explaining why emergency removal is not appropriate. The Title IX Coordinator may seek additional information from the Respondent or any other individual in evaluating the appeal. The emergency removal will remain in place while the appeal is pending. The Title IX Coordinator will issue a decision as soon as possible under the circumstances. The decision is final and not subject to further appeal.

Separate from the emergency removal process, the Title IX Coordinator may request that an employee-Respondent be placed on administrative leave, with or without pay.

- H) Federal Timely Warning Obligation – The University must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the University community. The University will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.
- I) Reporting to Law Enforcement – In addition to a University response, the University also encourages Complainants to pursue criminal action for incidents of prohibited conduct that may also be crimes under Pennsylvania criminal statutes or the applicable criminal statute of the jurisdiction. The University will assist a Complainant, at their request, in contacting local law enforcement and will cooperate with law enforcement agencies if a Complainant decides to pursue the criminal process to the extent permitted by law.

Except where the Complainant is younger than 18 years old, the University will generally respect a Complainant's choice to report an incident to local law enforcement, unless the University determines that there is an overriding issue with respect to the safety or welfare of the University community. Where a report involves suspected abuse of a minor younger than 18, the University is required by state law to notify law enforcement and/or the Pennsylvania Department of Public Welfare Division of Child Welfare Services.

The University's policy, definitions, and burden of proof may differ from Pennsylvania criminal law. A Complainant may seek resolution through the University's complaint process, may pursue criminal action, may choose one but not the other, or may choose both. Neither law enforcement's determination to prosecute a Respondent nor the outcome of any criminal prosecution is determinative of whether



prohibited conduct has occurred under this Policy. Proceedings under the Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings and such timing will be determined by the Title IX Coordinator in consultation with campus partners.

- J) Third-Party Reporting – Any individual may make a report concerning an act of prohibited conduct. An individual who is not a responsible employee may report the incident without disclosing or identifying parties involved. Depending on the level of information available about the incident or the individuals involved, the University may be limited in its ability to respond.

The University has created an online reporting form, which can be found on the University's website. All reports of prohibited conduct will go to the Director of Public Safety and the Title IX Coordinator who will coordinate to review and appropriate response and action. The Title IX Coordinator or their designee will respond to all reports submitted. The University will ensure that third-party reports are reviewed and considered for compliance with the Clery Act.

## **XVIII. Reporting Considerations**

### **A) Timeliness of Report, Location of Incident**

Reporting parties and third-party witnesses are encouraged to report prohibited conduct as soon as possible in order to maximize the University's ability to respond promptly and effectively. The University does not, however, limit the timeframe for reporting. If the Respondent is no longer a student or employee, the University may not be able to take disciplinary action against the Respondent, but it will still seek to meet its Title IX obligation by taking steps to end the behavior, prevent its recurrence, and address its effects. An incident does not have to occur on campus to be reported to the University. Off-campus conduct is covered under this policy.

### **B) Amnesty for Personal Use of Alcohol or Other Drugs**

The University seeks to remove any barriers to reporting. The University will generally offer any student, Complainant, third party, and/or witness who reports prohibited conduct limited immunity from being charged for violations related to the University's alcohol or other drugs policy, provided that any such violations did not and do not place the health and safety of any person at risk. The University may choose, however, to recommend educational and/or therapeutic remedies in certain situations.

### **C) Preservation of Evidence**

The preservation of evidence is critical to potential criminal prosecution and to obtaining restraining/protective orders, and it is particularly time sensitive. Eastern University will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

#### **Sexual Assault**

- Seek forensic medical assistance at the nearest hospital, ideally within 120 hours of the incident (sooner is better).
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or a secure evidence container (if provided one by law enforcement)
- Seeking medical treatment can be essential, even if it is not for the purpose of collecting forensic evidence.

### Stalking/Dating Violence/Domestic Violence/Sex-Based Harassment

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
  - Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
  - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).
- Save copies of email and social media correspondence, including notifications related to account access alerts.
- Take time-stamped photographs of any physical evidence, including notes, gifts, etc., in place when possible.
- Save copies of any messages, including those showing any request for no further contact.
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

During the initial meeting between the Complainant and Title IX Coordinator, the importance of taking these actions will be discussed, if timely.

#### D) Statement against Retaliation

As stated above, retaliation is a violation of University policy. The University recognizes that retaliation can take many forms, may be committed by or against an individual or a group, and that all parties to a complaint, including the Complainant and Respondent, as well as third parties such as witnesses may be the subject of retaliation by another individual. All such forms of retaliation are prohibited and should a Complainant, Respondent, or third party suspect retaliation they are encouraged to report the behavior to the Title IX Coordinator. 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.

#### E) False Reporting

The allegation of sexual misconduct 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.

#### F) Reports Involving Minors

Any Eastern University employee who has reasonable cause to suspect abuse of a child (an individual under the age of 18) that the employee has come into contact with during the course of employment must make a report to the Pennsylvania Department of Public Welfare division of Child Welfare Services. This requirement applies to an employee's suspicion of past or present abuse of a person who is a child at the time of the report. All other members of the Eastern University community (students, visitors, guests, etc.) are strongly encouraged to report whenever child abuse is suspected.

In the interest of protecting the safety and welfare of a child, any uncertainty about whether reporting is required or whether abuse has actually occurred should always be resolved in favor of making a report. Do not investigate, attempt to obtain proof, or try to solicit information from the child. This responsibility lies with the Pennsylvania Department of Human Services. If the child is in immediate danger, please call 911

immediately.

Follow these steps to make an immediate and direct report of suspected child abuse to the Pennsylvania Department of Human Services and to the University:

Submit an online report (preferred method) to the Pennsylvania Department of Human Services at [www.compass.state.pa.us/cwis](http://www.compass.state.pa.us/cwis) or call Pennsylvania's Child Line at 800-932-0313 (alternative method). Please Note: If you call Childline, you must also submit a written report within 48 hours.

Call Eastern University Department of Public Safety (610-341-1737) to inform director of public safety Michael Bicking, who serves as the University's designee for receiving reports of child abuse. The director of public safety will inform the appropriate University officials in order to ensure the safety of the Eastern University Community. Internal reports will be handled with discretion and in cooperation with the state's Department of Public Welfare or local authorities.

- G) Reporting to External Agencies. Inquiries or complaints about the University's response to a discrimination complaint or its application of Title IX may be directed to one of the following external agencies:

U.S. Department of Education, Office for Civil Rights, 215-656-8541, [OCR.Philadelphia@ed.gov](mailto:OCR.Philadelphia@ed.gov)

U.S. Equal Employment Opportunity Commission, 1-800-669-4000

PA Human Relations Commission, 215-560-2496

- H) Timeframes for Resolution

The University seeks to resolve all complaints of prohibited conduct in a thorough, impartial, and unbiased manner. The duration of the investigation is strongly influenced by the availability and/or responsiveness of all involved parties, the complexity of the circumstances of the complaint, and the University's academic calendar. Best efforts will be made to complete the process in a timely manner, without unreasonable delay, by balancing principles of thoroughness and impartiality with promptness.

At the request of law enforcement, the University may agree to defer its fact-gathering until after the initial stages of a criminal investigation. The University will nevertheless communicate with the Complainant regarding Title IX rights, procedural options, and the implementation of supportive measures to ensure safety and well-being. The University will promptly resume its fact-gathering as soon as law enforcement has completed its initial investigation.

## **XIX. Resolution Procedures**

The University has jurisdiction over prohibited conduct and may take disciplinary action against a Respondent who is a current student or employee. Disciplinary action against a Respondent may only be taken through one of the University's resolution procedures.

Because the relationship of students, staff, and faculty to the University differ in nature, the procedures that apply when seeking disciplinary action also differ. Each of the procedures, however, is guided by the same principles of impartiality and respect for all parties, which require notice, an equitable opportunity to be heard, and an equitable opportunity to respond to a report under this Policy. The University will provide a prompt, unbiased, and impartial process from the initial assessment to the final outcome.

All staff involved with the resolution processes, including investigators, deputies, case managers, and

adjudicators, receive inclusive annual training on the issues related to dating violence, domestic violence, sexual assault, sexual harassment, and stalking, as well as how to investigate and adjudication process that protects the safety of victims and promotes accountability. The procedure followed will be determined by the relationship of the Respondent to the University and whether or not the alleged conduct is covered under Title IX:

Complaints against a student will be resolved by the Procedures for Resolution of Title IX

Complaints against Students or the Procedures for Resolution of University-Defined Sexual Misconduct Against Students.

Complaints against a staff member, instructional staff member, including faculty will be resolved by the Procedures for Resolution of Title IX Complaints against Faculty/Staff or the Procedures for Resolution of University-Defined Sexual Misconduct against Faculty/Staff.

Even if the offending individual is not a student or employee, the University will promptly and equitably respond to all reports of prohibited conduct to eliminate the misconduct, prevent its recurrence, and address its effects on any individual or the community.