



## Title IX

# SEXUAL MISCONDUCT POLICY

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# Emmanuel University Title IX Policy

## Introduction

Emmanuel University is a faith-based Christian university grounded in the International Pentecostal Holiness Church (IPHC) and committed to a biblical worldview. As part of this commitment, we pledge to commit to lives of sexual purity and to honor the holy sexual union within the context of the marriage covenant, a covenant between one person identified as a male at birth and one person identified as a female at birth. We maintain a strong biblical position against premarital, extramarital, and other sexual relationships and behavior that violate biblical standards, including adulterous, homosexual, and lesbian relationships, and all forms of child molestation and/or exploitation.

While some portions of this Policy may address prohibited sexual activities, such discussions should not be seen as condoning these actions, and an individual's engagement in prohibited sexual activity may result in sexual misconduct disciplinary action. However, The University is committed to protecting the members of its community from Sexual Misconduct - regardless of the context in which it arises.

As a Christian Emmanuel, the University is exempted from certain laws and regulations concerning discrimination. The University maintains the right, with regard to its lifestyle covenant, employment, and other matters, to uphold and apply its religious beliefs related to, among other issues, marriage, sex (gender), gender identity, sexual orientation, and sexual activity.

## Policy Statement

Title IX of the Education Amendments of 1972 provides:

*No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.*

It is the policy of Emmanuel University to maintain an environment that is free of all forms of discrimination on the basis of sex and sex-based harassment in any education program or activity whether or not such program or activity is offered or sponsored by Emmanuel University including admission and employment.

This Policy prohibits all forms of discrimination on the basis of sex and sex-based harassment, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. This Policy also prohibits retaliation against a person who reports, complains about, or who otherwise participates in good faith in any matter related to this Policy. All the foregoing conduct shall be referred to as "Prohibited Conduct."

Emmanuel University will take prompt and equitable action to eliminate the Prohibited Conduct (if any), prevent its recurrence, and remedy its effects. In addition, Emmanuel University will fulfill its obligations under the Violence Against Women Reauthorization Act of 2013 (“VAWA”) amendments to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”) in response to reported Prohibited Conduct. Students, employees, or third parties who are found to have violated this Policy may face disciplinary action Emmanuel University to and including expulsion (students) or termination of employment or contractual relationship (employees or third-party contractors).

Inquiries about Title IX may be referred to Emmanuel University’s Title IX Coordinator, the U.S. Department of Education’s Office for Civil Rights, or both. Emmanuel University’s Title IX Coordinator is Mandrake Miller. He can be reached at 706-245-2820, email at [mandrake.miller@ec.edu](mailto:mandrake.miller@ec.edu), and his office is located in the Student Life Building.

### **Scope of Policy**

This Policy applies to all reports of Prohibited Conduct reported on or after August 1, 2024. Where the date of the Prohibited Conduct precedes August 1, 2024, the definitions and process set forth in the 2020 Title IX regulations will be used.

Nothing in this Policy or Title IX derogates any legal right of a parent, guardian, or other authorized legal representative to act on behalf of a Complainant, Respondent, or other person, including but not limited to making a Complaint through Emmanuel University’s grievance procedures for Complaints of sex discrimination.

A possible violation of the Policy is handled through an administrative process. A Complainant may also pursue criminal or civil legal recourse concurrently. One is not dependent on another.

### **Persons Covered by the Policy**

Emmanuel University has adopted grievance procedures that provide for the prompt and equitable resolution of Complaints made by students (including applicants for admission and admitted students), employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

Emmanuel University strongly encourages reports of Prohibited Conduct regardless of who engaged in the conduct.

### **Locations Covered by the Policy**

This Policy applies to all sex discrimination occurring under an Emmanuel University’s education program or activity in the United States. This conduct that occurs under Emmanuel University’s education program or activity includes but is not limited to conduct that occurs in a building owned or controlled by a student organization that is officially recognized by Emmanuel University, and conduct that is subject to Emmanuel University’s disciplinary authority. Emmanuel University has an obligation to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside of Emmanuel University’s education program or activity or outside of the United States.

## **Definitions**

***Admission*** means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by a Emmanuel University.

### ***Complainant means:***

- (1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or this part; or
- (2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or this part and who was participating or attempting to participate in Emmanuel University's education program or activity at the time of the alleged sex discrimination.

***Complaint*** means an oral or written request to Emmanuel University that objectively can be understood as a request for Emmanuel University to investigate and make a determination about alleged discrimination under Title IX or this part.

### ***Confidential employee means:***

- (1) An employee of Emmanuel University whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this part, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;
- (2) An employee of an Emmanuel University whom Emmanuel University has designated as confidential under this part for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services; or
- (3) An employee of a postsecondary Emmanuel University who is conducting an Emmanuel University Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee's confidential status is only with respect to information received while conducting the study.

***Disciplinary sanctions*** means consequences imposed on a Respondent following a determination under Title IX that the Respondent violated Emmanuel University's prohibition on sex discrimination.

***Federal financial assistance*** means any of the following, when authorized or extended under a law administered by the Department a grant or loan of Federal financial assistance, including funds made available for: (i) the acquisition, construction, renovation, restoration, or repair of a building or facility or any portion thereof; and (ii) Scholarships, loans, grants, wages, or other funds extended to any entity for payment to or on behalf of students admitted to that entity, or extended directly to such students for payment to that entity.

**Parental status**, as used in §§ 106.21(c)(2)(i), 106.37(a)(3), 106.40(a), and 106.57(a)(1), means the status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is a biological parent; an adoptive parent; a foster parent; a stepparent; a legal custodian or guardian; in loco parentis with respect to such a person; or actively seeking legal custody, guardianship, visitation, or adoption of such a person.

**Party** means a Complainant or Respondent.

**Peer retaliation** means retaliation by a student against another student.

**Pregnancy or related conditions** means pregnancy, childbirth, termination of pregnancy, or lactation; medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

**Program or activity** and *program* means all of the operations of a Emmanuel University.

**Relevant** means related to the allegations of sex discrimination under investigation as part of the grievance procedures under § 106.45, and if applicable § 106.46. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a Decisionmaker in determining whether the alleged sex discrimination occurred.

**Remedies** means measures provided, as appropriate, to a Complainant or any other person Emmanuel University identifies as having had their equal access to Emmanuel University's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to Emmanuel University's education program or activity after a Emmanuel University determines that sex discrimination occurred.

**Respondent** means a person who is alleged to have violated Emmanuel University's prohibition on sex discrimination.

**Responsible Employee** means any employee with the obligation to report sexual harassment or sexual discrimination or the responsibility to inform a student how to report sexual harassment. Emmanuel University requires that all Responsible Employees MUST report any possible sexual harassment or discrimination based on sex to the Title IX Coordinator. A Responsible Employee is anyone who:

1. Notify the Title IX Coordinator when any employee (student employee, faculty, or staff) has information about conduct that reasonably may constitute sex discrimination under Title IX or this part; or provide the contact information of the Title IX Coordinator and information about how to make a Complaint of sex discrimination to any person who provides the employee with information about conduct that reasonably may constitute sex discrimination under Title IX or this part.

**Retaliation** means intimidation, threats, coercion, or discrimination against any person by Emmanuel University, a student, or an employee or other person authorized by Emmanuel University to provide aid, benefit, or service under Emmanuel University's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or this part, or because the person has reported information, made a Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part, including in an Informal Resolution process under § 106.44(k), in grievance procedures under § 106.45, and if applicable § 106.46, and in any other actions taken by a Emmanuel University under § 106.44(f)(1). Nothing in this definition or this part precludes a Emmanuel University from requiring an employee or other person authorized by a Emmanuel University to provide aid, benefit, or service under Emmanuel University's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing under this part.

**Sex-based harassment** prohibited by this part is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the bases described in § 106.10, that is:

(1) **Quid pro quo harassment.** An employee, agent, or other person authorized by Emmanuel University to provide an aid, benefit, or service under Emmanuel University's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

(2) **Hostile environment harassment.** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from Emmanuel University's education program or activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- The degree to which the conduct affected the Complainant's ability to access Emmanuel University's education program or activity;
- The type, frequency, and duration of the conduct;
- The parties' ages, roles within Emmanuel University's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- The location of the conduct and the context in which the conduct occurred; and
- Other sex-based harassment in Emmanuel University's education program or activity; or

(3) **Specific offenses.**

- **Sexual assault** meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
- **Dating violence** meaning violence committed by a person
  - (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (

- B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of the interaction between the persons involved in the relationship.
- **Domestic violence** meaning felony or misdemeanor crimes committed by a person who:
  - Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of Emmanuel University, or a person similarly situated to a spouse of the victim;
  - Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
  - Shares a child in common with the victim; or
  - Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
- **Stalking** meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - Fear for the person's safety or the safety of others; or
  - Suffer substantial emotional distress.

### **Crime Definitions from the National Incident-Based Reporting System (NIBRS) User Manual**

(From the Federal Bureau of Investigation Uniform Crime Reporting Program Sex Offenses)

Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

A. **Fondling** - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

B. **Incest** - Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

C. **Statutory Rape** - Sexual intercourse with a person who is under the statutory age of consent.  
([https://www.law.cornell.edu/cfr/text/34/appendix-A\\_to\\_subpart\\_D\\_of\\_part\\_668](https://www.law.cornell.edu/cfr/text/34/appendix-A_to_subpart_D_of_part_668))

**Student** means a person who has gained admission.

**Student with a disability** means a student who is an individual with a disability as defined in the Rehabilitation Act of 1973, as amended, 29 U.S.C. 705(9)(B), (20)(B), or a child with a disability as defined in the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3).



**Supportive Measures** means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:

- (1) Restore or preserve that party's access to Emmanuel University's education program or activity, including measures that are designed to protect the safety of the parties or Emmanuel University's educational environment; or
- (2) Provide Supportive Measures during Emmanuel University's grievance procedures under § 106.45, and if applicable § 106.46, or during the Informal Resolution process under § 106.44(k).

**Title IX** means Title IX of the Education Amendments of 1972 (Pub. L. 92-318; 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688, 1689), as amended.

**Transgender** refers to a person whose sex assigned at birth differs from their gender identity.

**Gender identity** describes an individual's sense of their gender, which may or may not be different from their sex assigned at birth.

**Sexual orientation** describes the sex of a person to whom another person is attracted.

**Sex stereotypes** means fixed or generalized expectations regarding a person's aptitudes, behavior, self-presentation, or other attributes based on sex.

**Sex characteristics** refers to physiological sex-based characteristics. Sex discrimination based on a person's physiological sex characteristics may include discrimination based on a person's anatomy, hormones, and chromosomes associated with male or female bodies. This could also include discrimination based on intersex traits.

### **Additional Policy Definitions**

The following are new definitions in alignment with the 2024 policy.

**Informal Resolution Facilitator** means an individual either internal or external to the College who has been trained and given authority to facilitate between the Complainant and Respondent mutually agreed upon conditions to resolve a matter than might reasonably constitute sex discrimination under Title IX using the Informal Resolution process. The conditions must also be acceptable to the College.

**Appeals Officer** means an individual either internal or external to the College who has been trained and given authority to review and make decisions on appeals about emergency removals, findings (responsible or not responsible) under grievance procedure Sec. 106.45 or Sec. 106.46, and appeals from the implementation of Supportive Measures acting as the Supportive Measures Review Authority.

## **Additional Policy Definitions**

This section defines other terms used within the Policy that are not previously defined as Prohibited Conduct.

**Advisor** for the purposes of this Policy means any person of the Respondent or the Complainant's choosing to serve as the Advisor for the Title IX process. This person may be an attorney but does not have to be. The Advisor has specific responsibilities and requirements for participation in the process which are outlined in the section on Rights of the Respondent and Complainant. A Confidential Employee cannot be appointed by Emmanuel University to be an Advisor for the Complainant or Respondent; however, a Confidential Employee can choose to be an Advisor if so requested by either the Complainant or Respondent.

**Business Day(s)** refers to a Business Day or Business Days in which Emmanuel University is open for business. This is generally Monday through Friday, from 8:00 a.m. until 5:00 p.m. and excludes weekends, holidays, designated closures including but not limited to weather delays and closures.

**Consent** for the purposes of this Policy means that agreement to an activity is knowingly and freely given and communicated, through words or actions, to create a mutual understanding regarding the conduction of sexual activity.

Elements of consent include:

1. Consent is not valid when it involves:
  - a. Physical force, threats, or intimidation;
  - b. Minors under the age of consent,
  - c. Persons whose mental disabilities prohibit sound judgment;
  - d. Persons physically or mentally incapacitated, either voluntarily or involuntarily, as a result of alcohol or other drug consumption; and
  - e. Individuals who are unconscious, unaware, or otherwise physically incapacitated.
2. Silence cannot be interpreted as consent.
3. Lack of consent may also be communicated through the use of non-verbal expressions or actions indicating resistance.
4. Consent may be withdrawn at any time; consent may be offered at any time.
5. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.
6. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent.

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

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

**Coercion** means the improper use of pressure to compel another individual to initiate or continue sexual activity against that individual's will. Consent cannot be obtained through coercion. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include, but are not limited to:

- Threatening to out someone based on sexual orientation, gender identity, or gender expression or
- Threatening to harm oneself if the other party does not engage in the sexual activity. or
- When someone indicates, verbally or physically, that they do not want to engage in a particular sexual activity, that they want to stop a particular activity, or that they do not want to go past a certain point of sexual interaction, continued activity or pressure to continue beyond that point can be coercive.

Emmanuel University will evaluate the following in determining whether coercion was used:

1. The frequency of the application of pressure,
2. The intensity of the pressure,
3. The degree of isolation of the person being pressured, and
4. The duration of the pressure.

**Incapacitation** means a physical or mental state in which an individual cannot make an informed and rational decision to engage in sexual activity because of a lack of conscious understanding of the fact, nature, or extent of the act (e.g., to understand who, what, when, where, why, or how of the sexual interaction) and/or is physically helpless. Examples of incapacitation include, but are not limited to, individuals who:

- Are asleep; or
- Are unconscious; or
- Are unaware that sexual activity is occurring; or
- Cannot understand the nature of the activity or communicate due to a mental or physical condition; or
- Are under the influence of alcohol, drugs or other medication. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation.

The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impacts an individual's:

1. Decision-making ability;
2. Awareness of consequences;
3. Ability to make informed judgments; or
4. Capacity to appreciate the nature and the quality of the act.

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

Whether the Respondent reasonably knew or should have known that the Complainant was incapacitated will be evaluated using an objective reasonable person standard. The fact that the Respondent was actually unaware of the Complainant's incapacity is irrelevant to this analysis. In particular, consent could not occur when:

- The Respondent failed to appreciate the Complainant's incapacitation or;
- The Respondent failed to take reasonable steps to determine the Complainant's incapacitation or;
- The Respondent's own incapacitation (from alcohol or drugs) caused the Respondent to misjudge the Complainant's incapacity.

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

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

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

Emmanuel University is committed to protecting the privacy of all individuals involved in the investigation and resolution of reports and Formal Complaints under this Policy. Emmanuel University also is committed to assisting students, employees, and third Parties in making informed choices. With respect to any report or Complaint under this Policy, Emmanuel University will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to take steps to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects.

***Confidentiality*** means that information shared by an individual with designated campus or community professionals will not be revealed to any other individual without the expressed permission of the individual. If a Complainant or Respondent is a student with a disability, the Title IX Coordinator may consult, as appropriate, with the individual or office that Emmanuel University has designated to provide support to students with disabilities to determine how to comply with Section 504 of the Rehabilitation act of 1973. An individual who seeks confidential assistance may do so by speaking with professionals who have a legally-protected confidentiality. (See the section on Resources for how to report confidentially.)

***Third-Party*** refers to any other participant in the process, including a witness or an individual who makes a report on behalf of a Complainant or Respondent.

### **Immunity for Victims**

Emmanuel University encourages the reporting of conduct violations and crimes that occur on campus or against Emmanuel University students and its employees. An individual might be hesitant to report a crime to an Emmanuel University official for fear of being charged with a policy violation (i.e., underage drinking at the time of a sexual assault). It is in the best interest of Emmanuel University community that all individuals subjected to possible crimes report the incident to an Emmanuel University official. To encourage reporting, Emmanuel University offers individuals victims of crimes and may offer those who assist victims of crimes, amnesty from Emmanuel University policy violations related to the incident. Such amnesty is given at the discretion of the Vice President for Student Life or their designee. (See Guide to Student Life.)

### **Title IX Coordinator and Deputy Coordinators**

**Emmanuel University** has designated the following individuals to serve in official capacity regarding Title IX reporting.

#### **Title IX Coordinator**

Mandrake T. Miller  
Vice President, Student Life  
[Mandrake.miller@ec.edu](mailto:Mandrake.miller@ec.edu)  
Student Life Building

#### **Deputy Title IX Coordinator**

Joann Harper  
Director of Human Resources  
[Jharper@ec.edu](mailto:Jharper@ec.edu)  
Aaron Building 2<sup>nd</sup> Floor

The Title IX Coordinator, assisted by the Deputy Coordinator(s), is responsible for coordinating Emmanuel University's compliance with its obligations under Title IX and this part. The Title IX Coordinator, when notified of conduct that reasonably may constitute sex discrimination under Title IX or this part, must take the following actions to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects:

- treat the Complainant and Respondent equitably;
- offer and coordinate Supportive Measures, as appropriate, for the Complainant. In addition, if Emmanuel University has initiated grievance procedures under § 106.45, and if applicable § 106.46, or offered an Informal Resolution process to the Respondent, offer and coordinate Supportive Measures, as appropriate, for the Respondent;
- notify the Complainant or, if the Complainant is unknown, the individual who reported the conduct, of the grievance procedures under § 106.45 for discrimination based on sex, and if applicable § 106.46 for sex-based harassment, and the Informal Resolution process, if available and appropriate;
- If a Complaint is made, notify the Respondent of the grievance procedures under

§ 106.45, and if applicable § 106.46, and the Informal Resolution process, if available and appropriate;

- In response to a Complaint, initiate the grievance procedures under § 106.45, and if applicable § 106.46, or the Informal Resolution process, if available and appropriate and requested by all parties;
- In the absence of a Complaint or the withdrawal of any or all of the allegations in a Complaint, and in the absence or termination of an Informal Resolution process, determine whether to initiate a Complaint of sex discrimination that complies with the grievance procedures under § 106.45, and if applicable § 106.46.
- Record keeping documenting actions taken to meet Emmanuel University's obligations under sec. 106.44.
- Coordinate actions to prevent discrimination and ensure equal access.
  - 106.40 (3)
- Coordinated education and prevention efforts
- Report crimes to the Clery Administrator for reporting in the Annual Security Report (ASR)

### **Confidential Resources on Campus**

The following confidential resources are available to community members who do not know how they want to proceed and who would like to speak to someone in confidence:

- Campus Pastor, Chris Maxwell - [cmaxwell@ec.edu](mailto:cmaxwell@ec.edu)
- UWill, 24/7/365, Telehealth Support

A confidential report is required by state law to notify child protective services and/or local law enforcement of suspected abuse of a minor under the age of 18 years of age.

Those in positions designated as Confidential Reporters have a duty to report incidents of sexual misconduct for the purposes of reporting numbers for the Annual Security Report (ASR), but are not obligated to report the details of the incidents including the names of potential Complainants or Respondents except as required by their license and professional ethics. Confidential Reporters must comply with Clery.

### **Reporting Options and Resources**

#### **On-Campus Reporting Options**

Emmanuel University requires that all Responsible Employees MUST report any possible sexual harassment or discrimination based on sex to the Title IX Coordinator. A

Responsible Employee is anyone who:

- Any employee who is not a confidential employee and who either has authority to institute corrective measures on behalf of Emmanuel University or has responsibility for administrative leadership, teaching, or advising in Emmanuel University's education program or activity to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX or this part; and
- All other employees who are not confidential employees.

Responsible Employee obligations:

- When a student, or a person who has a legal right to act on behalf of the student, informs a Responsible Employee of the student's pregnancy or related conditions, the employee must promptly provide that person with the Title IX Coordinator's contact information and inform that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to Emmanuel University's education program or activity.

Notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX or this part; or provide the contact information of the Title IX Coordinator and information about how to make a Complaint of sex discrimination to any person who provides the employee with information about conduct that reasonably may constitute sex discrimination under Title IX or this part.

### **Law Enforcement Reporting Options On and Off Campus**

Complainants have the right to notify or decline to notify law enforcement. Emmanuel University strongly encourages all individuals to seek assistance from law enforcement immediately after an incident of sexual misconduct. This is the best option to ensure preservation of evidence and to begin a timely investigative and remedial response. Emmanuel University will assist any Emmanuel University community member in securing a safe place to go and assist in coordination with law enforcement, and information about on-campus and off-campus resources and options for resolution.

Campus Security on duty twenty-four (24) hours a day. You may report crimes or other emergencies by calling 911 or sending an email to [mandrake.miller@ec.edu](mailto:mandrake.miller@ec.edu) :

### **Supportive Measures**

The Title IX Coordinator will offer and coordinate Supportive Measures for the Complainant. In addition, if Emmanuel University has initiated grievance procedures under § 106.45, and if applicable § 106.46, or offered an Informal Resolution process to the Respondent, the Title IX Coordinator will offer and coordinate Supportive Measures, as appropriate, for the Respondent.

For allegations of sex discrimination other than sex-based harassment or retaliation, Emmanuel University's provision of Supportive Measures does not require Emmanuel University, its employee, or any other person authorized to provide aid, benefit, or service on Emmanuel University's behalf to alter the alleged discriminatory conduct for the purpose of providing a Supportive Measure.

Supportive Measures may vary depending on what Emmanuel University deems to be reasonably available. These measures may include but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related

to sex-based harassment.

Supportive Measures must not unreasonably burden either party and must be designed to protect the safety of the parties or Emmanuel University's educational environment, or to provide Supportive Measures during Emmanuel University's grievance procedures under § 106.45, and if applicable § 106.46, or during the Informal Resolution process under § 106.44(k). Emmanuel University will not impose such measures for punitive or disciplinary reasons.

Emmanuel University may, as appropriate, modify or terminate Supportive Measures at the conclusion of the grievance procedures under § 106.45, and if applicable § 106.46, or at the conclusion of the Informal Resolution process under paragraph (k) of this section, or Emmanuel University may continue them beyond that point.

Emmanuel University will provide a Complainant or Respondent with a timely opportunity to seek, from an appropriate and impartial employee (Supportive Measure Review Administrator) modification or reversal of Emmanuel University's decision to provide, deny, modify, or terminate Supportive Measures applicable to them. The SMRA must be someone other than the employee who made the challenged decision and must have authority to modify or reverse the decision, if the SMRA determines that the decision to provide, deny, modify, or terminate the Supportive Measures was inconsistent with the definition of Supportive Measures in § 106.2. A Emmanuel University must also provide a party with the opportunity to seek additional modification or termination of a Supportive Measures applicable to them if circumstances change materially.

This employee cannot be the Decisionmaker or investigator or T9 Coordinator – this must be an independent person. This person is being called a Supportive Measure Review Administrator.

Emmanuel University will not disclose information about any Supportive Measures to persons other than the person to whom they apply, including informing one party of Supportive Measures provided to another party, unless necessary to provide the Supportive Measure or restore or preserve a party's access to the education program or activity, or when an exception in § 106.44(j)(1) through (5) applies.

If the Complainant or Respondent is a postsecondary student with a disability, the Title IX Coordinator may consult, as appropriate, with the individual or office that Emmanuel University has designated to provide Supportive Measures to students with disabilities to determine how to comply with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, in the implementation of Supportive Measures.

All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by a Supportive Measures. Emmanuel University will take immediate and responsive action to enforce a previously implemented Supportive Measure.



## **Emergency Removal**

Nothing in this Policy precludes Emmanuel University from removing a Respondent from Emmanuel University's education program or activity on an emergency basis, provided that Emmanuel University undertakes an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990.

In the event that an Emergency Removal is enacted, the Respondent has the opportunity to submit in writing a challenge to the emergency removal. The challenge to the emergency removal must contain all information, documentation, and evidence that the Respondent wants to have considered in requesting to remain on campus. The Title IX Coordinator will receive the written materials and will provide this to the Appeal Officer. The Appeals Officer is separate from investigators, Title IX Coordinator, and Decisionmaker. The Appeals Officer will review all materials and determine if the Emergency Removal is in the best interest of the Complainant and/or the Respondent and/or is in the best interest of the safety of the campus community. The Appeal Officer's decision is final and binding regarding the Emergency Removal.

## **Administrative Leave**

Nothing in this Policy precludes Emmanuel University from placing an employee Respondent on administrative leave from employment responsibilities during the pendency of this process. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990.

## **Emmanuel University's Grievance Processes**

### **Complainant**

The following people have a right to make a Complaint of sex discrimination, including Complaints of sex-based harassment, requesting that Emmanuel University investigate and make a determination about alleged discrimination under Title IX:

- A "Complainant," which includes:
  - a student or employee of Emmanuel University who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
  - a person other than a student or employee of Emmanuel University who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in Emmanuel University's education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or
- Emmanuel University's Title IX Coordinator.

A person is entitled to make a Complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to

act on behalf of such person, or if the Title IX Coordinator initiates a Complaint consistent with the requirements of 34 C.F.R. § 106.44(f)(1)(v).

With respect to Complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a Complaint:

- Any student or employee Emmanuel University;
- Any person other than a student or employee who was participating or attempting to participate in Emmanuel University's education program or activity at the time of the alleged sex discrimination.

Emmanuel University may consolidate Complaints of sex discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one Complainant or more than one Respondent is involved, references below to a party, Complainant, or Respondent include the plural, as applicable.

### **General Principles**

Emmanuel University will treat Complainants and Respondents equitably.

No Title IX Coordinator, Deputy, Investigator, or Decisionmaker will have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. A Decisionmaker may be the same person as the Title IX Coordinator, Deputy or Investigator.

Respondent is presumed not responsible for the alleged sex discrimination until a determination is made at the conclusion of Emmanuel University's grievance procedures.

Emmanuel University has established the following timeframes for the major stages of the grievance procedures:

### **GRIEVANCE PROCEDURE – SEC. 106.46 – Sex-based Harassment**

#### **Scope:**

- Applies to sex-based harassment complaints involving a student Complainant or a student Respondent.

#### **Written Notice of Allegations:**

If the Emmanuel University initiates these Title IX grievance procedures, Emmanuel University will notify the parties in writing of the following with sufficient time for the parties to prepare a response before any initial interview:

- Emmanuel University's Title IX grievance procedures and any Informal Resolution process;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex-based harassment, and the date(s) and location(s) of the alleged incident(s);

- Retaliation is prohibited;
- The Respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Decisionmaker;
- The parties may have an Advisor of their choice who may be, but is not required to be, an attorney;
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence.
- Emmanuel University's Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance procedures.

If, in the course of an investigation, [Emmanuel University] decides to investigate additional allegations of sex-based harassment by the Respondent toward the Complainant that are not included in the written notice or that are included in a consolidated complaint, it will provide written notice of the additional allegations to the parties.

### **Investigation:**

#### *General Principles:*

Emmanuel University has an adequate, reliable, and impartial investigation of complaints.

The burden is on Emmanuel University—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

Emmanuel University will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate.

Emmanuel University will provide the parties with the same opportunities to be accompanied to any meeting or proceeding by the Advisor of their choice, who may be, but is not required to be, an attorney.

- Emmanuel University will not limit the choice or presence of the Advisor for the Complainant or Respondent in any meeting or proceeding.
- Emmanuel University may establish restrictions regarding the extent to which the Advisor may participate in these grievance procedures, as long as the restrictions apply equally to the parties.

Emmanuel University will provide the parties with the same opportunities, if any, to have people other than the Advisor of the parties' choice present during any meeting or proceeding.

Emmanuel University will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

Emmanuel University will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

Emmanuel University will provide each party and the party's Advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex-based harassment and not otherwise impermissible, in the following manner:

- Emmanuel University will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or the same written investigative report that accurately summarizes this evidence. [If [Emmanuel University] provides access to an investigative report: [Emmanuel University] will further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence on the request of any party.
- Emmanuel University will provide a reasonable opportunity to review and respond to the evidence or the investigative report. If Emmanuel University conducts a live hearing as part of its grievance procedures, it will provide this opportunity to review the evidence in advance of the live hearing. Emmanuel University may decide whether to provide this opportunity to respond prior to the live hearing, during the live hearing, or both prior to and during the live hearing.]; and
- Emmanuel University will take reasonable steps to prevent and address the parties' and their Advisors' unauthorized disclosure of information and evidence obtained solely through the sex-based harassment grievance procedures.

### **Questioning the Parties and Witnesses:**

Emmanuel University has a process that enables the Decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment.

When Emmanuel University chooses not to conduct a live hearing: Emmanuel University's process for proposing and asking relevant and not otherwise impermissible questions and follow-Emmanuel University questions of parties and witnesses, including questions challenging credibility, will:

- Allow the investigator or Decisionmaker to ask such questions during individual meetings with a party or witness;
- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the investigator or Decisionmaker during one or more individual meetings, including follow-Emmanuel University meetings, with a party or witness, subject to the procedures for evaluating and limiting questions discussed below; and
- Provide each party with an audio or audiovisual recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-Emmanuel University questions.

*Procedures for the Decisionmaker to evaluate the questions and limitations on questions:*

The Decisionmaker will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The Decisionmaker will give a party an opportunity to clarify or revise a question that the Decisionmaker determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.

*Refusal to respond to questions and inferences based on refusal to respond to questions:* The Decisionmaker may choose to place less or no weight on statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The Decisionmaker will not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

### **Procedures for a Live Hearing**

Emmanuel University will conduct the live hearing with the parties physically present in the same geographic location or, at Emmanuel University's discretion or on the request of either party, will conduct the live hearing with the parties physically present in separate locations with technology enabling the Decisionmaker and parties to simultaneously see and hear the party or witness while that person is speaking.

Emmanuel University will create an audio or audiovisual recording or transcript of any live hearing and make it available to the parties for inspection and review.

### **Determination Whether Sex-Based Harassment Occurred:**

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, Emmanuel University will:

- Use the [preponderance of the evidence or, if applicable, clear and convincing] standard of proof to determine whether sex discrimination occurred. The standard of proof requires the Decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the Decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the Decisionmaker will not determine that sex discrimination occurred.
- Notify the parties simultaneously in writing of the determination whether sex-based harassment occurred under Title IX including:
  - A description of the alleged sex-based harassment;
  - Information about the policies and procedures that Emmanuel University used to evaluate the allegations;
  - The Decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred;
  - When the Decisionmaker finds that sex-based harassment occurred, any disciplinary sanctions Emmanuel University will impose on the Respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by Emmanuel University to the Complainant, and, to the extent

- appropriate, other students identified by Emmanuel University to be experiencing the effects of the sex-based harassment; and
- [Emmanuel's procedures and permissible bases for the Complainant and Respondent to appeal.
- Emmanuel University will not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the Title IX grievance procedures that the Respondent engaged in prohibited sex discrimination.
- If there is a determination that sex discrimination occurred, as appropriate, the Title IX Coordinator will:
  - Coordinate the provision and implementation of remedies to a Complainant and other people Emmanuel University identifies as having had equal access to Emmanuel University's education program or activity limited or denied by sex discrimination;
  - Coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions; and
  - Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within Emmanuel University's education program or activity.
- Comply with the Title IX grievance procedures before the imposition of any disciplinary sanctions against a Respondent; and
- Not discipline a party, witness, or others participating in the Title IX grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

The determination regarding responsibility becomes final either on the date that Emmanuel University provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

### **Evidence**

Emmanuel University will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (*i.e.*, will not be accessed or considered, except by Emmanuel University to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a Confidential Employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless Emmanuel University

obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and

- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

### **Dismissal of a Complaint:**

Emmanuel University may dismiss a Complaint of sex discrimination if:

- Emmanuel University is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in Emmanuel University's education program or activity and is not employed by Emmanuel University;
- The Complainant voluntarily withdraws any or all of the allegations in the Complaint, (if under 106.46, withdrawal must be in writing) the Title IX Coordinator declines to initiate a Complaint, and Emmanuel University determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- Emmanuel University determines the conduct alleged in the Complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the Complaint, Emmanuel University will make reasonable efforts to clarify the allegations with the Complainant.

Emmanuel University will promptly notify the Complainant of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then Emmanuel University will also notify the Respondent of the dismissal and the basis for the dismissal promptly following notification to the Complainant, or simultaneously if notification is in writing. Notification under 106.46(d) must be in writing.

Emmanuel University will notify the Complainant that a dismissal may be appealed and will provide the Complainant with an opportunity to appeal the dismissal of a Complaint. If the dismissal occurs after the Respondent has been notified of the allegations, then Emmanuel University will also notify the Respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- The Title IX Coordinator, Deputy, Investigator, or Decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

If the dismissal is appealed, Emmanuel University will:

- Notify the parties of any appeal, including notice of the original allegations, if notice was not previously provided to the Respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the Decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the Complaint;
- Ensure that the Decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Provide the parties a reasonable and equal opportunity to make a statement in supportive of, or challenging, the outcome; and
- Notify the parties of the result of the appeal and the rationale for the result.

When a Complaint is dismissed, Emmanuel University will, at a minimum:

- Offer Supportive Measures to the Complainant as appropriate;
- If the Respondent has been notified of the allegations, offer Supportive Measures to the Respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within Emmanuel University's education program or activity.

### **Informal Resolution**

At any time prior to determining whether sex discrimination occurred under § 106.45, and if applicable sex-based harassment under § 106.46, Emmanuel University may offer to a Complainant and Respondent an Informal Resolution process, unless such a process would conflict with Federal, State or local law. Emmanuel University, to the extent necessary, also requires its Title IX Coordinator to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within Emmanuel University's education program or activity.

Emmanuel University has discretion to determine whether it is appropriate to offer an Informal Resolution process when it receives information about conduct that reasonably may constitute sex discrimination under Title IX and may decline to offer Informal Resolution despite one or more of the parties' wishes. Circumstances when Emmanuel University may decline to allow Informal Resolution include, but are not limited to, when Emmanuel University determines that the alleged conduct would present a future risk of harm to others.

Emmanuel University will not require or pressure the parties to participate in an Informal Resolution process. Emmanuel University must obtain the parties' voluntary consent to the Informal Resolution process and must not require waiver of the right to an investigation and determination of a Complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or exercise of any other right.

Before initiation of an Informal Resolution process, Emmanuel University must provide to the parties notice that explains:

- (i) the allegations;
- (ii) the requirements of the Informal Resolution process;



- (iii) That, prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and to initiate or resume Emmanuel University's grievance procedures;
- (iv) That the parties' agreement to a resolution at the conclusion of the Informal Resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;
- (v) The potential terms that may be requested or offered in an Informal Resolution agreement, including notice that an Informal Resolution agreement is binding only on the parties; and
- (vi) What information Emmanuel University will maintain and whether and how Emmanuel University could disclose such information for use in grievance procedures under § 106.45, and if applicable § 106.46, if grievance procedures are initiated or resumed.

Potential terms that may be included in an Informal Resolution agreement include but are not limited to:

- (i) restrictions on contact; and
- (ii) restrictions on the Respondent's participation in one or more of Emmanuel University's programs or activities or attendance at specific events, including restrictions Emmanuel University could have imposed as remedies or disciplinary sanctions had Emmanuel University determined at the conclusion of Emmanuel University's grievance procedures that sex discrimination occurred.

The facilitator for the Informal Resolution process must not be the same person as the investigator or the Decisionmaker in Emmanuel University's grievance procedures. Any person designated by a Emmanuel University to facilitate an Informal Resolution process must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. Any person facilitating Informal Resolution must receive training under § 106.8(d)(3).

At the conclusion of an Informal Resolution, and Informal Resolution receipt of official notification via Emmanuel University email, the Complainant and the Respondent have 2 (two) Business Days to change their mind about the resolution of the case. If either the Complainant or the Respondent changes their mind regarding the agreed Informal Resolution, they must do so in writing and submit it to the Title IX Coordinator. Should the Party's request not be received in writing (including electronically), or does not submit within 2 (two) Business Days, the Informal Resolution will be considered final and binding.

### **Emmanuel University Title IX Grievance Procedure Projected Timeframe**

#### **1. Report Submission**

- **Day 0:** Title IX complaint is submitted to the Title IX Coordinator.

#### **2. Initial Assessment**

- **Day 1-2:** Title IX Coordinator conducts an initial assessment to determine if the

complaint falls under Title IX jurisdiction and whether interim measures are necessary.

**3. Notice of Investigation**

- **Day 3-4:** Parties are notified in writing about the initiation of the investigation, including details of the allegations, the rights of the parties, and any interim measures.

**4. Investigation Phase**

- **Day 4-10:** Title IX Investigator conducts a thorough investigation, including interviews with the complainant, respondent, and witnesses, and the collection of relevant evidence.

**5. Investigation Report**

- **Day 10-12:** Investigator completes and submits a draft investigation report to the Title IX Coordinator for review.

**6. Review Period**

- **Day 12-16:** Parties are given the opportunity to review the draft investigation report and provide written responses.

**7. Final Investigation Report**

- **Day 16-20:** Investigator finalizes the investigation report, incorporating any feedback from the parties, and submits it to the Title IX Coordinator.

**8. Hearing Preparation**

- **Day 21-22:** Title IX Coordinator schedules a hearing date and provides the final investigation report to the Hearing Board and parties.

**9. Hearing**

- **Day 23-24:** Hearing is conducted by the Title IX Hearing Board, during which both parties can present evidence and witnesses, and cross-examination may occur.

**10. Deliberation and Decision**

- **Day 25-27:** Hearing Board deliberates and makes a determination regarding responsibility, based on the preponderance of the evidence standard.

**11. Outcome Notification**

- **Day 27-28:** Written determination of the outcome, including findings of fact, rationale, and any disciplinary sanctions, is provided to both parties.

**12. Appeal**

- **Day 29-31:** Either party may submit a written appeal based on procedural irregularities, new evidence, or conflict of interest/bias. The Appeal Board reviews and makes a final decision within this period.

**13. Final Resolution**

- **Day 32:** Final decision is communicated to the parties, and the case is closed.

Emmanuel University has also established the following process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay.

Emmanuel University has a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause. Title IX Coordinator or Investigator(s) will notify the parties in writing as the reason for the delay and expected timeframe for completing that stage of the process.

Emmanuel University will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, Confidential Employee, or Advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

Emmanuel University can address false statements by initiating a disciplinary process under the appropriate Code of Conduct governing the individual as long as there is evidence independent of the determination whether sex discrimination occurred.

### **GRIEVANCE PROCEDURE – SEC. 106.45 – Sex Discrimination**

#### **Scope**

- Applies to sex discrimination complaints that are not sex-based harassment and sex-based harassment without a student party.

#### **Written Notice of Allegations:**

If the Emmanuel's initiates the Title IX grievance procedure under sec. 106.45, Emmanuel will notify the parties of the following:

- Title IX grievance procedure under Sec. 106.45 and any Informal Resolution process;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited; and
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence.

If, in the course of an investigation, Emmanuel decides to investigate additional allegations of sex discrimination by the Respondent toward the Complainant that are not included in the notice provided or that are included in a Complaint that is consolidated, Emmanuel will notify the parties of the additional allegations.

#### **Investigation:**

Emmanuel will provide for adequate, reliable, and impartial investigation of Complaints.

The burden is on Emmanuel—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

Emmanuel will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

Emmanuel will review all evidence gathered through the investigation and determine what

evidence is relevant and what evidence is impermissible regardless of relevance.

Emmanuel will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:

- Emmanuel will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence.
- Emmanuel will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
- Emmanuel will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the Complaint of sex discrimination are authorized.

### **Questioning the Parties and Witnesses:**

Emmanuel has a process that enables the Decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.

### **Determination Whether Sex Discrimination Occurred:**

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, Emmanuel will:

- Use the [preponderance of the evidence or, if applicable, clear and convincing] standard of proof to determine whether sex discrimination occurred. The standard of proof requires the Decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the Decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the Decisionmaker will not determine that sex discrimination occurred.
- Notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the Complainant and Respondent to appeal, if applicable;
- Not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the Respondent engaged in prohibited sex discrimination.
- If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:
  - Coordinate the provision and implementation of remedies to a Complainant and other people Emmanuel identifies as having had equal access to Emmanuel's education program or activity limited or denied by sex discrimination;
  - Coordinate the imposition of any disciplinary sanctions on a Respondent,

- including notification to the Complainant of any such disciplinary sanctions; and
- Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within Emmanuel's education program or activity.
- Comply with the grievance procedures before the imposition of any disciplinary sanctions against a Respondent; and
- Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

### **Appeal of Determinations**

Emmanuel offers the following process for appeals from a determination whether sex discrimination occurred: This appeal process will be, at a minimum, the same as Emmanuel offers in all other comparable proceedings, including proceedings related to other discrimination Complaints.

## **GRIEVANCE PROCEDURE – SEC. 106.45 – Sex Discrimination**

### **Scope**

- Applies to sex discrimination complaints that are not sex-based harassment and sex-based harassment without a student party.

### **Written Notice of Allegations:**

If the Emmanuel initiates the Title IX grievance procedure under sec. 106.45, Emmanuel will notify the parties of the following:

- Title IX grievance procedure under Sec. 106.45 and any Informal Resolution process;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited; and
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence.

If, in the course of an investigation, Emmanuel decides to investigate additional allegations of sex discrimination by the Respondent toward the Complainant that are not included in the notice provided or that are included in a Complaint that is consolidated, Emmanuel will notify the parties of the additional allegations.

### **Investigation:**

Emmanuel will provide for adequate, reliable, and impartial investigation of Complaints.

The burden is on Emmanuel—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

Emmanuel will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

Emmanuel will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

Emmanuel will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:

- Emmanuel will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence.
- Emmanuel will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
- Emmanuel will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the Complaint of sex discrimination are authorized.

### **Questioning the Parties and Witnesses:**

Emmanuel has a process that enables the Decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.

### **Determination Whether Sex Discrimination Occurred:**

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, Emmanuel will:

- Use the [preponderance of the evidence or, if applicable, clear and convincing] standard of proof to determine whether sex discrimination occurred. The standard of proof requires the Decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the Decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the Decisionmaker will not determine that sex discrimination occurred.
- Notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the Complainant and Respondent to appeal, if applicable;

- Not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the Respondent engaged in prohibited sex discrimination.
- If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:
  - Coordinate the provision and implementation of remedies to a Complainant and other people Emmanuel identifies as having had equal access to Emmanuel's education program or activity limited or denied by sex discrimination;
  - Coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions; and
  - Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within Emmanuel's education program or activity.
- Comply with the grievance procedures before the imposition of any disciplinary sanctions against a Respondent; and
- Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination of whether sex discrimination occurred.

### **Appeal of Determinations**

Emmanuel offers the following process for appeals from a determination of whether sex discrimination occurred: This appeal process will be, at a minimum, the same as Emmanuel offers in all other comparable proceedings, including proceedings related to other discrimination Complaints.

### **Emmanuel University Title IX Appeal Process**

#### **Eligibility for Appeal**

Both the complainant and the respondent have the right to appeal the outcome of a Title IX grievance procedure. Appeals must be based on one or more of the following grounds:

1. **Procedural Irregularity:** A procedural error that affected the outcome of the matter.
2. **New Evidence:** New evidence that was not reasonably available at the time of the determination and could affect the outcome.
3. **Conflict of Interest or Bias:** The Title IX Coordinator, Investigator, or Hearing Board member had a conflict of interest or bias that affected the outcome.

#### **Appeals:**

Emmanuel University will offer an appeal from a dismissal or determination whether sex-based harassment occurred on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and

- The Title IX Coordinator, investigator, or Decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

If a party appeals a dismissal or determination whether sex-based harassment occurred, Emmanuel University will:

- Notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the Decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the Decisionmaker for the appeal has been trained consistent with the Title IX regulations
- Communicate to the parties in writing that Emmanuel University will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties in writing of the result of the appeal and the rationale for the result.

Any additional procedures or bases for appeal Emmanuel University offers will be equally available to all parties.

An appeal is not to rehear the case, but to review whether any of the above, if present, influenced the outcome of the case.

Appeals for cases arising under this Policy will be heard by an Appeals Officer. The Title IX Coordinator will receive the written materials and submit to the Appeals Officer.

The Appeals Officer will have access to all documents including, but not limited to:

- Recordings, both audio and video
- Communications, including electronic and non-electronic written documents
- Reports
- Responses to reports
- Addenda
- Other documents associated with the case that are not made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party, unless Emmanuel University obtains that Party's voluntary, written consent

If the Appeals Officer determines that a ground for appeal is substantiated, the case will be returned to the Title IX Coordinator. Otherwise, the decision of the Decisionmaker stands. When a case is returned to the Title IX Coordinator, the Title IX Coordinator may:

1. Decide to drop the case (e.g., based on insufficient information to believe that a policy violation may have occurred), or



2. Send the case to the original Decisionmaker for reconsideration, or
3. Send the case to a new Decisionmaker with the same or different charges, and/or (re)implement any aspect of the disciplinary process. When a case is sent back to a new Decisionmaker, it is possible that a different decision (i.e., the decision of responsibility and/or sanctions) may subsequently result.

### **Remedies or Disciplinary /sanctions – 106.45 and 106.46**

*Remedies* means measures provided, as appropriate, to a complainant or any other person the recipient identifies as having had their equal access to Emmanuel University's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the recipient's education program or activity after Emmanuel University determines that sex discrimination occurred.

The following are possible sanctions that may be assigned after a finding of Responsibility. This list is not exhaustive and may be modified to meet the particular circumstances of any given case.

1. Expulsion: Permanent severance of the student's relationship with Emmanuel University. This severance includes being barred from campus.
2. Disciplinary Suspension: Temporary severance of the student's relationship with Emmanuel University for a specified period of time. This may include the student being barred from campus.
3. Limited Suspension: A student may be denied certain privileges for a specified period of time. These privileges may include, but are not limited to, class attendance, housing, parking on campus, participation in extracurricular activities, ID card privileges, access to Emmanuel University all facilities, and access to the campus.
4. Disciplinary Probation: Notice to the student that any further, major disciplinary violation may result in suspension. Disciplinary probation might also include one or more of the following: the setting of restrictions or the issuing of a reprimand.
5. Reprimand (either oral or written.)
6. Counseling: The committee may require that a Respondent participate in counseling with the campus counselor for issues including, but not limited to, anger management, substance abuse, and extenuating personal circumstances. The Counselor may confirm participation, but not the content of the meetings.
7. Work assignment changed
8. Referral to Human Resources or Academic Affairs for employment action

### **Parental, family, marital status, pregnancy or related conditions – Students**

#### ***Scope***

Emmanuel University will not adopt or implement any policy, practice, or procedure concerning a student's current, potential, or past parental, family, or marital status that treats students differently on the basis of sex.

Emmanuel University will not discriminate in its education program or activity against any

student based on the student's current, potential, or past pregnancy or related conditions. A Emmanuel University does not engage in prohibited discrimination when it allows a student, based on pregnancy or related conditions, to voluntarily participate in a separate portion of its education program or activity provided Emmanuel University ensures that the separate portion is comparable to that offered to students who are not pregnant and do not have related conditions.

Emmanuel University will ensure that when a student, or a person who has a legal right to act on behalf of the student, informs any employee of the student's pregnancy or related conditions, unless the employee reasonably believes that the Title IX Coordinator has been notified, the employee promptly provides that person with the Title IX Coordinator's contact information and informs that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to Emmanuel University's education program or activity.

Emmanuel University will take specific actions to promptly and effectively prevent sex discrimination and ensure equal access to Emmanuel University's education program or activity once the student, or a person who has a legal right to act on behalf of the student, notifies the Title IX Coordinator of the student's pregnancy or related conditions. The Title IX Coordinator must coordinate these actions.

*Emmanuel University will* inform the student, and if applicable, the person who notified the Title IX Coordinator of the student's pregnancy or related conditions and has a legal right to act on behalf of the student, of Emmanuel University's obligations under this section and provide Emmanuel University's notice of nondiscrimination.

#### *Reasonable Modification*

Emmanuel University will make reasonable modifications to Emmanuel University's policies, practices, or procedures as necessary to prevent sex discrimination and ensure equal access to Emmanuel University's education program or activity. Each reasonable modification must be based on the student's individualized needs. In determining what modifications are required under this paragraph, Emmanuel University must consult with the student. A modification that a Emmanuel University can demonstrate would fundamentally alter the nature of its education program or activity is not a reasonable modification.

The student has discretion to accept or decline each reasonable modification offered by Emmanuel University. If a student accepts a Emmanuel University's offered reasonable modification, Emmanuel University will implement it.

Reasonable modifications may include, but are not limited to, breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom; intermittent absences to attend medical appointments; access to online or homebound education; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations; allowing a student to sit or stand, or carry or keep water nearby; counseling; changes in physical space or Emmanuel University structure (for example,

access to a larger desk or a footrest); elevator access; or other changes to policies, practices, or procedures.

*Voluntary access to separate and comparable portion of program or activity.*

Emmanuel University will allow the student to voluntarily access any separate and comparable portion of Emmanuel University's education program or activity.

*Voluntary leaves of absence.*

Emmanuel University must allow the student to voluntarily take a leave of absence from Emmanuel University's education program or activity to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. To the extent that a student qualifies for leave under a leave policy maintained by a Emmanuel University that allows a greater period of time than the medically necessary period, Emmanuel University must permit the student to take voluntary leave under that policy instead if the student so chooses. When the student returns to Emmanuel University's education program or activity, the student must be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the voluntary leave began.

*Lactation space.*

Emmanuel University will ensure that the student can access a lactation space, which must be a space other than a bathroom, that is clean, shielded from view, free from intrusion from others, and may be used by a student for expressing breast milk or breastfeeding as needed.

*Limitation on documentation.*

Emmanuel University will not require supporting documentation unless the documentation is necessary and reasonable for Emmanuel University to determine the reasonable modifications to make or whether to take additional specific actions. Examples of situations when requiring supporting documentation is not necessary and reasonable include, but are not limited to, when the student's need for a specific action is obvious, such as when a student who is pregnant needs a bigger uniform; when the student has previously provided Emmanuel University with sufficient supporting documentation; when the reasonable modification because of pregnancy or related conditions at issue is allowing a student to carry or keep water nearby and drink, use a bigger desk, sit or stand, or take breaks to eat, drink, or use the restroom; when the student has lactation needs; or when the specific action is available to students for reasons other than pregnancy or related conditions without submitting supporting documentation.

*Comparable treatment to other temporary medical conditions.*

Emmanuel University will treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions with respect to any medical or hospital benefit, service, plan, or policy Emmanuel University administers, operates, offers, or participates in with respect to students admitted to Emmanuel University's education program or activity.

*Certification to participate.*

Emmanuel University will not require a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in Emmanuel University's class, program, or extracurricular activity unless:

- (i) The certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;
- (ii) Emmanuel University requires such certification of all students participating in the class, program, or extracurricular activity; and
- (iii) The information obtained is not used as a basis for discrimination prohibited by this Policy.

### **Parental, family, marital status, pregnancy or related conditions – Employees**

#### *Scope*

An Emmanuel University must not adopt or implement any policy, practice, or procedure, or take any employment action, on the basis of sex:

- (1) Concerning the current, potential, or past parental, family, or marital status of an employee or applicant for employment, which treats persons differently; or
- (2) That is based on whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit.

#### *Pregnancy or related conditions.*

Emmanuel University must not discriminate against any employee or applicant for employment on the basis of current, potential, or past pregnancy or related conditions.

#### *Comparable treatment to other temporary medical conditions.*

Emmanuel University must treat pregnancy or related conditions as any other temporary medical conditions for all job-related purposes, including commencement, duration and extensions of leave; payment of disability income; accrual of seniority and any other benefit or service; and reinstatement; and under any fringe benefit offered to employees by virtue of employment.

#### *Voluntary leaves of absence.*

In the case Emmanuel University does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for leave under such a policy, Emmanuel University will treat pregnancy or related conditions as a justification for a voluntary leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

#### *Lactation time and space.*

- (1) Emmanuel University will provide reasonable break time for an employee to express breast milk or breastfeed as needed.
- (2) Emmanuel University will ensure that an employee can access a lactation space, which must be a space other than a bathroom that is clean, shielded from view,

free from intrusion from others, and may be used by an employee for expressing breast milk or breastfeeding as needed.

### **Internal and External Resources**

Emmanuel University reserves the right, at any time during any stage of any process described in this Policy, to utilize the services of internal and/or external individuals to facilitate any of the processes or to serve in any role in this Policy.

### **Record Keeping**

Title IX Records will be maintained for 7 (seven) years in accordance with the Title IX regulations and Emmanuel University's Records Retention Policy. Title IX records include:

1. Investigations
2. Determinations
3. Recordings
4. Transcripts
5. Sanctions
6. Remedies
7. Appeals
8. Informal Resolutions
9. Training Materials

### **Examination and Revision**

The policies of Emmanuel University are reviewed regularly. Emmanuel University Title IX Policy may be revised at any time in order to comply with current applicable guidance, regulations, and laws.