

# **SEXUAL HARASSMENT/ABUSE POLICY AND PROCEDURES**

## **POLICY**

Central Illinois Emmaus is committed to providing staff and participants with an environment where they may pursue their objectives and spiritual goals without being sexually harassed or abused. Sexual harassment or abuse of or by any member of the Central Illinois Emmaus community is unacceptable and will not be tolerated. It is illegal and constitutes a violation of Title VII of the Civil Rights Act of 1964,

For the purposes of this policy, it is defined as follows:

Unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when: 1) submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual's employment or participation; or 2) submission to or rejection of such conduct by an individual is used as the basis for employment or participation; or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's performance or creating an intimidating, hostile or sexually offensive environment..

Examples of sexual harassment include, but are not limited to the following:

- repeated unwanted sexual flirtations, advances or propositions;
- continued or repeated verbal abuse or innuendo of a sexual nature;
- uninvited physical contact such as touching, hugging, patting, brushing or pinching;
- verbal comments of a sexual nature about an individual's body or sexual terms used to describe an individual;
- display of pictures, posters or cartoons that a reasonable person would find offensive or sexually suggestive;
- continued or repeated jokes, language, epithets or remarks of a sexual nature;
- prolonged staring or leering;
- making obscene gestures or suggestive or insulting sounds;
- demand for sexual favors accompanied by an implied or overt threat concerning an individual's employment status, participation or promises of preferential treatment; and
- indecent exposure.

In determining whether an alleged incident constitutes sexual harassment, those entrusted with administering this policy will look at the "totality of the circumstances", such as the nature of the sexual advances and the context in which the alleged incidents occurred. The final decision regarding a suitable penalty will be made from the finding of fact on a case-by-case basis and from any record of previous sexual harassment by the Respondent.

Individuals under the age of 18 attending a Chrysalis event will not be permitted to be alone in a room with an adult with a "closed" door unless a minimum of one additional adult of the same gender as the individual under the age of 18 affiliated with the Central Illinois Emmaus/Chrysalis team is present. Before serving on a Chrysalis team all Chrysalis team

members will have passed a criminal background check for sex offenders. (See Addendum A in relation to minors).

The Central Illinois Emmaus Board and Chrysalis Board will be responsible for administering this policy and its procedures. All Central Illinois Emmaus and Chrysalis Board members will participate in a workshop designed to educate them about sexual harassment and abuse, each year during a January Central Illinois Emmaus Board Retreat. The First Assistant Community Lay Director will serve as Chairperson of the Sexual Harassment Board but may delegate all or part of the role to a designee. In such instances, overall decision making authority for matters related to this policy and procedures will continue to rest with the First Assistant Community Lay Director. The Board, in concert with the Community Lay Director and Assistant Community Lay Directors, shall see that all team leadership and spiritual directors, employees and volunteers receive information and training concerning sexual harassment during the team training for each Walk/Flight, and the responsibilities when complaints are received. Pilgrims and Caterpillars will be informed at the beginning of the weekend that the goal of the weekend is to provide a safe environment. They will be instructed that if at any time they feel physically unsafe or physically uncomfortable by an action of staff or another Pilgrim or Caterpillar they are to immediately contact the Weekend Lay Director or Board Advisor.

## **PROCEDURES**

### **I. Purpose and Scope**

This grievance procedure is intended to provide a fair, prompt and reliable determination about whether Central Illinois Emmaus' sexual harassment policy has been violated. Anyone who, at the time of the alleged harassment, was volunteering, participating or attending an Emmaus or Chrysalis function may file a complaint alleging violation of this policy. Specific procedures for complaint processing will be determined consistent with the exceptions noted in the last paragraph of this section. No Emmaus or Chrysalis employee/volunteer is exempt from the jurisdiction of this policy.

In most instances, complaints will be initiated by the target of the alleged harassment. However, Central Illinois Emmaus/Chrysalis reserves the right to initiate a formal grievance (or to continue processing a complaint even after a request to withdraw has been submitted by the Complainant in accordance with Section IV) when, in the opinion of the Chairperson of the Sexual Harassment Board, it is appropriate to do so. In such instances, the Chairperson of the Sexual Harassment Board will designate who will present Central Illinois Emmaus' case.

As in any grievance procedure justice requires that the legal rights, of the Complainant and the Respondent be fully assured. Central Illinois Emmaus will make every effort to protect these rights and will knowingly undertake no action that threatens or compromises them. Notwithstanding, nothing in these procedures is intended to prevent Central Illinois Emmaus from taking appropriate interim measures to protect one or more of the parties until such time as final adjudication regarding the complaint has been reached.

This procedure is not intended to impair or limit the right of anyone to seek a remedy available under state or federal law. A Complainant may file a complaint with an external agency to meet state and federal agency deadlines without jeopardizing his or her right to a

hearing. Upon official notification that an individual has filed with an external agency, Central Illinois Emmaus will inquire if the Complainant wishes to continue with the internal grievance process. Should the Complainant seek to discontinue the internal process, Central Illinois Emmaus will nonetheless continue to fact find and take appropriate measures.

## **II. Confidentiality**

All parties involved in any aspect of this process will act at all times to preserve the confidentiality of these proceedings. Information will be shared with those individuals who have a legitimate and operational need to be informed, and to the extent that it is necessary to maintain the effectiveness of this process. Individuals found to have violated the confidentiality of this process may be subject to disciplinary proceedings consistent with the provisions established or other applicable administrative rules and regulations.

## **III. Deadlines**

A Complainant will have 24 hours following an incident to initiate a complaint with the Board Advisor assigned to the Emmaus/Chrysalis Walk under this policy and procedures.

## **IV. Requirements for Participation & Withdrawals**

If a Respondent fails to answer a charge or to participate in this process, the Chairperson of the Sexual Harassment Board will notify the Respondent that failure to respond to a claim or to appear at a hearing will be considered a breach of responsibility and will result in termination of any relationship existing between the parties.

A Complainant may request to withdraw a formal grievance after it has been filed by submitting written reasons for the withdrawal to the Chairperson of the Sexual Harassment Board. The Chairperson will be responsible for notifying the Respondent of the request to withdraw.

None of the above actions should be construed to impinge upon the right of Central Illinois Emmaus to initiate or continue a claim in spite of a request to withdraw when, in the opinion of the Chairperson of the Sexual Harassment Board, the allegations are sufficiently egregious to merit further action on the part of Central Illinois Emmaus. The alleged victim will be relied upon to serve as a witness under these circumstances.

## **V. Retaliation**

No individual shall be retaliated or discriminated against for participating in these procedures.

## **VI. Penalties**

The penalties for those found to have violated this policy may include, but will not be limited to, any one or combination of the following: verbal admonition, written warning, and/or dismissal.

## **VII. Filing Sexual Harassment Complaints**

Central Illinois Emmaus recognizes that it has a responsibility to provide a procedure for rapid and equitable resolution of all sexual harassment complaints. In many instances,

resolution can be reached without the need for formal measures. The goal in all instances is to ensure that inappropriate and offensive behavior is stopped.

### **VII.A. Initiating a Complaint**

Complainants must notify the Board Advisor assigned to the Walk/Flight and execute a written statement detailing the allegations of impropriety, including alleged individual, time, date and location within 24 hours of the alleged conduct. The assigned Board Advisor shall immediately notify the Chairperson of the Sexual Harassment Board and prepare an incident report. The incident report shall include the information shared by the complainant as described above, and details of how the complaint was resolved, either by Informal Resolution (See VII.B.), or by Formal Resolution (See: VII.C.).

If the Complainant is under the age of 18, an advocate from the Chrysalis Team will be appointed. The Complaint may be filed by the advocate on behalf of the Complainant and be the spokesperson for the Complainant during all hearings. However, during the hearings the Complainant shall provide all testimony.

### **VII.B. Informal Resolution**

In some circumstances informal resolution of a complaint prior to or instead of initiating the formal process may be more satisfactory than directly proceeding to a formal grievance. Informal resolution options include, but are not limited to, self-help; consultation and action; or mediation.

#### **VII.B.1 Self-Help**

The goal in any complaint process is to stop the harassing behavior. If a Complainant believes he or she is experiencing inappropriate conduct and can comfortably confront the individual responsible for the inappropriate conduct, then the following steps may be taken:

- confront the person(s) promptly;
- inform the person(s) that the conduct is offensive, intimidating, or embarrassing;
- describe the affect of this behavior;
- request that the behavior stop immediately.

The Complainant should have the above conversation with a witness present who can corroborate the exchange. If this is not possible or practical, the Complainant may write a letter incorporating the above points and give it to the person in front of a witness. The Complainant should retain a copy of this letter.

In all instances, the Complainant should document the event(s), including dates, times, places and witnesses. If this action fails to provide the Complainant with the appropriate relief, or as an alternative to using this approach, the measures described below may be considered.

#### **VII.B.2 Consultation and Action**

When the Complainant cannot comfortably and directly confront the Respondent, or the behavior has continued in spite of direct confrontation, then the Complainant should report the behavior to the Chairperson of the Sexual Harassment Board who can intervene.

#### **VII.B.3 Mediation**

It is sometimes the case that the issue under contention can be resolved through mediation. Mediation will involve the Complainant, Advocate for Complainant, Respondent, the

weekend Spiritual Director, weekend Board Advisor, and Chairperson of the Sexual Harassment Committee.

### **VII.C Formal Resolution (Filing a formal grievance)**

Complainants who are dissatisfied with or do not wish to utilize informal resolution should consult directly with Chairperson of the Sexual Harassment Board to determine the appropriateness of filing a formal grievance. Although informal resolution attempts are not required prior to filing a formal grievance, they are nonetheless encouraged.

Any individual who chooses to file a formal sexual harassment grievance may do so immediately following the incident giving rise to the complaint, or following efforts to reach an informal settlement. In no event will it be filed greater than forty-eight (48) hours following the incident which gave rise to the complaint. After initially meeting with the Complainant to assess the complaint, including the appropriateness of the complaint being filed under this Policy and Procedures (see Section VII.A.), the Chairperson of the Sexual Harassment Board will advise the Complainant of appropriate next steps.

### **VIII. Formal Grievance Procedure**

Following appropriate initial consultation with the Chairperson of the Sexual Harassment Board, the grievance must be submitted in writing to the Chairperson of the Sexual Harassment Board on an official grievance form which must clearly and concisely state a description of the matter being complained about; it may also indicate any remedy sought. The complaint form must be signed and dated by the Complainant. The Chairperson of the Sexual Harassment Board will provide the Respondent a copy of the complaint in a timely manner.

The Respondent will have ten (10) working days to submit a written response to the Sexual Harassment Board. This statement will contain full and specific responses to each claim in the grievance, admitting, denying or providing a full explanation of the allegations. The response must be signed and dated by the Respondent. The Chairperson of the Sexual Harassment Board will forward a copy of the response to the Complainant. If an investigation has not already taken place and a fact-finder's report completed, then one will immediately commence. The Chairperson of the Sexual Harassment Board will appoint the fact-finder and provide the fact-finder with a copy of the response and the complaint. The fact-finder will conduct a thorough investigation and forward a written report to the Chairperson of the Sexual Harassment Board as quickly as possible. The Chairperson of the Sexual Harassment Board will review the report to determine next steps.

When a hearing is to be held, it will be conducted in accordance with the procedures outlined below.

If, consistent with Section VII.A (paragraph 3), the Chairperson of the Sexual Harassment Board determines that the complaint should be dismissed and a hearing should not be held, the Chairperson will provide written notification of this decision to the Complainant and the Respondent. This decision is final and not subject to appeal under these procedures. The Chairperson of the Sexual Harassment Board will provide copies of the fact-finder's report to the Complainant and the Respondent.

### **VIII.A. The Sexual Harassment Board**

**The Sexual Harassment Board consists of all members of the Central Illinois Emmaus Board.** Following their appointment, Board members will participate in a workshop designed to educate them about sexual harassment as well as the procedures for conducting a sexual harassment hearing.

### **VIII.B. The Hearing Panel**

When a hearing is to be held, the Chairperson of the Sexual Harassment Board will appoint a three member Hearing Panel. The Chairperson will designate one member to serve as the Presiding Officer. Prior to their participation in a hearing, the Chairperson of the Sexual Harassment Board will meet with the Hearing Panel to review sexual harassment issues and the hearing procedures. Before the hearing is convened, the parties will receive written notification of the Panel's appointment from the Chairperson of the Sexual Harassment Board.

The Hearing Panel will hear testimony and consider evidence related to the complaint, including the written findings of fact as prepared by the fact-finder. (These findings will be provided to the Panel along with copies of the complaint and the response prior to the hearing.) The Panel will, on the basis of all relevant information and testimony before them, make a determination about whether the Emmaus policy on sexual harassment has been violated and, if so, will submit a recommendation for appropriate penalty and relief to the Chairperson of the Sexual Harassment Board.

#### **VIII.B.1. Duties and Powers of the Presiding Officer and the Hearing Panel**

##### **The Presiding Officer will:**

1. ensure an orderly presentation of all evidence;
2. ensure that the proceedings are accurately recorded; and
3. see that a fair and impartial decision based on the issues and evidence presented at the hearing is issued by the Hearing Panel.

##### **VIII.B.2. The Hearing Panel will:**

1. define issues of contention;
2. conduct a fair and impartial hearing which ensures the rights of all parties involved;
3. receive and consider all relevant evidence which reasonable people customarily rely upon in the conduct of serious business;
4. ensure that the Complainant and Respondent have full opportunity to present their positions and to present witnesses and evidence which support their positions; further, the Hearing Panel may also name individuals to appear as witnesses;
5. ask relevant questions of the Complainant, Respondent, and witnesses to elicit information which may assist the Hearing Panel in making a decision; members of the Central Illinois Emmaus Community have a responsibility to fully cooperate with this process;
6. continue the hearing to a subsequent date if necessary to permit either party or the Panel to produce additional evidence, witnesses, or other relevant materials;
7. change the date, time or place of the hearing on its own motion or for good reason shown by either party, and with due notice to all parties;
8. permit both parties to submit written arguments following the conclusion of the hearing;



9. rule by majority vote on all questions of fact, interpretations of rules, regulations and policies, recommendations for penalties and relief, and any requests that are made during the hearing.

The Hearing Panel may consult with or have the assistance of Legal Counsel throughout this process.

### **VIII.C. The Hearing**

The Hearing is intended to provide a forum within which a panel of peers determines whether Central Illinois Emmaus' policy has been violated. Both parties will be given a full and fair hearing. The proceeding, although formal, is not a court proceeding and the Hearing Panel will not be bound by the procedures and rules of evidence of a court of law. In most instances, Complainants and Respondents will be expected to speak for themselves. The Hearing Panel will hear and admit evidence which it believes is pertinent to the case.

#### **The Hearing Panel will conduct the hearing by the following procedures:**

**VIII.C.1.** The Chairperson of the Sexual Harassment Board will initially provide the Hearing Panel with copies of the complaint, the response, and the fact-finder's report; the Chairperson will also work with the Hearing Panel and the parties to coordinate the scheduling of the hearing. A closed hearing will be held as soon as possible following the final appointment of the Hearing Panel. The Complainant and the Respondent must submit all documents they intend to introduce at the hearing, as well as the names and affiliations of their witnesses and advocates (see Section VIII.C.5) in reasonable advance of the hearing date. Actual deadlines for submissions of these materials will be established once a hearing date has been set. The Chairperson of the Sexual Harassment Board will ensure that the parties and the Hearing Panel receive copies of all submitted materials. Documents not submitted in advance of the hearing may be introduced into the record on the day of the hearing provided all parties and the Panel are accorded sufficient time to review the documents and respond accordingly. In this case, the party submitting the documents must provide sufficient copies for all relevant parties.

**VIII.C.2.** The Hearing Panel will convene prior to the hearing date to review the complaint, the response, the fact-finder's report and all materials submitted by the parties. The Panel may, upon review of materials and witness lists submitted by the parties, identify additional witnesses they wish to call on the day of the hearing or request that the parties provide additional materials. The Presiding Officer will provide the parties with the names of additional witnesses and copies of all additional materials requested by the Panel as far in advance of the hearing as possible.

**VIII.C.3.** The Presiding Officer may meet with the parties prior to the hearing to review hearing procedures and to respond to any procedural matters that have arisen.

**VIII.C.4.** The Complainant and Respondent will have the opportunity to hear and respond to all testimony, to examine all evidence, and to present evidence and witnesses which advance arguments relevant to the issues in contention.

**VIII.C.5.** Each party will have the right to be accompanied and advised by an advocate at any stage of the proceedings. An advisor may be an attorney. In most instances, Complainants and Respondents will be expected to speak for themselves. Advisors, including legal counsel, will not address the Hearing Panel directly except with the permission of the Panel.

**VIII.C.6** The Chairperson of the Sexual Harassment Board must be advised as soon as possible, but in no event less than five working days in advance of the hearing date if either party will be accompanied by an attorney.

**VIII.C.7.** Each of the parties is responsible for informing their respective advocates and witnesses of the date, time, and place of the hearing.

**VIII.C.8.** The hearing will be recorded on tape by the Hearing Panel and the tapes will become the property of the Central Illinois Emmaus Community. Following the completion of the hearing, either party may have supervised access to the tapes by submitting a written request to the Chairperson of the Sexual Harassment Board.

**VIII.C.9. The proceedings before the Hearing Panel will be as follows:**

Following opening remarks, the Presiding Officer will summarize the charge(s) and ask the Respondent to either admit or challenge the allegation(s). The Complainant will present a brief opening statement, followed by the same from the Respondent. Each party will then present their evidence and witnesses, followed by witnesses called by the Hearing Panel. Questions may be posed at any stage of the proceedings consistent with the protocol established by the Presiding Officer at the onset of the hearing process. Each party may make a brief concluding statement to the Hearing Panel.

Either party may submit a written argument following the hearing, provided he or she notifies the Presiding Officer no later than two (2) working days after the hearing. The written argument may not introduce new information, but rather must be a summary of the information already introduced and presented. The Parties will have ten (10) working days to submit written arguments to the Presiding Officer. The Presiding Officer will send copies of written arguments to each party.

A Hearing Panel, by a majority vote of its members, may make other rules concerning the procedure of a hearing which it deems appropriate and consistent with this Sexual Harassment Policy.

**VIII.D. Decision of the Hearing Panel**

Following the hearing and submission of written arguments, if any, the Hearing Panel will convene for private deliberations to determine whether the Organization's policy on sexual harassment has been violated. The Panel will prepare a detailed report noting its conclusion; this report will clearly state the facts of the case and the supporting evidence; the conclusion must be fully supported by the evidence elicited at the hearing. The decision of the Hearing Panel will be submitted to the Chairperson of the Sexual Harassment Board as soon as possible following the completion of the Panel's deliberations.

When the Panel finds no violation, the Chairperson of the Sexual Harassment Board will forward the Hearing Panel's report along with appropriate commentary to the Complainant, the Respondent, and the Central Illinois Emmaus Community Lay Director. The fact that there has been no violation will be registered in all records pertaining to the case.

When the Panel finds a violation of the Sexual Harassment Policy has occurred, the Hearing Panel will recommend a penalty for the Respondent and relief for the Complainant if appropriate. The Chairperson of the Sexual Harassment Board will review the Panel's decision and provide appropriate commentary. This commentary may include an adjustment to the recommended penalty if, upon review of Organization records, it is determined that



there have been past violations of this Policy by the Respondent; specific written reasons for the adjusted penalty must be provided. The Chairperson of the Sexual Harassment Board will subsequently forward the Hearing Panel's report, the complete record of the hearing, and appropriate commentary to the Respondent.

The Chairperson of the Sexual Harassment Board will render his or her decision in writing directly to the Complainant, the Respondent, and the Central Illinois Emmaus Community Lay Director immediately following review of all of the materials noted above. When a violation has been found, the Central Illinois Emmaus Community Lay Director will be responsible for determining and implementing both the penalty and relief.

#### **VIII.E. Review**

Within thirty (30) days after receiving a written copy of the decision, the Respondent or the Complainant may request a review by submitting a written petition to the Chairperson of the Sexual Harassment Board. The petition for review will set forth in detail the specific grounds upon which review is sought. The Chairperson of the Sexual Harassment Board will ensure that all parties receive a copy of the petition.

The review of the decision will be conducted by the Central Illinois Emmaus Community Lay Director and the Central Illinois Emmaus Community Spiritual Director. The decision of the Community Lay and Spiritual Directors is final. A written decision of the results of the review shall be placed in the Hearing Panels Records.

#### **IX. Records**

Records of all proceedings under this Policy will be kept by the Central Illinois Emmaus Community and may be accessible to authorized staff as necessary. For example, records may be accessed when determining an appropriate penalty for a subsequent sexual harassment complaint; when a complaint of retaliation is made; when a decision is reviewed; or when a Respondent is a candidate for a supervisory position.

The records will also be available to Legal Counsel for any proceeding related to these policies or procedures, whether internal to Central Illinois Emmaus or in any judicial or administrative proceeding in which the Organization, its officers, employees or agents are a party.

#### **X. Standard of Proof**

A violation of this Sexual Harassment Policy will be found only where there is a preponderance of evidence that a violation has occurred. The Hearing Panel, the Chairman of the Sexual Harassment Board and the Sexual Harassment Board will be bound to make their determinations based on this standard of proof.