



Title IX Policy and Complaint Procedure

I. Overview

This Title IX Policy and Complaint Procedure is a federal law that prohibits sex discrimination in federally funded education programs and activities and affords an opportunity for those who have been the target of or who witness Sex-Based Misconduct to report such Sex-Based Misconduct, without fear of Retaliation.

II. Policy Statement

As a Christian institution of higher learning, Emmaus Bible College seeks to provide and an atmosphere of respect for all members of the campus community and an educational and work environment free from all forms of Sex-Based Misconduct. Therefore, Emmaus expects members of the Emmaus community to comply with legal requirements as well as higher standards of conduct consistent with our Christian faith, which elevates our view of human worth, dignity, and interpersonal communication. Emmaus prohibits Sex-Based Misconduct as well as Retaliation against any individual who reports a Title IX Complaint.

III. Application (Scope) of Policy

This Policy applies to all members of the Emmaus community—students (enrolled for credit or non-credit bearing coursework), faculty (full or part-time), administrators, and staff (full or part-time); and vendors, contractors, and third parties who visit the Emmaus campus with respect to all conduct in any academic, educational, extra-curricular, athletic, or other Emmaus program or activity (collectively, “Emmaus programs and activities”) on the Emmaus campus and Emmaus programs and activities occurring off-campus, including Emmaus programs and activities outside the United States. This Policy also applies to persons conducting business with or visiting Emmaus.

Intersection with Other Policies or Procedures

This Sexual Misconduct Policy sets forth the exclusive means of resolving sexual misconduct complaints. To the extent, there are any inconsistencies between the procedures set forth herein and other Emmaus grievance, complaint, or discipline procedures, this Sexual Misconduct Policy will control.

IV. Title IX Officials

A. Title IX Coordinators: Individuals who by law (Title IX) have remedial authority to address sexual misconduct reports on behalf of the institution. For the purpose of this

policy, the following administrative officials are designated to receive sexual misconduct reports and, if appropriate, to investigate those reports.

- Jani Bennett, Registrar/Title IX Coordinator,
563-588-8000 ext. 1117

B. Trained Investigators: The College has identified members of the staff who have undergone training to investigate Sexual Misconduct reports. Investigators will receive annual training on issues related to: domestic violence, dating violence, sexual assault, and stalking, as well as other forms of sexual misconduct, as outlined in this policy and how to conduct an investigation that protects the safety of the victim and promotes transparency and accountability.

- Israel Chavez, Dean for Student Development & Title IX Investigator,
563-588-8000 ext. 1122
- Ray Guerra, Director of Campus Life & Title IX Investigator,
563-588-8000 ext. 1105

V. Defining Prohibited Conduct

A. Consent: The College believes that consent is essential in matters involving sexual activity. Consent is informed, through mutually understandable words that indicate a willingness to participate in a mutually agreed upon sexual activity. Talking with a partner about sexual activity may seem awkward, but such conversations serve as the basis for sexual experiences in the context of mutual willingness and respect. Silence cannot be understood as consent. Furthermore, at any time during consensual sexual activity, a person may refuse to continue further with any sexual activity. Consensual sexual activity recognizes sober, verbal communication, free of threats or other coercion.

- a) Consent is a voluntary agreement to engage in sexual activity that may be withdrawn at any time. A person who initially consents to sexual activity is deemed not to have consented to any sexual activity that occurs after he or she withdraws consent.
- b) If coercion, intimidation, threats, and/or physical force are used, there is no consent.
- c) If a person is mentally or physically incapacitated or impaired by alcohol or drugs such that the person cannot understand the fact, nature or extent of the sexual situation, there is no consent.
 - i. Warning signs of when a person may be incapacitated due to drug and/or alcohol use may include: slurred speech, falling down, passing out, and vomiting.
- d) If a person is asleep or unconscious, or otherwise incapacitated, there is no consent.

- e) If a person is below the minimum age of consent in the applicable jurisdiction, there cannot be consent.
- f) Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- g) Being in a romantic relationship with someone does not imply consent to any form of sexual activity.
- h) Effective consent may not exist when there is a disparity in power between parties (e.g., faculty/student, supervisor/employee).

B. Relationship Violence/Domestic Violence

For the purposes of this policy, the term "relationship violence/domestic violence" is defined as one partner's attempt to maintain power and control over another through the use of actual or threatened physical, psychological, sexual, and/or emotional abuse.

- a) **Emotional Abuse:** Includes hurting another person's feelings by saying cruel, unfair comments or by name calling, and may include but is not limited to:
 - o Cursing, swearing, and/or screaming
 - o Repeated harassment, interrogation, or degradation
 - o Attacks on self-esteem and/or insults to personhood (name-calling, put-downs, ridicule)
 - o Attacks on and/or insults about people the complainant cares for
 - o Controlling or limiting complainant's behavior (e.g., keeping her from using the phone or seeing her friends, not letting her leave the room, following her, checking mileage on her car)
 - o Forcing the complainant to do degrading things
 - o Using physical size to intimidate
 - o Using money to control
- b) **Psychological Abuse:** Is any threat to do bodily harm to a partner, a child, a family member, friends, pets, or one's self (suicide). Psychological abuse involves not only hurt and anger, but also intimidation and fear. The purpose of psychological abuse is to make the complainant emotionally insecure about her own self-worth and to cause her to feel helpless and/or not able to escape further physical, sexual, emotional, or psychological abuse.

Examples include but are not limited to:

- o Threatening to punch, hit, slap, or kick
- o Threatening to use a weapon
- o Threatening to harm one's self/commit suicide if the victim leaves
- o Threatening to harm or kill beloved pets
- o Making vague threats such as "You're going to get it!"

- Minimizing abuse, saying it didn't happen or that the complainant caused it
- Smashing or breaking things

c) Sexual Abuse: Is any non-consenting sexual act as outlined in the sexual assault portion of this policy and/or other examples when the abuser

- Insists that the complainant dress in a more sexual way than they wish to dress
- Makes demeaning remarks about how the complainant is dressed
- Makes insulting comments about the complainant's body and/or body parts
- Accuses the complainant of sexual activity with others

d) Physical Abuse: Is any forceful or violent physical behavior including but not limited to:

- Slapping
- Tripping
- Choking
- Spanking
- Punching
- Scratching
- Kicking
- Grabbing
- Pinching
- Burning
- Pushing
- Restraining by force
- Strangling
- Throwing objects at partner
- Shoving
- Using or threatening to use any weapon
- Biting
- Pulling hair

C. Hostile Environment: A Hostile Environment is created if the Sex Based Misconduct is sufficiently serious that it denies or limits a student or employee's ability to participate in or benefit from programs, services, or activities that Emmaus offers; or has the purpose or effect of unreasonably interfering with an individual's employment.

D. Incapacitation: The physical and/or mental inability to make informed, rational judgements such as: (1) due to the use of drugs or alcohol; and/or (2) when a person is sleeping or unconscious; and/or (3) Due to an intellectual or other disability that prevents the person from having the capacity to give consent.

- E. Intimidation:** Intimidation is created through coercion and manipulation, including threats of harm, used to force the targeted individual(s) to behave as directed; exhibiting extreme possessiveness or jealousy to control or compel the targeted partner(s) behavior; threatening to share information which could damage the target's reputation or relationships with others to compel the targeted partner's behavior; threatening to harm the target's family, friends, pets, or property; or threatening the target with physical or sexual harm.
- F. Non-Consensual Sexual Contact:** Any intentional sexual touching without effective consent. This includes any contact with the breasts, buttocks, groin, genitals, mouth or other bodily orifice of another person; the touching of another with any of these body parts; or any other intentional contact of a sexual nature without consent.
- G. Non-Consensual Sexual Intercourse:** Any sexual intercourse or penetration (anal, oral, or vaginal), however slight, with any object or body part, upon another person without effective consent.
- H. Respondent:** The person alleged to have engaged in Sex-Based Misconduct.
- I. Retaliation:** Taking any adverse or hostile act, engaging in harassment, or making an adverse employment or academic decision against an Emmaus employee or student or a third party because that employee, student, or third party has opposed a violation of this Policy, filed a Title IX Complaint, assisted or participated in a Title IX Investigation, proceeding, or hearing.
- J. Sexual Assault:** Is defined as one or more of the following:
 - a) Offensive Touching Sexual Assault:** The touching of an unwilling or non-consensual person's genitals, breasts, thighs, buttocks, or mouth either directly or through one's clothing with one's own hands or other intimate parts (such as genitalia; buttocks or mouth). This may also include forcing an unwilling person to touch another's intimate parts.
 - b) Non-consensual Sexual Assault:** The unwilling or non-consensual penetration of a person's intimate parts (such as genitalia, buttocks, or mouth) with any object or body part. This includes, but is not limited to penetration of such body parts without consent through the use of coercion. Coercion is defined as unwanted sexual contact with the threat of non-physical punishment, promise of reward, or pestering/verbal pressure. Note: If a person says "no" once, it counts; he or she does not have to say it more than once or prove resistance.
 - c) Forced Sexual Assault:** The unwilling or non-consensual penetration of a person's intimate parts (such as genitalia, buttocks, or mouth) with any object or body part that is committed either by force, threat, intimidation, or through exploitation of another's mental or physical condition of which the assailant

was aware or should have been aware. The use of alcohol and/or other types of drugs (e.g. GHB, rohypnol, etc.) by either party, in conjunction with an incident of sexual assault, does not mitigate accountability for the commission of this offense or diminish the seriousness of the offense. If the complainant is incapacitated to the point that they cannot give their consent, this is considered to be an act of forced sexual assault. Note: A person who is drunk or has passed out cannot be assumed to give consent. A person who is not of age under jurisdictional law cannot give consent.

d) Iowa law, Code 709.4 states:

- i. "A person commits sexual abuse in the third degree when the person performs a sex act where the act is performed while the other person is under the influence of a controlled substance, and all of the following are true:
- ii. The controlled substance prevents the other person from consenting to the act.
- iii. The person performing the act knows or reasonably should have known that the other person was under the influence of the controlled substance.
- iv. The act is performed while the other person is mentally incapacitated, physically incapacitated, or physically helpless.
- v. Sexual abuse in the third degree is a class 'C' felony."

K. Sexual Exploitation: Sexual exploitation occurs when an individual takes non-consensual, unfair, or abusive advantage of another for his/her own benefit, even though the behavior may not meet the definition of one of the other sexual misconduct definitions set forth herein. Examples include, but are not limited to:

- a) Stalking with a sexual component. Stalking may take many forms, including persistent calling, texting, or posting on a social networking site as well as physical stalking. When the content of the messages or the purpose or nature of the physical stalking is of a sexual nature, sexual misconduct has occurred.
- b) Voyeurism is a form of sexual exploitation in which one individual engages in secretive observation of another for personal sexual pleasure, or engages in non-consensual video or audiotaping of sexual acts. Although the subject of the secretive viewing or taping may be unaware of the observation, this behavior is a form of sexual misconduct and violates the integrity of the victim.
- c) Disrobing or exposure in the presence of another person without consent.
- d) Disrobing or exposing another person without his or her consent.
- e) Inter-personal or intimate partner violence (relationship violence).

- L. Sexual Harassment:** Unwelcome conduct of a sexual nature that can include unwelcome sexual advance, request for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, such as Sexual Assault or acts of Sexual Violence. Sexual Harassment includes, but is not limited to: Quid Pro Quo Sexual Harassment (defined below) and Hostile Environment Sexual Harassment (defined above).
- M. Stalking:** For the purposes of this policy, the term stalking is defined as a repeated course of conduct that causes fear of bodily injury or death to an individual or a member of that individual's immediate household or causes emotional distress for the individual. The college also includes activity intended to cause fear of injury to one's friends or loved ones outside of the immediate family. Stalking refers to repeated harassing or threatening behaviors that an individual engages in such as but not limited to all of the following:
- a) Abusive telephone calls, email messages, phone messages, or text messages to the complainant's home and/or work
 - b) Trespassing or vandalizing the complainant's property
 - c) Following and/or threatening the victim and the complainant's friends and family
 - d) Observing the complainant from a distance
 - e) Driving by the complainant's home, school, and/or work
 - f) Mailing or leaving cyber or written messages with the intent to frighten or control
 - g) Leaving objects with the intent to frighten or control
- N. Quid Pro Quo Sexual Harassment:** A type of Sexual Harassment that conditions the terms or conditions of employment, educational benefits, academic grades, living environment, or participation in activities at Emmaus, either explicitly or implicitly, on submission to or rejection of unwelcome sexual advances or requests for sexual favors.

VI. Reporting Policies and Protocols

A guiding principle in the reporting of domestic violence, dating violence, sexual assault, and stalking is to avoid possible re-victimizing of the complainant by forcing the individual into any plan of action. Title IX Coordinators and Student Development Staff will receive training so that they have the specialized skill and understanding to conduct prompt and effective sexual and gender-based harassment investigations.

A. Amnesty for Student Misconduct

Emmaus recognizes that victims and individuals with information about Sex-Based Misconduct may hesitate to come forward out of fear that their own actions are

violations of Emmaus's student conduct policies, including without limitation policies related to the use of drugs and alcohol and/or sexual activity. While Emmaus does not condone violations of such policies, it considers reporting incidents of Sex-Based Misconduct to be of principal importance.

Therefore, in order to facilitate reporting and resolution of Sex-Based Misconduct, Emmaus will extend immunity for any violation of Emmaus's student conduct policies, including without limitation policies concerning drug or alcohol possession or consumption or sexual activity, for conduct in which any victim or witness of Sex-Based Misconduct might have engaged in connection with the reported Title IX incident; provided, however, that such immunity will not be extended to the extent Emmaus determines that the violation of Emmaus's student conduct policies was egregious, involved any illegal activity, or involved violations that did, do, or may place the health or safety of any other person at risk.

B. Confidential Resources and Confidential Advisors

People on campus have different reporting responsibilities and different expectations regarding confidentiality, depending on their roles at the College and upon College policy. All parties should be aware of confidentiality, privacy and mandatory reporting, when consulting campus resources, in order to make informed choices. On campus, some people can offer you confidentiality, sharing options and advice without any obligation to report the offense unless you want it reported.

All other employees are there to report crimes and policy violations, and will take action when you report your victimization to them. Some people can speak with you without having to divulge private information you share with them except under certain circumstances, some of which are described below. A victim may seek assistance from these campus community members without starting a formal process that is beyond the victim's control, or violates his/her privacy. Please note that the College will submit anonymous statistical information for Clery Act purposes. The following explains each of these types of reporting.

If you have suffered or witnessed Sex-Based Misconduct, you may wish to speak with someone confidentially about what happened to you. The resources listed below can provide confidential counseling and support, and, except in limited circumstances, will not share information with either law enforcement or Emmaus without an individual's consent. These resources are permitted by the nature of their profession to maintain your confidentiality. A Title IX Complaint or police report is not necessary to utilize these resources.

Confidential Resources

- Riverview Center Sexual Assault and Domestic Violence Services
 - Hotline 1-888-557-0310, 2600 Dodge St, Dubuque, IA 52003
- Mercy Hospital (563) 589-9666, 250 Mercy Dr.
- Iowa Victim Service 1-800-770-1650
- Finley Hospital (563) 582-1881, 350 N Grandview Ave
- National Sexual Assault Hotline 1-800-656-HOPE (4673)

In addition to the resources above, community services are available, even if a Title IX Complaint is not made. Emmaus strongly encourages anyone who feels he or she is, or has been, the victim of Sex-Based Misconduct to seek assistance to care for himself or herself emotionally and physically through confidential crisis intervention, healthcare, and/or counseling.

External Agencies

At any time during the pendency of the above-described Investigation and/or appeal, students and employees with questions about Title IX or those who believe they have been subject to Sex-Based Misconduct or Retaliation may file a Title IX Complaint with the Office for Civil Rights (OCR):

Dubuque Human Rights Commission

1300 Main Street, Dubuque, IA 52001
(563) 589-4190

Likewise, at any time during the pendency of the above-described Investigation and/or appeal, employees who believe they have been subject to Sex-Based Misconduct or Retaliation in violation of Title VII of the Civil Rights Act, 42 U.S.C. § 2000e et seq., may file a complaint with the applicable state agency listed below or the appropriate Equal Employment Opportunity Commission ("EEOC") office:

- **Iowa Civil Rights Commission (FEPA)**
211 East Maple Street, 2nd Floor
Des Moines, IA 50309-1858
1-800-457-4416
U.S. Department of Education
400 Maryland Avenue,
SW Washington, DC 20202
- **United States Equal Employment Opportunity Commission (EEOC)**
John F. Kennedy Federal Building
475 Government Center
Boston, MA 02203 800-669-4000
- **Office for Civil Rights (OCR)**
United States Department of Education

33 Arch Street, Suite 900
Boston, MA 02110-1491
(617) 289-0111

- Email: ocr.Boston@ed.gov www.ed.gov/ocr

C. Reporting Title IX Complaints

Emmaus students or employees who experience Sex-Based Misconduct of any kind are likely to have concerns and questions, including what options are available for reporting and responding to Sex-Based Misconduct. There are a number of reporting options available. It is important to understand that choosing one option does not preclude you from pursuing another option now or in the future.

Title IX Complaints by or against Emmaus students, Emmaus employees, or third parties, can be filed with the Title IX Coordinator at Emmaus. To discuss the various reporting options that are available to you, please contact the Title IX Coordinator for Emmaus, or any member of the Title IX team.

Victims or witnesses of Sex-Based Misconduct or Retaliation should immediately report the misconduct. They should not wait to report the Sex-Based Misconduct until it becomes sufficiently serious (*i.e.*, severe, pervasive, or persistent) to create a Hostile Environment (see “Definitions” section above).

The Title IX Coordinator and Title IX Investigators can take proactive steps to prevent Sex-Based Misconduct or Retaliation from continuing and/or escalating, and protect or otherwise assist the persons involved. The Title IX Coordinator and/or Title IX Investigators will also provide Complainants with concise information, written in plain language, concerning the Complainant’s rights and resources when dealing with Sex-Based Misconduct.

Victims or witnesses of Sex-Based Misconduct or Retaliation who wish to file a Title IX Complaint should do so as soon as possible after an incident. The Title IX Coordinator coordinates and tracks all Title IX Complaints. There are several avenues available for submitting a Title IX Complaint:

- Visit the Title IX Coordinator
- Report to another trusted Emmaus official, including any Title IX team member, RA/RD, Coach, Faculty Advisor, or Administration who will provide information as required under the policy to the Title IX Coordinator.

If there is a Title IX Complaint about the Title IX Coordinator, or if a direct report of the Title IX Coordinator would like to submit a Title IX Complaint, that Title IX

Complaint should be filed with the President of Emmaus by either delivering or mailing a letter to the President of Emmaus. The President will appoint another trained individual to take the place of the Title IX Coordinator for purposes of the Title IX Complaint.

a) Students. A student who has experienced and/or witnessed what he or she believes is a form of Sex-Based Misconduct is encouraged to: (1) File a formal Title IX Complaint; and/or (2) file a police report; and/or (3) seek confidential counseling and/or assistance as described below.

b) Employees. All Emmaus employees are required to report to the Title IX Coordinator all relevant details about any alleged Sex-Based Misconduct that a student or another person has shared with such employee, unless such employee is statutorily prohibited from reporting such information, such as counseling and health care professionals. Relevant information includes the name of the alleged perpetrator (the “Respondent;” see “Definitions” section above) (if known), the student or other person who experienced the alleged Sex-Based Misconduct, any others involved in the Sex-Based Misconduct, as well as relevant facts, including the date, time, and location of the Sex-Based Misconduct.

Employees who hear about an incident of Sex-Based Misconduct should not promise confidentiality to the person who shares this information with the employee. Employees should tell the person sharing the information that: (1) the employee has an obligation to report the name of the Respondent and persons involved in the alleged Sex-Based Misconduct, as well as any relevant facts regarding the incident (including date, time, and location), to the Title IX Coordinator; (2) that the person has an option to request that Emmaus maintain his or her confidentiality, which the Title IX Coordinator will consider; (3) that the person may share the information confidentially with the confidential resources described in this policy; (4) that the person has a right to file a Title IX Complaint with Emmaus; and (5) that the person has a right to report a crime to local law enforcement.

Important: Please note that all Emmaus employees must report suspected or known child abuse* (including any suspected Sex-Based Misconduct perpetrated against those under the age of 18) to the applicable state children and family service department:

- **Iowa**
Iowa Department of Human Services (IDHS).
Hotline: 1-800-362-2178

D. Reporting to Law Enforcement Authorities

Please call 911 as soon as possible if someone is in immediate danger or needs immediate medical attention. If you believe that you have experienced or witnessed Sex-Based Misconduct, you may file a police report directly with your local police department, you may seek assistance from the Title IX Coordinator at Emmaus to make a police report, or you may decline to notify authorities. A police report may be filed utilizing the contact information listed below:

- **Dubuque, IA Police Department**
770 Iowa St. Dubuque, IA 52001
563-589-4410
Call 911 for Emergencies
Call 563-589-4415 for Non-Emergencies

Some forms of Sex-Based Misconduct may also be crimes. For example, Sexual Assault (see “Definitions” section above) and Stalking (see “Definitions” section above) are crimes. Please contact local law enforcement if you would like to pursue criminal charges. Local law enforcement can help a victim obtain emergency and non-emergency medical care; get immediate law enforcement response for the victim’s protection; understand how to provide assistance in a situation that may escalate to more serious criminal behavior; arrange a meeting with victim advocate services; find counseling support; initiate a criminal investigation; and answer questions about the criminal process.

E. Anonymous Reporting

The Title IX Coordinator accepts anonymous reports of Sex-Based Misconduct and will follow up on such reports. The individual making the report is encouraged to provide as much detailed information as possible to the Title IX Coordinator. The Title IX Coordinator may be limited in the ability to investigate and respond to an anonymous report unless sufficient information is available to enable the conduct of a meaningful and fair investigation.

F. Confidentiality

To the extent permitted under applicable laws, the Title IX Coordinator will keep confidential the Title IX Complaint, written reports, witness statements, and any other information provided by the Complainant (see “Definitions” section above), the Respondent, or the witnesses, and will disclose this information only to the Complainant, Respondent, witnesses, or to Emmaus personnel and counsel as necessary to give fair notice of the allegations and to conduct the investigation; to law enforcement consistent with state and federal law; to Emmaus officials as necessary for coordinating interim measures; for health, welfare, and safety reasons; and to government agencies who review Emmaus’s compliance with federal law.

The factual findings (“Findings”) and recommendation for Sanctions (“Recommendations”) from the Title IX Coordinator may be disclosed only to the Complainant, Respondent, and Emmaus officials as necessary to determine whether Sanctions are necessary, and to prepare for any subsequent proceedings (e.g., committee handling appeals).

These Emmaus officials have the same strict obligations to keep all information they learn confidential, subject to the limited exceptions that they may reveal such information when necessary to protect health, welfare, or safety. Information about Title IX Complaints and reports, absent personally identifiable information, may be reported to Emmaus officials and external entities for statistical and analysis purposes pursuant to federal and state law and Emmaus policy.

VII. Retaliation

It is a violation of this policy to retaliate against any member of the College Community who reports or assists in making a complaint of sexual misconduct or who participates in the investigation of a complaint in any way. Persons who believe they have been retaliated against in violation of this policy should make a complaint to the Title IX Coordinator.

VIII. Investigation Procedures and Protocols

A. Preservation of Evidence

It is important for victims or witnesses of Sex-Based Misconduct to preserve evidence as may be necessary to the proof of the Sex-Based Misconduct. Because some evidence, particularly evidence that may be located on the body, dissipates quickly (within 48-96 hours), victims of Sexual Violence who wish to preserve evidence should go to a hospital or medical facility immediately to seek a medical examination and/or forensic evidence collection. The closest hospital to the Emmaus campus is as follows:

- **Finley Hospital**
350 N Grandview Ave
Dubuque, IA 52001
(563) 582-1881
- **Mercy Medical Center**
250 Mercy Dr.
Dubuque, IA 52001
(563) 589-8000

B. Immediate Action and Interim Measures

Emmaus, as it may determine necessary in the sole discretion of Emmaus personnel, may take interim measures to assist or protect the safety of the Emmaus community or ensure the integrity of the Investigation during the Formal Process. Such measures for a student Complainant may include arranging for changes in class schedules, living, dining, or transportation arrangements, issuing and enforcing a no-contact order, obtaining counseling, modifying test schedules or other class requirements temporarily, and honoring an order of protection or no-contact order entered by a State civil or criminal

court, if such measures are applicable and reasonably available. For an employee Complainant, Emmaus may temporarily reassign or place on administrative leave an employee alleged to have violated this Policy.

C. Resolution through the Formal Process

After a Title IX Complaint is filed, the following process (“Formal Process”) will be followed. The Formal Process is designed to provide a prompt, fair, and impartial investigation and resolution and protect the safety of victims and promote accountability. Complainants have the right to request that the Formal Process begin promptly and proceed in a timely manner.

The Formal Process will be conducted by Emmaus employees (“Title IX Investigators” or “Investigators”). Fairness to all individuals involved with a Title IX Complaint is a priority. Both the Complainant and Respondent will be given a copy of this Policy and Complaint Procedure and have the opportunity to respond to all allegations.

The Complainant and Respondent will also receive notice of the Investigators, Discipline Authority and Appeals Committee members before being contacted by such persons (or, in the case of the Discipline Authority and Appeals Committee members, before the Discipline Authority determines appropriate Sanctions or the Appeals Committee renders a written decision on appeal), and will have the opportunity to request substitution of Investigator(s), the Discipline Authority or Appeals Committee member(s) if any such person’s participation in the Formal Process poses a conflict of interest.

Such request for substitution must be accompanied by a detailed explanation of the basis for the purported conflict of interest. If the Title IX Coordinator determines a conflict of interest exists, the Coordinator will make such substitutions of Investigators, Discipline Authorities or Appeals Committee members as the Title IX Coordinator determines is necessary. Emmaus shall maintain a sufficient number of Investigators, Discipline Authorities and Appeals Committee members so that a substitution can occur in the event of a conflict of interest or recusal, and so that no Appeals Committee member will be involved in the Formal Process for a Title IX Complaint prior to the appeal of such Title IX Complaint.

Both the Complainant and Respondent will have the option to be accompanied to any meeting or proceeding related to the Formal Process by a single advisor of their choice. The role of the advisor is to provide support and counsel to the advisee in the Investigation, determination, and appeals processes; the advisor does not act as a representative of his or her advisee, does not have a voice in the processes, and may not actively participate in those processes. If the advisor violates the foregoing rules or engages in behavior or advocacy that harasses, abuses, or intimidates the other party, a witness, or an individual resolving the Title IX Complaint, that advisor may be prohibited from further participation in the Formal Process.

Maintaining the privacy of all individuals involved with a Title IX Complaint, including participating parties and witnesses, is also a priority, and any proceeding or meeting held to resolve a Title IX Complaint shall protect the privacy of such individuals. Specifically, Emmaus will not disclose the identity of the Complainant or Respondent, except as necessary to resolve the Title IX Complaint, or to comply with State or federal law.

D. Step 1-Implementation of Interim Measures and Preliminary Investigation:

After a Title IX Complaint is filed, a Title IX Investigator will consider whether immediate or interim measures or involvement of other Emmaus offices is appropriate. The Title IX Coordinator or an Investigator will then conduct a preliminary investigation in order to determine whether the Title IX office has jurisdiction over the matter. The Title IX office only has jurisdiction to investigate Title IX Complaints alleging Sex-Based Misconduct and Retaliation. The findings of the preliminary investigation are then reviewed by the Title IX Coordinator.

a) No Title IX Jurisdiction: If the Title IX Coordinator determines that there is no jurisdiction based on the preliminary investigation findings, the Formal Process concludes and the Title IX Coordinator or a Title IX Investigator may offer to assist the Complainant and, as appropriate, the Respondent, in finding appropriate campus and off-campus resources for addressing the issue of concern.

b) Title IX Jurisdiction: If the Title IX Coordinator determines that there is jurisdiction based on the preliminary investigation findings, the parties will proceed to Step 2 below.

E. Step 2-Formal Investigation:

As described above, if there is a finding of Title IX jurisdiction, the Title IX Coordinator will appoint one or more of the Title IX Investigators to conduct a fair and impartial Investigation ("Formal Investigation") of the alleged Sex-Based Misconduct or Retaliation. Only Investigators who receive annual training on issues related to Sex-Based Misconduct will conduct a Formal Investigation. The Title IX Coordinator is responsible for the oversight and coordination of a prompt and equitable investigation.

The Complainant and Respondent may each have one adviser of their own choosing present for support and consultation during the investigation at any time the respective party is meeting with the Title IX Coordinator or the Investigators.

At the start of the Formal Investigation, the Complainant and Respondent may each have a meeting with the Title IX Coordinator and/or Investigator(s) during which the Formal Process and tentative timeline for the Formal Investigation will be explained and any preliminary questions answered.

As part of the Formal Investigation, Investigators will make reasonable efforts to interview the Complainant and the Respondent, and to identify, locate, and interview any witnesses

of the alleged Sex-Based Misconduct or Retaliation identified to Emmaus by the Complainant or Respondent.

Typically, a Formal Investigation will be completed within sixty (60) calendar days of receipt of the Title IX Coordinator's receipt of the Title IX Complaint, unless there are extenuating circumstances (i.e., uncooperative witness, break periods and periods when Emmaus is closed). If it becomes necessary to extend the process, both parties will be notified of a revised expected resolution timeframe.

During the Formal Investigation, the Complainant and Respondent will have the opportunity to review and respond to the evidence presented and to present evidence and witnesses on their behalf. The Complainant and Respondent may not cross-examine one another, but may, at the discretion and direction of the Investigator(s), suggest questions to be posed to each other by the Investigator(s). The rules of evidence used in civil or criminal trials are not applicable to these Complaint Procedures.

To the extent permitted by applicable law, the Title IX Coordinator will comply with law enforcement requests for cooperation and such cooperation may require the Title IX Coordinator to temporarily suspend the fact-finding aspect of the Investigation while law enforcement is in the process of gathering evidence. Emmaus promptly will resume its Formal Investigation as soon as it is notified by the law enforcement agency that it has completed the evidence gathering process.

F. Step 3-Determination:

The Investigator will determine whether there is a clear and convincing evidence to believe that the Respondent engaged in Sex-Based Misconduct or Retaliation. This means that a Respondent is presumed not to have engaged in the alleged Sex-Based Misconduct or Retaliation unless the "clear and convincing evidence" supports a finding that such misconduct has occurred. This "clear and convincing evidence" standard requires that the evidence proves that each finding is substantially more likely to be true than not. The Investigator(s) will prepare a report ("Final Report") to the Title IX Coordinator documenting their Findings and Recommendations, if applicable.

- a) No Finding of Sex-Based Misconduct or Retaliation:** If following completion of the Investigation the Title IX Coordinator or the Investigator finds (the "Findings") that Sex-Based Misconduct or Retaliation did not occur, the Formal Process concludes. The Findings and notice of the termination of the Formal Process are communicated simultaneously and in writing to the Complainant, Respondent, and Emmaus administrators as determined necessary by the Title IX Coordinator within seven (7) days after the Findings are reached. Email is an acceptable form of delivery. In this case the Complainant may appeal the Findings.

b) Finding of Sex-Based Misconduct or Retaliation: If the Title IX Coordinator makes a Finding that Sex-Based Misconduct or Retaliation did occur, the Final Report will include suggested steps to take to prevent recurrence of any such violation, and as appropriate, Remedies for the Complainant. The Findings are communicated to the Complainant and Respondent simultaneously and in writing, as is any information concerning when the Findings become Final.

The Final Report will be provided to the Discipline Authority for a determination of appropriate Sanctions. Once the Discipline Authority, in consultation with the Title IX Coordinator, decides upon an appropriate Sanction, the Title IX Coordinator will notify the Complainant and Respondent simultaneously and in writing of the final outcome of the Investigation within seven (7) days after such final outcome is decided.

The notification shall include a summary of the Findings, the Sanction(s) to be imposed, and each party's right to appeal and the procedures for appeal. Except as provided herein, the form of notice and manner of delivery shall be at the sole discretion of the Title IX Coordinator and shall be that which is determined by the Title IX Coordinator to be the most expedient and reliable method of informing the parties, which may include, without limitation, email notification.

G. Sanctions: The following will guide the Discipline Authority in determining sanctions (collectively, "Sanctions") and provide notice to the Emmaus community of the possible Sanctions for an individual found responsible for a violation of this Policy. The discussion below only provides guidance and is not meant to be exclusive as to the other Sanctions that can be imposed.

Except in the event of a substitution, the Dean of Student Development or his or her designated campus representative is the Discipline Authority charged with imposing sanctions on students and/or their guests, who are found to have violated this Policy. Sanctions include eviction from campus housing, disciplinary/character probation(s), warning(s), community service, fines, formal reprimand, withdrawal, loss of privilege, confrontation/counseling, write-ups, suspension, dismissal, person non grata, restitution/reconciliation, developmental/educational assignments, referral for counseling and/or assessment, or other measures.

Except in the event of a substitution, the Vice President of Academics Affairs is the Discipline Authority charged with imposing sanctions on employees who are found to have violated this Policy. Sanctions include a letter of warning, official reprimand, probation, referral to a required counseling program, suspension from employment with

pay, suspension from employment without pay, termination from employment, or training on Sex-Based Misconduct.

Except in the event of a substitution, the Vice President for Administration and Finance is the Discipline Authority charged with imposing sanctions on any third party (visitor, guest, contractor, subcontractor, vendor, partner, or business affiliate) found responsible for violating this Policy. Sanctions may range from a written warning to being banned from any Emmaus property, activities, and/or programs, including the termination of any business contract with Emmaus.

IX. Remedies

One or more of the following remedies may be provided, if reasonably available and requested by the Complainant, at the conclusion of the Formal Process for which there is Title IX jurisdiction whether or not a Respondent is found to be responsible, and whether or not the Complainant chooses to report the alleged Sex-Based Misconduct to local law enforcement:

- Providing an effective escort to ensure that the Complainant can move safely between classes and activities
- Ensuring that the Complainant and Respondent do not share classes, extracurricular activities or work space
- Moving the Respondent or the Complainant (if the Complainant requests to be moved) to a different residence hall
- Referring the Complainant to medical, counseling and academic support services, such as tutoring
- Arranging for the Complainant to have extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty
- Training or retraining Emmaus employees on responsibilities concerning allegations of Sex-Based Misconduct, and
- Any other remedy that the Title IX Coordinator may consider appropriate

X. Appeals

A party aggrieved by a decision of the Title IX Coordinator or by the Sanctions imposed may file a Petition for Appeal within three (3) business days of notification of the final outcome of the Investigation. The appeal must be in writing and state clearly the grounds that justify reconsideration. The appeal must be received by the Title IX Coordinator within three (3) business days of notification of the final outcome of the Investigation. General dissatisfaction with the outcome of the Investigation or related proceedings is not a basis for appeal. The written appeal may be made only on one or more of the following grounds:

- There was a significant procedural error of a nature sufficient to have materially and detrimentally affected the outcome.
- There is significant new evidence that was previously unknown to the appellant, which the appellant could not have discovered through the exercise of reasonable diligence, and the absence of which was sufficient to have materially and detrimentally affected the outcome and substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included with the notice of appeal.
- The Sanctions imposed are grossly disproportionate to the violations found to have occurred and would result in substantial injustice.

An appeal which is not based on one of these criteria will be dismissed without further consideration. If no appeal is received by the Title IX Coordinator within the three (3) business day period, the findings, conclusions of the Title IX Coordinator and/or any sanctions imposed by the Discipline Authority will be final.

If the appeal is received within the three (3) business day period, the Title IX Coordinator will select and notify an appeals committee (the "Appeals Committee"). The Appeals Committee will then review the Investigator's Findings, the conclusions of the Title IX Coordinator, and/or any Sanctions imposed, and obtain any additional information deemed necessary by the Appeals Committee for resolution of the appeal. No member of the Appeals Committee will have participated previously in the Formal Process or have a conflict of interest with either the Complainant or Respondent.

Within twenty-one (21) business days of the date of the filing of the appeal and within seven (7) days after concluding its review of the applicable Findings and/or Sanctions, unless there are extenuating circumstances (i.e., unavailability of Appeals Committee member(s), uncooperative witness, school break periods and periods when Emmaus is closed), the Appeals Committee will render a written decision on appeal, which will be communicated to the Complainant and Respondent simultaneously and in writing. The Appeals Committee's decision on all appeal requests is final.

The submission of an appeal does not by itself prevent or defer implementation of the Sanctions imposed. However, at the request of the Appellant, the applicable Discipline Authority may, in his or her sole discretion and for good cause, defer implementation of some or all of those consequences during the pendency of the appeal.

XI. Prevention and Education

Emmaus offers a number of educational programs over the course of the academic year addressing sexual assault, domestic/dating violence, stalking, and related topics. A specific program is presented to all new incoming students during new and returning student orientation. Further programming is offered by various offices and student organizations including residence life, counseling services, and campus safety and

security. Outside agencies may also contribute to educational programming for the campus.

Pursuant to federal law, students and employees will be educated and updated about security procedures, personal safety, crime prevention, sexual assault, domestic/dating violence, and stalking in ways that are deemed appropriate for the campus community. This may include: primary prevention strategies, posting appropriate flyers, mass e-mail messages, placing articles in the student newspaper, classroom announcements, and emergency meetings.

This college policy is compliant with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (The Clery Act) as amended in 1998, which requires all postsecondary institutions to publish and distribute certain information regarding campus crimes, including reports of campus sexual assault, sexual assault policies and security programming to all current students, employees, and to any applicant who so requests.