

Sexual Misconduct Policies and Procedures

This Policy includes information for all members of the Emmanuel College community. If you are a victim of sexual misconduct, we hope that you will seek assistance either here on campus or off-campus. If you have any questions regarding this Policy or other issues pertaining to the College's compliance with Title IX, please contact Courtney Hamil, the College's Title IX Coordinator, at (706) 680-1247 or chamil@ec.edu.

Policy approved by the Emmanuel College Senior Management Team on July 19, 2017.

Introduction

(a) Notice of Nondiscrimination

Emmanuel College (“Emmanuel” or “the College”) is committed to maintaining an environment that is free of unlawful harassment and discrimination. In accordance with federal law and its commitment to a fair and open campus environment, the College cannot and will not tolerate discrimination against or harassment of any individual or group based upon race, sex, color, religion, national origin, genetic information, age, disability, veteran’s status, or any factor that is a prohibited consideration under applicable law.

As a recipient of federal funds, Emmanuel is required to comply with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.* (“Title IX”), which prohibits discrimination on the basis of sex in educational programs or activities, admission and employment. Under certain circumstances, sexual misconduct constitutes sexual discrimination prohibited by Title IX. Inquiries concerning the application of Title IX may be referred to Courtney Hamil, the College’s Title IX Coordinator, or to the U.S. Department of Education’s Office for Civil Rights. Ms. Hamil’s office is located in the Student Development Office, room 101. Questions may also be directed to the Deputy Title IX Coordinators. Their names and contact information are listed below.

(b) Emmanuel College’s Commitment to Addressing Sexual Misconduct

Emmanuel College reaffirms the principal that its students, administration, faculty, and staff have a right to be free from sexual misconduct. Sexual misconduct can occur in many forms, including, but not limited to, sexual harassment, non-consensual sexual contact (or attempts to commit same), non-consensual sexual intercourse (or attempts to commit same), rape, sexual violence, intimate partner violence, sexual exploitation, and stalking. Sexual misconduct is prohibited by this policy, as well as state and federal law. The College will take seriously every allegation or report of sexual misconduct received. The College will not tolerate sexual misconduct and wants to make clear that sexual misconduct is reprehensible in any situation.

Scope of Policy

This Policy applies when an allegation of sexual misconduct involves any member of the Emmanuel College community. The allegation may be against another student, an employee of the College (which includes Emmanuel faculty) or a third party, regardless of where the alleged sexual misconduct occurred, if the conduct giving rise to the complaint (defined as “an allegation

of sexual misconduct asserted against another party and reported to or filed with the College”) is related to the College’s academic, educational, athletic, or extracurricular programs or activities, or had the continuing effects on campus or in an off-campus education program or activity. The College’s disciplinary authority, however, may not extend to respondents or alleged perpetrators who are not students or employees of the College. Additionally, although there is no geographical limitation to invoking this Policy, sexual misconduct that is alleged to have occurred at a significant distance from the College and/or outside of Emmanuel property may be more difficult for the College to investigate.

In the case of allegations of sexual misconduct, this Policy supersedes all other procedures and policies set forth in other University documents.

In this Policy, an individual who is making an allegation or complaint of sexual misconduct is referred to as a complainant. An individual against whom the allegation or complaint of sexual misconduct is made is referred to as the respondent.

Statements of Policy

(a) Prohibition of Sexual Misconduct

In support of the College mission and as dictated by the Office for Civil Rights, individuals have the right to be free from sexual misconduct. Emmanuel College is committed to maintaining an environment that preserves the respect and dignity for all members of the campus community. Acts of sexual misconduct stand in direct contrast to the mission, core values, and educational goals of the institution. A foundational goal of the College is to provide a living, learning and working environment where individuals are free to realize their full potential. Emmanuel will not tolerate any sexual misconduct and will make every effort to prevent and eliminate such acts or behavior from the campus community.

Additionally, the Campus Save Act is a 2013 amendment to the federal Jeanne Clery Act. The SaVE Act was designed by advocates along with victims/survivors and championed by a bi-partisan coalition in Congress as a companion to Title IX that will help bolster the response to and prevention of sexual violence in higher education.

The SaVE Act requires colleges and universities, both public and private, participating in federal student aid programs (covering virtually every campus in the United States) to increase transparency about the scope of sexual violence on campus, guarantee victims enhanced rights, provide for standards in institutional conduct proceedings, and provide campus community wide prevention educational programming.

(b) Prohibited Conduct

Dating Violence: Dating Violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Domestic Violence: A felony or misdemeanor crime of violence committed by: a current or former spouse or intimate partner of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse or

intimate partner, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Georgia, or any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Georgia.

Non-Consensual Sexual Contact: Any intentional sexual touching by a person upon a person that is without consent and/or by force. Sexual Contact includes, but is not limited to, intentional contact with the breasts, buttocks, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice, with any object.

Non-Consensual Sexual Intercourse: Any sexual intercourse by a person upon a person, which is without consent and/or by force. Intercourse includes, but is not limited to, vaginal penetration by a penis, object, tongue or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Relationship violence (also known as “**Intimate Partner Violence**”): Physically, sexually and/or psychologically abusive behavior used by one individual to maintain power and control over an intimate partner. Intimate partner relationships are relationships between parties who are dating, cohabitating, married, separated or divorced. Relationship violence can occur in same- or opposite-sex relationships.

Retaliation: Any adverse action threatened or taken against a person because he or she has filed, supported, or provided information in connection with a Complaint of sexual misconduct, including but not limited to direct and indirect intimidation, threats, and harassment.

Sexual Assault: Sexual assault is an extreme form of sexual harassment and is a crime defined by the Georgia criminal code. Sexual assault is any nonconsensual sexual act, including those resulting from threat, coercion, intimidation, or by actual or implied force (see definition below for consent and incapacitation). Sexual assault may be committed by a stranger or an acquaintance and may occur between members of the opposite or same sex. Acts defined as sexual assault include attempted or completed rape, date rape, acquaintance rape, and gang rape, but may also include sexual touching of another person against his or her will, sexual abuse, sexual coercion, and forcing an unwilling person to touch another person sexually.

Sexual Exploitation: Sexual exploitation occurs when a student takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy;
- Prostituting another student;
- Non-consensual video or audio-taping of sexual activity;

- Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex);
- Engaging in voyeurism;
- Any act that is sexual in nature when such an act is likely to threaten any party's health and/or safety without his/her knowing and valid consent. This includes, but is not limited to, any act that may reasonably be expected to transmit HIV or other sexually transmitted diseases and is performed when either party has failed to divulge his/her infection with such a disease;
- Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

Sexual Harassment: Unwelcome conduct, based on sex or on gender stereotypes, which is so severe or pervasive that it unreasonably interferes with a person's College employment, academic performance or participation in College programs or activities or creates a working, learning, program or activity environment that a reasonable person would find intimidating, hostile or offensive. Sexual harassment may include, for example, an attempt to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to egregious, unwelcome sexual attention or advances; to punish a refusal to comply with a sexual based request; to condition a benefit on submitting to sexual advances; sexual violence or sexual assault; intimate partner violence; stalking; and gender-based bullying. Sexual violence is a form of sexual harassment.

Sexual harassment is distinguished from voluntary sexual relationships in that it introduces such elements as coercion, threat, and unwanted sexual attention.

Sexual harassment includes actions or behavior by a person of either gender against person of the same or opposite gender. The potential of sexual harassment exists in any of the following relationships: student/student, employee/student, student/employee, and employee/employee.

Because of the inherent differential in power between employees and students, a dating or sexual relationship between an employee and a student is prohibited. "Employee" refers to faculty, staff, and administration. A dating or sexual relationship between an employee and someone he or she has any supervisory authority over is also prohibited (*i.e.*, a supervisor cannot be in a dating or sexual relationship with his or her subordinate).

Sexual misconduct: Sexual misconduct can occur in many forms, including, but not limited to, sexual harassment, non-consensual sexual contact (or attempts to commit same), non-consensual sexual intercourse (or attempts to commit same), rape, sexual violence, intimate partner violence, sexual exploitation, and stalking. Sexual misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual misconduct can be committed by persons of any gender or sex, and it can occur between people of the same or different sex.

Sexual violence: Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence,

including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by school employees, other students, or third parties. All such acts of sexual violence are forms of sex discrimination prohibited by this policy and Title IX.

Stalking: “Stalking” refers to (i) Engaging in a course of conduct directed at a specific person that would cause a reasonable person to-- (A) Fear for the person’s safety or the safety of others; or (B) Suffer substantial emotional distress. (ii) For the purposes of this definition-- (A) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property. (B) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim. (C) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

(c) Prohibition on Retaliation

Retaliation against any person for filing, supporting, or providing information in good faith in connection with a complaint of sexual misconduct is strictly prohibited. Retaliation against a person who files a complaint or participates in the process set forth in this policy in good faith is a violation of this policy and is prohibited under Title IX. The College will not only take steps to prevent retaliation but also take strong responsive action if retaliation occurs. As a separate violation of this policy, serious sanctions, including separation from the College may result from any act that could be reasonably deemed retaliation.

(d) Prohibition on Providing False Information

Any individual who knowingly files a false complaint under this policy, who knowingly provides false information to Emmanuel officials, or who intentionally misleads Emmanuel officials who are involved in the investigation or resolution of a complaint may be subject to disciplinary action.

(e) Sources for Confidential Reporting

The College encourages victims of sexual misconduct to talk to somebody about their experiences so victims can get the support they need, and so the College can respond appropriately. Different employees on campus have different abilities to maintain a complainant’s confidentiality. A complainant has various reporting and confidential disclosure options available to them. Those options are as follows:

A. Privileged and Confidential Communications

Campus Counselor(s) and the Campus Pastor are not required to report any information about an incident to the Title IX Coordinator, Title IX Deputy Coordinator(s), or responsible employees without the permission of the complainant. Those confidential reporting sources can be contacted as follows:

- Office of Counseling Services and Student Success – Jason Croy: jcroy@ec.edu or Jessica Middlebrooks; jmiddlebrooks@ec.edu; (706) 245-2881 (main line number to Office of Student Development, where you can schedule an appointment). Office is located in Student Development Room 104.

- Director of Spiritual Life and Campus Pastor, Chris Maxwell – (706) 245-2887, cmaxwell@ec.edu. Office is located in Student Development Room105.

A complainant who speaks to a Campus Counselor or Campus Pastor must understand that if the complainant wants to maintain complete confidentiality, the College may be unable to conduct an investigation into the particular incident or pursue disciplinary action against the respondent. However, the Campus Counselor or Campus Pastor will still assist the complainant in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules.

A complainant who at first requests confidentiality may later decide to file a complaint with the College or report the incident to local law enforcement, and have the incident fully investigated.

It is also possible to report to a counseling agency or advocate group off campus who may maintain confidentiality and only inform the College that an incident has occurred. As reporting requirements vary, it is important to discuss confidentiality with the third party prior to speaking with that individual.

NOTE: While the Campus Counselor and Campus Pastor may maintain a complainant’s confidentiality vis-à-vis the College, the Campus Counselor and Campus Pastor may have reporting or other obligations under state law and also the Campus Counselor’s and Campus Pastor’s own moral and ethical guidelines. These reporting or other obligations may limit the extent to which the Campus Counselor and Campus Pastor may maintain a complainant’s confidentiality.

B. Reporting to “Responsible Employees”

A responsible employee is a College employee who has the authority to redress sexual harassment and/or violence, who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty. The College has identified the following individuals as responsible employees:

- Members of the Senior Management Team
- Campus Safety personnel
- Human Resources personnel
- Employees of Student Life
- Residence Life personnel (includes Resident Directors and Resident Assistants)
- Athletics personnel
- Faculty (part-time, full-time, and adjunct)

Responsible employees will report to the Title IX Coordinator/Title IX Deputy Coordinator(s) all relevant details about the alleged sexual violence shared by the complainant, including, but not limited to, the names of the complainant and alleged perpetrators(s), any witnesses, and any other relevant facts, including the date, time and specific locations of the alleged incident.

Unlike a Campus Counselor or Campus Pastor, a responsible employee cannot guarantee that the College will be able to honor a request for confidentiality. However, to the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the College's response to the report. In reporting the details of the incident to the Title IX Coordinator, the responsible employee will inform the Title IX Coordinator of the complainant's request for confidentiality, if such a request has been made.

(e) Additional Resources

Any member of the Emmanuel community who is aware of any sexual misconduct should report that matter to Title IX Coordinator, Courtney Hamil (Student Development Office Room 101 (706) 680-1247 or chamil@ec.edu). As the College's Title IX Coordinator, Mrs. Hamil can connect a complainant (or the alleged victim, if that person is not the complainant) to resources and procure medical attention, as well as explain Emmanuel's policies and procedures pertaining to reporting Title IX offenses; the Title IX Coordinator may also take any immediate interim actions (no contact orders, alteration of academic or non-academic schedules, housing re-assignment, etc.) as may be necessary.

In addition to the support resources that are available on campus, there are a number of support resources in the community to assist individuals in dealing with sexual misconduct, whether it happened recently or in the past. Some of those support resources are listed below.

- Harmony House: (706) 245-8700; an advocate can assist with obtaining resources and arrange for a student to be seen by a Sexual Assault Nurse Examiner (SANE) in the event of a sexual assault. Additional advocacy and support following the incident can also be provided.
- St. Mary's Sacred Heart Hospital, Lavonia, GA: (706) 356-7800
- GA Sexual Assault Center 24 Hour Hotline: (706) 802-0580
- Franklin County Emergency Dispatch: 911
- Franklin Springs Police Department: (706) 245-0000
- Franklin County 911 (Non-Emergency): (706) 384-7188
- National Domestic Violence Hotline: 1-800-799-7233 (SAFE)
- Domestic Abuse Helpline for Men & Women: 888-7HELPLINE (888-743-5754)
- RAINN: www.rainn.org or 800-656-4673 (National Sexual Assault Hotline)

(f) Related Misconduct and Limited Immunity

The College considers the reporting and adjudication of sexual misconduct cases to be of paramount importance. When conducting the investigation, the College's primary focus will be on addressing the misconduct and not necessarily on other policy violations that may be discovered or disclosed, such as alcohol violations. The College reserves the right to allow a student reprieve from drug, alcohol, or other violations of the Code of Student Conduct for parties reporting allegations under this policy. The Title IX Coordinator will make decisions regarding student reprieve under the policy.

(g) Preservation of Evidence

Knowing the options for assistance following an incident of sexual violence is critical. Receiving immediate medical attention and/or counseling is vital to the student's overall health and wellness, regardless of whether or not a student chooses to formally report an incident. It is also important to note that seeking immediate medical attention is vital to preserve evidence if an investigation is to follow. A victim of sexual violence should do everything possible to preserve evidence by making certain that the crime scene is not disturbed (The decision to press charges does not have to be made at that time. However, following these procedures will help preserve this option for the future). Victims should not bathe, urinate, douche, brush teeth, or drink liquids. Clothes should not be changed, but if this takes place, bring all original clothing to the hospital in a paper bag (plastic bags damage evidence). If possible, a victim should take a full change of clothing, including shoes, for use after a medical examination. A victim may choose whether or not to speak to police at the hospital. If they do, the option to choose whether to file charges against the perpetrator still exists.

Reporting Sexual Misconduct

This policy is intended to make students aware of the various reporting options available to them so they can make informed choices about where to turn if an incident occurs. The College encourages students to talk to someone identified in one or more of these groups so that support can be offered, and the College can respond appropriately. These reporting options apply to individuals who believe they have either witnessed or been subjected to sexual misconduct. In the event the College determines that the respondent(s) pose a serious and immediate threat to the campus community, a "timely warning" may also be issued. Any such warning should not include any information that identifies the complainant(s) (or the alleged victim(s), if that person is not the complainant). Policies regarding timely warnings can be found in the *Emmanuel College Annual Clery Act and Fire Safety Report*.

Because sexual misconduct may in some instances constitute both a violation of College policy and criminal activity, and because the College grievance process is not a substitute for instituting legal action, the College encourages individuals to report alleged sexual misconduct promptly to campus officials and to law enforcement authorities, where appropriate.

Individuals may file a complaint at any time, but the College strongly encourages individuals to file complaints promptly in order to preserve evidence for a potential legal or disciplinary proceeding.

(a) Filing a Complaint with Local Law Enforcement/Emergency Services

Individuals have the option to notify or decline to notify law enforcement of their complaint. Individuals may file a complaint directly with local law enforcement agencies by dialing 911. Individuals may contact any of the following for assistance in filing a complaint with local law enforcement:

- Franklin County Emergency Dispatch: 911
- Franklin Springs Police Department: (706) 245-0000

- Franklin County 911: Non-Emergency: (706) 384-7188

Reporting the incident to the police does not mean that a complainant must press charges, but it does help assure that the complainant receives assistance in deciding how to proceed. Individuals who make a criminal complaint may also choose to pursue a complaint through the College simultaneously.

A criminal investigation into the matter does not preclude Emmanuel from conducting its own investigation. However, the College's investigation may be delayed temporarily while the criminal investigators are gathering evidence.

(b) Filing a Complaint with the College

To file a complaint under this policy, the complainant should meet with the Title IX Coordinator or Deputy Title IX Coordinator(s) as soon as possible after the alleged act of sexual misconduct. There is no time limit for students to make a report. However, timely reporting is necessary for employees and required from a Responsible Employee. Employees who have knowledge of conduct they believe to be a violation of this policy must notify the College's Title IX Coordinator.

A. Reporting to Title IX Coordinator/Title IX Deputy Coordinators

The College encourages, and in the case of employees requires, individuals to immediately report incidents of sexual misconduct to the College's Title IX Coordinator or Title IX Deputy Coordinators. The Title IX Coordinator and Deputy Title IX Coordinators will provide for the adequate, reliable, and impartial investigation of all complaints. Their contact information is as follows:

- Courtney Hamil, Title IX Coordinator (Student Development Office, Room 101; 706-680-1247; chamil@ec.edu).
- Mandy Lester, Title IX Deputy Coordinator (Student Development Office, Room 102; 706-245-2885; mlester@ec.edu).
- Joann Harper, Title IX Deputy Coordinator (Aaron Building, Second Floor, Room 203; 706-245-2805; jharper@ec.edu).
- Nate Moorman, Title IX Deputy Coordinator (Athletic Center, Second Floor; 706-245-2884; nmoorman@ec.edu).
- Joel Swails, Title IX Deputy Coordinator (Drum Hall, First Floor; 706-245-2810; jswails@ec.edu).

B. Anonymous Reporting

An individual may also submit an anonymous report online at <http://www.ec.edu/title-ix>. It is important to note that anonymous reports may limit the scope of the College's investigation due to lack of information and/or details.

Investigation

The Title IX Coordinator is responsible for overseeing the prompt, fair, and impartial investigation and resolution of complaints filed with the College. The Title IX Coordinator is primarily responsible for coordinating responses to complaints of possible violations of this policy, overseeing or conducting the investigation, overseeing the adjudication of complaints, and coordinating possible remedial actions or other responses designed to minimize the recurrence of the alleged conduct as well as mitigate the effects of the harassment.

In most cases, an investigation will be completed within 60 days; however, a longer period may be needed in some more complex cases. If the process takes longer, the Title IX Coordinator or Deputy Title IX Coordinator will communicate with the complainant and respondent to explain the reasons for any delay.

While the Title IX Coordinator has ultimate oversight responsibility of the prompt, fair, and impartial investigation and resolution of complaints filed with the College, Deputy Title IX Coordinators are also involved with complaints filed under this Policy.

(a) Requests Not to Pursue a Complaint or for Confidentiality

A complainant may determine after filing a complaint that he or she does not wish to pursue resolution of the complaint through the College, or that he or she wants his or her identity to remain confidential. Such requests may limit the College's ability to respond to a complaint.

The College takes such requests seriously. Title IX requires the College to evaluate the request(s) that a complaint not be investigated and adjudicated or that the complainant's identity be kept confidential in the context of Emmanuel's commitment to provide a reasonably safe and nondiscriminatory environment and the fairness of the respondent to be informed of the allegations and their source. In the case of confidentiality, some level of disclosure may be necessary to ensure a complete and fair investigation, although the College will comply with requests for confidentiality to the extent possible.

If the College honors the request for confidentiality, a complainant must understand that the College's ability to meaningfully investigate the incident and pursue disciplinary action against the respondent(s) may be limited.

The College has designated the following individual(s) to evaluate requests for confidentiality once the College is on notice of conduct which may violate this policy:

- Courtney Hamil, Director of Student Life and Title IX Coordinator (Student Development Office Room 101, 706-680-1247; chamil@ec.edu).
- Mandy Lester, Title IX Deputy Coordinator (Student Development Office, Room 102; 706-245-2885; mlester@ec.edu).

- Joann Harper, Title IX Deputy Coordinator (Aaron Building, Second Floor, Room 203; 706-245-2805; jharper@ec.edu).
- Nate Moorman, Title IX Deputy Coordinator (Athletic Center, Second Floor; 706-245-2884; nmoorman@ec.edu).
- Joel Swails, Title IX Deputy Coordinator (Drum Residence Hall, First Floor; 706-245-2810; jswails@ec.edu).

When weighing a complainant’s request for confidentiality or that no investigation or adjudication be pursued, the Title IX Coordinator/Title IX Deputy Coordinator(s) will consider the following factors: the seriousness of the alleged sexual misconduct, the complainant’s age, circumstances that suggest there is an increased risk of the respondent committing additional acts of sexual violence or other violence (e.g., whether there have been other sexual violence complaints about the same respondent, whether the respondent has a history of arrests or records from a prior school indicating a history of violence, whether the respondent threatened further sexual violence or other violence against the student or others, and whether the sexual violence was committed by multiple perpetrators), whether the sexual violence was perpetrated with a weapon; whether the school possesses other means to obtain relevant evidence, and the respondent’s right to receive information about the allegations if the information is maintained by the College as an “Education Record” under the Family Educational Rights and Privacy Act (“FERPA”).

If the Title IX Coordinator or Title IX Deputy Coordinator determines that it cannot maintain a complainant’s confidentiality, the College will inform the complainant prior to making the disclosure. In these instances, information will only be shared with individuals who are responsible for handling the College’s response to incidents of sexual misconduct.

The College will remain ever mindful of the complainant’s well-being and, will not only take steps to prevent retaliation but, also take strong responsive action if retaliation occurs.

Because the College is under a continuing obligation to address the issue of sexual misconduct campus-wide, reports of sexual misconduct (including non-identifying reports) will also prompt the College to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual misconduct occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate surveys; and/or revisiting its policies and procedures.

Regardless of whether the complainant requests confidentiality, the College will take steps to protect the complainant as necessary, including taking interim measures before the final outcome of an investigation as discussed in more detail below.

(b) Assignment of an Investigator

Upon receipt of a complaint that alleges a violation of this policy, the Title IX Coordinator shall either begin an investigation into the complaint or shall assign a Title IX Deputy Coordinator, or his or her designee, as the investigator who shall then begin an investigation. The Title IX

Coordinator will share the investigator's name and contact information with the complainant and respondent.

If the complaint is not in writing, the investigator will request that the complainant submit a written complaint. In cases of sexual violence, the College may begin an investigation without a written complaint from the student.

The parties have the right to object to the investigator if there is a conflict of interest. This request will be reviewed, and a decision made by the Title IX Coordinator. If the Title IX Coordinator is the investigator, then the decision will be made by one of the Title IX Coordinators. The request must be submitted in writing to the Title IX Coordinator at least 72 hours after a party receives notification of the assigned investigator.

(c) Investigation

The investigator will promptly begin his or her investigation. The investigation may involve conducting interviews with the complainant, the respondent, and third-party witnesses, where applicable; collecting and preserving relevant evidence (in cases of corresponding criminal complaints, this step may be coordinated with law enforcement agencies); reviewing law enforcement investigation documents, if applicable; reviewing student and personnel files; other appropriate steps taken in an investigation. The investigation will be adequate, reliable, impartial, and prompt and include the opportunity for both parties to present witnesses and other evidence.

The investigator should obtain, where applicable and where possible, the written consent of any third-party witnesses to the disclosure, as contemplated by this policy, of any Personally Identifiable Information ("PII") contained in the complaint and/or any other documents the disclosure of which is contemplated by this policy in order to further the resolution of the complaint. If the investigator is unable to obtain the consent of such third-party witnesses, he or she will redact to the extent necessary to avoid inappropriate disclosure of such witness's PII, while ensuring that such redaction does not prevent resolution of the complaint.

The right to confidentiality of all members of the College community will be respected in both formal and informal procedures insofar as possible and consistent with this Policy.

Information that does not directly relate to the facts at issue, but instead reflects upon the reputation, personality, qualities, or habits of an individual is character evidence and is not relevant to the determination of whether there is a policy violation and may be excluded.

An individual's character or reputation with respect to other sexual activity is not relevant and will not be considered as evidence. Similarly, an individual's prior or subsequent sexual activity is typically not relevant and will only be considered as evidence under limited circumstances. For example, prior sexual history may be relevant to explain the presence of a physical injury or to help resolve other questions raised by the investigation.

(d) Advisors

Both the complainant and the respondent are entitled to all procedural protections outlined in this policy, including the same opportunity to have an advisor of their choice (excluding those directly

involved with the dispute) present during all phases of the process, including the opportunity to be accompanied by an advisor to any related meeting or proceeding.

Advisors, if present, shall be restricted to consulting with their advisees and may not address the investigator or Title IX Coordinator during any related meeting or proceeding, unless invited to do so. Any violation of College policies committed by an advisor may lead to the exclusion of that advisor from the process. That includes but is not limited to, any act of retaliation or breach of privacy committed by an advisor.

The parties have the responsibility to notify their advisor of the time, date, and location of any meeting or proceeding. Meetings or proceedings will not be rescheduled to accommodate an advisor.

(e) Interim Measures

During an investigation and until resolution of the matter, the Title IX Coordinator or Deputy Title IX Coordinator may take any immediate interim actions deemed appropriate, including, but not limited to, no contact orders between the complainant and respondent, interim suspensions, reassignment and administrative leave, exclusion from areas of the campus, change to work schedules, alteration of class schedules, withdraw from/retake class without penalty, access to academic support (i.e., tutoring), residential relocation, among others. Interim measures should not be construed to suggest that any decision has been made about the merits of the complaint.

(f) Report of Investigation

At the conclusion of the investigation, the investigator will prepare a written investigative report that includes items such as summaries of all interviews conducted, photographs, and descriptions of relevant evidence, summaries of relevant electronic records, and a detailed report of the events in question (the “Report of Investigation”).

The parties will be provided a copy of the Report of Investigation and be given an opportunity to provide a written response. Title IX Coordinator has the discretion to redact prohibitive or non-relevant information from the Report of Investigation before it is shared with the parties involved.

At the conclusion of the investigative process, the Title IX Coordinator will review the Report of Investigation and determine whether there is a preponderance of the evidence to support charging the respondent with a violation of this policy. If a determination is made that the available information will not support a violation, then the respondent will not be charged, and the complainant and respondent will simultaneously be provided written notice of that determination. The complainant may appeal that decision.

If the Title IX Coordinator determines that there is sufficient information that a respondent may have committed a violation of this policy, then the Title IX Coordinator will provide to the respondent and the complainant a written “Notice of Charges of Policy Violation” (“Notice of Charges”). The determination to charge the respondent does not mean that the respondent will be found responsible for a policy violation. Instead, it means that the Title IX Coordinator has determined that based upon the available information contained within the Report of Investigation, the case warrants further review by the Title IX Adjudication Panel. The respondent

will only be found in violation if the Title IX Adjudication Panel determines, by a preponderance of the evidence, that the respondent has committed a violation of the policy

(g) Informal Resolution

The complainant may elect to resolve his or her complaint through the informal resolution (mediation) process, provided that (i) the respondent agrees to such resolution, (ii) the complainant and the respondent are both students or are both employees of the College, (iii) the Title IX Coordinator or Deputy Title IX Coordinator determines that informal resolution is an appropriate mechanism for resolving the complaint, and (iv) the complaint does not involve sexual assault. The informal process is an attempt to mediate between the parties in order to reach a mutually agreeable solution.

(h) Respondent's Acknowledgement of Responsibility Prior to a Decision By the Title IX Adjudication Panel

At any time prior to the date of a decision by the Title IX Adjudication Panel, the respondent may elect to acknowledge his or her actions and take responsibility for the charges in the Notice of Charges. If a respondent does so, the Title IX Coordinator will determine the appropriate sanction within five (5) business days and send written notification of the same to the complainant and respondent.

(i) Evidentiary Standard

A preponderance of the evidence standard (i.e., more likely than not that sexual violence occurred) will be used in any fact-finding and related proceedings, including any decision made by the Title IX Adjudication Panel.

Adjudication

(a) Title IX Adjudication Panel

If the investigation supports moving forward to adjudication and the respondent does not accept responsibility for the alleged conduct, the Title IX Coordinator shall then send the Report of Investigation, as well as any written responses from the parties, to the Title IX Adjudication Panel for adjudication of the matter. The Title IX Adjudication Panel includes three (3) employees comprised of faculty/staff. All decisions of an Adjudicator Panel shall be decided by majority vote.

It is expected that any member of the Title IX Adjudication Panel shall recuse him or herself from a particular adjudication if there is the likelihood that their objectivity may be compromised.

Upon receipt of the Report of Investigation, as well as any written responses from the parties, the Title IX Adjudication Panel may ask further clarifying questions of the complainant, respondent, or witnesses to supplement the Report of Investigation, and/or may direct further investigation by the investigator. The Title IX Adjudication Panel may also meet with the parties, if in their discretion such a meeting is needed to render a final decision.

After reviewing the Report of Investigation, any written responses from the parties, and conducting or directing any follow-up that the Title IX Adjudication Panel deems necessary (as set forth in this policy), the Title IX Adjudication Panel shall make a final decision on the complaint based on a preponderance of the evidence.

The Title IX Adjudication Panel will submit a written report to the Title IX Coordinator. Both parties shall receive simultaneous written notice of the outcome of the hearing, sanctions and remedies imposed, and the process and deadline for submitting an appeal by either party. When the respondent is a student, in order to comply with FERPA, the findings sent to the complainant in certain circumstances (*i.e.*, matters involving non-violent sexual harassment) may not include information considered part of a respondent's "education record" (as that term is defined by FERPA), such as information about sanctions that do not relate to the complainant.

(b) Potential Remedies for the Complainant

Effective remedial action taken as a result of a violation of this Policy may include, but is not limited to, disciplinary action against the respondent, providing counseling for the respondent, and remedies for the complainant and others. Depending on the specific nature of the problem, remedies for the complainant may include, but are not limited to:

- Providing and enforcing a no contact or stay away order;
- Providing an effective escort to ensure that the complainant can move safely between classes and activities;
- Moving the respondent or complainant (if the complainant requests to be moved) to a different residence hall;
- Ensuring the complainant and respondent do not share classes or extracurricular activities;
- Providing victim services including 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; and Reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the sexual violence and the misconduct that may have resulted in the complainant being disciplined.

(c) Sanctions

Sanctions for a finding of responsibility depend upon the nature and gravity of the misconduct, any record of prior discipline for sexual misconduct, or both. Sanctions may include, without limitation, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, compensation adjustments, expulsion or suspension from the College, disciplinary probation, expulsion from campus housing, mandated counseling, and/or educational sanctions deemed appropriate by the Title IX Adjudication Panel.

The Title IX Adjudication Panel will determine sanctions, giving consideration to whether a given sanction will (a) bring an end to the violation in question, (b) reasonably prevent a recurrence of a

similar violation, (c) whether there are any prior instances of sexual misconduct by the respondent, and (d) remedy the effects of the violation.

The respondent has the responsibility to comply with all sanctions imposed as the result of a hearing. If an appeal is requested, the sanctions may be stayed and will not take effect until the appeal process has been completed, depending on the circumstances as decided by the Title IX Coordinator. If no appeal is requested, the sanctions will take effect immediately. In a case in which interim sanctions have been imposed, they will continue in force until all appeals have been exhausted.

Appeals

The parties have the right to appeal any decision made by the Title IX Adjudication Panel. Neither respondent nor complainant can appeal an Informal Resolution.

An appeal must be submitted in writing and must be received by the Title IX Coordinator within five (5) business days of the date of notification of the findings of the Title IX Adjudication Panel. An extension to this deadline may be granted at the sole discretion of the Title IX Coordinator.

Upon receiving an appeal, the Title IX Coordinator will provide a copy of the appeal to the other party, who shall have five (5) business days from receipt of the appeal to file a response.

The Title IX Coordinator will then refer the appeal and any response to the Title IX Appeals Committee. The Title IX Appeals Committee is comprised of the Executive Vice President and CFO and the Vice President for Academic Affairs, or their designees. A decision on an appeal may not be rendered until the filing deadline has passed. Appellate decisions should be rendered, and proper written notification provided to the Title IX Coordinator no later than ten (10) business days after the filing deadline for the appeal. The Title IX Coordinator shall notify all parties as appropriate of the results of the appeal.

On appeal, review shall be limited to a review of the documents gathered during the investigation, as well as the written appeals submitted by the parties.

- **New Evidence:** To consider new information, sufficient to alter the decision, or other relevant facts not brought out during the investigation, because such information was not known or knowable to the person appealing during the time of the investigation and adjudication.
- **Procedural Error:** To allege a procedural error within the investigation and adjudicatory process that may have substantially impacted the fairness of the outcome.
- **Sanctions:** The imposition of a sanction that is grossly disproportionate, arbitrary, and/or capricious.

The Appeals Committee is limited to taking one of the following actions for each party:

- Affirm the finding(s) of fact and sanctions imposed by the Title IX Adjudication Panel.
- Affirm the finding(s) of fact but modify the sanction(s) imposed.

- Remand the complaint to the Title IX Adjudication Panel.

Under no circumstances shall the appellate officer supplant the function of the Title IX Adjudication Panel; the appellate process exists solely to review the procedures used in the proceedings, and not to rehear a complaint in its entirety.

The decision of the Appeals Committee is final.

Campus Education of Title IX Policies

All students and employees receive Title IX training provided by the College. All incoming freshmen will be required to complete Title IX training as part of their Emmanuel College Foundations 101 course. For all other students and employees, Emmanuel utilizes an online training and educational platform that provides users the opportunity to learn about three particulars of Campus SaVE: awareness education, prevention tips, and bystander intervention tips. Each year, students and employees receive emails about the mandatory online training. Students will be required to complete Title IX training and may not be able to move into campus housing until they have done so. Employees who fail to go through the Title IX training face disciplinary action for failing or refusing to do so.

In addition, the College provides educational opportunities through active and passive programs. Emails are sent regularly, and a special session on Title IX is held for all freshmen and transfers during New Student Orientation.

Public awareness events or forums such as "Take Back the Night," the Clothesline Project, or other forums in which students disclose incidents of sexual violence, are not considered notice to the College of sexual violence for purposes of triggering its obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the College will provide information about students' Title IX rights at these events.

Additional information regarding how to respond to instances of sexual violence that also include other service providers include:

- Georgia Network to End Sexual Assault (GNESA): <http://gnesa.org>
- The Federal Government's "Not Alone" Website: www.notalone.gov
- National Domestic Violence Hotline: 1-800-799-7233 (SAFE)
- Domestic abuse Helpline for Men & Women: 888-7HELPLINE (888-743-5754)

Definitions

Consent: The College recognizes the following aspects regarding consent: (a) consent is a voluntary agreement to engage in sexual activity, (b) someone who is mentally or physically incapacitated cannot consent; (c) previous relationships or instances of past consent do not imply future consent, (d) silence or an absence of resistance does not imply consent, (f) consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with

another; (g) consent can be withdrawn at any time, and (h) coercion, force, or threat of either invalidates consent. Impairment due to the use of alcohol or drugs does not diminish one's responsibility to obtain consent.

Coercion: Coercion refers to intimidation that would compel an individual to do something against their will by the use of psychological pressure, physical force, or threats of severely damaging consequences. Coercion is more than an effort to persuade or attract another person to engage in sexual activity. Coercive behavior differs from seductive behavior based on the degree and type of pressure someone used to get consent from another.

Hostile environment: A hostile environment is based on sex exists when harassment is sufficiently serious (i.e., severe, pervasive, or persistent) and objectively offensive so as to deny or limit a person's ability to participate in or benefit from the University's programs, services, opportunities, or activities.

Incapacitation: Incapacitation means the physical and/or mental inability to understand the fact, nature, or extent of the sexual situation. Incapacitation may result from mental disability, sleep, unconsciousness, involuntary physical restraint, or from the influence of drugs or alcohol. With respect to incapacitation due to drug or alcohol ingestion, incapacitation requires more than being under the influence of drugs or alcohol; a person is not incapacitated just because they have been drinking or using drugs. Where alcohol or drugs are involved, incapacitation is determined based on the facts and circumstances of the particular situation looking at whether the individual was able to communicate decisions regarding consent, non-consent, or the withdrawal of consent and whether such conditions was known or reasonably should have been known to the respondent. Use of drugs or alcohol by the accused is not a defense against allegations of sexual misconduct and does not diminish personal responsibility. It is the responsibility of the person initiating the specific sexual activity to obtain consent for that activity.