



Title IX Handbook

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Welcome to Elim Bible Institute and College (EBIC)! While your time on campus should be all about growing your faith, academics, and campus life, as young adults there may arise situations where you need to know, understand, and take action if violations of EBIC policies occur or if you are a victim or witness of sexual assault or related misconduct.

Sexual misconduct, including sexual assault, dating violence, domestic violence, and stalking is unacceptable on college campuses. This is directly addressed by the U.S. Department of Education §34 C.F.R. 106 and New York State law Articles 129-A and B.

As new or returning students to campus, please be sure to read this Title IX Handbook and familiarize yourself with the terminology, definitions, differences between privacy and confidentiality, where to get help, reporting options and guidelines, interim measures and accommodations taken to assure your safety, situations where institutions must act whether you consent or not, and other important information.

FOR IMMEDIATE HELP: To report a sexual assault, you can call the EBIC Emergency Phone at 585-355-1428, the Title IX Coordinator at 585-497-7979, the State Police, call the dedicated 24-hour hotline at 1-844-845-7269. In an emergency, call 911. For confidential support resources, call the New York State Domestic and Sexual Violence Hotline at 1-800- 942-6906.

What is Title IX? Protections defined in the U.S. Department of Education §34 C.F.R. 106. New York State has created a similar law in Articles 129-A and B. EBIC adopts and fully incorporates these protections which “...apply regardless of race, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction; and apply regardless of whether the violation occurred on campus, off campus, or while studying abroad.” The law dictates the verbiage and content of this document other than EBIC’s policy on sexuality and drugs and alcohol.

How does it affect me? As a college student The U.S. Department of Education and New York State are determined to stamp out sexual assault on campuses of higher education institutions. Hopefully, your college experience will be filled with seeking God on a higher level, academic success, and personal growth. On occasion, students hear about violations of the Code of Conduct or unfortunate events as a result of sexual assault, dating violence, domestic violence, stalking or more. This law is intended to protect victims, reporting individuals, and the rights of respondents with policies and due process that help to enforce the law. Further, students may find themselves in the position of a bystander and would be afforded certain protections under this law that they should be educated about as well.

EBIC’s Statement on Sexuality: EBIC believes that human sexuality is a gift of God.

EBIC chooses to affirm its goodness and to exercise it within the guidelines set by God in the Scriptures. EBIC reserves the right to counsel and, in some cases, take disciplinary action against students who overstep these Scriptural guidelines.

EBIC has adopted a position on sexuality that is higher than what the Affirmative Consent and Responsible Employees laws require regarding premarital sexual engagement. EBIC believes God has

reserved the most intimate of sexual relationships for the marriage union between a man and a woman. It is, therefore, not only a violation of our social policy but also of God's law to engage in such behavior outside of the marriage covenant.

The EBIC administration seeks to create a healthy and safe community for all members to pursue their education, work, and life. Sexual violence, Sexual harassment, and any interpersonal violence is contrary to a Christian lifestyle, as well as, federal and state laws. Therefore, such activities are not tolerated on the EBIC campus. EBIC will offer resources to any victims and survivors of such violence while taking administrative and conduct action regarding any accused individual within its jurisdiction.

Such activity is contrary to our goal of encouraging behavior that respects each person's dignity and will be investigated by the administration and dealt with applicable campus sanctions and law enforcement.

EBIC's Statement on Drugs and Alcohol: EBIC recognizes the danger to one's physical and psychological well-being, as well as the well-being of others, in the non-medical or recreational use of certain substances and is therefore, designated "Drug Free". Members of EBIC community are to abstain from the use of any alcoholic beverages, controlled substances, marijuana, hallucinogens, depressants, stimulants, and narcotics, unless prescribed by a physician. It is unlawful to sell, furnish, or provide alcohol to a person under the age of 21. The possession of alcohol by anyone under 21 years of age in a public place or a place open to the public is illegal. All of the above substances are not to be personally used, possessed, manufactured, sold, or distributed on or away from the campus.

Organizations, groups, or people violating alcohol/substance policies or laws may be subject to sanctions by the College and reporting to law enforcement officials.

What is consent? Affirmative Consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to other sexual activity. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent may be initially given but withdrawn at any time. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm. When consent is withdrawn or can no longer be given, sexual activity must stop.

Some Other Key Definitions to Know:

"Accused" shall mean a person accused of a violation who has not yet entered an institution's judicial or conduct process.

"Respondent" shall mean a person accused of a violation who has entered an institution's judicial or conduct process.

“Reporting individual” shall encompass the terms victim, survivor, complainant, claimant, witness with victim status, and any other term used by an institution to reference an individual who brings forth a report of a violation.

“Bystander” shall mean a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of the EBIC Student Handbook.

“Bystander intervention” are safe and positive actions to prevent harm or intervene when there is a risk posed to another person. Bystander intervention includes recognizing situations of potential harm, identifying safe and effective intervention options, and taking action to intervene.

“Institution” shall mean Elim Bible Institute and College, also known as EBIC.

“Code of Conduct” shall mean any written adopted by the institution governing student behavior, rights, and responsibilities while such student is matriculated at EBIC.

“College official” refers to any person employed by EBIC to perform administrative or instructional duties.

“Title IX Coordinator” shall mean the Title IX Coordinator and/or his or her designee or designees.

- Higher education institutions receiving federal funding are required to designate a coordinator who is responsible for ensuring the school complies with Title IX.
- Individuals serving in this role are the key to helping create a campus that is free from sexual violence and discrimination and that welcomes and supports all students.
- Title IX Coordinators oversee the prompt investigation of complaints alleging sexual harassment; review findings as to whether sexual harassment occurred; review proposed remedies (including interim measures) necessary to address the sexual harassment, eliminate any hostile environment, and prevent its reoccurrence; and serve as consultants to any disciplinary hearing panel where sexual harassment has been determined to have occurred to ensure EBIC’s compliance with Title IX.

“Domestic violence” means violence of any kind committed by the victim's current or former spouse, current or former cohabitant, current or former partner, or any person similarly situated under domestic or family violence law. Violence includes, but is not limited to, physical, verbal, or emotional abuse. This refers to a domestic relationship where the parties are related or in close relationship.

“Dating violence” means violence by a person who is in a romantic or intimate relationship with the victim. Violence includes, but is not limited to, sexual, verbal, or physical abuse, or the threat of such abuse. This refers to people in a casual relationship.

“Stalking” When a person intentionally, and not for a legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know, that such conduct:

- Is likely to cause reasonable fear of harm to the physical health, safety, or property of such a person, a member of such person’s immediate family or a third party with whom such person is acquainted;
- Causes harm to the mental or emotional health of such person, where such conduct consists of the following: telephoning or initiating communication or contact with such a person, a member

of such person's immediate family or a third party with whom such a person is acquainted, and the actor was previously clearly informed to cease that conduct;

- Is likely to cause such a person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning, or initiating communication or contact at such a person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

"Sexual activity" shall have the same meaning as "sexual act" and "sexual contact" as provided in 18 U.S.C. 2246(2) and 18 U.S.C. 2246(3).

"Sexual assault" means any nonconsensual sexual act proscribed by Federal or State law, including when the victim lacks capacity to consent.

"Sexual harassment" is unwelcome, gender-based verbal or physical conduct that is sufficiently severe, persistent or pervasive that it unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the college's educational program and/or activities, and is based on power differentials (quid pro quo), the creation of a hostile environment, or retaliation.

Is there a difference between privacy and confidentiality? They sound like the same thing. This is a very important question.

"Privacy" may be offered by an individual when such individual is unable to offer confidentiality under the law but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with this and other applicable laws, including informing appropriate institution officials. Institutions may substitute another relevant term having the same meaning, as appropriate to the policies of the institution.

- Most employees at an institution are required to report known incidents of sexual assault, or other crimes, so they are not confidential resources. Still, most college employees can offer "privacy." Privacy is the default. It means that an employee may have to share information pursuant to federal or state law or college policy with certain other college employees, but they will not share the private information beyond what is required or needed to comply with law and policy and will otherwise limit redisclosure as much as possible. They may not however, offer true confidentiality

"Confidentiality" may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to institution officials, in a manner consistent with state and federal law, including but not limited to 20 U.S.C. 1092(f) and 20 U.S.C. 1681(a). Licensed mental health counselors, medical providers, and pastoral counselors are examples of institution employees who may offer confidentiality.

- Confidentiality is a defined term under the statute, and the obligation to keep information in confidence is inherent for certain professionals on campus, such as health care providers, licensed social workers, licensed psychologists and pastoral and professional counselors (including licensed mental health counselors). Many off-campus resources such as rape crisis centers are also confidential, and with the exception of certain child abuse and imminent threats, individuals working in such organizations have no obligation to report information back to the reporting individual's campus.

Maintaining Confidentiality: During an investigative and conduct process, the institution will seek to maintain the confidentiality of the victim, perpetrator, and other necessary parties as much as possible without restricting the investigative process. The following guidelines will be utilized for this endeavor:

- The Title IX Coordinator will contact the least number of individuals during the investigated process.
- The Deans' Department will handle accommodations directly with Campus Life as needed, who will not designate responsibility to others in the department.
- The Conclusion of a report and investigative process will be finalized quietly, no public announcement will be made regarding the situation, unless it is necessary to notify the campus for an on-going threat.
- The Clery Act Statistics and Reports will include only the situation without any identifiable information about the victim or other parties involved.

Relevant Policies and Information

Elim Bible Institute and College has Policies, which apply equally to all students regardless of sexual orientation, gender identity, or gender expression, addressing:

- Title IX Policy
- Title IX Coordinator policy
 - Houses the Title IX Coordinator's responsibilities
- Sexual Violence Response policy
 - Houses information about resources including intervention and mental health counseling and associated costs, as well as additional resources.
- Options for Confidentiality Disclosing Sexual Violence policy
 - Houses information about confidentiality, confidential resources, protection and accommodations, and the Student Conduct Process
- Prohibition of Sexual Harassment policy
- Conduct policy
- Discipline Sanctions policy

Elim Bible Institute and College has relevant information at: Elim.edu

If you are having trouble finding these resources, you can ask your Resident Advisor or a member of the Deans' Department.

Creating a Healthy Culture: Reducing the Risk of Assault and Violence

Creating a healthy culture by abiding by Elim Bible Institute and College's policies on sexuality, drugs and alcohol, fostering a Christian atmosphere by honoring and living EBIC's Statement of Faith, Core Values, Code of Conduct, Student Handbook, and developing relationships and communication with trusted friends and family both on and off campus is paramount to reducing risk of assault and violence on campus.

- As part of the campus community, individuals are encouraged to discuss personal challenges, negative experiences, and relationships with their Resident Advisors and the Deans' Department.
- Students can bring personal relationship issues and situations they witness to leadership to help individuals through situations that might cultivate an unhealthy relationship or environment.

- Creating a healthy culture is important to everyone's success here at EBIC. Your Deans are here for you so please feel comfortable to come to us with anything knowing we are here to listen and offer support.

Self-Awareness and Personal Responsibility are important steps in reducing risks. This is in no way placing blame or finding fault or minimizing past experiences that people face.

The victim is never responsible for another's actions!

EBIC encourages people to clearly, firmly, and directly tell someone when they are doing something that makes them uncomfortable. We are our own best advocate. If you ever feel unsafe approaching someone, then go to campus safety, one of the Deans, or the Title IX Coordinator for help. If you feel you are in immediate danger, call 911.

Steps that potential victims can take to lower the risk of incidents:

- Communicate clearly and firmly with someone whose actions you do not want at the very first occurrence,
- Do not send mixed messages and maintain an atmosphere of distance once you have said no,
- Be aware of how you interact with those around you,
- Honor EBIC's Student Handbook by not drinking or using drugs and abstaining from sexual conduct of any kind.

Steps that potential perpetrators can take to lower the risk of incidents:

- Be aware of your actions and how they affect those around you,
- Listen and adjust your behavior if you are told no. Respect that no.
- Honor EBIC's Student Handbook by not drinking or using drugs and abstaining from sexual conduct of any kind.

Steps bystanders can take to lower the incidents:

- Be aware of your surrounding and those around you,
- Know and understand EBIC's Student Handbook.

Everyone is encouraged know your resources and speak up should you see something that violates the Student Handbook, Article 129-B, or any law, and to utilize the availability of institution officials who can answer general or specific questions about risk reduction. Trust your gut, if something does not feel right, often it is not. Go and tell someone you trust, your Resident Advisor, one of the Deans, the Title IX Coordinator, but when in doubt, it is better to tell someone who can help you make the decision on how best to proceed.

Bystander Intervention

Know the Warning Signs of Abusive Behavior

- Intervention Steps
 - Notice the incident
 - Determine if the situation is an emergency
 - Take responsibility to intervene

- Use bystander intervention strategies:
 - Direct (Approach and address the situation directly)
 - Distract (Cause a distraction to interrupt the situation)
 - Delegate (Ask for help or call authorities)

Bystanders may call the Safety Phone 585-355-1428 if they need an authority to intervene immediately in a situation they are witnessing.

What is the Student's Bill of Rights?

"All students have the right to:

- Make a report to local law enforcement and/or state police;
- Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
- Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution (Note: Students have three options: (1) notify proper law enforcement authorities, including on-campus and local police; (2) be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and (3) decline to notify such authorities. This is required under the Clery Act, 20 U.S.C. section 1092 (f)(8)(B)(iii)(III)(aa)-(cc) and institutions must be neutral in the students' decision-making.)
- Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
- Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
- Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
- Be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
- Access to at least one level of appeal of a determination;
- Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
- Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution."

What is the College's policy on alcohol and drug use amnesty?

"The health and safety of every student at the Elim Bible Institute and College is of utmost importance. Elim Bible Institute and College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Elim Bible Institute and College

strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials...

- A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to Elim Bible Institute and College officials or law enforcement will not be subject to Elim Bible Institute and College's Student Handbook action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault."

Elim Bible Institute and College strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials.

Signs of an Abusive Relationship (include but are not limited to)

- Tells you that you can never do anything right
- Shows extreme jealousy of your friends and time spent away
- Keeps you or discourages you from seeing friends or family members
- Insults, demeans, or shames you with put-downs
- Controls every penny spent in the relationship
- Looks at you or acts in ways that scare you
- Prevents you from making your own decisions
- Pressures you to engage in sexual activity when you don't want to or makes you feel uncomfortable
- Pressures you to use drugs or alcohol

Signs of Physical Abuse (include but are not limited to)

- Pulling your hair, punching, slapping, kicking, biting, or choking you
- Forbidding you from eating or sleeping

Signs of Emotional / Verbal Abuse (include but are not limited to)

- Calling you names, insulting you, or continually criticizing you
- Refusing to trust you and acting jealous or possessive
- Trying to isolate you from family or friends
- Monitoring where you go, who you call, and with whom you spend time
- Punishing you by withholding affection
- Humiliating you in any way
- Blaming you for the abuse
- Accusing you of cheating and being often jealous of your outside relationships
- Attempting to control your appearance: what you wear, how much/little makeup you wear, etc.
- Telling you that you will never find anyone better, or that you are lucky to be with a person like him or her
- You're always apologizing to your partner
- You frequently make excuses for your partner's behavior to friends and family

Am I being stalked?

Stalking can include:

- Repeated, unwanted, intrusive, and frightening communications from the perpetrator by phone, mail, and/or e-mail.
- Repeatedly leaving or sending the victim unwanted items, such as, presents, or flowers.
- Following or lying in wait for the victim at places such as home, school, work, or recreation place.
- Making direct or indirect threats to harm the victim, the victim's children, relatives, friends, or pets.
- Damaging or threatening to damage the victim's property.
- Harassing victim through the Internet.
- Posting information or spreading rumors about the victim on the Internet, in a public place, or by word of mouth.
- Obtaining personal information about the victim by accessing public records, using Internet search services, hiring private investigators, going through the victim's garbage, following the victim, contacting victim's friends, family, work, or neighbors, etc.

What to do if you are being stalked:

- Trust your instincts!
- Victims of stalking often feel pressured by friends or family to downplay the stalker's behavior, but stalking poses a real threat of harm.
- Your safety is paramount! Call the police if you feel you are in any immediate danger, otherwise report it to the Deans' Department.
- Explain why even some actions that seem harmless—like leaving you a gift—are causing you fear.
- Keep a record or log of each contact with the stalker.
- Stalkers often use technology to contact their victims. Save all e-mails, text messages, photos, and postings on social networking sites as evidence of the stalking behavior.

What are my rights if I am a reporting individual? Should you find yourself in a situation that may fall under the U.S. Department of Education §34 C.F.R. 106 and/or the Enough is Enough statute, it is important that you review section the laws. In part, reporting individuals have the right to:

- Notify campus safety, the Deans' Department, local law enforcement, and/or state police;
- Have emergency access to a Title IX Coordinator or other appropriate official trained in interviewing victims of sexual assault who shall be available upon the first instance of disclosure by a reporting individual to provide information regarding options to proceed, and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible, and detailing that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney. Such official shall also explain whether he or she is authorized to offer the reporting individual confidentiality or privacy, and shall inform the reporting individual of other reporting options;

- Disclose confidentially the incident to institution representatives, who may offer confidentiality pursuant to applicable laws and can assist in obtaining services for reporting individuals;
- Disclose confidentially the incident and obtain services from the state or local government;
- Disclose the incident to institution representatives who can offer privacy or confidentiality, as appropriate, and can assist in obtaining resources for reporting individuals;
- File a report of sexual assault, domestic violence, dating violence, and/or stalking and the right to consult the Title IX Coordinator and other appropriate institution representatives for information and assistance. Reports shall be investigated in accordance with institution policy and a reporting individual's identity shall remain private at all times if said reporting individual wishes to maintain privacy;
- Disclose, if the accused is an employee of the institution, the incident to the institution's human resources authority or the right to request that a confidential or private employee assist in reporting to the appropriate human resources authority;
- Receive assistance from appropriate institution representatives in initiating legal proceedings in family court or civil court; and
- Withdraw a complaint or involvement from the institution process at any time.
- At the first instance of disclosure to an institution representative, be presented with the following information: “You have the right to make a report to the Elim Bible Institute and Colleges’ Safety Office; local law enforcement, and/or state police or choose not to report; to report the incident to your institution; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from your institution.”

What interim measures and accommodations can be made to assure my safety if I report?

To ensure that you are safe from further harm, some of the interim measures and accommodations that the institution can take include:

- The issuance of a “No Contact” order so that the respondent must stay away from the victim or reporting individual;
- If the accused or respondent and a reporting individual observe each other in a public place, it shall be the responsibility of the accused or respondent to leave the area immediately and without directly contacting the reporting individual.
- Both the accused or respondent and the reporting individual shall, upon request and consistent with institution policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of a no contact order, including potential modification, and shall be allowed to submit evidence in support of his or her request.
- Institutions may establish an appropriate schedule for the accused and respondents to access applicable institution buildings and property at a time when such buildings and property are not being accessed by the reporting individual;
- To be assisted by the institution’s campus safety forces, if applicable, or other officials in obtaining an order of protection or, if outside of New York state, an equivalent protective or restraining order;
- To receive a copy of the order of protection or equivalent when received by an institution and have an opportunity to meet or speak with an institution representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the accused’s responsibility to stay away from the protected person or persons;
- To an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension;

- To receive assistance from campus security in effecting an arrest when an individual violates an order of protection or, if university police or campus security does not possess arresting powers, then to call on and assist local law enforcement in effecting an arrest for violating such an order, provided that nothing in this article shall limit current law enforcement jurisdiction and procedures;
- When the accused or respondent is a student determined to present a continuing threat to the health and safety of the community, to subject the accused or respondent to interim suspension pending the outcome of a judicial or conduct process consistent with this article and the institution's policies and procedures. Both the accused or respondent and the reporting individual shall, upon request and consistent with the institution's policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of an interim suspension, including potential modification, and shall be allowed to submit evidence in support of his or her request;
- When the accused is not a student but is a member of the institution's community and presents a continuing threat to the health and safety of the community, to subject the accused to interim measures in accordance with applicable collective bargaining agreements, employee handbooks, and rules and policies of the institution;
- To obtain reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation or other applicable arrangements in order to help ensure safety, prevent retaliation and avoid an ongoing hostile environment, consistent with the institution's policies and procedures.

As an institution of higher education, the College respects the proposition that students may learn from mistakes and become better and more mature adults. Thus, the institution will permit students subject to interim suspensions to submit evidence worthy of reconsideration. These requests would go to the Dean of Students office with supporting documentation. Students should be their best advocates, but the overriding concern is always that the campus is safe and secure for all of its constituents and interim suspensions issued to achieve this will not be reversed absent compelling documentary evidence.

Additional Rights required by the law for every student.

The right to request that student conduct charges be filed against the accused in proceedings governed by the U.S. Department of Education §34 C.F.R. 106, the NYS Enough is Enough law, and the procedures established by the institution's rules.

The right to a process in all student judicial or conduct cases, where a student is accused of sexual assault, domestic violence, dating violence, stalking, or sexual activity that may otherwise violate the institution's code of conduct, that includes, at a minimum: (i) notice to a respondent describing the date, time, location and factual allegations concerning the violation, a reference to the specific code of conduct provisions alleged to have been violated, and possible sanctions; (ii) an opportunity to offer evidence during an investigation, and to present evidence and testimony at a live hearing, where appropriate, and have access to a full and fair record of any such hearing, which shall be preserved and maintained for at least seven years from such a hearing and may include a transcript, recording or other appropriate record. At the live hearing, the decision-maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.; and (iii) access to at least one level of appeal of a determination before a panel, which may include one or more students, that is fair and impartial and does not include individuals with a conflict of interest. In order to effectuate an appeal, a respondent and reporting individual in such

cases shall receive written notice of the findings of fact, the decision and the sanction, if any, as well as the rationale for the decision and sanction. In such cases, any rights provided to a reporting individual must be similarly provided to a respondent and any rights provided to a respondent must be similarly provided to a reporting individual.

Throughout proceedings involving such an accusation of sexual assault, domestic violence, dating violence, stalking, or sexual activity that may otherwise violate the institution's code of conduct, the right:

- For the respondent, accused, and reporting individual to be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process. Rules for participation of such advisor shall be established in the code of conduct.
- To a prompt response to any complaint and to have the complaint investigated and adjudicated in an impartial, timely, and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the respondent, including the right to a presumption that the respondent is "not responsible" until a finding of responsibility is made pursuant to the provisions of this article and the institution's policies and procedures, and other issues including, but not limited to domestic violence, dating violence, stalking or sexual assault.
- To an investigation and process that is fair, impartial and provides a meaningful opportunity to be heard, and that is not conducted by individuals with a conflict of interest.
- To have the institution's judicial or conduct process run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than ten days except when law enforcement specifically requests and justifies a longer delay.
- To review and present available evidence in the case file, or otherwise in the possession or control of the institution, and relevant to the conduct case, consistent with institution policies and procedures.
- To exclude their own prior sexual history with persons other than the other party in the judicial or conduct process or their own mental health diagnosis and/or treatment from admittance in the institution disciplinary stage that determines responsibility. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction.
- To receive written or electronic notice, provided in advance pursuant to the college or university policy and reasonable under the circumstances, of any meeting they are required to or are eligible to attend, of the specific rule, rules or laws alleged to have been violated and in what manner, and the sanction or sanctions that may be imposed on the respondent based upon the outcome of the judicial or conduct process, at which time the designated hearing or investigatory officer or panel shall provide a written statement detailing the factual findings supporting the determination and the rationale for the sanction imposed.
- To make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.
- To simultaneous (among the parties) written or electronic notification of the outcome of a judicial or conduct process, including the sanction or sanctions.
- To be informed of the sanction or sanctions that may be imposed on the respondent based upon the outcome of the judicial or conduct process and the rationale for the actual sanction imposed.
- To choose whether to disclose or discuss the outcome of a conduct or judicial process.

- To have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.

So what do I do first if something happens?

Your health and welfare are of paramount importance. You should seek **immediate medical attention** if you are injured or if you are in **immediate danger** call 911.

It is recommended that you take the time to review your options and be aware of what information you will be asked to provide as well as understand the circumstances when the institution may be obliged to investigate even if you change your mind or do not consent.

Procedures for Victims of Alleged Violence, Assault, or Stalking

- Victims or bystanders should contact the Title IX Coordinator by phone, email, in-person, or any other means to talk about their concerns. All formal concerns must be made in writing.
- The Title IX Coordinator will offer options on how a victim can move forward in the process as they desire. If needed, EBIC has a Title IX Complaint Form to file a report.
- Victims will have access to the following information on:
 - Students Rights
 - The Reporting Process
 - Preserving Evidence
 - Student Conduct Process
 - Judicial Process
 - Counseling Services
 - Accommodations and Protection Orders
- The Title IX Coordinator will stress the importance of preserving evidence in a timely manner, even if the victim chooses not to pursue judicial process yet.
- The Title IX Coordinator will also ensure the victim is heard, cared for, and understands that all proceedings are at the discretion of the victim. The victim has the right not to pursue student conduct or judicial process against the perpetrator.
- When a sexual assault victim contacts the Campus Security or the Advisory Committee, the Title IX Coordinator will be notified; and when appropriate, the local or State Police Sexual Assault Victims Unit will be contacted.
- The particular process for the victim will depend on how they choose to proceed:
 - The victim has the right to pursue school conduct or judicial proceedings,
 - The victim has the right to make a report to local and state law enforcement and to have assistance in this process by the institution.
 - The victim has the right not to pursue anything.
- The Title IX Coordinator will be the primary guide through this process; however, a victim may choose to have another advocate with them throughout the entire process.

What is the institution's policy about notating student transcripts about student conduct under U.S. Department of Education §34 C.F.R. 106 and NYS Education Law, Article 129-B?

For crimes of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII), institutions shall make a notation on the transcript of students found responsible after a conduct process that they were "suspended after a finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation." For the respondent who withdraws from the institution while such conduct charges are pending, and declines to complete the disciplinary process, institutions shall make a notation on the transcript of such students that they "withdrew with conduct charges pending." Each institution shall publish a policy on transcript notations and appeals seeking removal of a transcript notation for a suspension, provided that such notation shall not be removed prior to one year after conclusion of the suspension, while notations for expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

Does the College have a Memorandum of Understanding, Agreement or Collaborative Partnership with any existing community-based organizations, including rape-crisis centers and domestic violence shelters and assistance organizations?

EBIC has these listed in the Sexual Violence Response policy and on Medical References posted in the Dorms and in the Student Center.

What types of Student onboarding and ongoing education are provided? What is the manner and method for providing training? What topics will be covered?

Training and education are provided in a variety of ways at available throughout the academic year. The topics mandated by law and will be covered include:

- The institution prohibits sexual and interpersonal violence and will offer resources to any victims and survivors of such violence while taking administrative and conduct action regarding any accused individual within the jurisdiction of the institution;
- The definitions of sexual assault, domestic violence, dating violence, stalking, confidentiality, privacy, consent and others;
- That these policies apply equally to all students regardless of sexual orientation, gender identity, or gender expression;
- What the role is of the Title IX Coordinator, university police or campus security, and other relevant offices that address domestic violence, dating violence, stalking, and sexual assault prevention and response on campus is;
- Understanding and recognizing the impact of violence on victims and survivors and their friends and family, and its long-term impact;
- Bystander intervention and the importance of taking action to prevent violence when one can safely do so; and risk assessment and reduction including, but not limited to, steps that potential victims, perpetrators, and bystanders can take to lower the incidence of violations.
- This may contain information about

- the dangers of drug and alcohol use, including underage drinking and binge drinking,
- involuntary consumption of incapacitating drugs and the danger of mislabeled drugs and alcohol,
- the importance of communication with trusted friends and family whether on campus or off campus, and
- the availability of institution officials who can answer general or specific questions about risk reduction; and
- consequences and sanctions for individuals who commit these crimes and code of conduct violations.

Here are some links to websites that may help further educate individuals about risk reduction:

Center for Disease Control and Prevention – Sexual Violence: Prevention Strategies

<https://www.cdc.gov/violenceprevention/sexualviolence/prevention.html>

RAINN (Rape, Abuse & Incest National Network) <https://www.rainn.org/>

What are the evidentiary standards in the disciplinary, grievance, N.Y.S. Education Law, Article 129-B, Title IX of the Education Amendments of 1972, and Federal/State Penal Codes?

Students/employees should be apprised of the different standards applied to the evidence submitted in various instances by the appropriate judicial bodies when making decisions.

For complaints, charges, or incidents that fall under the EBIC Code of Conduct and may be general discipline or grievance matters, the preponderance of the evidence standard is applied or a more likely than not standard based on the evidence submitted.

For complaints, misconduct, or reports that may fall under the EBIC Code of Conduct and may be deemed to be either sexual harassment, sexual assault or any type of domestic violence, dating violence, stalking and/or sexual assault, the standard applied is a preponderance of the evidence standard.

For criminal conduct, violent crimes etc. subject to the Penal Codes, a beyond the reasonable doubt will be applied by the local, state or federal governing body but this is outside the scope of EBIC.

Further, students are advised that in some instances should certain conduct be deemed to be a violation of the Code of Conduct and be treated as a disciplinary matter, that will occur separately from any other proceeding being investigated as either a Title IX U.S. Department of Education §34 C.F.R. 106 violation, Article 129-B violation and/or as a criminal matter subject to investigation by police or other investigation outside of the institution's disciplinary scope.

Additional Resources:

Here is the link to The U.S. Department of Education §34 C.F.R. 106:

<https://www.ecfr.gov/current/title-34/subtitle-B/chapter-I/part-106>

Here is the link to the NYS Education law, Article 129-B, Enough is Enough:

http://assembly.state.ny.us/leg/?default_fld=%0D%0A&bn=a8244&term=2015 &Summary=Y&Text=Y

And to the NYSED guidance document (which helps explain the above-mentioned law):
<http://www.highered.nysed.gov/ocue/documents/Article129-BGuidance.pdf>

Reporting Information Summarized

If you are in an immediate threat of harm call 911.
If you are hurt seek medical attention immediately.

If you believe you are a victim of any kind of sexual harassment or violence, or you have witnessed something you believe is sexual harassment or violence you have the right to:

1. Report to College: You have the right to report the incident to EBIC, the Deans' Department, Title IX Coordinator, or Campus Safety. All formal reports must be made in writing and a Dean or the Title IX Coordinator can help you with that;
2. Report to Law Enforcement: You have the right to make a report to local law enforcement and/or state police;
3. Not to Report: You may choose not to report, or your report may be withdrawn at any time;
4. Retaliation: You have the right to be protected by EBIC from retaliation for reporting an incident; and
5. Resources: You have the right to receive assistance and resources from your institution.

On campus resources, please contact:

- EBIC Campus Safety Coordinator 585-497-7921
- Title IX Coordinator 585-497-7979
- The Dean of Students' Office Ms. Cassie 585-497-7979 or Pastor Tim 585-582-8241

Preserve as much DNA as possible, do not shower, use the bathroom, wash your clothes, eat or drink, comb your hair, or do anything to alter your physical appearance until after physical exam.

Within 96 hours of an assault, you can get a Sexual Assault Forensic Examination (commonly referred to as a rape kit.)



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