

### **5.23 Sexual Misconduct/Title IX/Campus SaVE Act**

Under Title IX, and as standard for the Student Code of Conduct, East Mississippi Community College (EMCC) will not tolerate and prohibits sexual assault and all forms of sexual misconduct including intimate partner violence, stalking, dating violence, sexual violence, sexual harassment, and domestic violence offenses. These acts are against Mississippi State Law.

In publishing this policy the College is not intending to substitute or supersede related civil and/or criminal law. It should be clearly understood that there is a fundamental difference between the nature and purpose of student discipline and criminal law. Criminal law considers gross sexual assault and unlawful sexual contact to be serious crimes that are punishable by imprisonment in jail and/or probation. It also involves creation of a criminal record and may include a monetary fine.

All students, faculty, and staff, as well as members of the public participating in College activities have the right to an environment free from sexual or physical intimidation that would prevent a reasonable person from attaining educational goals or living and working in a safe environment.

If there is reason to believe that EMCC campus regulations prohibiting sexual misconduct in any form have been violated, on or off-campus, the administration will pursue disciplinary action through the appropriate College procedures. Moreover, this policy does not differentiate the types of offenses based on the kind of relationship between the individuals. EMCC complies with its obligation to investigate and resolve concerns of all forms of sexual misconduct regardless of whether or not a formal complaint is filed, in order to maintain a non-discriminatory and respectful educational environment.

This policy is intended to provide more detailed information about how EMCC handles these matters and is not intended to replace the EMCC Student Code of Conduct or EMCC Sexual Harassment Policy.

***Students and members of the faculty and staff who report violations included in this policy will be given a copy of this document and will be advised of all options available to them. EMCC officials will respect the student's right to confidentiality to the extent permitted under college and legal regulations. This document can also be found on the college's website at [www.eastms.edu](http://www.eastms.edu).***

## **I. DEFINITION OF VARIOUS TERMS OF SEXUAL MISCONDUCT**

### **A. Sexual Assault:**

Sexual assault is a general term which covers a range of crimes. For the purposes of this statement by the College, “sexual assault” includes, but is not limited to rape, acquaintance rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery or threat of sexual assault. Rape is generally defined as forced or nonconsensual sexual intercourse. Non-consensual sexual intercourse may take many forms including, but not limited to, rape by a stranger, an acquaintance, while on a date; rape by multiple perpetrators (often referred to as “gang rape”), and may occur both on and off campus. Rape may be accomplished by fear, threats of harm, and/or actual physical force. Rape may also include situations in which penetration is accomplished when the victim is unable to give consent, or is prevented from resisting, due to being intoxicated, drugged, unconscious, or asleep. It also includes various types of unwanted sexual touching or penetration without consent. Sexual assault includes forced sodomy, forced oral copulation, rape by a foreign object, and sexual battery, the unwanted touching of an intimate part of another person for the purpose of sexual arousal.

### **B. Intimate Partner Violence:**

This term is defined to mean any physical, sexual, or psychological harm against an individual by a current or former partner or spouse of the individual. It would include rape, acquaintance rape, stalking, dating violence, sexual violence, or domestic violence.

### **C. Sexual Harassment:**

Sexual harassment is a form of sex discrimination and a violation of title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972. Sexual harassment has two key categories: quid pro quo (loosely translated as “this for that”) and hostile environment. Often sexual harassment involves relationships of unequal power and contains elements of coercion, as when compliance with requests for sexual favors becomes a criterion for granting work, study, or grading benefits. However, sexual harassment may also involve relationships among equals, as when repeated sexual advances or demeaning verbal behaviors have a harmful effect on a person’s ability to study or work in an academic setting.

In compliance with federal and state law, EMCC defines sexual harassment as follows:

*“Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:*

- *Submission to such conduct is made either explicitly or implicitly as a term or condition of instruction, employment, or participation in other College activity;*
- *Submission to or rejection of such conduct by an individual is used as a basis for evaluation in making academic or personnel decisions affecting an individual; or*
- *Such conduct has the purpose or effect of unreasonably interfering with an individual’s performance or creating an intimidating, hostile, or offensive College environment.”*

#### **D. Sexual Exploitation:**

Sexual Exploitation occurs when a person takes non-consensual, unfair, or abusive sexual advantage of another for his/her own advantage or benefit; or to benefit or advantage anyone other than the one being exploited. This behavior must not otherwise constitute a violation of sexual assault or sexual harassment. Examples of sexual exploitation include, but are not limited to, prostituting another student, non-consensual video or audio-taping of sexual activity, presentation or unauthorized viewing of such recordings, going beyond the boundaries of consent (such as letting your friends watch you having consensual sex without the knowledge or consent of your sexual partner), engaging in peeping tommy, and knowingly transmitting an STD or HIV to another student.

#### **E. Stalking**

Stalking is a criminal activity consisting of the repeated following and harassing of another person. It is a distinctive form of criminal activity composed of a series of actions that taken individually might constitute legal behavior. For example, sending flowers, writing love notes, and waiting for someone outside of his/her workplace or classroom are actions that, on their own, are not criminal. When these actions are coupled with intent to instill fear or injury, however, they may constitute a pattern of behavior that is illegal. A person who intentionally and repeatedly follows or harasses another person and who makes credible threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm is guilty of the crime of stalking.

#### **F. Consent:**

Consent must be informed, freely and actively given, and consist of a mutually agreeable and understandable exchange of words or actions. Any consent that is given is invalid when the exchange involves unwanted physical force, coercion, intimidation, and/or threats. If an individual is mentally or physically incapacitated or impaired such that one cannot understand the fact, nature or extent of sexual situation, and the incapacitation or impairment is known or should be known to reasonable person, there is no consent. This includes conditions resulting from alcohol or drug consumption, or being asleep or unconscious.

#### **G. Sexual Violence:**

A term that is used to refer to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability.

#### **H. Stranger Rape:**

Stranger rape is defined as a sexual assault by an assailant upon a person he or she does not know or a rape in which the victim does not know the rapist.

#### **I. Acquaintance Rape:**

The most prevalent form of sexual assault on a college campus is between two people who know each other. The acquaintance may be a date, partner, or someone known casually from a residence hall, class, club, or through mutual friends.

## **J. Bystander Intervention:**

A course of action that may be carried out by an individual to prevent harm or intervene where there is a risk or an act of violence.

## **III. WHAT TO DO IF YOU ARE VICTIM OF SEXUAL MISCONDUCT**

Any individual who is a victim of sexual misconduct should follow these procedures immediately:

- Go to a safe place.
- Do not hesitate. If on campus, contact appropriate authorities and if during off hours, contact campus police at 662-386-8011, any security guard located in the female residence halls, or dial 911.
- Call a friend, a Campus Security Agent (CSA), a family member, or someone else you trust and ask her or him to stay with you.
- It is important for the victim to preserve the evidence if she/he intends to pursue criminal charges.
- Do not shower, bathe, douche, or brush his/her teeth, and save all clothing worn at the time of the assault.
- Place each item of clothing in a separate paper bag. Do not use plastic bags.
- Do not disturb anything in the area where the assault occurred.
- Go immediately to see medical personnel.

*The following clinics or hospitals will be able to assist you:*

- Scooba Clinic-Scooba, MS (During normal hours of operation)
  - John C. Stennis Hospital-DeKalb, MS
  - Rush Foundation Hospital-Meridian, MS
  - Anderson Regional Medical Center-Meridian, MS
  - Baptist Memorial Hospital-Columbus, MS
  - Oktibbeha County Hospital-Starkville, MS
  - North Mississippi Medical Center-West Point, MS
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- If you suspect that you may have been given a rape drug, ask the hospital or clinic where you receive medical care to take a urine sample. The urine sample should be preserved as evidence. Rape drugs, such as Rohypnol and GHB, are more likely to be detected in urine than in blood.
  - If the student has not seen the medical personnel at the time of the complaint, the student will be immediately advised to do so. The College will provide transportation to the hospital, if needed.
  - Write down as much as you can remember about the circumstances of the assault, including a description of the assailant.
  - Talk with a counselor who is trained to assist rape victims about the emotional and physical impacts of the assault. You can call a hotline, a rape crisis center, or a counseling agency to find someone who understands the trauma of rape and knows how to help.

#### **IV. VICTIM'S REPORTING OPTIONS**

EMCC strongly encourages individuals to report all incidents and violations of this nature to the Office of Dean of Students, law enforcement officials, and/or appropriate College officials in order for these incidents to be properly addressed and for victims to avail themselves of all the services and rights to which they are entitled.

Any member of the EMCC community can file a report with an appropriate College official. If a victim shares an incident of sexual misconduct with an appropriate College official, he/she needs to know that it is the College official's responsibility to notify the Dean of Students office of this incident immediately.

In addition, it is the victim's rights to notify law enforcement and to be assisted by College officials in doing so. Thus, it is the victim's right to decide whether or not to involve law enforcement. Declining the involvement of law enforcement does not prevent the victim from receiving assistance from the College. A victim also has the right to use the College's procedures in addition to filing a criminal complaint.

##### **Reporting Timeframe:**

Any individual may file a complaint of sexual misconduct at any time. Early reporting is encouraged to preserve evidence and provide the victim with information regarding rights, options, and resources available to them by this policy and federal/state laws.

##### **Reporting Options:**

###### **1. Official Reporting**

All EMCC students are strongly encouraged to make an official report of any incident of sexual misconduct to the Dean of Students office whether the incident occurred on or off campus. Official reporting initiates a course of immediate action and the College's Student Conduct process.

The complaint can be filed directly to the Dean of Students via a written statement or an appointment. Once a complaint has been submitted, the Dean of Students, a designee by the Dean, or a campus police officer will conduct intake interviews and fact-finding interviews with appropriate parties involved and follow the processes outlined in the Student Conduct process. Each complaint will be investigated promptly and appropriate corrective actions will be taken.

###### **2. Confidential Disclosure**

EMCC also offers confidential reporting through Counseling Services to

- A. Weigh options and associated risks
- B. Discuss possible next steps, and
- C. Obtain information about available resources and services.

*No one is expected or required to pursue a specific course of action with this option.*

**Sexual Misconduct Amnesty Clause:**

The Dean of Students office offers immunity (Amnesty) to students who may have violated the Student Code of Conduct's Alcohol or Drug Policy at the same time of the incident when he or she became a victim of or is reporting of sexual misconduct. Therefore, no alcohol or drug charges are applied to a student who reports that he or she was under the influence of alcohol and/or drugs at the time of a sexual misconduct.

The purpose of this clause is to encourage reporting. Victims or bystanders (witnesses) should not let his or her use of alcohol or drugs be a deterrent to reporting an incident. When conducting the investigation, the College's primary focus will be on addressing the sexual misconduct violation and not on alcohol/drug violations that may be discovered or disclosed. However, the College may provide referrals to counseling and may require educational options, rather than disciplinary sanctions, in such cases.

**Bystander Intervention:**

The same above mentioned reporting options are available for bystanders as well. These are safe and positive options for bystanders who intervened during an incident in order to prevent harm when there was a risk or an act of violence. EMCC strongly encourages bystanders to step up on behalf of another person's well-being and safety.

**SART (Sexual Assault Response Team)**

**Scooba Campus**

Tony Montgomery-Dean of Student Affairs	(662) 476-5062
LaPari Morant-Asst. Dean of Student Affairs	(662) 476-5062
Dr. Paul Miller-District Title IX Coordinator	(662) 243-1900
Maggie Dale-Counselor	(662) 476-5048
Steve Windish-Asst. Police Chief	(662) 476-5115

**Golden Triangle Campus**

Cathy Kemp, Dean of Student Affairs	(662) 243-1979
Dr. Paul Miller, District Title IX Coordinator	(662) 243-1900
Yolandra Beck, Counselor	(662) 243-1900
Chuck Dawkins, Campus Police	(662) 243-1990

**Columbus Air Force Base Extension**

Jackie Newton-Director	(662) 434-2660
Dr. Paul Miller-District Title IX Coordinator	(662) 243-1900
Cathy Kemp-Dean of Student Affairs (GT)	(662) 243-1979
Chuck Dawkins-Campus Police	(662) 243-1900

**Lion Hills**

Debby Gard-Director	(662) 328-4837
Dr. Paul Miller-District Title IX Coordinator	(662) 243-1900

**Naval Air Station-Meridian Extension**

Jeff Jowers-Director	(601) 679-3570
Dr. Paul Miller-District Title IX Coordinator	(662) 243-1900
Tony Montgomery-Dean of Student Affairs (SC)	(662) 476-5062
Steve Windish-Assistant Chief of Police	(662) 476-5115

## East Mississippi Community College Sexual Misconduct Policy & Procedures

### West Point Extension

Mitzi Thompson- Director	(662) 492-2644
Dr. Paul Miller-District Title IX Coordinator	(662) 243-1900
Cathy Kemp- Dean of Student Affairs (GT)	(662) 243-1979
Chuck Dawkins- Campus Police	(662) 243-1900

### Contact Information:

Title IX Coordinator	(662) 243-1900
Dean of Students, Scooba Campus	(662) 476-5062
Dean of Students, Mayhew Campus	(662) 243-1979
Counseling Services, Scooba Campus	(662) 476-5048/5088
Counseling Services, Mayhew Campus	(662) 243-2631/2657/1925
Campus Police (24-Hours), Scooba Campus	(662) 386-8011
Campus Police, Mayhew Campus	(662) 243-1990
Residential Life Staff	(662) 476-5627/5000
Sexual Assault Victim Services/Prevention Program	1-866-331-9474 or text "loveis" to 77054
24-Hour Crisis Hotline	1-800-656-4673

## V. VICTIM'S RIGHTS PROVISIONS

It is EMCC's responsibility to assure students who report an incident of sexual misconduct that:

- Victims will have the opportunity to request prompt proceedings and that a fair and impartial investigation and resolution will occur.
- College officials will treat the incident seriously and that the incident will be investigated and adjudicated by appropriate criminal and/or College officials. Proceedings shall be conducted by officials trained on sexual assault and other intimate partner violence issues. And shall use preponderance of the evidence standard (which is "more likely than not" and the standard used by civil courts in the United States).
- Victims will be treated with dignity, respect, and in a non-judgmental manner.
- College officials will inform victims of their option to notify appropriate law enforcement authorities, including campus police and local police, and offer assistance in notifying proper authorities when an individual discloses an incident of sexual misconduct.
- College personnel will not discourage anyone from reporting, nor encourage them to under-report or report the incident as a lesser crime.
- College personnel will cooperate in obtaining, securing and maintaining evidence (including a medical examination) necessary in legal/criminal proceedings.
- College officials will prohibit retaliation and will not only take steps to prevent retaliation but also take strong responsive action if it occurs. They will also follow up with complaints to determine whether any retaliation or new incidents of harassment have occurred.
- Victims will be provided with written notification of on and off campus available services for mental health, victim advocacy, legal assistance, and other available community resources.
- Victims will honor and can obtain no contact/restraining orders or enforce an order already in existence to prevent unnecessary or unwanted contact or proximity to an alleged perpetrator when reasonably available.
- Victims will be afforded the opportunity to request immediate on-campus housing relocation or other steps to prevent unnecessary or unwanted contact or proximity to an alleged perpetrator when reasonably available.

- Victims are informed that he/she is entitled to be accompanied to any related meeting or proceeding by an advisor of their choice, knowing that the respondent also has the same opportunity to have others present during any proceeding (neither the victim's advisor nor the advisor for the respondent can speak for or defend either party).
- Victims are informed that he/she is entitled to receive, in writing, of the final results within one business day of such outcome being reached.

## **VI. RIGHTS OF THE PERSON ACCUSED OF SEXUAL MISCONDUCT**

The student accused of sexual misconduct (the respondent) may be assured that:

- All sexual misconduct cases will be treated seriously.
- The respondent will be treated with dignity, respect, and in a non-judgmental manner.
- The respondent will be advised of on- and off-campus organizations and services that may be of assistance.
- College personnel will cooperate in investigating the case fully for legal and Student Conduct proceedings.
- The respondent will be informed of available counseling and psychological services.
- Respondents are informed that he/she is entitled to be accompanied to any related meeting or proceeding by an advisor of their choice, knowing that the victim also is provided with the same opportunity to have others present during any proceeding (neither the victim's advisor nor the advisor for the respondent can speak for or defend either party).
- Respondents are informed that he/she is entitled to receive, in writing, of the final results within one business day of such outcome being reached.

## **VII. DISCIPLINARY PROCEDURE**

**It is the victim's rights to notify law enforcement and to be assisted by College officials in doing so. Thus, it is the victim's right to decide whether or not to involve law enforcement. Declining the involvement of law enforcement does not prevent the victim from receiving assistance from the College. A victim also has the right to use the College's procedures in addition to filing a criminal complaint.**

**A student charged with sexual misconduct may be prosecuted under the Mississippi Criminal Justice System and disciplined through EMCC Student Conduct and Due Process. Even if the criminal justice authorities choose not to prosecute, the accused may be subject to College disciplinary action. EMCC Student Conduct and Due Process procedures should be considered distinct and independent of any and all criminal procedures. Student Conduct and Due Process procedure may precede, occur simultaneously, or follow court action. IN the event that the College's Student Conduct and Due Process procedures follow court action, the court proceedings and/or verdict may be considered in the Student Conduct and Due Process proceeding. Proceedings shall be conducted by officials trained on all forms of sexual misconduct. Moreover, they shall use the preponderance of evidence standard (which is "more likely than not" and the standard used by civil courts in the United States).**

When necessary, temporary action may be taken by the College in the form of summarily suspending or summarily restricting the accused, or officially requesting no contact between the complainant and the respondent. Relocation or removal from the residence halls may also occur. Any of these measures may result in the accused student's restricted access to the College and/or participation in College events, such as attendance at classes and residing on campus.

**A. Disciplinary Action:**

Any student found by the Dean of Students office to have committed sexual misconduct may be subject to severe disciplinary sanctions, including suspension or dismissal from the College. For information regarding the range of possible sanctions that may be imposed following an institutional disciplinary procedure, please refer to the EMCC Student Code of Conduct found in the College Catalog and Student Handbook.

The College recognizes that violations of sexual misconduct are not the fault of the individual filing the complaint. The College intends to encourage the report of sexual misconduct and therefore the College generally does not intend to hold complainants accountable for student code of conduct violations that may have occurred along with violations of sexual misconduct. The College administration will use discretion to ensure the rights of the complainant are preserved.

**B. Appeals:**

IN the case the complainant decides to appeal the decision via the College's Appeal Process, the complainant may request reasonable accommodations be made during the hearing procedures, such as special seating arrangements in the hearing room in order to conduct a fair, orderly hearing.

- He/she has the right to remain present during the entire hearing except during the deliberations.
- He/she has the right not to have his or her sexual history discussed during the hearing.
- He/she has the right to make an "impact statement".
- He/she has the right to be informed concurrent with notice to the accused (respondent) of the decision of the Dean of Students and/or the Board regarding the alleged sexual assault violation and any sanction(s) imposed. The complainant and the respondent must respect the privacy of all involved.

**VIII. SAFETY AND SECURITY INFORMATION REPORT**

Under the Campus Save Act, an addendum to the Clery Act, EMCC will provide annual statistics on incidents of campus crimes, including incidents of sexual misconduct occurring on campus and reported to campus authorities and/or local police. Additionally, EMCC will comply with all mandatory reporting requirements that include a broader range of sexual misconduct incidents occurring on campus including domestic violence, dating violence, and stalking.

*Nothing in this policy should be interpreted as precluding enforcement of the laws and regulation of the United States of America, the State of Mississippi, any locality in the state of Mississippi, or the College's Student Code of Conduct.*