



ELMIRA
BUSINESS INSTITUTE

STUDENT CODE OF CONDUCT

Vestal Campus

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Student Code of Conduct

While every effort is made to provide accurate and current information, Elmira Business Institute (EBI) reserves the right to change, without notice, statements, policies, and rules described in the Student Code of Conduct. Such changes take effect whenever EBI officials deem necessary.

Student Responsibility

Each student at EBI is responsible for reviewing, understanding, and abiding by all EBI policies, rules, procedures, and expectations as described in this Student Code of Conduct and other policy documents.

Non-discrimination Policy

EBI does not discriminate on the basis of race, sex, color, national origin, creed, sexual orientation, or mental or physical disability in its programs, activities, or employment and is committed to providing equal opportunities.

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STUDENT CODE OF CONDUCT

Elmira Business Institute (EBI) expects that its students will conduct themselves at all times in accordance with the guiding principles outlined in this Student Code of Conduct, other EBI policies, and applicable New York State and federal laws. Students are responsible for making their own decisions and are expected to take responsibility for decisions made.

Authority over student conduct is vested in EBI's Office of Student Affairs. The Senior Vice President has delegated authority to each Campus Director to take action for the purposes of ensuring the protection of the EBI community's safety and well-being, preserving peace and order on campus, and disciplining students who violate expectations of appropriate behavior.

Violations of Code of Conduct

The following behaviors are considered specific violations of the Student Code of Conduct. Violations of the Student Code of Conduct can occur both on-campus and off-campus and may also include other unacceptable conduct not specifically listed below.

- Sexual misconduct
 - Including but not limited to: rape; sexual assault; stalking; domestic violence; dating violence; sexual harassment; unwanted sexual contact; and other sexual violence. *See EBI's full Sexual Misconduct Policy on page 10.*
- Academic misconduct
 - Including but not limited to: plagiarism; cheating; forgery and/or alteration of institutional records; unauthorized use of electronic devices during testing; disruptive classroom behavior; and other forms of academic dishonesty.
- Abusive, threatening, and/or dangerous behavior
 - Including but not limited to: verbal abuse; threatening behaviors or statements; conduct which endangers the health, safety, or welfare of any person; engaging in fighting and/or other violent behavior; bullying, harassment, and/or hazing; possession, use, storage, or sale of firearms and/or weapons on campus; unauthorized surveillance of any person; intentionally making a false report of an emergency; and other behaviors that would reasonably endanger, alarm, threaten, or harass any person
- Misuse, theft, damage, defacement, and/or destruction of EBI property
 - Including but not limited to: arson; tampering with fire safety equipment and/or devices; misuse and/or abuse of EBI computers, email communication systems, information technology networks, or other technology systems; and other damaging conduct
- Possession, use, storage, or sale of alcohol and/or drugs while on campus property or the premises of academic field sites and clinical placements, and/or while participating in academic field work, EBI-affiliated volunteer opportunities, events sponsored by or affiliated with EBI, or other events at which an individual is serving in a student capacity or as a representative of EBI

- Smoking, vaping, and/or the use, burning, or carrying of a lighted cigarette, cigar, pipe, e-cigarette, or any other matter or substances containing tobacco and/or nicotine on College property outside of designated campus smoking areas
- Gambling on College property
- Non-cooperation or non-compliance with instructions, directives, or reasonable requests from EBI officials, campus security officers, or law enforcement officers
- Non-cooperation or non-compliance with any part of the Student Code of Conduct disciplinary process, including adherence to interim measures and/or sanctions imposed under the Student Code of Conduct disciplinary process
- Furnishing false information to any EBI official, faculty member, or office, and other acts of dishonesty
- Misuse, alteration, or forgery of any EBI document, record, or instrument of identification
- Unauthorized entry or use of EBI premises
- Unauthorized possession, use, or duplication of keys or access codes to any EBI premises
- Breaching the peace of the EBI campus, community, operations, and/or events, including exposing others to conduct that is disorderly, harassing, annoying, uncivil, indecent, lewd, or otherwise inappropriate for members of an academic community, and/or inciting, coercing, or aiding others in doing so
- Bringing the name of EBI into disrepute, including engaging in conduct that reflects poorly on EBI and/or making false statements or false allegations about EBI, EBI officials, or the EBI community
- Engaging in other conduct that reflects insufficient maturity to be a member of an academic community and/or negatively impacts the normal pursuit of academic, administrative, extracurricular, or personal activities when such conduct is recurring, progressive, escalating, or otherwise an ongoing or repeat disruption to EBI operations
- Other violations of EBI policies or sanctions and/or other violations of federal law or State law that reflect poorly on a student's judgment and character

Reporting Violations of Code of Conduct

All students, faculty, and staff have the right to file a report with EBI regarding a potential or actual violation of the Code of Conduct. Potential and actual violations of the Code of Conduct will be processed under the **Disciplinary Procedures for Violations of Code of Conduct** described on the next page.

Students can file a report regarding a potential or actual violation of the Code of Conduct by filing an incident report with their Campus Director or, in the event of a sexual misconduct incident, with their campus Title IX Coordinator (see page 18 for more information). A blank incident report form is provided at the end of this Student Code of Conduct policy book. Hard copies of blank incident report forms are also available at the Security Desk and in the Academic Achievement Center (AAC) lab. Hard copy incident reports can be submitted in-person at the office of the Campus Director or Title IX Coordinator. Students can also download an incident report form at <https://ebi.edu/student-services/policies-procedures/> which can be submitted in-person or via email to report@ebi.edu.

Students reporting instances of sexual misconduct – whether they are the victim, a friend, or a witness/bystander – can make confidential and/or anonymous reports if they prefer to do so. While the policies described in this book pertain only to students who violate EBI’s Student Code of Conduct, in the event that sexual misconduct has been committed by a non-student (such as a faculty member, staff member, other member of the EBI community, non-member of the EBI community, or unknown person or stranger), students may still report the incident to EBI and receive support and protection. In any instance of sexual misconduct, a student has the right to report the incident to EBI, to campus security, to local law enforcement, to the State police, to any combination of those authorities, or to not report the incident at all. Detailed information regarding EBI’s sexual misconduct policy – including how to make a confidential and/or anonymous report, what a student’s rights are under federal and New York State law, and how to access support services – can be found on page 10 of this policy book in the section entitled **Sexual Misconduct Policy**. Students can also speak privately with their campus Title IX Coordinator, by visiting their campus office or by contacting them directly at the telephone number or email address provided on page 15.

Where a student’s complaint does not pertain to a potential or actual violation of the Code of Conduct (such as a dispute over academic accommodations, a complaint against a professor regarding course grades, or other non-conduct-related academic or administrative dispute), the student will be informed that his/her complaint will not be processed under the Disciplinary Procedures for Violations of Code of Conduct; instead, the student’s complaint will be handled in accordance with the procedures described in the EBI College Catalog: <https://ebi.edu/disclosures/>.

Disciplinary Procedures for Violations of Code of Conduct

Reports of potential and actual violations of the Code of Conduct, as listed and described above, will be processed as follows. All written notifications referenced below will be provided by EBI officials to students via the EBI email system.

All accused students are entitled to a presumption of ‘not responsible’ (not guilty), and all processes will be conducted in a fair, impartial, thorough, and timely manner. At all times, the burden of proof is on EBI to establish that the alleged violation of this policy was committed by the student in question. The standard of evidence required in both the Student Conduct Hearing and in the Appeal Hearing, if one is sought, is a preponderance of evidence. ‘Preponderance of evidence’ means that the relevant Hearing Panel must decide in favor of the party that, as a whole, has the stronger evidence that the violation was or was not committed, however slight the edge over the other party’s evidence may be. ‘Preponderance of evidence’ is sometimes described as ‘more likely than not’ or ‘51% probability’. The evidence should be sufficient to incline a fair and impartial mind to one side of the issue over the other, but it is not necessary for that mind to be completely free from all reasonable doubt. ‘Preponderance of evidence’ is a different and lesser standard of evidence than that used in criminal proceedings; rather, it is the standard of evidence often used in civil court proceedings. Please note that certain aspects of EBI’s disciplinary procedures are applicable only to incidents involving sexual misconduct. If you have any questions regarding these procedures, please contact your Campus Director.

- All submitted incident reports will be reviewed by the Campus Director (or his/her designee).
 - Students who have submitted a confidential and/or anonymous incident report in regard to an incident of sexual misconduct can rest assured that the Campus Director is a member of the College’s Title IX team and, accordingly, will maintain the student’s privacy to the utmost extent. *For more information on how to file a confidential and/or anonymous incident report regarding an incident of sexual misconduct, see EBI’s full Sexual Misconduct Policy on page 10.*
- If appropriate, the Campus Director (or another member of the Title IX team, if applicable) will conduct or direct an investigation into the incident reported.
 - Students who have reported an incident of sexual misconduct have the option of requesting that EBI not conduct an investigation; however, under certain circumstances, EBI may determine that an investigation is necessary to protect the health and safety of other students. When EBI determines that an investigation is necessary, the student who submitted the incident report will be notified in writing.
 - Students who have anonymously submitted a report regarding an incident of sexual misconduct should be aware that their anonymity may inhibit EBI’s ability to conduct a full investigation of the incident and/or communicate with the student regarding actions taken.
- Any investigation conducted will be done so in a fair, impartial, thorough, and timely manner. If, upon investigation, it is determined that a student may have violated the Student Code of Conduct, the Campus Director will file student conduct charges against the student and schedule a Student Conduct Hearing on the alleged violation, to be held at a campus location and date determined by the Campus Director. The date selected by the Campus Director will be timely in that it will provide an accused student a reasonable

amount of time to prepare for the Student Conduct Hearing while also not constituting an unreasonable delay in resolving the charges. When an alleged violation involves more than one student, or when more than one violation is alleged to have been committed by a student, the Campus Director may determine, in his/her discretion, to schedule separate Student Conduct Hearings.

- When the Campus Director files student conduct charges against a student, the Campus Director will promptly notify such student in writing of the specific violation in question, the date on which the violation allegedly occurred, possible consequences and/or sanctions against the student for such violation, information regarding how the student can dispute the violation alleged (including the date, time, and location of a Student Conduct Hearing at which the student will be entitled to present evidence), and what (if any) temporary measures will be imposed upon the student while the Student Conduct Hearing is in progress (e.g., temporary suspension). Where the alleged violation involves sexual misconduct, the written notice will also notify the student of his/her right to be accompanied at the Student Conduct Hearing by an advisor of his/her choice.
- The Student Conduct Hearing will be conducted in a fair, impartial, and thorough manner. The Student Conduct Hearing will be presided over by a panel of impartial individuals selected by the Campus Director. The panel will hear all evidence presented on the alleged violation. Where the alleged violation involves sexual misconduct, the accused student will have the opportunity to present evidence in his/her defense and to be accompanied by an advisor of his/her choice, and the individual who reported the incident and/or was subjected to the alleged sexual misconduct may, if he/she desires, also have the opportunity to present evidence of the incident and to be accompanied by an advisor of his/her choice.
 - Important note regarding advisors: Students are welcome, but not obligated, to be accompanied by an advisor during disciplinary hearings. Students are entitled to have their advisor sit with them and may confer with their advisor before, during, and after proceedings – however, advisors are not allowed to directly participate at any point during the proceedings. Any arguments or evidence presented during a hearing must be presented by the student himself/herself. In the event that a student cannot attend a proceeding or a portion thereof, the advisor is not allowed to attend or participate on the student's behalf.
- After all evidence has been presented in the Student Conduct Hearing, the panel will render a decision as to whether the accused student is 'responsible' (guilty) or 'not responsible' (not guilty) for the violation and will impose consequences and/or sanctions on an accused student found 'responsible', if appropriate. If the accused student fails to or declines to attend the Student Conduct Hearing, the Student Conduct Hearing will be held without the accused student present and the panel may reach a decision of 'responsible' and impose consequences and/or sanctions even in the accused student's absence. A full and fair record of the Student Conduct Hearing will be preserved and maintained by the College for five years.
- The Student Conduct Hearing panel's decision regarding the accused student's responsibility and the imposed consequences/sanctions (if any), including the rationale in support of such consequences/sanctions, will be provided to the accused student in writing within five days of the Student Conduct Hearing. Where the alleged violation involves sexual misconduct, the individual who reported the incident and/or was subjected to the

alleged sexual misconduct will also receive a written copy of the same information on the same day as the accused student.

- In addition to the written notification of the panel's decision and the imposed consequences/sanctions (if any), an accused student found 'responsible' will also receive written notice regarding his/her right to appeal the panel's decision and/or imposed consequences/sanctions. Where the alleged violation involves sexual misconduct, the individual who reported the incident and/or was subjected to the alleged sexual misconduct will also receive a written copy of the same information on the same day as the accused student.
- An accused student found 'responsible' may commence his/her appeal by following the procedures described in the paragraphs titled '**Appeals Process**' below. Where the alleged violation involves sexual misconduct, an appeal may also be commenced by the individual who reported the incident and/or was subjected to the alleged sexual misconduct by following the same procedures. In the event an appeal is requested in regard to an alleged violation involving sexual misconduct, the Student Conduct Hearing panel's decision will be protected from public release by the College until the Appeals Process is complete and final, unless the law requires otherwise; however, the students involved may choose whether or not to discuss or disclose the outcome of the Student Conduct Hearing.
- If a student does not commence an appeal within the required timeframe (i.e., five business days from receiving written notification of the Student Conduct Hearing panel's decision), then the Student Conduct Hearing panel's decision will be final.

Appeals Process

Any student found 'responsible' by a Student Conduct Hearing panel may appeal the panel's decisions, including its determination of responsibility and/or the consequences/sanctions imposed. Where the alleged violation involves sexual misconduct, an appeal may also be requested by the individual who reported the incident and/or was subjected to the alleged sexual misconduct.

If a student wishes to appeal the decision of the Student Conduct Hearing panel, whether in regard to its determination of responsibility or its imposed consequences/sanctions, the student must submit a written request for an appeal to the President within five business days (i.e., weekdays) of receiving written notification of the panel's decision. The written request for appeal must include a brief statement of whether the student objects to the Student Conduct Hearing panel's determination of responsibility, the imposed consequences/sanctions, or both, as well as include a brief statement of the student's argument(s) as to why the Student Conduct Hearing panel's determination of responsibility and/or imposed consequences/sanctions were inappropriate. Upon receiving the student's written request for appeal, the President will schedule an Appeal Hearing, to be held in a timely manner at a campus location and date determined by the President. Upon scheduling the Appeal Hearing, the President will provide written notification of the location, date, and time to the students involved.

The Appeal Hearing will be conducted in a fair, impartial, and thorough manner. The Appeal Hearing will be presided over by a panel of impartial individuals selected by the President. No

individual who served on the Student Conduct Hearing panel is allowed to serve on the Appeal Hearing panel. The panel will hear all arguments presented in regard to whether the Student Conduct Hearing panel's decisions were appropriate. After all arguments have been presented, the Appeal Hearing panel will render a decision on the appealed issues and, if appropriate, impose revised consequences/sanctions on a student. Within five days of the Appeal Hearing, the student(s) involved will receive written notification of the Appeal Hearing panel's decision and the rationale for such decision. The Appeal Hearing panel's decisions are final and are not subject to further appeal.

Possible Consequences and/or Sanctions

The following possible sanctions may be imposed as a result of a Student Conduct Hearing and/or an Appeal Hearing. In addition, if at any point (whether during or prior to any such hearing) a student's presence on campus creates a threat to the health, safety, and/or well-being of other students or other members of the EBI community, EBI reserves the right to immediately suspend that student from campus until the time of the Student Conduct Hearing and/or Appeal Hearing.

The following list of possible consequences/sanctions is not exhaustive, and these consequences/sanctions may be imposed singularly or in any combination. Any combination of the following sanctions, as well as different and/or additional consequences or sanctions, may be imposed by a Student Conduct Hearing panel and/or Appeal Hearing panel as the panel members may deem appropriate.

- **No Consequences/Sanctions:** Where the Student Conduct Hearing panel (and/or the Appeal Hearing panel, in the event an appeal is sought) determines that a student is 'not responsible', the student conduct charges against the student will be dismissed and the student's name will be cleared.
- **Verbal Warning:** A discussion with the student about the incident, with no written notification issued.
- **Written Warning:** A written notice to the student stating that his/her conduct is in violation of EBI policies and that the continuation of said conduct during a stated period of time may be cause for more serious disciplinary action, such as community service, probation, or suspension.
- **Loss of Privileges:** A stated temporary loss of campus privileges, such as but not limited to the ability to attend special events or participate in extracurricular activities, set in writing for a stated period of time.
- **Fine:** Financial penalty for committing prohibited conduct.
- **Restitution:** Financial reimbursement for damage to property.
- **Community Service:** A stated number of hours, set in writing, of donated service commensurate with the conduct violation.
- **Referral for Mandatory Counseling:** A stated number of counseling sessions, set in writing, commensurate with the conduct violation. The counseling sessions may be required to be

completed with an external counseling professional, as appropriate. The costs of any such counseling services will be paid by the College.

- Referral for Mandatory Mental Health Assessment: A required evaluation by an appropriate mental health professional of the College's choosing. The costs of any such evaluation will be paid by the College.
- Disciplinary Probation: A stated period of time, set in writing, during which the student is expected to demonstrate appropriate conduct as a member of the College community. Failure to demonstrate appropriate conduct may subject the student to further consequences/sanctions, such as community service and/or suspension.
- Disciplinary Suspension: A stated period of time, set in writing and not to exceed one academic year, during which the student is excluded from classes and/or campus activities. Upon the expiration of the suspension period, the student may be subjected to a probation period during which the student is expected to demonstrate appropriate conduct as a member of the College community. This sanction automatically results in a Transcript Notation sanction.
- Disciplinary Dismissal from the College (Expulsion): Permanent termination of status as a student of the College. This sanction automatically results in a Transcript Notation sanction.
- Transcript Notation: Where a student is found 'responsible' for a violation involving violence, including sexual violence and/or sexual misconduct, and is then subjected to either suspension or expulsion from the College, the student's transcript will automatically receive a notation stating "Suspended after a finding of responsibility for a Code of Conduct violation" or "Expelled after a finding of responsibility for a Code of Conduct violation," as appropriate. Where a student withdraws from the College while such charges are pending, the student's transcript will receive a notation stating "Withdrew with conduct charges pending." Transcript notations regarding expulsion, suspension, and withdrawal shall be permanent.
- Other consequences and/or sanctions as deemed appropriate by the Student Conduct Hearing panel and/or Appeal Hearing panel.

SEXUAL MISCONDUCT POLICY

Elmira Business Institute (EBI) is committed to promoting a learning and working environment where all members of the EBI community feel safe and respected. Acts of sexual misconduct are contrary to EBI's educational mission and values, are harmful to others, and will not be tolerated by EBI. This policy prohibits sexual violence, sexual harassment, sexual misconduct, and other related offenses in all EBI programs and activities. Conduct prohibited by this policy may also violate federal and/or New York State laws enforced through the criminal justice system. Individuals are free to pursue action under this policy and through the criminal justice system simultaneously. EBI takes seriously all reports of sexual misconduct and promises to promptly and fairly respond to all reports of misconduct in a manner intended to eliminate the misconduct, prevent its recurrence, and address its impact on affected individuals and the EBI community. All EBI proceedings conducted in regard to alleged violations of this policy will be done so in a timely and equitable process that provides adequate notice and a meaningful opportunity for all parties to be heard.

Scope of Sexual Misconduct Policy

This policy intends to address conduct prohibited under federal laws, including Title IX, the Clery Act, and the Violence Against Women Act, as well as under New York State law, specifically its "Enough Is Enough" law (Education Law 129-B).

This policy applies to all EBI community members, including students, faculty, staff, other employees, and independent contractors. EBI will receive and address reports received from any individual, whether or not he/she is affiliated with EBI, that an EBI community member has violated this policy. Vendors, contractors, visitors, and others who conduct business with the EBI or on EBI property are likewise expected to comply with this policy. The prohibitions and protections in this policy apply regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction.

The prohibitions and protections in this policy apply regardless of whether the violation occurs on campus or off campus. Members of the EBI community who commit acts of sexual misconduct will be disciplined appropriately and pursuant to EBI policy. This policy book describes protections specifically for students who are subjected to sexual misconduct as well as disciplinary procedures specifically relevant to students who commit sexual misconduct. The actions EBI is empowered to take against an individual who commits sexual misconduct may vary or be limited when that individual is not a member of the EBI community; however, whenever a member of the EBI community is subjected to sexual misconduct, regardless of the status of the individual who committed it, EBI will continue to provide support, resources, and protection to the affected community member. At all times, EBI will cooperate with and assist in law enforcement investigations whenever appropriate and requested to do so.

Terminology and Definitions

The following terms are used throughout this policy book and may be heard during conversations with EBI officials and/or during student conduct proceedings. Due to the sensitive and sometimes violent nature of incidents involving sexual misconduct, the following definitions are provided for informational use by students and for guidance in the investigation and processing of alleged violations. It is possible that a particular action may constitute sexual misconduct even if not specifically mentioned in these definitions.

If you have any questions about what these terms mean or whether they apply to certain situations, please feel free to talk to your campus Title IX Coordinator. If you aren't sure who your Title IX Coordinator might be, please see page 15. Any questions about whether a specific incident violates New York State criminal laws should be addressed to law enforcement or to the local district attorney.

Sexual activity

- Sexual activity includes both sexual acts and sexual contact.
 - Sexual act
 - Contact between the penis and the vulva or between the penis and the anus. Contact involving the penis occurs upon penetration, however slight.
 - Contact between the mouth and the penis, mouth and the vulva, or the mouth and the anus.
 - Penetration, however slight, of the anal or genital opening of another person by a hand, finger, or any object, with the intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desire of any person.
 - Intentional touching, not through clothing, of the genitalia of another person under the age of 16 years, with an intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desire of any person.
 - Sexual contact
 - Intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desire of any person.

Sexual misconduct

- Sexual misconduct is a broad term that encompasses a range of behaviors. Sexual misconduct can occur between people who know each other, people who have an established relationship, people who have engaged in consensual sexual activity before, and people who don't know each other. Sexual misconduct can be committed by persons of any gender or gender identity, and it can occur between people of the same sex or different sex. Sexual misconduct includes but is not limited to:
 - Sexual assault
 - Unwanted sexual activity and/or unwanted sexual contact that has not been consented to by one or more of the participants, including but not limited to:
 - Rape

- The penetration, no matter how slight, of a person's vagina or anus, without that person's consent, by another person with any body part or object; and/or the penetration of a person's mouth, without that person's consent, by another person's sex organ.
 - Sexual coercion
 - Using verbal pressure to compel another person to engage in sexual activity that he/she would otherwise not consent to, including but not limited to telling lies, threatening to spread rumors, and engaging in verbal abuse.
 - Fondling
 - Touching the private body parts of another person, without that person's consent, for the purpose of sexual gratification.
 - Statutory rape
 - Sexual intercourse with a person who is under the legal age of consent.
- Sexual exploitation
 - Engaging intentionally in exploitive behavior including but not limited to:
 - Observing another person when that person is nude or engaged in sexual activity without the knowledge and consent of the person observed, or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
 - Making, sharing, posting, streaming, or otherwise distributing any image, photography, video, or audio recording depicting or otherwise recording another person when that person is nude or engaged in sexual activity without the knowledge and consent of the person depicted or recorded;
 - Exposing one's genitals to another person without the consent of that person;
 - Exposing another person to a sexually transmitted infection without the knowledge and consent of the person exposed;
 - Causing another person to become incapacitated with the intent of making that person vulnerable to non-consensual sexual activity or sexual exploitation.
- Stalking
 - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her safety or the safety of others, or would cause a reasonable person to suffer substantial emotional distress.
- Domestic violence
 - Violence committed by a current or former spouse, by a person with whom you share a child, or by a person with whom you live or have lived as a spouse or intimate partner, including acts of sexual violence, sexual abuse, physical abuse, or the threat of any such abuse.
- Dating violence
 - Violence committed by a person you are dating or have dated, or by a person with whom you have or have had a relationship of a romantic or intimate

- nature, including acts of sexual violence, sexual abuse, physical abuse, or the threat of any such abuse.
- Gender-based harassment
 - Unwelcome conduct of a non-sexual nature based upon a person's actual or perceived sex, including conduct based on gender identity, gender expression, and non-conformity with gender stereotypes.
- Sexual harassment
 - Unwelcome conduct of a sexual nature that is so severe, persistent, or pervasive as to limit a student's ability to participate in or benefit from an education program or as to create a hostile or abusive educational environment, including but not limited to:
 - Unwelcome sexual advances
 - Requests for sexual favors
 - Sexual exploitation
 - Offering employment or educational benefits in exchange for sexual favors
 - Threatening or taking negative action in the event of having sexual advances denied and/or after having sexual advances denied, such as a professor threatening to fail a student unless the student agrees to date the professor
 - Graphic verbal comments about an individual's body or appearance
 - Spreading sexual rumors
 - Touching an individual's body or clothing (including one's own) in a sexual way, such as grabbing, brushing against, patting, pinching, bumping, rubbing, kissing, fondling, etc.
 - Other verbal or non-verbal conduct of a sexual nature
 - Other sexual misconduct and/or sexual violence including stalking, dating violence, and domestic violence
- Sex discrimination and/or gender discrimination
 - Treating an individual unfavorably or adversely based upon that individual's sex and/or gender in the context of educational or employment activities, programs, or benefits, such as in admissions, hiring, selection for and/or participation in projects, teams, or events, provision of wages or benefits, selection for promotions, etc.
- Retaliation
 - Taking adverse action against an individual for making a good faith report of prohibited behavior, for participating in any investigation or proceeding into such behavior, and/or otherwise cooperating with the College's efforts to prevent and remediate sexual misconduct in its community, including but not limited to engaging in intimidation, threats, coercion, and/or adverse actions regarding education or employment.
 - Retaliation does not exist where an individual pursue actions in good faith in response to a report of prohibited behavior, such as an accused individual offering evidence in his/her own defense.
 - Retaliation may be committed by an accused individual, a reporting individual, or any other person or group of persons.

- Retaliation may exist event where an underlying report that was made in good faith was found to be unsubstantiated by evidence and/or the accused individual was determined to be ‘not responsible’.
- Other sexual violence
- Other inappropriate behavior of a sexual nature

Affirmative consent

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

Title IX Coordinator

- EBI has a Title IX team comprised of two Title IX Coordinators. The Title IX team is responsible for coordinating the College’s prevention of and response to sexual harassment and sexual violence, as well as for addressing any questions or inquiries regarding how EBI applies federal Title IX law and regulations. EBI’s Title IX team also coordinates the College’s response to acts of sexual misconduct as required by New York State’s “Enough Is Enough” law (Education Law 129-B).
- The Title IX team has many responsibilities as part of its job of ensuring EBI complies with the law. The Title IX team has the primary responsibility for:
 - Receiving complaints regarding sexual misconduct;
 - Providing information to students about resources and support services available;
 - Directing investigations into incidents of sexual misconduct;
 - Issuing interim protective measures and arranging requested accommodations;
 - Initiating student conduct charges against students who have committed sexual misconduct;
 - Ensuring the student conduct process is handled the right way;

- Overseeing student compliance with consequences and sanctions imposed through the student conduct process;
- Collecting statistics regarding the prevalence of sexual misconduct on campus;
- Conducting annual surveys of the campus community regarding sexual misconduct; and
- Overseeing education and training programs relating to sexual misconduct.
- The Title IX Coordinator is the person with whom you would file a formal report regarding sexual misconduct. You can also privately tell the Title IX Coordinator about incidents of sexual misconduct even if you do not want to file a formal report. You can also disclose those incidents to other EBI officials, if you prefer.
 - Some EBI officials are required to notify the Title IX Coordinator when a student discloses an incident of sexual misconduct to them, in order to protect the safety of other people on campus and so that the Title IX Coordinator can reach out to the student to offer help, support, and information about filing a formal report if the student desires to do so. Those EBI officials would only provide the Title IX Coordinator with the necessary information, and the student’s privacy would be maintained at all times. More information about privacy is provided on the next page.
 - Other EBI officials are not required to notify the Title IX Coordinator when a student discloses an incident of sexual misconduct to them. These EBI officials are known as “confidential officials”. EBI has at least one confidential official at each campus with whom students can speak with confidentially. More information about confidentiality and a list of the confidential officials for each campus is provided below and on the next page. The Title IX Coordinator will maintain student privacy to the greatest extent possible, but is not a confidential resource, given the nature of their duties.
- EBI’s Title IX team is comprised of the following individuals:

Campus	Title IX Coordinator	Other Campus Role	Contact Information
Vestal	Erin McCann	Accountant	Administrative Offices emccann@ebi.edu 607-729-8915 (ext. 324)

Confidentiality

- Confidentiality can be offered by an EBI official who is not required by law to report known incidents of sexual assault or other crimes to the College’s Title IX Coordinator or any other College officials. Any conversation you have with a confidential official will be kept completely confidential and will not be shared with anyone else without your permission, except in the very rare and extreme circumstance where someone’s safety is at risk.
- EBI has at least one official at each campus who can offer complete confidentiality to persons who want to confidentially report an incident of sexual misconduct:

Campus	Confidential Official	Other Campus Role	Contact Information
Vestal	Jessica Stetts	Medical Assisting Program Director	Program Director's Office jstetts@ebi.edu 607-729-8915 (ext. 323)

- Examples of other individuals who can offer confidentiality:
 - Medical providers
 - Lawyers providing legal advice
 - Licensed mental health counselors, psychologists, and social workers
 - Pastoral counselors (e.g., priests and other clergy members)
 - Local rape crisis centers and other confidential community resources (see page 22 for a list of local community resources near the EBI campuses, or call the NYS Sexual Violence Hotline at 1-800-942-6906 (available 24/7/365) to be connected to your local rape crisis center)

Privacy

- Privacy can be offered by an EBI official who is unable to offer confidentiality due to their legal obligation to report known incidents of sexual assault or other crimes to the Title IX Coordinator. Even EBI officials who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution.
- Any EBI official who is not considered a confidential official, including your campus Title IX Coordinator, is considered a College official who will guarantee privacy.

Accused

- A person accused of sexual misconduct or another violation of this policy.

Reporting individual

- Reporting individual includes any person who is a victim, survivor, complainant, and other individuals who were subjected to sexual misconduct, and then report it.

Bystander

- Bystander includes any person who witnesses or learns about sexual misconduct or another violation of this policy who is not themselves the victim or person subjected to the sexual misconduct.
- Bystanders are welcome and encouraged to report incidents of sexual misconduct that they have witnessed or learned about.
 - If your friend is a victim of sexual misconduct, please encourage them to reach out for help. A list of on-campus and off-campus resources available to victims can be found on page 22.

Prohibited Behavior

The following behaviors are considered specific and serious violations of EBI's Sexual Misconduct Policy. Violations of this policy can occur both on-campus and off-campus and may also include other unacceptable conduct not specifically listed below. Any possible or known violation of this policy may result in EBI conducting an investigation; in certain instances, EBI is obligated by federal and/or New York State law to conduct an investigation into these behaviors. Students believed to have committed prohibited behavior, including sexual misconduct, in violation of this policy may face student conduct charges, which can result in serious consequences, such as suspension or expulsion. For more information, see EBI's **Disciplinary Process for Violations of Student Code of Conduct** described on page 5 of this Student Code of Conduct policy book.

Prohibited Behavior:

- Sexual misconduct, including but not limited to:
 - Rape
 - Sexual assault
 - Sexual harassment
 - Stalking
 - Domestic violence
 - Dating violence
 - Unwanted sexual activity and/or contact
 - Fondling
 - Statutory rape
 - Gender-based harassment
 - Sex discrimination
 - Retaliation against someone who has made a complaint about sexual misconduct
 - Sexual exploitation
 - Sexual coercion
 - Other sexual violence
 - Other sexually inappropriate behavior
- Attempting to commit sexual misconduct
- Aiding another person in committing sexual misconduct
- Knowingly violating an interim measure or sanction imposed by EBI pursuant to this policy, such as a 'no contact' order, suspension, or other measures and/or sanctions deemed appropriate under the circumstances
- Knowingly filing a false report of any prohibited behavior

How to Report Incidents of Sexual Misconduct

In any instance of sexual misconduct, a student has the right to report the incident to EBI, to campus security, to local law enforcement, to the State police, to any combination of these authorities, or to not report the incident at all.

Disclosing vs. Reporting

Sometimes students wish to tell someone about an incident of sexual misconduct but are not yet sure whether they wish to see official action taken against the individual who committed it. Students have the option to disclose (tell someone about) an incident without being obligated to file a formal report. Whether a student chooses to disclose or chooses to formally report an incident, the student has the right to be protected by EBI from retaliation and the right to receive assistance and resources from EBI.

The Title IX Coordinator is the person with whom a student would file a formal report regarding sexual misconduct, if the student wishes to do so. Upon receiving a formal report, the Title IX team begins an investigation into the incident and commences the student disciplinary process against the individual who committed the sexual misconduct, if that individual is a student of the EBI (or, if the individual is not a student, takes other appropriate action). The Title IX team will also offer the student assistance and resources.

Students can also make a formal report to the Title IX Coordinator even if they do not want an investigation to occur. Although the Title IX Coordinator is not a “confidential official” in the same way as the confidential official listed on pages 15–16, reporting an incident to the Title IX team while expressing one’s wish for no investigation to occur is known as a “confidential report” to the Title IX team. This is considered a “confidential report” in that the Title IX team will first ask the student’s permission before beginning an investigation and commencing the student disciplinary process. If the student declines to give permission, the Title IX Coordinator will honor the student’s decision and will not investigate the report, except in the rare and extreme circumstances where failing to investigate would prevent EBI from providing a safe and non-discriminatory environment for all members of the EBI community. In those cases, the student would not be obligated to participate in the investigation or the disciplinary process. Whatever the student decides, the Title IX team will still offer the student assistance and resources. More information about how to make this “confidential report” is provided on pages 19–20.

Disclosing to Someone Other than the Title IX Coordinator

Students can also disclose incidents to EBI officials other than the Title IX Coordinator, if they prefer to do so. Most EBI officials are required to notify the Title IX Coordinator when a student discloses an incident of sexual misconduct to them, in order to protect the safety of other people on campus and so that the Title IX Coordinator can reach out to the student to offer help, support, and information about filing a formal report if the student desires. While these EBI officials cannot offer true confidentiality, they promise not to disclose more information to the Title IX Coordinator than necessary. The information disclosed will be limited to only the information needed to

conduct an investigation (if the student permits) and to ensure student safety. More information about privacy is provided on page 15.

Other EBI officials are not required to notify the Title IX Coordinator when a student discloses an incident of sexual misconduct to them. These EBI officials are known as “confidential officials”. EBI has at least one confidential official at each campus with whom students can speak with confidentially. These EBI officials can help students obtain assistance and resources without sharing a student’s confidential information with anyone else. Speaking to a “confidential official” will not result in a formal report being made. More information about confidentiality and the names of EBI’s confidential officials are provided on pages 15–16.

Students can also disclose incidents to non-EBI officials, such as a local rape crisis center or a mental health counselor. A list of some local rape crisis centers and other community resources is provided on page 22. You can also find local rape crisis centers and other community resources by dialing 2-1-1 or by calling the New York State Domestic & Sexual Violence Hotline (1-800-942-6906). These types of non-EBI officials provide confidentiality and can offer support and referrals to helpful services & resources. These persons are not affiliated with EBI and have no obligation to notify the Title IX Coordinator about the incident.

Making a Formal Report Confidentially and/or Anonymously

In addition to the options for disclosing an incident of sexual misconduct, students also have several options for making a formal report. The Title IX Coordinator is the person with whom a student would file a formal report regarding sexual misconduct, if the student wishes to do so. All reports of sexual misconduct will be handled with the utmost privacy. Students reporting instances of sexual misconduct – whether they are the victim, a friend, or a witness/bystander – can also make confidential and/or anonymous reports if they prefer to do so.

Formal reports can be made to the Title IX Coordinator by:

- Meeting with the Title IX Coordinator in-person.
- Emailing report@ebi.edu .
- Filing an incident report form at the office of the Title IX Coordinator or the office of the Campus Director.
 - A blank incident report form can be found at the end of this Student Code of Conduct policy book. Hard copies of blank incident report forms are also available at the Security Desk or in the Academic Achievement Center (AAC) lab. Students can also download an incident report form at <https://ebi.edu/student-services/policies-procedures/> which can be submitted in-person or via email to report@ebi.edu .

Making a confidential report to the Title IX Coordinator can be done in-person or via email.

- As explained on page 18, while this reporting method is known as a “confidential report”, due to the nature of their responsibilities, the Title IX Coordinator is not truly a “confidential official” – by making a “confidential report”, you are making a formal report but asking the Title IX team to not investigate the incident. All

information provided in a “confidential report” will be handled with the utmost privacy.

- Important note regarding “confidential reports”:
 - When a reporting individual formally reports an incident of sexual misconduct but expresses that he/she does not wish for EBI to conduct an investigation, EBI will typically honor that request. However, sometimes EBI will be obligated to weigh such a request against EBI’s duty to ensure the safety of others on campus. Some of the factors EBI may consider in weighing a request to not investigate may include:
 - Whether the accused individual has a history of violent behavior or is a repeat offender;
 - Whether the incident represents escalation in unlawful conduct by the accused individual, compared to his/her previous behavior;
 - The increased risk that the accused will commit additional acts of violence;
 - Whether the accused used a weapon and/or force;
 - Whether the reporting individual is a minor;
 - Whether the institution has other means of obtaining evidence (e.g., security footage) and whether available information reveals a pattern of perpetration at a given location or by a particular group.
 - When EBI determines that an investigation is necessary, the student who reported the incident will be notified in writing.

Making an anonymous report to the Title IX Coordinator can be done by:

- Emailing report@ebi.edu from an email address that does not identify you.
 - Students can download an incident report form at <https://ebi.edu/student-services/policies-procedures/> and provide all relevant information except their own name and contact information.
- Important note regarding anonymous reports:
 - Individuals who wish to anonymously report an incident should be aware that their anonymity may inhibit the College’s ability to conduct a full investigation of the incident and/or communicate with the student regarding actions taken.

In the event that sexual misconduct has been committed by a non-member of the EBI community (including an unknown person or stranger), students may still report the incident to EBI and receive support and protection. For a list of on-campus and off-campus resources and support services near EBI’s campuses, see page 22.

Students also have the option to make a report to law enforcement, either in addition to or as an alternative to making a report to the College.

Make a report to law enforcement by...

- Contacting the New York State Police at 1-844-845-7269
or by
- Contacting local law enforcement in your area

Local Law Enforcement
<p>New York State Police, Troop C (Broome County), 607-561-7400 New York State Police, Troop E (Chemung County), 585-398-4100 Chemung County Sheriff, 607-737-2948 Broome County Sheriff, 607-778-1911 Elmira City Police Department, 607-735-8600 Vestal Town Police Department, 607-786-7600 Elmira Heights Village Police Department, 607-733-6580 Endicott Village Police Department, 607-757-2486</p>

Amnesty Policy for Alcohol and/or Drug Use

Students should not be afraid to report an incident of sexual misconduct merely because they were drinking alcohol or using drugs at the time of the incident, whether they were a victim, witness, or bystander. EBI has adopted an amnesty policy for alcohol and/or drug use in regard to incidents of sexual misconduct. The health and safety of every student at EBI is of utmost importance. EBI recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence (including but not limited to domestic violence, dating violence, stalking, or sexual assault) occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. EBI strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to EBI officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to EBI officials or law enforcement will not be subject to EBI code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

Disclosures During Advocacy Events

Individuals occasionally disclose information regarding sexual misconduct during a public awareness and/or advocacy event, such as candlelight vigils, protests, survivor speak-outs, Clothesline Project events, Take Back the Night events, Day of Unity events, and other similar public events. These events typically serve the purpose of empowering survivors and raising awareness about issues related to sexual violence, as opposed to serving as a forum in which formal reports are made. Accordingly, EBI is not obligated to begin an investigation based on information disclosed at these events, however any individual always remains free to file a report with the EBI if they choose to do so. EBI may use information provided at such events to inform its efforts for additional education and prevention efforts regarding sexual misconduct and sexual violence.

Campus Alerts

When certain crimes occur in certain areas on and/or near campus that represent a serious or continuing threat to the campus community, EBI is obligated under federal law to issue a timely warning, in order to protect the safety of others. Crimes triggering a timely warning might include,

for example, a rapist who is still present on campus. When a timely warning is issued, the warning will never identify any victims or reporting individuals.

Campus Crime Data

When the Title IX Coordinator receives reports of sexual misconduct and certain other crimes that occur in certain locations on and/or near campus, federal and New York State laws require the Title IX Coordinator to count the number of those reports for inclusion in EBI's annual security report. This is merely an anonymous tally – neither the identity of the reporting individual nor the specifics of the crime are included in the annual security report.

Resources, Support Services, and Protection for Students

EBI is committed to supporting victims and survivors of sexual misconduct and sexual violence, regardless of when, where, or who committed the acts in question. In this section, EBI has collected information and resources that may be helpful. If there are other resources that you or a friend might need, EBI encourages you to reach out to your campus Title IX team, who can help obtain those resources. If you are not sure who is on the Title IX team, their names are provided on page 15. If you are in immediate danger at any point, call 911!

Obtaining Immediate Medical Attention

If you have been the victim of rape, sexual assault, domestic violence, or dating violence and are in need of immediate medical attention, please call 911 and/or consider visiting a hospital, urgent care center, or medical provider. Below is a list of emergency medical facilities and other medical providers near EBI's campuses. New York State law requires that all hospitals in the State offer forensic rape examinations (sometimes also called 'forensic sexual assault examinations' or simply 'rape kits'). Hospitals must notify the victim/survivor that they can choose to have the forensic rape exam and its related charges billed to the NYS Office of Victim Services at no cost to the victim/survivor. After the exam, you might receive other medical services or counseling services for which the hospital might charge you or bill your health insurance; if your insurance plan is through someone else (such as your parent or spouse), you are encouraged to tell hospital staff if you do not want your insurance policyholder to be notified about your access to these services.

Especially in incidents of rape or sexual assault, it may be important to receive a forensic examination as soon as possible in order to preserve evidence and/or to receive protection from sexually transmitted infections and pregnancy. To best preserve evidence, you should avoid showering, washing, changing clothes, discarding clothes, combing hair, or otherwise altering your physical appearance until the exam is complete, and you should seek an exam as soon as possible. Most medical professionals recommend receiving emergency HIV-prevention medication within 36 hours (1.5 days), a forensic exam within 96 hours (4 days), and emergency contraception (sometimes called "the morning-after pill") within 120 hours (5 days) of being raped or sexually assaulted. Even if you don't want evidence to be collected, it is still recommended that you get examined by a doctor in order to address physical injuries, potential pregnancy, and possible exposure to sexually transmitted infections. For more information about what to do after an assault, please call the NYS Sexual Violence Hotline at 1-800-942-6906 (available 24/7/365) to

be connected to your local rape crisis center or visit the National Sexual Violence Resource Center website at www.nsvrc.org.

Medical Facilities
St. Joseph’s Hospital of Elmira , 555 St. Joseph’s Boulevard, Elmira, NY 14901 607-733-6541 Arnot Ogden Medical Center , 600 Roe Avenue, Elmira, NY 14905 607-737-4230 Our Lady of Lourdes Memorial Hospital , 169 Riverside Drive, Binghamton, NY 13905 607-798-5111 United Health Services Hospital – Wilson Hospital , 33-57 Harrison Street, Johnson City, NY 13790 607-763-6000

More information regarding forensic examinations and sexually transmitted infections, as well as other resources available through the New York State Office of Victim Services, is available by talking to someone on the Title IX team or by contacting the New York State Office of Victim Services directly: 1-800-247-8035 or <https://ovs.ny.gov/contact-us>.

On-Campus and Off-Campus Resources and Support Services

Individuals who have been subjected to sexual misconduct also often need other types of support. Even if you think you are okay and that you do not need help, EBI encourages you to reach out to someone. EBI offers on-campus resources that may benefit you. In addition, there are various off-campus resources that you can use if you prefer not to seek help from on-campus resources. Likewise, students who have been accused of sexual misconduct also often need support and guidance. All on-campus resources are equally available to those students.

Below is a list of on-campus and off-campus resources near EBI’s campuses, including counselors, advocates, and community resources. If you have any questions or are not sure where to go, your campus Title IX team can help point you in the right direction. If you are not sure who is on your campus Title IX team, their names are included below as On-Campus Resources.

Vestal Campus

On-Campus Resources	Off-Campus Resources
Erin McCann Title IX Coordinator 607-729-8915 (ext. 324) emccann@ebi.edu Jessica Stetts Confidential Resource 607-729-8915 (ext. 323) jstetts@ebi.edu	RISE Domestic Violence Assistance <i>(formerly known as the SOS Shelter)</i> (Private Location), Endicott, NY 13761 Hotline: 1-877-754-4340 www.rise-ny.org <i>Provides free domestic violence services to victims and their children,, including safe housing, transportation, counseling, support groups, legal assistance, and advocacy services</i> Identity Youth 206 State Street, Binghamton, NY 13901 607-651-9120 www.idyouth.org <i>A youth center for teens and young adults (ages 13–24) regardless of gender identity or sexual orientation. Provides social events, drop-in hours to just hang out, educational programs, and referrals to resources and supports (such as crisis intervention, counseling, safe housing, and sexual health services).</i>

On-Campus Resources	Off-Campus Resources
	<p style="text-align: center;">Crime Victims Assistance Center 377 Robinson Street, Binghamton, NY 13904 24/7 Hotline: 607-722-4256 Text-line: 607-723-3200 <i>Provides 24-hour support to the community, local police, and local hospitals. Offers safe housing, short-term counseling, and referrals to other important support services and resources.</i></p> <p style="text-align: center;">A New Hope Center 20 Church Street, Owego, NY, 13827 24/7 Hotline: 1-800-696-7600 <i>Provides counseling, support groups, legal services, safe housing, assistance finding new housing, protection for pets, a safe space for supervised court-ordered visitation, and referrals to other resources.</i></p>

The above is only a brief listing of the resources available to you. You can find many more resources by dialing 2-1-1 for free, confidential help finding an extensive list of resources, including law enforcement & public safety assistance, legal services, hospitals that conduct sexual assault forensic exams, confidential counseling services, and more. 2-1-1 is available 24/7, and many of the resources to which they can refer you also are available 24/7, are confidential, and are low-cost or free of charge.

Protections and Campus Accommodations

In addition to the support provided by on-campus and off-campus resources, EBI is prepared to offer you certain protections and reasonable campus accommodations. Below is a list of protections and campus accommodations that may be available, if appropriate. To request any of the below protections and/or campus accommodations, please contact your campus Title IX team. The Title IX team will then make the necessary arrangements, including coordinating with other campus offices as needed, in order to maintain your privacy.

- Having EBI issue a ‘no contact’ order against an individual
 - A ‘no contact’ order requires the accused to leave a public place where both the accused and the reporting individual are present. The accused is not allowed to contact or speak with the reporting individual. If necessary, EBI may establish a schedule for the accused and the reporting individual to access College buildings and property at separate times. Violating the ‘no contact’ order could subject the accused to additional consequences and/or the involvement of law enforcement.
 - Upon request, both the accused and the reporting individual will have the opportunity to provide their perspective on the need for a ‘no contact’ order, the terms of any ‘no contact’ order issued, and the potential for modifying the ‘no contact’ order, and will be allowed to submit evidence in support of their view.

- Assistance from EBI officials in obtaining an order of protection or restraining order from law enforcement against an individual
 - Orders of protection and restraining orders are similar to ‘no contact’ orders, except that they are imposed by the local police, not by EBI. If an individual violates an order of protection or restraining order, they could be arrested. EBI reserves the right to impose consequences on individuals who violate orders of protection and restraining orders, such as imposing additional conduct charges and/or subjecting the accused to interim suspension.
- Assistance from EBI campus security in calling on & assisting law enforcement in effecting an arrest when an individual violates an order of protection
- Having an individual subjected to interim suspension or other appropriate interim measures when he/she poses a continuing threat to the health and safety of the EBI community
 - Upon request, both the accused and the reporting individual will have the opportunity to provide their perspective on the need for interim suspension or other interim measures, the terms of any interim suspension or interim measures imposed, and the potential for modifying any interim suspension or interim measures imposed, and will be allowed to submit evidence in support of their view.
 - Determinations of whether a student poses a continuing threat to the health and safety of the EBI community are made by the Campus Director (or his/her designee). Such a determination is always made in good faith and takes into consideration:
 - The nature of the allegation in question
 - Subsequent behavior occurring after the allegation
 - The potential risk of harm or disruption to the campus community and the reporting individual
 - Other relevant factors, such as whether the alleged behavior represents an escalation in behavior from past incidents, the possession and/or use of a weapon, and whether alternatives to interim suspension are available
 - When the threat posed implicates mental health issues, the student will be required to provide EBI with documentation from an appropriate healthcare provider in order to return to campus. Additional safety precautions may also be taken where EBI deems it necessary.
 - When certain crimes occur in certain areas on and/or near campus that represent a serious or continuing threat to the campus community, EBI is obligated under federal law to issue a timely warning, in order to protect the safety of others. Crimes triggering a timely warning might include, for example, a rapist who is still present on campus. When a timely warning is issued, the warning will never identify any victims or reporting individuals.
- Obtaining reasonable and available interim measures and accommodations for changes in an individual’s academics, housing, employment, transportation, or other arrangements in order to help ensure safety, prevent retaliation, and avoid a hostile environment, such as:
 - Changes to class schedule
 - Changes to work schedule
 - Changes in dormitory assignment
 - Assistance finding alternate transportation

- Assistance finding alternate housing
- Upon request, both the accused and the reporting individual will have the opportunity to provide their perspective on the need for any interim measures and accommodations affecting him/her, the terms of any interim measures and accommodations affecting him/her, and the potential for modifying any interim measures and accommodations affecting him/her, and will be allowed to submit evidence in support of their view.
- Other protections, services, and accommodations that may be appropriate

Disciplinary Process for Students who Commit Sexual Misconduct

When a student commits or is believed to have committed sexual misconduct – whether committed against another student, other member of the campus community, or non-member of the campus community – the student will likely face student conduct charges and be subjected to EBI’s **Disciplinary Procedures for Violations of Code of Conduct** described in full on page 5 of this Student Code of Conduct policy book. All accused students are entitled to a presumption of ‘not responsible’ (not guilty), and all processes will be conducted in a fair, impartial, thorough, and timely manner.

Student Rights

The following rights are guaranteed to students by New York State’s “Enough Is Enough” law. Please read them carefully. If you have any questions, you can always ask EBI’s Title IX team. If you aren’t sure who is on EBI’s Title IX team, a list of their names is provided on page 15. The rights listed in the Student Bill of Rights will also be discussed with you and/or provided to you when you disclose or report an incident of sexual misconduct to any EBI official, whether they are a confidential official or an official who can guarantee privacy.

Student Bill of Rights

All students have the right to:

1. Make a report to local law enforcement and/or the State Police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the student conduct process and/or criminal justice process free from pressure by EBI;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from EBI courteous, fair, and respectful health care and counseling services, where available;

6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few EBI officials as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by EBI, any student, the accused and/or their friends, family, and acquaintances within the jurisdiction of EBI;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, or accused individual, throughout the student conduct process, including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or student conduct process of EBI.

Additional Rights

All reporting individuals are further advised of their right to:

- Notify EBI campus security, local law enforcement, and/or State Police;
- Have emergency access to a Title IX Coordinator or other EBI official trained in interviewing victims of sexual assault who will be available upon the first instance of disclosure by the reporting individual to provide information regarding options to proceed and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible; to explain that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violates New York State criminal laws should be addressed to law enforcement or to the local district attorney; and to explain whether he/she is able to offer the reporting individual confidentiality or privacy and to inform the reporting individual of other reporting options;
- Disclose confidentially the incident to EBI officials, who may offer privacy and/or confidentiality in accordance with applicable laws, as appropriate, and who can assist in obtaining services and resources for reporting individuals;
- Disclose confidentially the incident and obtain services from the State or local government;
- File a report of sexual assault, domestic violence, dating violence, and/or stalking; have the right to consult the Title IX Coordinator and other appropriate EBI officials for information and assistance; and have the right to have reports investigated in accordance with EBI policy, including the right that the reporting individual's identity will remain private at all times if the reporting individuals wishes to maintain privacy;
- Disclose, if the accused is an employee of EBI, the incident to EBI's Director of Human Resources and/or have the right to request that a confidential or private employee assist in reporting the incident to the Director of Human Resources;
- Receive assistance from EBI officials in initiating legal proceedings in family court or civil court;
- Withdraw a complaint or withdraw from involvement in EBI student conduct process at any time.

EBI will ensure that every student is afforded the following rights:

- The right to request that student conduct charges be filed against the accused in proceedings governed by New York State’s “Enough Is Enough” law (Education Law 129-B) and the procedures established by EBI in this policy book;
- The right to a process in all student conduct cases where a student is accused of sexual assault, domestic violence, dating violence, stalking, or other sexual misconduct that violates this policy, that includes, at a minimum:
 - notice describing the date, time, location, and factual allegations concerning the violation; reference to the specific policy provisions alleged to have been violated; and possible sanctions for the violation;
 - an opportunity to offer evidence during an investigation, and to present evidence and testimony at a student conduct hearing, where appropriate, and to have access to a full and fair record of any such hearing; and
 - access to at least one level of appeal of a determination before a panel that is fair and impartial and does not include individuals with a conflict of interest.
- Throughout proceedings involving such an accusation, the right for both the reporting individual and the accused:
 - to be accompanied by an advisor of choice who may assist and advise throughout the student conduct process, including during all meetings and hearings related to the process;
 - to a prompt response to any complaint and to have the complaint investigated and adjudicated in an impartial, timely, and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the accused (including the right to a presumption that the accused is ‘not responsible’ until a finding of responsibility is made pursuant to New York State’s “Enough Is Enough” law and EBI’s policies described in this policy book), and other issues including but not limited to domestic violence, dating violence, stalking, and sexual assault;
 - to an investigation and student conduct process that is fair, impartial, and provides a meaningful opportunity to be heard, and that is not conducted by individuals with a conflict of interest;
 - to have EBI’s student conduct process run concurrently with a criminal justice investigation and proceeding, except where law enforcement requests a temporary delay in order to gather evidence;
 - to review and present relevant available evidence in the case file or otherwise in the possession or control of EBI;
 - to exclude their own prior sexual history with persons other than the other party in the student conduct process and/or their own mental health diagnosis and treatment from admittance in the stage of EBI’s student conduct proceedings where responsibility is determined;
 - to receive written advance notice of:
 - any meeting he/she is required or eligible to attend
 - any specific rule or law alleged to have been violated and in what manner

- the consequences and/or sanctions that may be imposed as a result of the student conduct process; and
- the determination of the student conduct hearing panel and the rationale for any consequences/sanctions imposed;
- to make an impact statement during the point of student conduct proceedings where appropriate consequences/sanctions are being determined;
- to be informed of the possible consequences/sanctions that may be imposed upon the outcome of the student conduct process; to simultaneous written notification of the outcome of the student conduct process, including any consequences/sanctions actually imposed; and the rationale for the consequences/sanctions actually imposed;
- to choose whether to disclose or discuss the outcome of the student conduct process; and
- to have all information obtained during the course of the student conduct process be protected from public release until the student conduct appeals panel makes a final determination (unless federal and/or State law requires otherwise).

INCIDENT REPORT FORM



ELMIRA
BUSINESS INSTITUTE

Incident Report Form

Where to submit this form:

Office of Campus Director, Office of Title IX Coordinator, or Security Desk

All members of the Elmira Business Institute (EBI) community are welcome and encouraged to report incidents that they experience or witness, as well as behavior or conduct of others that raises concerns regarding an individual's mental health. For a full list of prohibited student behavior, including sexual misconduct and academic misconduct, please refer to the Student Code of Conduct.

Submitting this form constitutes a formal complaint and may result in EBI conducting an investigation or taking disciplinary action against an individual who committed misconduct, if appropriate. For incidents involving sexual misconduct, EBI will generally seek your consent before conducting an investigation. You may also submit a complaint anonymously, however remaining anonymous may inhibit EBI's ability to conduct a full investigation of the incident and/or communicate with you regarding actions taken.

Your Name (optional): _____

Your Affiliation to EBI: Student Faculty/Staff Other: _____

Phone: _____ Email: _____

Name(s) of individual(s) involved (if known): _____

Their affiliation to EBI: Student Faculty/Staff Other: _____

Duration of the behavior being reported: Single Incident Multiple Incidents/Ongoing

Incident Date(s) and Time: _____

Incident Location(s): _____

Witnesses or other people who may have helpful information: _____

Have you already notified any other EBI officials about this individual's behavior?

Yes. Who?: _____ No

Have you already notified any law enforcement agency about this individual's behavior?

Yes. Who?: _____ No

Description of incident: (Please be as detailed as possible. Think: who, what, where, when, why, how.)

You are welcome and encouraged to submit documentation in support along with this form.

Additional space on reverse →

