



## **Title IX Procedures Rights and Responsibilities**

### **For both Complainant and Respondent**

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#### **Rights:**

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment, discrimination, and/or retaliation made in good faith to Eastern officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information by Eastern regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released by Eastern to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by Eastern officials.
- The right to have Eastern policies and procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by Eastern officials from reporting sexual harassment, discrimination, and/or retaliation to both on-campus and off-campus authorities.
- The right to be informed by Eastern officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by Eastern in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report.
- The right to have allegations of policy violations responded to promptly and with sensitivity by Eastern law enforcement and/or other Eastern officials.
- The right to be informed of available supportive measures, such as counseling, advocacy, health care, student financial aid, and/or other services, both on campus and in the community.

Individuals can receive counseling by contacting the following resources:

- Family Crisis Center Outreach (Grant, Hardy, Hampshire, Mineral and Pendleton Counties at (800) 698-1240
- Women's Aid in Crisis - Tucker County at (304) 636-8433
- 24-Hour Domestic Violence Hotline at 1-888-880-7884
- National Domestic Violence Hotline at 1-800-799-SAFE

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- The right to file for a personal safety order if you are a victim of:
  - A sexual offense or attempted sexual offense;
  - Stalking; or
  - Repeated credible threats of bodily injury.

You do not need to have a specific relationship with the abuser to file for a personal safety order. In fact, if the abuser is a family or household member or someone with whom you have/had an intimate relationship, you would file for a domestic violence protective order instead of a personal safety order.

You can also file for a personal safety order on behalf of a minor child or an incapacitated adult if you are the parent, guardian, or custodian of that person. W. Va. Code § 52-8-1(7); 53-8-4(a); W. Va. Code §§ 53-8-1(4); 53-8-4(a).

- The right to be informed of available assistance in changing academic and/or working situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either institutional or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:
  - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
  - Exam, paper, and/or assignment rescheduling or adjustment
  - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
  - Transferring class sections
  - Temporary withdrawal/leave of absence (may be retroactive)
  - Alternative course completion options
- The right to have Eastern maintain such actions for as long as necessary and for supportive measures to remain confidential, provided confidentiality does not impair the Eastern's ability to provide the supportive measures.
- The right to receive sufficiently advanced, written notice of any college meeting or interview involving another party, when possible.
- The right to identify and have the Investigator(s), Advisors, and/or Decision-maker(s) question relevant available witnesses, including expert witnesses.
- The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Decision-maker(s), may be asked of any party or witness.
- The right to have inadmissible sexual predisposition/prior sexual history or irrelevant character evidence excluded by the Decision-maker(s).
- The right to know the relevant and directly related evidence obtained and to respond to that evidence.
- The right to a fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.

- The right to receive a copy of all relevant and directly related evidence obtained during the investigation, subject to privacy limitations imposed by state and federal law, and a ten (10)-business-day period to review and comment on the evidence.
- The right to receive a copy of the final investigation report, including all factual, policy, and/or credibility analyses performed, and to have at least ten (10) business days to review and comment on the report prior to the hearing.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged policy violations addressed by Investigators, the Title IX Coordinator, and Decision-maker(s) who have received at least eight hours of relevant annual training.
- The right to preservation of confidentiality/privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any Eastern representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the Resolution Process.
- The right to the use of the appropriate standard of evidence, preponderance of the evidence, to make a Finding and Final Determination after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any hearing.
- The right to be promptly informed of the finding(s) and sanction(s) (if any) of the Resolution Process and a detailed rationale of the decision (including an explanation of how credibility was assessed) in a written Notice of Outcome letter delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by Eastern is considered final and any changes to the Final Determination or sanction(s) that occur post Notification of Outcome.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the Resolution Process and the procedures for doing so in accordance with the standards for appeal established by Eastern.
- The right to a fundamentally fair resolution as defined in college policies and procedures.

### **Responsibilities**

- To cooperate with the investigation so it can be fair, accurate, and thorough.
- To be truthful.
- To comply with any directives/orders issued for safety reasons.
- To report any new concerns or problems – particularly any retaliation.
- To promptly notify the Title IX Coordinator if there is a conflict of interest or bias with the assigned Investigator(s) or Decision-maker(s).
- Parties are free to pursue criminal remedies. File a police report or seek a personal safety/
  - protective order if you feel unsafe or if you are the victim of a crime on any of Eastern's locations. The College will not take a position regarding any criminal case but will

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cooperate with law enforcement investigations and will respond to court-issued filings as appropriate.

- Grant County Sheriff's Office - (304) 257-1818
  - Hampshire County Sheriff's Office - (304) 822-3894
  - Hardy County Sheriff's Office - (304) 530-0222
  - Mineral County Sheriff's Office - (304) 788-0441
  - Pendleton County Sheriff's Office - (304) 358-2214
  - Tucker County Sheriff's Office - (304) 478-2321
  - West Virginia State Police, Troop 2, Moorefield Detachment – (304) 538-2925
- Parties are free to pursue civil remedies. You may contact your own attorney about how to file a lawsuit or contact your local courthouse for detailed information about lawsuits. The College will not take sides in civil litigation but will respond to court-issued filings as appropriate.

**Importance of Preserving Evidence** - Victims are often concerned about how the costs of a sexual assault forensic examination will be covered. The West Virginia Forensic Medical Examination Fund was established by the state legislature (WVC§61-8B-16) to pay for "all reasonable and customary costs of a forensic medical examination." No payment from the fund is provided for non-forensic procedures or treatment—therefore, victims will most likely be responsible for any medical treatment, either through private pay or private insurance. Victims who report the assault to law enforcement within 72 hours (unless just cause exists) can apply to the West Virginia Crime Victims Compensation Fund for reimbursement of out-of-pocket medical costs.

Having a forensic exam does not require a police report, but a forensic exam can help preserve evidence. Such evidence may be useful in obtaining a protection order or in proceeding with a criminal investigation should you choose to do so.

Medical exams can also address other physical needs or trauma and assess for sexually transmitted infections or pregnancy.

If possible, please do not bathe, douche, smoke, use the toilet or clean the location where the incident occurred. Save items you were wearing, sheets, or towels in a paper bag. Text messages, records of phone calls, emails, pictures, notes, and gifts can all be pertinent for a report of sexual assault, dating violence, domestic violence or stalking.