Estelle Medical Academy

Violence and Harassment Policy

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I. Introduction: Institutional Values, Community Expectations, and Notice of Non-Discrimination

It is the policy of Estelle Medical Academy ("EMA") to maintain an environment for students, faculty, administrators, staff, and visitors that is free of all forms of discrimination and harassment, including sexual misconduct. EMA has enacted this Sexual Misconduct Policy (the "Policy") to reflect and maintain its institutional values and community expectations, to provide for fair and equitable procedures for determining when this Policy has been violated, and to provide recourse for individuals and the community in response to violations of this Policy.

This Policy prohibits all forms of sexual or gender-based discrimination, harassment, and misconduct, including sexual assault, non-consensual sexual contact, intimate partner violence, sexual exploitation, and stalking. This Policy also prohibits retaliation against a person who reports, complains about, or who otherwise participates in good faith in any matter related to this Policy. All of the foregoing conduct shall be referred to as “Prohibited Conduct.”

EMA does not discriminate on the basis of sex in its educational, extracurricular, athletic, or other programs or in the context of employment. Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law that provides:

> 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.

Sexual harassment is also prohibited under Title IX, Title VII of the Civil Rights Act of 1964, and other applicable statutes. This Policy prohibits sexual harassment against EMA community members of any sex, sexual orientation, gender identity, or gender expression in the context of education or employment. This Policy also prohibits gender-based harassment that does not involve conduct of a sexual nature.

EMA strongly encourages all members of our community to take action to maintain and facilitate a safe, welcoming, and respectful environment on campus. In particular, EMA expects that all EMA community members will take reasonable and prudent actions to prevent or stop Prohibited Conduct. EMA strongly supports individuals who choose to take such action and will protect such individuals from retaliation.

Upon receipt of a report, EMA will take prompt and equitable action to eliminate the Prohibited Conduct (if any), prevent its recurrence, and remedy its effects. In addition, EMA will fulfill its obligations under the Violence Against Women Reauthorization Act of 2013 (“VAWA”) amendments to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”) in response to reported Prohibited Conduct. EMA process for investigating and responding to reported Prohibited Conduct are contained in the following appendices: Appendix A (Student Grievance Process - student Respondent).

Students or employees who are found to have violated this Policy may face disciplinary action up to and including expulsion (students) or termination of employment (faculty or staff).

EMA also prohibits other forms of discrimination and harassment, including discrimination and harassment on the basis of race, color, national origin, ancestry, age, religious belief, marital status, physical or mental disability, medical condition, veteran status, or any other characteristic protected by federal, state, or local law. Such prohibited conduct is addressed in other EMA policies prohibiting discrimination, harassment and retaliation based on protected status (other than sex or gender).

II. Scope of Policy

This Policy applies to all reports of Prohibited Conduct occurring on or after the effective date of this Policy. Where the date of the reported Prohibited Conduct precedes the effective date of this Policy, the definitions of misconduct in existence at the time of the report will be used. The Grievance Process under this Policy, however, will be used to investigate and resolve all reports made on or after the effective date of this Policy, regardless of when the incident(s) occurred.

When used in this Policy, “Complainant” refers to the individual who is identified as the subject of Prohibited Conduct. “Respondent” refers to the individual alleged to have engaged in Prohibited Conduct. A “Third-Party” refers to any other participant in the process, including a witness or an individual who makes a report on behalf of a Complainant.

A. Persons Covered

This Policy applies to all EMA community members, including students, faculty, administrators, staff, volunteers, vendors, contractors, visitors, and individuals regularly or temporarily employed, conducting business, studying, living, visiting, or having any official capacity with EMA or on its property.

EMA strongly encourages reports of Prohibited Conduct regardless of who engaged in the conduct. Even if EMA does not have jurisdiction over the Respondent, EMA will take prompt action to provide for the safety and well-being of the Complainant and the broader campus community.

B. Locations Covered

This Policy applies to all on-campus conduct and school programs, described below. EMA strongly encourages reports of Prohibited Conduct regardless of location. Even if the Policy does not apply to the conduct because of its location, EMA will take prompt action to provide for the safety and well-being of the Complainant and the broader campus community.

> **On-Campus Conduct.** This Policy applies to conduct that occurs on-campus, including conduct which occurs on property owned or controlled by EMA
>
> **School Programs.** This Policy applies to conduct that occurs in the context of education programs or activities, including, but not limited to, field trips, seminars, and internship programs.

III. Prohibited Conduct and Definitions

A. Sex or Gender-Based Discrimination

Sex or gender-based discrimination refers to the disparate treatment of a person or group because of that person's or group's sex, sexual orientation, gender identity or gender expression.

B. Sexual or Gender-Based Harassment

"Harassment" is conduct that creates an intimidating, offensive, or hostile working or learning environment or that unreasonably interferes with work or academic performance based on a person's protected status, including sex, sexual orientation, gender identity, or gender expression. All such conduct is unlawful.

"Sexual Harassment" is any unwelcome sexual advance, request for sexual favors, or other unwelcome conduct of a sexual nature, whether verbal, physical, graphic, or otherwise.

"Gender-Based Harassment" is harassment based on sex, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal, physical, graphic, or otherwise. To qualify as Gender-Based Harassment, the conduct need not involve conduct of a sexual nature.

Generally speaking, harassment can be divided into two types of conduct:

1. *Quid Pro Quo Harassment.* Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, academic standing, or participation in any aspect of a School program or activity or is used as the basis for EMA's decisions affecting the individual.
2. *Hostile Environment.* A hostile environment exists when the conduct is sufficiently severe, pervasive, or persistent that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from EMA's education or employment programs and/or activities. Whether conduct is sufficiently severe, pervasive, or persistent is determined both from a subjective and objective perspective.

Harassing conduct can take many forms. The determination of whether an environment is hostile is based on the totality of the circumstances, including but not limited to: (1) the frequency of the conduct; (2) the nature and severity of the conduct; (3) whether the conduct was physically threatening; (4) the effect of the conduct on the Complainant's mental or emotional state, with consideration of whether the conduct unreasonably interfered with the Complainant's educational or work performance and/or School programs or activities; (5) whether the conduct was directed at more than one person; (6) whether the conduct arose in the context of other discriminatory conduct; and (7) whether the conduct implicates concerns related to academic freedom or protected speech.

A single isolated incident may create a hostile environment if the incident is sufficiently severe, particularly if the conduct is physical. A single incident of Sexual Assault, for example, may be sufficiently severe to constitute a hostile environment. In contrast, the perceived offensiveness of a single verbal or written expression is typically not sufficient to constitute a hostile environment.

Sexual or Gender-Based Harassment:

- May be blatant and intentional and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.
- May 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.
- May be committed by a stranger, an acquaintance, or someone with whom the Complainant has an intimate or sexual relationship.
- May be committed by or against an individual or may be a result of the actions of an organization or group.
- May occur by or against an individual of any sex, sexual orientation, gender identity, or gender expression.
- May occur in the classroom, in the workplace, in residential settings, or in any other setting.
- May be a one-time event or can be part of a pattern of behavior.
- May be committed in the presence of others or when the Parties are alone.
- May affect the Complainant and/or third Parties who witness or observe harassment and are affected by it.

Examples of conduct that may constitute Sexual Harassment as defined above may include a severe, persistent or pervasive pattern of unwelcome conduct that includes one or more of the following:

- **Physical conduct**, including unwelcome touching, sexual/physical assault, impeding, restraining, or blocking movements, or unwanted sexual advances;
- **Verbal conduct**, including making or using derogatory comments, epithets, slurs or humor; verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes, or invitations; or objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes, or anecdotes;
- **Visual conduct**, including leering, making sexual gestures, displaying of suggestive objects or pictures, cartoons, or posters in a public space or forum; or severe, persistent, or pervasive visual displays of suggestive, erotic, or degrading sexually oriented images that are not pedagogically appropriate;
- **Written conduct**, including letters, notes or electronic communications containing comments, words, or images described above;
- **Quid pro quo conduct**, including direct propositions of a sexual nature between those for whom a power imbalance or supervisory or other authority relationship exists; offering educational or employment benefits in exchange for sexual favors; making submission to sexual advances an actual or implied

condition of employment, work status, promotion, grades, or letters of recommendation, including subtle pressure for sexual activity, an element of which may be repeated requests for private meetings with no academic or work purpose; or making or threatening reprisals after a negative response to sexual advances.

EMA's Commitment to Academic Freedom and Free Speech

This Policy is consistent with EMA's commitment to academic freedom and free speech. This commitment requires that EMA protect community members' expression of ideas in their teaching, learning, and research, including advocacy that may be controversial, provocative, or unpopular. This protection extends to the expression of ideas, however controversial, in the classroom, residential life, and other campus-related activities.

It must be recognized, however, that this protection has its limits. This Policy defines those limits, and conduct which is found to be "harassing" is not consistent with EMA's commitment to academic freedom and free speech. No member of EMA community may escape responsibility for engaging in harassing conduct merely by labeling the conduct as "speech" or other expressive activity.

C. Sexual Misconduct: Forms

EMA prohibits the following specific conduct:

1. Sexual Assault;
2. Non-Consensual Sexual Contact;
3. Sexual Exploitation; and
4. Stalking.

Each of these is explained in detail below. EMA recognizes that other Prohibited Conduct, including (but not limited to) Intimate Partner Violence and Retaliation, may refer to behavior which constitutes Sexual Misconduct. In instances where Prohibited Conduct constitutes a violation of more than one violation of the Policy, an individual may allege either or all violations of the Policy.

1. Sexual Assault

“Sexual Assault” is having or attempting to have sexual intercourse with another individual:

- By force or threat of force;
- Without effective affirmative consent; or
- Where that individual is incapacitated.

Sexual intercourse includes vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand) or object, or oral penetration involving mouth to genital contact.

2. Non-Consensual Sexual Contact

“Non-Consensual Sexual Contact” is having sexual contact with another individual:

- By force or threat of force;
- Without effective affirmative consent; or
- Where that individual is incapacitated.

Sexual Contact includes intentional contact with the intimate parts of another, causing an individual to touch their own intimate body parts, or disrobing or exposure of another without permission. Intimate body parts may include the breasts, genitals, buttocks, groin, mouth or any other part of the body that is touched in a sexual manner.

3. Sexual Exploitation

“Sexual Exploitation” occurs when an individual takes non-consensual or abusive sexual advantage of another for one’s own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. Examples of Sexual Exploitation include, but are not limited to:

- surreptitiously 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 sharing or streaming of images, photography, video, or audio recording of sexual activity or nudity of the person being exploited, or distribution of such without the knowledge and consent of all Parties involved;

- exposing one's genitals or inducing another to expose their own genitals in non-consensual circumstances;
- knowingly exposing another individual to a sexually transmitted disease or virus without their knowledge; and
- inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

4. Stalking

“Stalking” occurs when a person engages in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

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

Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Cyber-stalking is 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.

Examples of Stalking include, but are not limited to:

- Non-consensual communication including in-person communication, telephone calls, voice messages, text messages, email messages, social networking site postings, instant messages, postings of pictures or information on web sites, written letters, gifts, or any other communications that are undesired and/or place another person in fear;
- Following, pursuing, waiting, or showing up uninvited at a workplace, place of residence, classroom, or other locations frequented by a person;

- Surveillance and other types of observation, whether by physical proximity or electronic means; and
- Gathering of information about a person from family, friends, co-workers, and/or classmates.

To qualify as stalking, the conduct is not required to be sexual in nature.

D. Intimate Partner Violence: Forms

“Intimate Partner Violence” includes any act of violence or threatened act of violence against a person who is, or has been involved in, a sexual, dating, spousal, domestic, or other intimate relationship with the Respondent. EMA will not tolerate Intimate Partner Violence of any form.

Intimate Partner Violence is often referred to as dating violence, domestic violence, or relationship violence. Intimate Partner Violence can encompass a broad range of behavior including, but not limited to, physical violence, sexual violence, psychological and/or emotional violence, and economic abuse. It may involve one act or an ongoing pattern of behavior. Intimate Partner Violence may take the form of threats, assault, property damage, violence or threat of violence to one’s self, one’s sexual or romantic partner, or to the family members or friends of the sexual or romantic partner. Intimate Partner Violence affects individuals of all sexes, sexual orientations, gender identities, gender expressions, races and social or economic backgrounds.

“Dating Violence” is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the person subjected to such violence. Whether there was such a relationship will be determined based on, among other factors, the Complainant’s and Respondent's statements, and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the Parties involved in the relationship.

“Domestic Violence” is a felony or misdemeanor crime of violence committed by: (1) a current or former spouse or intimate partner of the victim; (2) a person with whom the victim shares a child in common; (3) a person who is cohabiting with, or has cohabitated with, the victim as a spouse or intimate partner; (4) a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or (5) any other person against

an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence has occurred.

E. Sexual Misconduct & Intimate Partner Violence: Definitions Of Key Terms; Other Considerations

To provide clarity to all individuals as to the kinds of behavior which constitute Sexual Misconduct and/or Intimate Partner Violence, EMA further defines key terms which EMA will use in evaluating whether Prohibited Conduct has occurred.

1. Affirmative Consent

"Affirmative Consent" means affirmative, conscious, and voluntary agreement to engage in sexual activity. Affirmative consent is required for any sexual activity to occur between two or more individuals. It is the responsibility of each person involved in the sexual activity to ensure that the person has the affirmative consent of the other(s) to engage in the sexual activity.

It shall not be a valid excuse to alleged lack of affirmative consent that the Respondent believed that the Complainant consented to the sexual activity under either of the following circumstances: (a) The Respondent's belief in affirmative consent arose from the intoxication or recklessness of the Respondent, or (b) the Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented.

The following are essential elements of affirmative consent:

> *Informed and reciprocal:* All Parties must demonstrate a clear and mutual understanding of the nature and scope of the act to which they are consenting and a willingness to do the same thing, at the same time, in the same way.
>
> *Freely and actively given:* Consent cannot be obtained through the use of force, coercion, threats, intimidation or pressuring, or by taking advantage of the incapacitation of another individual.
>
> *Mutually understandable:* Communication regarding consent consists of mutually understandable words and/or actions that indicate a mutually

unambiguous willingness to engage in sexual activity. Consent may not be inferred from silence, passivity, lack of resistance, or lack of active response. **An individual who does not physically resist or verbally refuse sexual activity is not necessarily giving consent. Relying solely upon non-verbal communication can lead to a false conclusion as to whether consent was sought or given.**

Not indefinite: Affirmative consent must be ongoing throughout the activity. **Consent may be withdrawn by any party at any time.** Recognizing the dynamic nature of sexual activity, individuals choosing to engage in sexual activity must evaluate consent in an ongoing manner and communicate clearly throughout all stages of sexual activity.

Withdrawal of consent can be an expressed “no” or can be based on an outward demonstration that conveys that an individual is hesitant, confused, uncertain, or is no longer a mutual participant. Once consent is withdrawn, the sexual activity must cease immediately and all Parties must obtain mutually expressed or clearly stated consent before continuing further sexual activity.

Not unlimited: Consent to one form of sexual contact does not constitute consent to all forms of sexual contact, nor does consent to sexual activity with one person constitute consent to activity with any other person. Each participant in a sexual encounter must consent to each form of sexual contact with each participant. Even in the context of a current or previous intimate relationship, each party must consent to each instance of sexual contact each time. The consent must be based on mutually understandable communication that clearly indicates a willingness to engage in sexual activity. The mere fact that there has been prior intimacy or sexual activity does not, by itself, imply consent to future acts.

Age: The state of Illinois considers sexual intercourse with a minor to be unlawful. A person who engages in felony “unlawful” sexual intercourse as described in the Illinois Penal Code does so without effective consent as defined by EMA’s Sexual Misconduct Policy. Specifically, there is no effective consent under EMA’s Sexual Misconduct Policy where one party (the “minor”) is under the age of eighteen, and the other party is more than three years older than the minor.

2. Force

“Force” is the use or threat of physical violence to overcome an individual’s freedom of will to choose whether or not to participate in sexual activity or provide consent. Consent obtained by force is not valid.

For the use of force to be demonstrated, there is no requirement that a Complainant resist the sexual advance or request. However, evidence of resistance by the Complainant will be viewed as a clear demonstration of a lack of consent.

3. Intimidation

“Intimidation” is the use of implied threats to overcome an individual’s freedom of will to choose whether or not to participate in sexual activity or provide consent. Consent obtained by intimidation is not valid.

4. Coercion

“Coercion” is the improper use of pressure to compel another individual to initiate or continue sexual activity against that individual’s will. Consent obtained through coercion is not valid.

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 include threatening to “out” someone based on sexual orientation, gender identity, or gender expression and threatening to harm oneself if the other party does not engage in the sexual activity. When someone indicates, verbally or physically, that they do not want to engage in a particular sexual activity, that they want to stop a particular activity, or that they do not want to go past a certain point of sexual interaction, continued activity or pressure to continue beyond that point can be coercive. EMA will evaluate the following in determining whether coercion was used: (a) the frequency of the application of pressure, (b) the intensity of the pressure, (c) the degree of isolation of the person being pressured, and (4) the duration of the pressure.

5. Incapacitation

“Incapacitation” is a state where an individual cannot make an informed and rational decision to engage in sexual activity because of a lack of conscious understanding of the fact, nature, or extent of the act (e.g., to understand the who, what, when, where, why, or how of the sexual interaction) and/or is physically helpless. For example, an individual is incapacitated, and therefore unable to give consent, if the individual is asleep, unconscious, or otherwise unaware that sexual activity is occurring. An individual will also be considered incapacitated if the person cannot understand the nature of the activity or communicate due to a mental or physical condition.

Incapacitation may result from the use of alcohol, drugs, or other medication. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation.

The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impacts an individual’s: (1) decision-making ability; (2) awareness of consequences; (3) ability to make informed judgments; or (4) capacity to appreciate the nature and the quality of the act.

It shall not be a valid excuse that the Respondent believed that the Complainant affirmatively consented to the sexual activity if the Respondent knew or reasonably should have known that the Complainant was unable to consent to the sexual activity under any of the following circumstances: (a) the Complainant was asleep or unconscious; (b) the Complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the Complainant could not understand the fact, nature, or extent of the sexual activity; (c) the Complainant was unable to communicate due to a mental or physical condition.

Whether the Respondent reasonably should have known that the Complainant was incapacitated will be evaluated using an objective reasonable person standard. The fact that the Respondent was actually unaware of the Complainant’s incapacity is irrelevant to this analysis, particularly where the Respondent’s failure to appreciate the Complainant’s incapacitation resulted from the Respondent’s failure to take reasonable steps to determine the Complainant’s incapacitation or where the Respondent’s own incapacitation (from alcohol or drugs) caused the Respondent to misjudge the Complainant’s incapacity.

It is the responsibility of each party to be aware of the intoxication level of the other party before engaging in sexual activity. In general, sexual activity while under the influence of alcohol or other drugs poses a risk to all Parties. If there is any doubt as to the level or extent of the other individual's intoxication, it is safest to forgo or cease any sexual contact or activity.

Being intoxicated by drugs or alcohol is no defense to any violation of this Policy and does not diminish one's responsibility to obtain consent.

F. Prohibited Relationships by Persons in Authority

Sexual or other intimate relationships in which one party maintains—and fails to promptly report and discontinue—a direct supervisory or evaluative role over the other party are prohibited. In general, this includes all sexual or other intimate relationships between students and their employers, supervisors, professors, coaches, advisors, or other School employees. Similarly, School employees (faculty and staff) who supervise or otherwise hold positions of authority over others are prohibited from having a sexual or other intimate relationship with an individual under the employee's direct supervision.

EMA does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of EMA. However, faculty, administrators, and others who educate, supervise, evaluate, employ, counsel, coach, or otherwise guide students should understand the fundamentally asymmetrical nature of the relationship they have with students, employees (as applicable), or subordinates. Intimate or sexual relationships where there is a differential in power or authority produce risks for every member of our community and undermine the professionalism of faculty and supervisors. In either context, the unequal position of the Parties presents an inherent element of risk and may raise sexual harassment concerns if one person in the relationship has the actual or apparent authority to supervise, evaluate, counsel, coach, or otherwise make decisions or recommendations as to the other person in connection with their employment or education at EMA.

Sexual relations between persons occupying asymmetrical positions of power, even when both consent, raise suspicions that the person in authority has violated standards of professional conduct and potentially subject the person in authority to charges of sexual harassment based on changes in the perspective of the

individuals as to the consensual nature of the relationship. Similarly, these relationships may impact third Parties based on perceived or actual favoritism or special treatment based on the relationship.

EMA has adopted a policy that balances, on the one hand, its wish not to interfere with the private choices of its community members and, on the other hand, concerns regarding relationships in which one party maintains a direct supervisory or evaluative role over the other party. Specifically, if an individual contemplates beginning, or is involved in, a sexual or other intimate relationship with another, over whom the individual holds direct supervisory or evaluative responsibilities, the individual must promptly: (1) discontinue any supervising role or relationship over the other person; and (2) report the circumstances to their own supervisor or the Human Resources Director. Failure to fully or timely comply with these requirements is a violation of this Policy, and the person in authority could be subject to disciplinary action, up to and including dismissal from employment by EMA.

Any individual may file a complaint alleging harassment or discrimination, including third Parties outside the relationship directly affected by the perceived harassment or discrimination.

G. Retaliation

Retaliation includes adverse action taken against a person for making a good faith report of Prohibited Conduct or participating in any proceeding under this Policy. Adverse action includes conduct that threatens, intimidates, harasses, coerces or in any other way seeks to discourage a reasonable person from engaging in activity protected under this Policy. Retaliation can be committed by or against any individual or group of individuals, not just a Respondent or Complainant. Retaliation does not include good faith actions lawfully pursued in response to a report of Prohibited Conduct. Retaliation may be present even where there is a finding of “no responsibility” on the allegations of Prohibited Conduct.

EMA will take immediate and responsive action to any report of retaliation and will pursue disciplinary action as appropriate. An individual reporting Prohibited Conduct is entitled to protection from any form of retaliation following a report that is made in good faith, even if the report is later not proven.

As explained in Section VI below, any employee may pursue any charge of discrimination or harassment with the Illinois Department of Fair Employment and

Housing (“DFEH”) or the federal Equal Opportunity Employment Commission (“EEOC”). It is unlawful to retaliate against any employee for opposing the practices prohibited by the Illinois Fair Employment and Housing Act or comparable federal law or for filing a complaint with, or for otherwise participating in, an investigation, proceeding, or hearing conducted by the DFEH or EEOC.

IV. Confidentiality and Privacy

A. Privacy and Confidentiality: Understanding The Differences

EMA is committed to protecting the privacy of all individuals involved in the investigation and resolution of reports under this Policy. EMA also is committed to assisting students, employees, and third Parties in making informed choices. With respect to any report under this Policy, EMA will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to take steps to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects. All School employees who are involved in EMA’s Title IX response receive specific instruction about respecting and safeguarding private information.

Privacy and confidentiality have distinct meanings under this Policy.

1. Privacy

“Privacy” generally means that information related to a report of Prohibited Conduct will only be shared with a limited circle of individuals who “need to know” in order to assist in the assessment, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), as outlined in EMA’s FERPA policy. The privacy of an individual’s medical and related records may be protected by the Health Insurance Portability and Accountability Act (“HIPAA”), excepting health records protected by FERPA. Access to an employee’s personnel records may be restricted by applicable Illinois and federal law.

While there are certain limitations on privacy, EMA generally will not release the names of the Complainant or Respondent to the general public without express written consent or absent another exception consistent with the law. The release of names will be guided by applicable law, including the Family Educational Rights and Privacy Act (FERPA) and the Clery Act.

In addition, no information shall be released from a proceeding to enforce this Policy except as required or permitted by law and School policy.

2. Confidentiality

“Confidentiality” generally means that information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without the express permission of the individual.

The confidentiality of information shared by an individual with designated campus or community professionals generally is governed by Illinois law, including Illinois Evidence Code restrictions on disclosure of information by mental health providers, ordained clergy, rape crisis counselors, and attorneys, 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.

An individual who seeks confidential assistance may do so by speaking with professionals who have a legally protected confidentiality. The confidential resources available to individuals on campus are listed in Section X, below. Note, however, that these confidential resources are required by state law to notify child protective services and/or local law enforcement of any report which involves suspected abuse of a minor under the age of 18.

B. Responsible Employees And Requests For Confidentiality

A “Responsible Employee” includes any employee who: (1) Has the authority to take action to redress the harassment; (2) Has the duty to report to appropriate school officials sexual harassment or any other misconduct by students or employees; or (3) A student could reasonably believe has the authority or responsibility to take action. All School employees who do not have legally protected confidentiality are considered Responsible Employees. This includes all employees with supervisory or leadership responsibilities on campus, including, but not limited to, faculty, coaches, administrators, staff members and Resident Advisors. EMA requires that all

Responsible Employees share a report of misconduct with the Title IX Coordinator or a Deputy Title IX Coordinator. The purpose of this requirement is to permit EMA to take immediate and corrective action to respond to allegations of Prohibited Conduct.

A student may desire to report Prohibited Conduct to EMA but to maintain confidentiality; if so, the Title IX Coordinator will evaluate such requests. Where a Complainant requests that the Complainant's name or other identifiable information not be shared with the Respondent or that no formal action be taken, the Title IX Coordinator, in conjunction with the Title IX team, will balance the Complainant's request with its dual obligation to provide a safe and non-discriminatory environment for all School community members and to remain true to principles of fundamental fairness that ordinarily provide for notice and an opportunity to respond before action is taken against a Respondent. In making this determination, EMA may consider the seriousness of the conduct, the respective ages and roles of the Complainant and Respondent, whether there have been other complaints or reports of harassment or misconduct against the Respondent, and the rights of the Respondent to receive notice and relevant information before disciplinary action is sought.

EMA will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation, but its ability to do so may be limited based on the nature of the request by the Complainant. Where EMA is unable to take action consistent with the request of the Complainant, the Title IX Coordinator or a member of the Title IX team will inform the Complainant about the chosen course of action, which may include EMA seeking disciplinary action against a Respondent. Alternatively, the course of action may also include steps to limit the effects of the alleged harassment and prevent its recurrence that do not involve formal disciplinary action against a Respondent or revealing the identity of the Complainant.

C. Disclosures Required By The Clery Act

1. Timely Warnings

A "Timely Warning" is a campus-wide notification of a serious or continuing threat to the EMA community. The Timely Warning does not include identifying information about the Complainant. If a report of misconduct discloses a serious or continuing threat to the EMA community, EMA may issue a campus wide timely warning (which

can take the form of an email to campus) to protect the health or safety of the community.

2. Annual Reporting Responsibilities

All higher education institutions that receive federal funding, including EMA, are obligated to issue publicly an Annual Security Report (“ASR”) which identifies the number of particular reported crimes on campus or campus property, or adjacent to campus. The ASR does not include identifying information about the Complainant or Respondent.

3. Crime Log

All higher education institutions that have campus police forces or security departments must maintain a daily crime log that includes entries for all crimes that occur within both the Clery geography and the campus police force’s regular patrol route. The crime log does not include identifying information about the Complainant or Respondent.

V. EMA’s Title IX Coordinator And Deputy Coordinators

A. Notice Of Designated Title IX Coordinator And Deputy Coordinators

EMA has designated Danny Canales to serve as EMA’s Title IX Coordinator. The Title IX Coordinator can be contacted by telephone, email, or in person during regular office hours:

Danny Canales

Title IX Coordinator
(847) 673-7595
danny.canales@estelle.edu

B. Role Of The Title IX Coordinator

The Title IX Coordinator monitors EMA's overall compliance with Title IX, ensures appropriate training and education, and oversees EMA's investigation, response, and resolution of reports made under this Policy. Upon receiving reports of Prohibited Conduct, the Title IX Coordinator ensures that appropriate action is taken to eliminate that conduct, prevent its recurrence, and remedy its effects. The Title IX Coordinator is available to advise all individuals — including individuals who have experienced misconduct, individuals who are alleged to be responsible for misconduct, and third-Parties — on this Policy and the appended Grievance Processes.

VI. Reporting

EMA strongly encourages all individuals to seek assistance from a medical provider and/or law enforcement immediately after an incident of sexual violence. This is the best option to ensure preservation of evidence and to begin a timely investigative and remedial response.

EMA also strongly encourages all individuals to make a report to EMA and to local law enforcement, although neither is required. These reporting options are not mutually exclusive. Both internal and criminal reports may be made simultaneously.

EMA has a strong interest in supporting survivors of sexual harassment, sexual violence, stalking, and intimate partner violence and strongly encourages all individuals or third party witnesses to report any incident to EMA.

Making a report means telling a Responsible Employee what happened—in person, by telephone, in writing, or by email. At the time a report is made, a Complainant does not have to request any particular course of action, nor does a Complainant need to know how to label what happened. Choosing to make a report, and deciding how to proceed after making the report, can be a process that unfolds over time. EMA provides support that can assist each individual in making these important decisions, and will respect an individual's autonomy in deciding how to proceed to the extent legally possible. In this process, EMA will balance the individual's interest with its obligation to provide a safe and non-discriminatory environment for all members of EMA community.

EMA will investigate and resolve all reports of Prohibited Conduct in a fair and impartial manner. A Complainant, a Respondent and all individuals involved will be

treated with dignity and respect. In response to all reports of Prohibited Conduct, EMA will make an immediate assessment of any risk of harm to the Complainant, Respondent, or to the broader campus community and will take steps necessary to address those risks. These steps may include interim measures to provide for the safety of the individual and the campus community.

The contact information for all reporting options may be found in the List of Resources for Reporting, Care and Support in Section X, or by clicking on the links below.

A. Emergency and External Reporting Options

Complainants have the right to notify or decline to notify law enforcement. EMA strongly encourages all individuals to seek assistance from law enforcement immediately after an incident of Sexual Misconduct, Intimate Partner Violence, or any other Prohibited Conduct. This is the best option to ensure preservation of evidence and to begin a timely investigative and remedial response. Police have unique legal authority, including the power to seek and execute search warrants, collect forensic evidence, make arrests, and assist in seeking emergency protective orders. EMA will help any EMA community member to get to a safe place and will provide transportation to the hospital, coordination with law enforcement, and information about on- and off-campus resources and options for resolution.

- Skokie Police Department
    - (847) 673-0500
    - www.skokie.org

B. Campus Reporting Options

EMA strongly encourages all individuals to report misconduct to any School employee. EMA recommends that individuals report Prohibited Conduct to any of the following offices or individuals:

- **Office of Title IX:** Handles complaints of Prohibited Conduct against any individual; works with other offices on-campus to provide reasonable accommodations for housing, academic flexibility, and No Contact letters. See Section V. A. above for more information.

    a. Danny Canales, Title IX Coordinator

- **Campus Safety**
  Available as a first option to report any incident of crime or violence, as well as any incidents involving Prohibited Conduct. Also provides an escort service on campus to any student and can reach the Dean on Duty at any time.
- **Human Resources**
  Addresses complaints of Prohibited Conduct against all employees (faculty, administration, and staff).

C. Anonymous Reporting

Any individual may make an anonymous report concerning an act of Prohibited Conduct. An individual may report the incident without disclosing their name, identifying the Respondent, or requesting any action. Depending on the extent of information available about the incident or the individuals involved, however, EMA's ability to respond to an anonymous report may be limited. The Anonymous Reporting Form can be found here.

The Title IX Coordinator will receive the anonymous report and will determine any appropriate steps, including individual or community remedies as appropriate, and in consultation with the Clery Team, compliance with all Clery Act obligations.

D. Reporting To External Agencies

In addition to reporting to law enforcement or EMA, students, faculty, and staff should be aware of the following external governmental agencies that investigate and prosecute complaints of prohibited discrimination and harassment:

- **Title IX Compliance.** Inquiries or complaints concerning EMA's compliance with Title IX may be referred to the U.S. Department of Education's Office for Civil Rights.
- **Employment Discrimination or Harassment.** Any employee may pursue any charge of discrimination or harassment with the or the federal Equal Opportunity Employment Commission ("EEOC"). It is unlawful to retaliate against any employee for opposing the practices prohibited by the Illinois Fair Employment and Housing Act or comparable federal law or for filing a complaint with, or for otherwise participating in an investigation, proceeding, or hearing conducted by the EEOC.
- **Illinois Board of Higher Education**

1 North Old State Capitol Plaza, Suite 333, Springfield, Illinois 62701
Telephone: (217) 782-2551
FAX: (217) 782-8548
Website: ibhe.org

The Bureau accepts all types of complaints related to EMA, and may refer any complaint it receives including complaints related to institutional policies or procedures, or both, to EMA, an accrediting agency, or another appropriate entity for resolution.

E. Other Reporting Considerations

1. Timeliness and Location of Incident

Complainants and third-party witnesses are encouraged to report Prohibited Conduct as soon as possible in order to maximize EMA's ability to respond promptly and effectively. EMA does not, however, limit the time frame for reporting. If the Respondent is not a member of the EMA community, EMA will still seek to meet its Title IX obligation by taking steps to end the harassment, prevent its recurrence, and address its effects, but its ability to take disciplinary action against the Respondent will, of course, be limited.

An incident does not have to occur on campus to be reported to EMA. Off-campus conduct that is likely to have a substantial effect on the Complainant's on-campus life and activities or poses a threat or danger to members of the EMA community may also be addressed under this Policy.

2. Amnesty for Alcohol or Other Drug Use or Other Conduct Violations

EMA strongly encourages the reporting of Prohibited Conduct under this Policy. It is in the best interest of this community that as many Complainants as possible choose to report to School officials and that participants in the grievance process are forthright in sharing information. To guard against discouraging reporting or participation, a student who reports Prohibited Conduct or participates in the grievance process, either as a Complainant, Respondent, or a third-party witness, will not be subject to disciplinary action by EMA for personal consumption of alcohol or drugs or other violations of the conduct policy (not including this Policy) at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk and do not involve plagiarism,

cheating, or academic dishonesty. EMA may, however, initiate an educational discussion or pursue other educational remedies with the student regarding alcohol or other drugs. Being intoxicated by drugs or alcohol is no defense to any violation of this Policy and does not diminish one's responsibility to obtain consent.

3. Coordination with Law Enforcement

EMA strongly encourages Complainants to pursue criminal action for incidents of sexual harassment, sexual violence, and intimate partner violence that may also be crimes under Illinois law. EMA will assist a Complainant in making a criminal report and cooperate with law enforcement agencies if a Complainant decides to pursue the criminal process to the extent permitted by law.

EMA's Policy, definitions, and burden of proof may differ from Illinois criminal law. A Complainant may seek recourse under this Policy and/or pursue criminal action. Neither law enforcement's determination whether or not to prosecute a Respondent, nor the outcome of any criminal prosecution, are determinative of whether a violation of this Policy has occurred. Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus.

EMA may not delay conducting its own investigation unless specifically requested by law enforcement (e.g. SPD). In the event of such specific request, EMA shall defer its investigation only during the time that the SPD is gathering evidence, which should not exceed ten (10) days absent extenuating circumstances. EMA will nevertheless communicate with the Complainant and Respondent (if appropriate) regarding Title IX rights, procedural options, and the implementation of interim measures to assure safety and well-being. EMA will promptly resume fact gathering as soon as it is informed that law enforcement has completed its initial investigation.

4. False Reports

EMA takes the accuracy of information very seriously, as a report of Prohibited Conduct may have severe consequences. **A good-faith complaint that results in a finding of not responsible is not considered a false or fabricated report of Prohibited Conduct.** However, when a Complainant or third party witness is found to have fabricated allegations or given false information with malicious intent or in bad faith, the Complainant may be subject to disciplinary action. It is a violation of the Code of Student Conduct to make an intentionally false report of any Policy violation, and it may also violate state criminal statutes and civil defamation laws.

5. Reports Involving Minors or Suspected Child Abuse

Under Illinois law, an individual must make a mandatory report of suspected child abuse and neglect, including sexual assault when that individual, in their professional capacity or within the scope of their employment, has knowledge of, or observes a minor under the age of 18 whom the individual knows or reasonably suspects has been the survivor of child abuse or neglect.

All School employees are required to immediately report any suspected child abuse and neglect to the Title IX Coordinator and the Director of Campus Safety. The source of abuse does not need to be known in order to file a report.

EMA will report all suspected child abuse and neglect, including sexual assault, to law enforcement and/or the Illinois Department of Child and Family Services. EMA must act quickly regarding all reasonable suspicions of sexual or physical abuse. It is not the responsibility of any employee, student, or volunteer to investigate suspected child abuse. This is the role of Child Protective Services and law enforcement authorities.

In addition to notifying the Title IX Coordinator and Director of Campus Safety, any individual may make a direct report as follows:

- If a child is in immediate danger, call 911.
- If there is no immediate danger, contact the Child Protection Hotline 24 hours a day, 7 days a week, at (800) 252-2873.

F. Interim Measures and Remedies

1. Overview

Upon receipt of a report, EMA will provide reasonable and appropriate interim measures designed to eliminate the alleged hostile environment and protect the Parties involved. EMA will make reasonable efforts to communicate with the Parties to ensure that all safety, emotional and physical well-being concerns are being addressed. Interim measures may be imposed regardless of whether formal disciplinary action is sought by the Complainant or EMA, and regardless of whether the crime is reported to Campus Safety or local law enforcement.

A Complainant or Respondent may request a No Contact Letter or other protection, or EMA may choose to impose interim measures at its discretion to ensure the

safety of all Parties, the broader School community, and/or the integrity of the process.

EMA will maintain the privacy of any remedial and protective measures provided under this Policy to the extent practicable and will promptly address any violation of the protective measures. All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by an interim measure. EMA will take immediate and responsive action to enforce a previously implemented restriction if such restriction was violated.

2. Range of Measures

Interim measures will be implemented at the discretion of EMA. Potential remedies, which may be applied include:

- Access to counseling services and assistance in setting up initial appointment, both on and off campus;
- Imposition of campus “No Contact Letter”;
- Rescheduling of exams and assignments (in conjunction with appropriate faculty and deans as necessary);
- Providing alternative course completion options (with the agreement of the appropriate faculty);
- Change in class schedule, including the ability to take an “incomplete,” drop a course without penalty or transfer sections (with the agreement of the appropriate faculty);
- Change in work schedule or job assignment;
- Limit an individual or organization’s access to certain School facilities or activities pending resolution of the matter;
- Voluntary leave of absence;
- Providing an escort to ensure safe movement between classes and activities;
- Providing medical services;

- Providing academic support services, such as tutoring;
- Interim suspension or School-imposed leave;
- Any other remedy that can be tailored to the involved individuals to reasonably achieve the goals of this Policy.

3. Interim Suspension or Separation

Where the reported conduct poses a substantial and immediate threat of harm to the safety or well-being of an individual, members of the campus community, or the performance of normal School functions, EMA may place a student or student organization on interim suspension or impose leave for an employee. Pending resolution of the report, the individual or organization may be denied access to campus, campus facilities, and/or all other School activities or privileges for which the student might otherwise be eligible, as EMA determines appropriate. When interim suspension or leave is imposed, EMA will make reasonable efforts to complete the investigation and resolution within an expedited time frame.

A student Respondent who has been put on interim suspension has the right to a meeting within three (3) days with the School Director or designee to appeal the interim suspension. The School Director (or designee) reviews the appeal to determine whether the decision to put a student on interim suspension was arbitrary or capricious. A decision is arbitrary and capricious where there is no rational connection between the facts presented and the decision made.

Provisions for suspension of faculty members are contained in the Employee Handbook. Staff may be placed on leave at the discretion of EMA.

VII. Care And Support Resources

EMA is committed to treating all members of the community with dignity, care, and respect. Any student who experiences or is affected by violations under this Policy, whether as a Complainant, a Respondent, or a Third-Party, will have equal access to support and counseling services through EMA.

EMA strongly encourages individuals to report Prohibited Conduct. EMA recognizes, however, that the decision to report Prohibited Conduct (to EMA and/or law enforcement) can be difficult. EMA strongly encourages individuals who are considering whether to report Prohibited Conduct to seek the support of confidential

campus and community resources, listed in Section X, below. These trained professionals can provide guidance in making decisions, information about available resources and procedural options, and assistance to either party in the event that a report and/or resolution under this Policy is pursued. These resources are available regardless of when or where the incident occurred.

There are many resources available on campus and in the surrounding community. As detailed below, there are Confidential Resources which by law cannot share information without the consent of the individual seeking assistance (in most circumstances). There are also a variety of School resources that will be discreet and private but are not considered confidential. These resources will maintain the privacy of an individual's information within the limited circle of those involved in the resolution of a complaint under this Policy.

The contact information for the resources below may be found in the List of Resources for Reporting, Care and Support Section X, or by clicking on the links below.

A. Confidential Resources (Non-Medical)

EMA strongly encourages all community members to make a prompt report of any incident of Prohibited Conduct to local law enforcement and EMA. For individuals who are not prepared to make a report, or who may be unsure how to proceed, but are still seeking information and support, there are several legally-protected confidential resources available as designated below. These confidential resources will not share information with EMA or anyone else without the individual's permission.

1. Off-Campus Confidential Resources:

a) Suicide – (800) 273-8255
b) Bullying – (800) 420-1479
c) Self-Harm – (800) 366-8288
d) Sexual Assault – (800) 656-4673
e) Teen Lifeline – (800) 784-8433
f) Grief Support – (650) 321-3438
g) Depression – (630) 482-9696
h) Drugs/Alcohol – (877) 235-4525
i) Eating Disorder – (650) 577-1330

j) Mental Health – (800) 442-9673
k) Abuse – (800) 799-7233

B. Confidential Medical Resources

***In Illinois, medical providers who treat a physical injury sustained from an assault, physical or sexual, are required by state law to report the assault to law enforcement.** However, the patient has the right to request that a survivor advocate be present when the patient speaks with law enforcement and to request that law enforcement not pursue a criminal charge at that time. Further, the disclosure of private information contained in most medical records is generally protected by HIPAA, and community medical providers will not notify EMA (or anyone else, other than law enforcement).

A medical provider can provide emergency and/or follow-up medical services. The medical exam has two goals: first, to diagnose and treat the full extent of any injury or physical effect (including prevention of sexually transmitted illnesses and pregnancy) and second, to properly collect and preserve evidence. There is a limited window of time (within 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence, although it may be possible to obtain evidence from towels, sheets, clothes, and other items for longer periods of time. It is best to gather evidence prior to washing a person's body or changing clothing. If clothes have been changed, the clothes worn at the time of the incident should be brought to the examination in a clean, sanitary container such as a paper grocery bag or wrapped in a clean sheet (plastic containers do not breathe and may render evidence useless). A change of clothing should also be brought to the hospital, as the clothes worn at the time of the incident will likely be kept as evidence.

Taking the steps to gather evidence immediately does not commit an individual to any particular course of action. The decision to seek timely medical attention and gather any evidence, however, will preserve the full range of options to seek resolution under this Policy or through the pursuit of criminal prosecution, and may be helpful in obtaining protective orders.

VIII. Prevention And Awareness Programs

EMA is committed to the prevention of Prohibited Conduct through regular and ongoing education and awareness programs. Incoming students and new

employees receive primary prevention and awareness programming as part of their orientation, and returning students and current employees receive ongoing training and related education.

IX. Training

EMA provides training to students and employees to ensure they understand this Policy and the topics and issues related to maintaining an educational and employment environment free from all forms of Prohibited Conduct.

X. List of Resources for Reporting, Care, And Support

Below is a complete list of reporting, care, and support options, with accompanying contact information.

- **Illinois Board of Higher Education**

  1 North Old State Capitol Plaza, Suite 333, Springfield, Illinois 62701
  Telephone: (217) 782-2551
  FAX: (217) 782-8548
  Website: ibhe.org

  The Bureau accepts all types of complaints related to EMA, and may refer any complaint it receives including complaints related to institutional policies or procedures, or both, to EMA, an accrediting agency, or another appropriate entity for resolution.

- School Director Office may be able to provide academic flexibility and No Contact Letters. Available on weekdays during regular office hours.
  danny.canales@estelle.edu
  (847) 673-7595

- Illinois Department of Human Rights: Any employee may pursue any charge of discrimination or harassment with the Illinois Department of Human Rights ("IDHR").

  555 West Monroe Street, 7th Floor, intake Unit

  Chicago, IL 60661

(312) 814-6200

- Chicago District Office – US Equal Employment Opportunity Commission: Any employee may pursue any charge of discrimination or harassment with the federal Equal Opportunity Employment Commission ("EEOC")

  230 S Dearborn St, suite 1866
  Chicago, IL 60604
  (312) 872-9744

- Skokie Response Center – JCFS Chicago
  Provides support and advocacy services for sexual health & relationships, and LGBTQ community members.

  5150 W Golf Rd
  Skokie, IL 60077
  (855) ASK-JCFS

- SPD (Skokie Police Department)
  Available to respond to any reports of crime or violence, including Prohibited Conduct.
  For Emergencies: 911
  For concerning situations call dispatch at (847) 982-5900

- United States Department of Education: Inquiries or complaints concerning EMA's compliance with Title IX and Title VI may be referred to the U.S. Department of Education's Office for Civil Rights.

  Office for Civil Rights, Chicago Office
  230 S Dearborn St, 37th Floor
  Chicago, Illinois 60604
  (312) 730-1560
  Email: OCR.Chicago@ed.gov

Appendix A. Resolution of Grievance Against Student

Appendix A outlines the procedures EMA follows in resolving allegations that a person has been subjected to Prohibited Conduct ("Complainant") by a student who engaged in Prohibited Conduct ("Respondent") in violation of EMA's Sexual Misconduct Policy. Complainant and Respondent will be referred to collectively as the "Parties."

A. Complaint And Initial Assessment

1. Overview

An individual who wishes to report Prohibited Conduct by a student (including, but not limited to discrimination, harassment, or retaliation) is encouraged to report directly to the Title IX Coordinator and/or the School Director Office. A student may also report discrimination, harassment, and/or retaliation to Campus Safety.

Discrimination, Harassment, or Retaliation on The Basis of Sex:

Office of Title IX

Danny Canales, Title IX Coordinator / School Director
(847) 673-7595
danny.canales@estelle.edu

The Office of Title IX will coordinate resolution of all reports of Prohibited Conduct defined in the Sexual Misconduct Policy, including reports of discrimination, harassment, and/or retaliation (Title IX prohibited conduct). The Title IX Coordinator will be the CRC in all instances where the Complainant reports discrimination, harassment, and/or retaliation on the basis of sex.

Prohibited conduct (discrimination, harassment or retaliation) based on protected status other than sex (e.g., race, color, age, disability, veteran status or other classification protected by federal or state law) is prohibited by other School policies. In the event of such complaints, EMA will identify, based upon the allegations, the appropriate office to coordinate resolution of the report through the Grievance Process. The office which coordinates resolution of the report will identify a Civil Rights Grievance Process Coordinator ("Civil Rights Coordinator" or "CRC") to monitor the Grievance Process as follows:

- The School Director Office will coordinate resolution of all reports of Prohibited Conduct defined in the Discrimination, Harassment, and Retaliation

Policy (“DHR Policy”), including reports of discrimination, harassment, and/or retaliation other than Title IX prohibited conduct. The School Director (or designee) will be the CRC for all reports by students of other prohibited conduct.

- In instances where a report sets out allegations of Prohibited Conduct under both the Sexual Misconduct Policy and the DHR Policy, the Title IX Coordinator will serve as CRC for the entire complaint.

As described below, both Parties will have the opportunity to object to the designated CRC on the grounds of bias or conflict of interest. If either of the Parties objects, the Grievance Process will be suspended, and the Title IX Coordinator or other appropriate School administrator who is not the subject of the objection, will evaluate whether the objection is substantiated. The Parties will be notified in writing of the findings within two (2) calendar days. If the CRC is found to have a bias or conflict of interest against either Party, the CRC will be removed and replaced by another CRC. The Grievance Process will resume immediately upon a finding of no bias or conflict of interest, or upon the CRC’s replacement, whichever is first.

2. Initial Assessment

a. Intake Meeting

Upon receipt of a report, the Title IX Office (coordinator or deputies) will conduct an Intake Meeting as soon as possible after receiving a complaint. At that meeting, the CRC will address the following topics, as appropriate:

- Address immediate physical safety and emotional well-being needs
- Notify the Complainant of the right to contact law enforcement and seek medical treatment (and the right to decline to do so), and the importance of preservation of evidence
- Notify the Complainant of the right to be assisted by individuals at EMA in contacting law enforcement
- Notify the Complainant of confidential and non-confidential reporting options on and off campus
- Provide the Complainant with information about:

    - On and off campus resources, including counseling, health, mental health, victim advocacy, legal assistance (including visa and immigration assistance), student financial aid, and other available services
    - The range of interim measures and remedies, including changes to academic, living, transportation, and/or working situations, or other protective measures, which are available to the Complainant regardless of whether the Complainant files a formal complaint with EMA, Campus Safety or local law enforcement
- Provide an overview of the procedural options and process, including Informal Resolution and Formal Resolution
- Explain the right to object to the assignment of the designated CRC based on bias or conflict of interest within two (2) calendar days of a decision to proceed through the Grievance Process;
- Explain that the student has a right to an advisor of their choice during the process and provide a list of School employees trained as advisors upon request
- Assess for pattern evidence or other similar conduct if possible
- Explain EMA's alcohol and drug amnesty policy
- Explain EMA's policy prohibiting retaliation
- Explain that if the complaint involves a Clery crime, the CRC will notify the Clery Coordinator of the report to assess the need to (1) enter the report into EMA's daily crime log; and (2) issue a timely warning as defined by the Clery Act, and assure the Complainant that any such reports will not include the Complainant's personally identifying information

Following the meeting, the CRC will provide the Complainant with the above-listed information in writing. As described in the Sexual Misconduct Policy, the Complainant has the right to request that the CRC not share the Complainant's name (or other identifiable information) with the Respondent, or that the CRC take no formal action in response to the report. If the Complainant makes such a request,

the CRC will balance the request with its dual obligation to provide a safe and nondiscriminatory environment for all School community members, and to remain true to principles of fundamental fairness that require EMA to provide the Respondent with notice of the allegations and an opportunity to respond before action is taken against the Respondent. The CRC will make this determination consistent with the following considerations, namely (1) the seriousness of the conduct; (2) the respective ages and roles of the Complainant and the Respondent; (3) whether there have been other complaints or reports of Prohibited Conduct against the Respondent; and (4) the right of the Respondent to receive notice and relevant information before disciplinary action is sought. Should the CRC determine that, in response to the Complainant's request, EMA can satisfy its obligations to the Complainant, EMA community members, and the Respondent without proceeding through the Grievance Process described herein, the CRC has the discretion to do so.

Absent a request for confidentiality as described above, the CRC will ask the Complainant questions to get a basic understanding of the reported Prohibited Conduct. The interview will include questions to understand the key facts upon which the Complainant bases the report (i.e., the who, what, where, and when) to appropriately assess how to proceed. At the conclusion of the Intake Meeting, and if the individual wishes to move forward with a complaint, the CRC will make two threshold determinations: (1) Does the Complainant's report state facts that, if true, could constitute a violation of EMA's Sexual Misconduct Policy? (2) If yes, should EMA proceed through Formal or Informal Resolution?

The CRC will make both threshold determinations within three (3) calendar days of the CRC's Intake Meeting with the Complainant and communicate that finding in writing to the Complainant.

b. First Threshold Determination: Does The Complainant's Report Allege A Potential Violation of EMA's Sexual Misconduct Policy?

The CRC will determine whether the Complainant's report alleges a potential violation of EMA's Sexual Misconduct Policy. This determination is not intended to screen complaints from the Grievance Process. Rather, its purpose is to determine whether the conduct as stated could constitute a violation of EMA's Sexual Misconduct Policy. For example, if a Complainant alleges that a Respondent engaged in Prohibited Conduct as defined by the Sexual Misconduct Policy, but did

not allege facts demonstrating that the conduct was sexual in nature, or on the basis of sex, EMA likely would determine that the Complainant's report does not allege a potential violation of EMA's Sexual Misconduct Policy. The standard for the first threshold determination is "preponderance of the evidence," i.e. that it is more likely than not that the Complainant's report does not state facts, that if true, could constitute a violation of EMA's Sexual Misconduct Policy.

If the CRC determines that the Complainant's report states facts which, if true, could constitute a violation of EMA's Sexual Misconduct Policy, the CRC will assess whether the complaint must proceed through Formal Resolution, or may proceed through Informal Resolution. The CRC will communicate the threshold determination finding in writing to the Complainant. If the CRC determines that the Complainant's report does not state facts that, if true, could constitute a violation of EMA's Sexual Misconduct Policy, the Complainant may still file a report with the Office of Student Conduct, federal Office for Civil Rights, the police, or seek available civil remedies through the judicial system. The Complainant also may re-file the report with EMA upon discovery of additional facts.

c. Second Threshold Determination: Should The Complainant's Report Proceed Through Formal Or Informal Resolution?

The CRC will determine whether the report may proceed through informal resolution, or must proceed through formal resolution. The CRC will follow the following guidelines in making this determination: Any complaint that alleges sexual misconduct, including sexual assault and nonconsensual sexual contact, or other forms of physical violence must proceed through the formal investigation process. Some complaints that allege harassment (without facts suggesting violence) may be appropriate for informal resolution. If the CRC determines that the complaint may appropriately be resolved through informal resolution, the CRC will ask the Complainant and Respondent, separately, whether they would agree to pursue resolution of the complaint informally. Any resolution reached through an informal process will be confirmed in writing and provided to the parties within five (5) calendar days of reaching a resolution. If either party does not agree to pursue Informal Resolution, or if the Complainant, Respondent, or CRC, at any time, determines that Informal Resolution is no longer appropriate, the Title IX Coordinator will promptly inform the Complainant and Respondent in writing that the complaint will proceed through Formal Resolution.

B. Resolution Of Complaint

1. Formal Resolution

If the CRC determines that the Complainant's report must proceed through Formal Resolution, the CRC will notify both Parties, in writing, of the decision within three (3) calendar days of the CRC's Intake Meeting with the Complainant. The CRC's written notification to the Respondent will state facts sufficient to apprise the Respondent of the nature of the allegations, including, specifically:

- Complainant's name
- Nature of the report
    - Specific policy violation(s) alleged (e.g., sexual assault, sexual harassment, retaliation)
    - Date(s) of alleged policy violation(s)
    - Approximate time(s) of alleged policy violation(s)
    - Location(s) of alleged policy violation(s)
    - Brief description of allegation(s)

If the Respondent has not yet been provided an opportunity to object to the designated CRC based on bias or conflict of interest, the CRC will also notify the Respondent of the right to do so within two (2) calendar days of receipt of the notice of Formal Resolution. As noted above, the Complainant will have been provided the same opportunity after the Intake Meeting. The notice of the complaint shall be accompanied with a request for a meeting with the CRC within three (3) days. If the Respondent does not respond to the meeting request or is unable to meet within three (3) days, the CRC shall provide the following information in writing:

- On and off campus resources, including counseling, health, mental health, victim advocacy, legal assistance (including visa and immigration assistance), student financial aid, and other available services
- The range of interim measures and remedies, including changes to academic, living, transportation, and/or working situations, or other protective measures.
- An overview of the procedural options and process, including Informal Resolution and Formal Resolution
- Explain that the student has a right to an advisor of their choice during the process and provide a list of School employees trained as advisors
- EMA's alcohol and drug amnesty policy

- EMA’s policy prohibiting retaliation

Concurrently, the CRC will select a trained internal or external investigator or a two-person investigative team, (which may include a combination of one internal and one external investigator) (the “Investigator”) to conduct a reasonable, impartial, and prompt investigation of the complaint (“Investigation”). The CRC will select an Investigator based on several factors, including the Parties involved, the complexity of the complaint, the need to avoid any potential conflict of interest, and who may best conduct a fair and equitable investigation for all Parties involved. The CRC will notify the Parties, in writing, of the name of the designated Investigator at the time the CRC issues the notice of formal resolution. Both Parties will have three (3) calendar days to object to the Investigator’s selection on the basis of bias or conflict of interest. If either of the Parties objects, the CRC will evaluate whether the objection is substantiated. The CRC will remove and replace any Investigator the CRC finds to have a bias or conflict of interest against either party.

The Investigator will commence the investigation once the time for the Parties to object has passed (or, if an objection is made, and the CRC determines the objection is not substantiated, from the time the CRC notifies the objecting party of the determination). The Investigator, in consultation with the CRC, will establish a timeline and process for conducting the Investigation. The Investigator will conduct the Investigation in three stages, with recommended timelines as follows: (1) Preliminary Investigation (twenty five (25) calendar days from commencement of Investigation); (2) Notice Of Findings And Response (eight (8) calendar days from completion of Preliminary Investigation); and (3) Final Report (five (5) calendar days from completion of Notice of Findings and Response). The Complainant and Respondent will be notified in writing of any delays and the new timeframes/deadlines. Each stage proceeds as follows:

a.Preliminary Investigation

The Investigator will begin with a Preliminary Investigation, with a recommended timeline of twenty five (25) days. The purpose of a Preliminary Investigation is two-fold: first, to identify and gather all relevant facts; and second, to provide the Parties with an opportunity to develop, and respond to, the allegations and evidence presented before the Investigator makes findings. Generally, the Investigator will conduct the Preliminary Investigation in the following order:

- Step One: Initial Fact-Gathering. The Investigator will interview both Parties and relevant witnesses, and gather documentary evidence provided by the Parties and any identified witnesses. The Investigator will prepare a summary of each interview ("Interview Summary"). The Investigator will share the Interview Summary with the interviewee. The interviewee will have the opportunity to correct or comment on any statements made in the Interview Summary . If the interviewee has no corrections to, or comments on, the Interview Summary, the interviewee will sign an acknowledgement that the interviewee has reviewed and agrees that the Interview Summary is accurate. If the interviewee has corrections or comments to the Interview Summary, the interviewee may submit a written response within three (3) days reflecting any additions or changes which the interviewee believes are necessary to ensure the accuracy of the interviewee's statement. If no response is received from the interviewee, their Interview Summary may be included in the report and will be presumed to be accurate. In all instances where the Investigator includes the Interview Summary as an exhibit to a report, the Investigator will also include any response.

- Step Two: Rebuttal Fact-Gathering. The Investigator may conduct follow-up interviews with both Parties and witnesses based upon testimonial and documentary evidence gathered in Step One. The Parties and witnesses can expect that, in these follow-up interviews, the Investigator will seek responses to specific allegations or evidence (e.g., an Investigator may show one of the Parties a series of text messages between himself or herself and another witness, and ask about the content of the text messages). To the extent additional material, witnesses or evidence are identified during Step Two, the Investigator will conduct additional interviews and gather additional evidence consistent with the procedures outlined in Step One. Step Two may be repeated as necessary to ensure a complete gathering of evidence.

- Step Three: Preliminary Report. The Investigator will prepare a Preliminary Report. The Preliminary Report is a written summary of the evidence gathered in the course of the Preliminary Investigation. The Investigator will state specific factual findings in the Preliminary Report (e.g., "Complainant was incapacitated" or "Respondent reasonably believed that Complainant was not incapacitated"). The standard for determining each factual finding is the "preponderance of the evidence," i.e., that it is more likely than not that the

factual finding is true. The Investigator will not state ultimate findings as to whether the Respondent has, or has not, violated one or more of EMA's policies. The Investigator will attach as exhibits to the Preliminary Report all Interview Summaries and any documentary evidence gathered and relied upon in the Preliminary Investigation. When the Investigator determines that the Preliminary Investigation is complete, the Investigator will submit the Preliminary Report to the CRC. The CRC may require the Investigator to conduct additional investigation; if so, the Investigator will conduct additional investigation consistent with the procedures outlined above.

b.Notice of Findings and Response

Once the CRC has agreed that the Preliminary Investigation is complete, the CRC will provide the Preliminary Report to the Parties for review, within three (3) calendar days of receipt of the agreed-upon Preliminary Report from the Investigator. Given the sensitive nature of the information provided, the CRC will provide the information in a secure manner (e.g., by providing hard-copy materials in an office designated by the CRC, or by providing digital copies of the materials through a protected, "read-only" web portal). Neither the Complainant nor the Respondent (or their advisors, including but not limited to family members and/or legal counsel) may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. An advisor who fails to abide by this policy may be subject to discipline and/or may be excluded from further participation in the process.

The Parties may respond to the Preliminary Report; the Parties will submit any response within five (5) calendar days of being notified of their opportunity to review the report. The Parties may respond in one or both of the following ways:

- The Parties may provide a written response to the Preliminary Report, or any portion of it, including each Interview Summary. The Investigator will consider any written response provided by the Parties in preparing the Final Report.
- The Parties may submit a written request for additional investigation. Such requests may include, but are not limited to, the following: (1) request(s) for follow-up interview(s) with existing witnesses to clarify or provide additional information, including offering questions to the investigator to pose to witnesses; (2) request(s) for interviews with new witnesses; or (3) request(s)

to consider new evidence. Any request for additional investigation shall explain the reason for the request.

If neither of the Parties requests additional investigation, the Investigator will prepare the Final Report. If either (or both) Parties request additional investigation, the Investigator will review the request(s) in consultation with the CRC. The Investigator will conduct the requested additional investigation if the Investigator, in consultation with the CRC, determines that the request(s) will assist the Investigator in completing the investigation. The Investigator and CRC will assess whether investigation of the additional information requires a substantial deviation from the recommended timeframe for completion of the investigation; if so, the CRC will notify the Parties in writing with an anticipated revised timeframe.

If the Investigator conducts additional investigation, the Investigator will prepare an Addendum to the Preliminary Report ("Addendum"). The Addendum will include: (1) a summary of the additional investigation; (2) a statement as to whether the additional investigation changed any finding in the Preliminary Report (and, if it did, the Investigator will identify which finding(s) changed); and (3) additional exhibits, to the extent the additional investigation resulted in additional documentary evidence or Interview Summaries. The Investigator will submit the Addendum to the CRC. The CRC may require the Investigator to conduct additional investigation before the Addendum is complete. Once the CRC has agreed that the Addendum is complete, the CRC will provide the Addendum to the Parties for review.

The Parties will have an opportunity to respond to the Addendum; any response must be submitted within five (5) days of receipt of the Addendum. At the time that the Parties respond to the Addendum, the Parties have already had the opportunity to respond to the Preliminary Report in full. Therefore, EMA requires that the Parties limit the scope of their Addendum response to the effect (or lack thereof) of additional evidence on the findings as stated in the Addendum.

c.Final Report

As noted above, if neither of the Parties requests additional investigation, the Investigator will prepare a Final Report. If one or both Parties requests additional investigation, and the request(s) is granted, the Investigator will prepare a Final Report once both Parties have had the opportunity to respond to the Addendum, and the Investigator and CRC are satisfied that no further investigation is required.

The Final Report will state (1) the ultimate finding(s) (i.e., whether the Respondent did, or did not, violate EMA's Sexual Misconduct Policy); (2) the specific factual findings in support of the Investigator's ultimate finding(s); and (3) the specific evidence upon which the Investigator relied in making each factual finding. The standard for determining the ultimate finding of responsibility, or non-responsibility, is "preponderance of the evidence," i.e., that it is more likely than not that the ultimate finding is true. The Final Report will have attached as exhibits the testimonial and documentary evidence from the Preliminary Investigation, the Preliminary Report, the Addendum (if applicable), and all of the Parties' responses throughout the Formal Resolution proceeding. Once the Investigator is satisfied that the Final Report is complete, the Investigator will submit the Final Report to the CRC. The CRC will review the report and determine whether the report demonstrates, by a preponderance of the evidence that: (1) the evidence supports the Investigator's factual findings; and (2) the Investigator's factual findings support the Investigator's ultimate finding of responsibility or non-responsibility.

Once the CRC has agreed that the Final Report is complete, the CRC will provide the Final Report to the Parties for review. Given the sensitive nature of the information provided, the manner in which the CRC provides the information must be secure (e.g., by providing hard-copy materials in an office selected by the CRC, or by providing digital copies of the materials through a protected, "read-only" web portal). Again, neither the Complainant nor the Respondent (or any of their advisors, including but not limited to family members legal counsel, or others who may serve as advisors) may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. An advisor who fails to abide by this policy may be precluded from further participation in the process. The CRC, in conjunction with the Investigator, will seek to provide the Final Report to the Parties within five (5) calendar days of the Parties' responses to the Preliminary Report (or, if the Parties requested additional investigation, within five (5) calendar days of the Parties' responses to the Addendum).

If the Respondent is found responsible for a violation of EMA's Sexual Misconduct Policy, the Formal Resolution process concludes with Sanctions, described in Section C. If the Respondent is found not to have violated EMA's Sexual Misconduct Policy, the Formal Resolution has concluded. At the conclusion of the Formal Resolution Process, either party may appeal upon the grounds described in Section D.

2. Informal Resolution

As an alternative to Formal Resolution, and only if the CRC determines that it is appropriate, the Parties may choose to resolve complaints through Informal Resolution. Informal Resolution is not an option in cases involving allegations of assault or violence.

The Parties may proceed to Informal Resolution only if the following occurs: first, the CRC determines that the complaint may be resolved appropriately through Informal Resolution; second, the Complainant agrees to Informal Resolution; and third, the Respondent agrees to Informal Resolution. If any of the three conditions is not met, the CRC will proceed to Formal Resolution. If all three conditions are met, the CRC will notify the Parties within five (5) calendar days and proceed through Informal Resolution.

The nature of Informal Resolution is flexible, and not all complaints resolved through Informal Resolution will proceed in uniform fashion. Typically, however, the CRC will ask the Complainant to prepare a written report, which sets out the factual basis for the grievance and any proposed resolution. The Complainant will be asked to provide the written report to the CRC within five (5) calendar days of conclusion of the Intake Meeting. The CRC will share the written report with the Respondent, and will instruct the Respondent to provide a written response to the report within five (5) calendar days of reviewing the Complainant's report. The CRC will then meet separately with both Parties to discuss potential alternative resolutions based on the Parties' statements and (if applicable) other information available. The CRC is not a fact-finder; rather, the CRC identifies possible alternative resolution(s) to the complaint. Possible alternative resolution(s) may include, but are not limited to:

- Permanent no-contact order between the students
- Academic or residential reassignment
- Written apology and/or explanation of the circumstances surrounding the grievance
- Educational remedies
- Community service

Any Party (including the Title IX Coordinator) may terminate the Informal Resolution process at any time. In that event, the Title IX Coordinator will so notify the Parties in writing and will describe next steps and timeframes for the Formal Resolution. If

the CRC and the Parties reach agreement, the matter is closed. If not, the CRC will proceed with Formal Resolution set forth in Section B, above.

C. Sanctions

If the report proceeds through Formal Resolution and the Respondent is found responsible for one or more violations of EMA's antidiscrimination policies, EMA will issue sanctions commensurate with the violation(s). The CRC will designate three trained individuals to serve on a three-person panel ("Review Panel") to determine sanctions. The CRC will notify the Parties, in writing, of the name of the designated Review Panelists within three (3) calendar days upon receipt of the final report. Both Parties will have three (3) calendar days to object to each Review Panelist on the basis of bias or conflict of interest. If either of the Parties objects, the CRC will evaluate whether the objection is substantiated. The CRC will remove and replace any Review Panelist the CRC finds to have a bias or conflict of interest against either party.

The CRC will notify the Parties that they have the opportunity to submit statements to the Review Panel within 5 calendar days of the receipt of the final report. The Review Panel will review the Parties' Impact Statements, and all other materials in the case, including the Final Report and attached exhibits, in assessing the appropriate sanction. The Review Panel does not have the power or ability to alter the findings (factual or ultimate) by the Investigator.

The Review Panel has the discretion to recommend a variety of sanctions consistent with the Sanctioning Guidelines. If the Review Panel deviates from the Sanctioning Guidelines, the Review Panel must provide an explanation to the CRC, in writing, of the exceptional circumstances of the case that merit deviation. In all instances, the CRC has the discretion to reject the Review Panel's deviation and implement sanctions consistent with the Sanctioning Guidelines.

The Review Panel will issue a recommendation to the CRC regarding sanctions within five (5) calendar days of receiving all materials in the case, including any Impact Statements submitted by the Parties. The CRC will issue final sanctions within three (3) calendar days of receipt of the Review Panel Recommendation. The CRC will issue the sanctions recommended by the Review Panel unless (1) the Review Panel recommends sanctions that deviate from established Sanctioning Guidelines (without demonstrable justification); or (2) the Review Panel

recommends sanctions that the CRC believes will not effectively stop the alleged harassment, prevent its recurrence, or remedy its effects. The CRC will notify the Parties of the sanctions simultaneously in writing.

Any one or more of the sanctions listed here may be imposed on a Respondent who is found responsible for a violation of EMA's Sexual Misconduct Policy. Sanctions not listed here may be imposed in consultation with and approval by the CRC. Sanctions are assessed in response to the specific violation(s) and any prior discipline history of the Respondent. **Sanctions are effective immediately. If the Respondent appeals the findings contained in the Final Report, the sanctions will continue in effect during the appeal. The sanctions may be lifted only if, as a result of the final outcome of the appeal, the Respondent is found not responsible for one or more of the original policy violations submitted to the Review Panel.**

Possible sanctions include, but are not limited to:

1. **Warning:** Notice, in writing, that continuation or repetition of Prohibited Conduct may be cause for additional disciplinary action.
2. **Censure:** A written reprimand for violating the Sexual Misconduct Policy. This conduct status specifies a period of time during which the student's good standing with EMA may be in jeopardy. The student is officially warned that continuation or repetition of prohibited conduct may be cause for additional conduct action including probation, suspension, or expulsion from EMA.
3. **Disciplinary Probation:** Exclusion from participation in privileged activities for a specified period of time (privileged activities may include, but are not limited to, elected or appointed ASOC offices, student research, athletics, some student employment, and study abroad). Additional restrictions or conditions may also be imposed. Violations of the terms of disciplinary probation or any other School policy violations may result in further disciplinary action.
4. **Restitution:** Repayment to EMA or to an affected party for damages (amount to be determined by EMA) resulting from a violation of this Code. To enforce this sanction, EMA reserves the right to withhold its transcripts and degrees or to deny a student participation in graduation ceremonies and privileged events.

5. **Suspension:** Exclusion from School premises, attending classes, and other privileges or activities for a specified period of time, as set forth in the suspension notice. Notice of this action will remain in the student's conduct file and will be permanently recorded on the student's academic transcript. Conditions for readmission may be specified in the suspension notice.
6. **Expulsion:** Permanent termination of student status and exclusion from School premises, privileges, and activities. This action will be permanently recorded on the student's academic transcript.
7. **Revocation of Admission and/or Diploma:** Admission to, or a diploma awarded by, EMA may be revoked for fraud, misrepresentation in obtaining the degree or violation of School policies, the Student Code of Conduct or for other serious violations committed by a student prior to enrollment or graduation.
8. **Other:** Other sanctions may be imposed instead of, or in addition to, those specified here. Service, education or research projects may also be assigned.
9. **Multiple Sanctions:** More than one of the sanctions listed above may be imposed for any single violation.

Suspension, expulsion, and withdrawal pending disciplinary action are permanently noted on a student's transcript.

Remedies and Non Disciplinary, Administrative Measures

The CRC has the discretion to take non-disciplinary administrative action to stop harassment, prevent its recurrence, and remedy its effects. This may include action addressed toward the Respondent, the campus community, and/or the Complainant, as follows:

Respondent: Any student found responsible for engaging in Prohibited Conduct, who is not permanently separated from EMA, will be required to, in addition to other sanctions consistent with the Sanctioning Guidelines, complete non-disciplinary, educational initiatives at the discretion of the CRC.

Campus Community: In all instances where a student is found responsible for engaging in Prohibited Conduct, the CRC will consider and determine whether non disciplinary, administrative measures for the larger campus community are appropriate. Such remedial, community-based responses may include educational

initiatives and/or trainings, climate surveys, targeted assessment of high-risk campus areas, or other appropriate measures.

Complainant: The CRC will continue to provide support to the Complainant as appropriate, including the ongoing provision of appropriate accommodations.

D. Appeal

Both Complainant and Respondent have a limited right to appeal from the findings set out in the Final Report as follows:

- *Complainant:* If the Investigator's Final Report concludes that the Respondent did not violate a policy that the Complainant believes the Respondent violated, the Complainant has five (5) calendar days from receiving written notice of the Final Report to submit a written appeal to the CRC. If the Respondent has been found responsible for one or more policy violations, but not others, the Complainant may submit a written appeal to the CRC within five (5) calendar days of notice of the sanction.
- *Respondent:* If the Investigator's Final Determination is that the Respondent did violate one or more policies, the Respondent has five (5) calendar days from receiving written notice of the sanction to submit a written appeal to the CRC.

The party who submits the written appeal will be the "Appellant," and the responding party will be the "Appellee." The Appellant's written appeal must be based on one of two grounds: (1) Significant Procedural Error; or (2) New Information. Each ground is explained in greater detail:

- ***Significant Procedural Error:*** A procedural error occurred that significantly impacted the outcome of the investigation as it applies to the Appellant (e.g. substantiated bias, material deviation from established procedures, etc.). A description of the error and its impact on the outcome of the case must be included in the written appeal; or
- ***New Information:*** New information has arisen that was not available or known to the Appellant during the investigation and that could significantly impact the findings. Information that was known to the Appellant during the investigation but which s/he chose not to present is not new information. A

summary of this new evidence and its potential impact on the investigation findings must be included in the written appeal.

Appellee will have five (5) calendar days to submit a response. At the conclusion of these time periods, the CRC will refer the written appeal, including the Final Report, exhibits attached to the Final Report, and Impact Statements (the "Appeal Record"), to an Appeal Officer.

The CRC will appoint the Appeal Officer from a member of the trained Appeals Panel and notify both Parties of that appointment within five (5) calendar days of receipt of the written appeal. Both Parties will have five (5) calendar days to object to the Appeal Officer's selection on the basis of bias or conflict of interest. The CRC will consider any objection on the grounds of bias or conflict of interest. If the CRC determines that an Appeal Officer may have bias or conflict of interest, the CRC will remove the Appeal Officer and designate a new Appeal Officer.

The role of the Appeal Officer is limited. Appeals are not intended to be a full rehearing of the complaint. Appeals are confined to a review of the Appeal Record for the grounds stated above. The findings contained in the Investigator's Final Report are presumed to have been decided reasonably and appropriately. The Appellant carries the burden of proof to demonstrate that either the alleged error, or the proposed new evidence, would significantly and materially impact the outcome of the proceeding.

The Appeal Officer will determine whether any grounds for the appeal are substantiated. If the Appeal Officer determines that the Request for Appeal does not meet the standards for an Appeal under this Grievance Process, the Appeal Officer will notify both Parties of that outcome within ten (10) calendar days of receipt of both the Appellant's appeal, and the Appellee's response. If the Appeal Officer determines that the Request for Appeal does meet the standards for an Appeal under this Grievance Process, the Appeal Officer will take appropriate action as indicated below.

- ***Procedural Error:*** If it is determined that a procedural error occurred that was substantially prejudicial to the outcome of the investigation, the Appeal Officer may return the complaint to the Investigator with instructions to correct the error, and to reconsider the findings as appropriate. In rare cases, where the procedural error cannot be corrected by the original Investigator (as in cases

of bias), the Appeal Officer may order a new investigation with a new Investigator. The results of a reconvened investigation process cannot be appealed.

- ***New Information:*** If the Appeal Officer determines that new information should be considered, the complaint will be returned to the Investigator to reconsider the complaint in light of the new information only, and to reconsider the original findings as appropriate. The Investigator will prepare an Addendum to the Final Report, and provide the Parties with an opportunity to respond to the Addendum consistent with the opportunity to do so in the Notice of Findings and Response stage. The findings of the Final Report upon reconsideration are not appealable.

Notification of Appeal Outcome

Appellant and Appellee will generally be notified in writing of the outcome of the appeal within ten (10) calendar days of receipt of Appellee's response statement. The Appeal Officer's decision is final and is not subject to appeal.

E. Additional Provisions

1. Training

EMA provides training to all individuals within the community who are involved in responding to, investigating, or resolving reports of Prohibited Conduct. If EMA retains an individual outside the community to respond to, investigate, or resolve reports of Prohibited Conduct, EMA requires the retained individual has received adequate training consistent with EMA's standards. All advisors, including those that are not members of EMA community, shall be offered training on EMA's policy.

2. Notifications

The CRC will make reasonable efforts to ensure that the Complainant and the Respondent simultaneously are notified of the status of the Grievance Process, consistent with the processes described herein. Both Parties may, at any time, request a status update from the CRC.

3. Modification Of Grievance Process

EMA will follow the Grievance Process described herein barring exceptional circumstances. In rare instances, however, EMA may be required to adapt or modify

the Grievance Process (including timelines) to ensure prompt and equitable resolution of a report of Prohibited Conduct. EMA reserves this right. In such instances, EMA will notify both Parties of the modification of the Grievance Process and, if appropriate, the exceptional circumstances requiring EMA to adapt or modify the Grievance Process.

4. Alcohol And Substance Use

The purpose of this Grievance Process is to resolve reports of discrimination, harassment, and retaliation against individuals because of sex or gender. It is not the purpose of this Grievance Process to subject individuals to disciplinary action for their own personal consumption of alcohol or drugs. Consistent with the purpose of the Grievance Process, EMA will not subject individuals who participate in the Grievance Process to disciplinary action for information revealed in the course of the Grievance Process, provided that the individual's behavior did not, and does not, place the health and safety of others at risk. In all instances, EMA may pursue educational initiatives or remedies related to an individual's consumption of alcohol or drugs.

The use of alcohol or other drugs will never function as a defense for engaging in Prohibited Conduct.

5. Past Sexual History

In general, a Complainant's prior sexual history is not relevant and will not be provided to the Investigator. Where there is a current or ongoing relationship between the Complainant and the Respondent, and the Respondent alleges consent, the prior sexual history between the Parties may be relevant to assess the manner and nature of communications between the Parties. As noted in the Sexual Misconduct Policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Any prior sexual history of the Complainant with other individuals is typically not relevant and will not be permitted.

6. Respondent's Prior Conduct History

Where there is evidence of pattern of conduct similar in nature by the Respondent, either prior to or subsequent to the conduct in question, regardless of whether there has been a finding of responsibility, this information may be deemed relevant and probative to the Investigator's determination of responsibility, and/or the Review

Panel’s determination of sanction. The CRC will make a determination of relevance based on an assessment of whether the previous incident was substantially similar to the conduct cited in the report and indicates a pattern of behavior and substantial conformity with that pattern by the Respondent. Where there is a prior finding of responsibility for a similar act of Prohibited Conduct, there is a presumption of relevance and the finding may be considered in making a determination as to responsibility and/or assigning of a sanction.

EMA, through the CRC, may choose to provide this information to the Investigator, with appropriate notice to the Parties. Alternatively, a party may request in writing that information under this section be admitted. A request to admit such information must be submitted to the CRC. The CRC will assess the relevance of this information and determine if it is appropriate for inclusion in the investigation report.

7. Consolidation of Investigations

The CRC has the discretion to consolidate into one Investigation multiple reports against a Respondent and/or cross-complaints between a Complainant and a Respondent, if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident. Matters may be consolidated where they involve multiple Complainants, multiple Respondents, or related conduct that would regularly have been heard under the Code of Student Conduct.

8. Failure to Comply with Investigation and Disciplinary Process

If an Advisor fails to comply with the procedures set forth herein, including through a material breach of confidentiality, EMA reserves the right to exclude the advisor from further participation in the process. If a participant fails to comply with the procedures set forth herein, including through a material breach of confidentiality, EMA reserves the right to bring additional charges of misconduct against the participant. The CRC is responsible for interpreting and applying this provision.

9. Integrity of Proceeding

These procedures are entirely administrative in nature and are not considered legal proceedings, but rather procedures designed to address policy violations. Neither party may audio or video record the proceedings, nor is formal legal representation allowed. Advisors may not speak for, or on behalf of, Parties.

10. Records

The CRC will retain records of all reports and complaints, regardless of whether the matter is resolved by means of Initial Assessment, Informal Resolution or Formal Resolution. Complaints resolved by means of an Initial Assessment or Informal Resolution are not part of a student's conduct file or academic record.

Affirmative findings of responsibility in matters resolved through Formal Resolution are part of a student's conduct record. Such records shall be used in reviewing any further conduct, or developing sanctions, and shall remain a part of a student's conduct record.

In addition to records kept by the CRC, the conduct files of students who have been suspended or expelled from EMA are maintained in the School Director Office indefinitely. Conduct files of students who have not been suspended or expelled are maintained in the School Director Office for no fewer than seven years from the date of the incident. Further questions about record retention should be directed to the Title IX Office.

Issued by:
Oleg Vologin, President

Date:
January 3, 2022

Amended:

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