

# Middlebury

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## Middlebury College Anti-Harassment Policy

### A. General Provisions

#### 1. Introduction

Middlebury College is committed to maintaining a campus environment where bigotry and intolerance, including discrimination on the basis of sex, sexual orientation, gender identity and expression, race, color, place of birth, ancestry, national origin, ethnicity, religious beliefs, disability, or age have no place, and where any form of coercion or harassment that insults the dignity of others and interferes with their freedom to learn or work is unacceptable. Harassment, as defined in this policy, is unlawful, and is antithetical to the mission of the College. Middlebury College strictly prohibits conduct that constitutes unlawful harassment, including sexual harassment.

This Anti-Harassment Policy applies to faculty, staff, and students, as well as to others who participate in Middlebury College programs and activities, including the undergraduate college, the Language Schools, the Bread Loaf School of English and Middlebury College Schools Abroad. Procedures for filing and resolving complaints of harassment at the undergraduate college are set forth in Section B below. The Language Schools, the Bread Loaf School of English, Middlebury College Schools Abroad and other schools associated with Middlebury College each establish and provide to their students, faculty and staff their own procedures for filing and responding to such complaints, which may differ in some respects, so those procedures should be consulted where applicable.

Faculty, staff or students found to have violated this anti-harassment policy may be subject to the full range of disciplinary actions, as applicable, up to and including termination of employment or suspension or expulsion from the College.

#### 2. Definitions

Harassment is defined as verbal or physical conduct which on the basis of sex, sexual orientation, gender identity or expression, race, color, place of birth, ancestry, ethnicity, religion, national origin, age, or disability has the purpose or effect, from the point of view of a reasonable person, of objectively and substantially:

- i. undermining and detracting from or interfering with an individual's educational or work performance or access to College resources; or
- ii. creating an intimidating, hostile, or offensive educational, work, or living environment.

Harassment may include repeated slurs, or taunts in the guise of jokes, or disparaging references to others, when such conduct is based on sex, sexual orientation, gender identity or expression, race, color, place of birth, ancestry, national origin, ethnicity, religion, disability, or age.

Harassment also includes so-called *quid pro quo* sexual harassment, meaning unwelcome sexual advances, requests for sexual favors, and other verbal, written, visual or physical conduct of a sexual nature when:

- i. submission to that conduct is made either explicitly or implicitly a term or condition of employment or educational status; or
- ii. submission to or rejection of such conduct is used as a component of the basis for employment decisions (such as wages, evaluation, advancement, assigned duties or shifts) or educational decisions (such as grades, class assignments, or letters of recommendation) affecting an individual.

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

- touching or grabbing a sexual part of a student's or employee's body;
- touching or grabbing any part of a student's or employee's body after that person has indicated, or it is known, that such physical contact was unwelcome;
- continuing to ask a student or employee to socialize on or off-duty when that person has indicated s/he is not interested;
- displaying or transmitting sexually suggestive pictures, objects, cartoons, or posters if it is known or should be known that the behavior is unwelcome;
- continuing to write sexually suggestive notes or letters if it is known or should be known that the person does not welcome such behavior;
- referring to or calling a person a sexualized name if it is known or should be known that the person does not welcome such behavior;
- regularly telling sexual jokes or using sexually vulgar or explicit language in the presence of a person if it is known or should be known that the person does not welcome such behavior;
- retaliation of any kind for having filed or supported a complaint of sexual harassment (e.g. ostracizing the person, pressuring the person to drop or not support the complaint, adversely altering that person's educational, shared living or work environment, etc.);
- derogatory or provoking remarks about or relating to a student's or employee's sex or sexual orientation;
- harassing acts or behavior directed against a person on the basis of his or her sex or sexual orientation.

#### 3. Retaliation

It is unlawful to retaliate against a person for filing a complaint of sexual harassment or for cooperating in an investigation of sexual harassment. Further, retaliating in any way against a person who has filed or supported a good faith complaint of any type of harassment as defined above, including but not limited to ostracizing the person, pressuring the person to drop or not support the complaint, or adversely altering that person's educational, living, or work environment, is strictly prohibited, whether or not the harassment complaint is ultimately found to have merit.

#### 4. Confidentiality

People who have concerns about harassment often ask for assurances about confidentiality.

In general, the law recognizes and protects the confidentiality of communications between a person seeking care, on the one hand, and a medical or mental health professional or religious advisor, on the other hand. The medical, mental health, and religious professionals at Middlebury College respect and protect confidential communications from students, faculty and staff to the extent they are legally able to do so. (Even one of these professionals may have to breach a confidence, however, when he or she perceives an immediate and serious threat to any person or property. In addition, medical and mental health professionals are required by law to report any allegation of sexual assault of a person under 18.)

General inquiries to College officials about policies or procedures, and conversations in which the alleged wrongdoer is not identified by name or by implication from the circumstances may remain private. In all cases, the College will endeavor to protect the privacy of individuals to the extent it can do so consistent with its obligations to adopt and implement anti-harassment protocols. The College has an obligation to investigate complaints of harassment, however, and to take reasonable steps to prevent ongoing harassment (see below), so strict confidentiality may not be guaranteed.

Middlebury College is also part of a larger community and context. If there is an independent investigation or lawsuit related to College matters, those involved or others may be required by law to provide documents or testimony. Moreover, even where all parties involved wish to maintain confidentiality, the College may need to intervene in a situation because of its own potential liability for failing to do so.

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### B. Procedures for Addressing Harassment

#### 1. In General

Faculty and staff at Middlebury College receive training on harassment prevention and procedures. All members of the College community are expected to promote an academic and employment environment free from prohibited harassment. Employees with supervisory responsibility are expected to take steps to address and remediate harassment should it come to their attention. This may include, but not be limited to, addressing issues directly with staff, faculty, or students whom they supervise, facilitating informal resolution or mediation of issues, providing information on avenues to address questions of harassment, or pursuing complaints under the complaint procedures described here. Supervisors should report all complaints or suspected acts of harassment to the Human Relations Officer in accordance with Section 2, below. Failure of a supervisor to report or address harassment complaints or suspected acts of harassment appropriately may be considered a violation of this policy.

#### 2. Complaints

Any person who has reasonable cause to believe that harassment, including sexual harassment, has occurred or is occurring, or who believes that she or he has been subjected to retaliation for having brought or supported a complaint of harassment, is encouraged to bring that information to the immediate attention of the **Human Relations Officer, Susan P. Ritter, Middlebury College, McKinley House, 422 Main Street, Middlebury, VT 05753, 802-443-2246**, who is the official designated to receive such complaints at the College, or to one of the officials designated to receive such complaints at the school or program where such conduct occurs. (A complaint about conduct that occurs other than at the undergraduate college made to the Human Relations Officer will in most instances be referred to a designated official at the relevant school or program.)<sup>[1]</sup> If the Human Relations Officer is unavailable, or if the Human Relations Officer has a conflict of interest that would preclude her from processing the harassment complaint, the matter shall be brought to the immediate attention of **Laura Carotenuto, Middlebury College, Human Resources, Service Building, Middlebury, VT 05753, 802-443-2012**. This individual shall serve as the Human Relations Officer's designee in the event that the Human Relations Officer is unavailable to process the harassment complaint or otherwise has a conflict of interest that would preclude her from handling the harassment complaint in a fair and impartial manner. Said designee shall have the same authority as the Human Relations Officer to process and investigate harassment complaints as set forth below.

When the Human Relations Officer receives actual notice – i.e., a written or oral complaint directed to the Human Relations Officer – of conduct that may constitute prohibited harassment, the College will initiate the following process:

- a. A copy of this policy will be provided to the alleged victim and the person alleged to have engaged in harassing conduct.
- b. If the complaint is oral, the Human Relations Officer will assist the complainant in reducing the complaint to writing, including the time, place, and nature of the conduct, and the identity of the participants and the complainant.
- c. The Human Relations Officer will, within one business day, commence an initial investigation to determine, within five business days, whether there is cause to believe that prohibited harassment has occurred or is occurring.
- d. The Human Relations Officer may also at any time take appropriate steps, including by way of example only, issuance of no contact orders or temporary changes in assignment of duties, to protect alleged victims or complaining parties on an interim basis.
- e. If the Human Relations Officer's initial investigation results in a finding that there is cause to believe that harassment has occurred or is occurring, the Human Relations Officer shall promptly appoint a fact finder, who shall conduct an investigation – interviewing witnesses and reviewing documents and exhibits as appropriate – and provide a report to the Human Relations Officer in sufficient time for the Human Relations Officer to make a final determination within thirty (30) days of the fact finder's appointment.
- f. If the Human Relations Officer's initial investigation results in a finding that there is not cause to believe that the conduct complained of occurred, or, if it occurred, did not constitute prohibited harassment under this policy, the complaining party or alleged victim may nevertheless request that the Human Relations Officer appoint a fact finder to conduct an investigation as described above.
- g. The Human Relations Officer shall receive the report of the fact finder and complete a review of a matter referred under subsection e. or f. and make a final determination within 30 days of the referral (unless special circumstances warranting additional time are present and documented).
- h. If review of a matter referred under subsection e. or f. results in a finding by the Human Relations Officer that prohibited harassment has occurred or is occurring, both the victim and the person engaging in the harassing conduct shall be advised of a plan to address the conduct and to prevent harassment from continuing. The plan may include, by way of example only and as appropriate in a given case, such measures as required attendance at anti-harassment training, reassignment of duties or housing, and academic accommodations. (However, employees other than the accused employee are not entitled to information concerning the precise nature of the discipline

imposed, if any). The Human Relations Officer may also, where warranted, refer the matter to the appropriate disciplinary authority, i.e., the Community Judicial Board (students), the Human Resources Department (staff), or the Provost (faculty) for disciplinary action up to and including dismissal or termination from the College.

i. The decision by the Human Relations Officer shall be final with respect to faculty and staff. However, a student who is dissatisfied with a decision of the Human Relations Officer or with the adequacy of the College's response to harassment, may by written request to the Dean of the College ask for independent review. The Dean of the College will initiate independent review by a neutral person.

j. In any case in which the Human Relations Officer has made a finding of harassment, violation of a plan or directive issued by the Human Relations Officer to address the harassment may be grounds for further discipline.

k. All witnesses interviewed in connection with a harassment investigation are expected to cooperate fully in the investigation by providing complete, accurate, and truthful information. Such witnesses may also be expected to sign statements or other documents memorializing the information provided in the course of the investigation and may be asked to keep the substance of the interview confidential. Failure to cooperate fully with the investigator may subject the employee or student to the full range of disciplinary actions, as applicable, up to and including termination of employment or suspension or expulsion from the College.

Students, faculty, and staff in all instances have the option to pursue harassment charges beyond the College, utilizing local, state, or federal enforcement agencies as appropriate, regardless of whether they choose to file a complaint on campus. The following agencies may be able to offer assistance:

**Vermont Attorney General's Office**, Civil Rights Unit, 109 State Street, Montpelier, VT 05609, tel: (802) 828-3657 or 888-745-9195 (toll free in Vermont) or (802) 828-3665 (TTY) [www.atg.state.vt.us](http://www.atg.state.vt.us)

**Equal Employment Opportunity Commission**, Boston Area Office  
One Congress St., 10th Floor, Room 1001, Boston, MA 02114  
(800) 669-4000 or (617) 565-3200 (voice),  
(800) 669-6820 or (617) 565-3204 (TTY)  
[www.eeoc.gov](http://www.eeoc.gov)

**Vermont Human Rights Commission**, 135 State Street, Drawer 33  
Montpelier, VT 05633-6301  
(802) 828-2480 (phone and TTY)  
(800) 416-2010 (toll free in Vermont only)  
877-294-9200 (TTY)  
[www.hrc.state.vt.us](http://www.hrc.state.vt.us)

There are certain time deadlines for the filing of complaints with the above state and federal agencies and/or state or federal court. Therefore, an individual who chooses to pursue harassment charges beyond the College's procedures should contact these agencies or his or her attorney for further assistance.

Each agency listed above can conduct impartial investigations, facilitate conciliation, and if it finds that there is probable cause or reasonable grounds to believe that unlawful harassment has occurred, it may take the case to court.

Copies of this policy will be provided to all Middlebury College faculty, staff and students. Printed copies of the Anti-Harassment Policy are also available at several College offices, including Dean of the College, Dean of the Faculty, Human Resources, Commons, Institutional Diversity, and Public Safety. This policy is available on the Middlebury College Web site: <http://www.middlebury.edu/about/handbook>

Reasonable accommodations will be provided for persons with disabilities who need assistance in filing or pursuing a complaint of harassment, upon request.

[1] A complaint relating to the conduct of the Human Relations Officer of harassment may be made to the Provost.

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### C. The Human Relations Office and Record Keeping

The Human Relations Officer will keep confidential records of reports of harassment and the actions taken in response to those reports, and use them for purposes such as to identify individuals or departments likely to benefit from training. No identifying information will be retained in cases where the individual accused was not informed that there was a complaint.

The Human Relations Officer will track reports of harassment for statistical purposes and report to the president concerning the number, nature, and disposition of such reports

The Human Relations Officer is appointed by the president. Information about harassment and the Human Relations Officer is available at several College offices: Dean of the College, Dean of the Faculty, Human Resources, Commons, Institutional Diversity, Public Safety, and on the web at [www.middlebury.edu/campuslife/diversity/hro/](http://www.middlebury.edu/campuslife/diversity/hro/) or <http://go.middlebury.edu/hro>.

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### D. Policy on Sexual Relationships Between Faculty and Students

The integrity and trust of the faculty-student relationship is central to the mission of Middlebury College. A sexual relationship between a faculty member and a student for whom he or she has current direct academic or other professional responsibilities violates the standards articulated by the American Association of University Professors. It undermines – in fact or by perception -- the integrity of the evaluative process as well as the trust, respect and fairness essential to the educational environment. Such relationships are inappropriate and members of the Middlebury faculty are expected to avoid them and the potential conflicts of interest, favoritism, or bias they may bring about.

Faculty should be aware that a seemingly consensual sexual relationship with a student may nevertheless meet the legal definition of sexual harassment, as lack of mutual consent may be inferred from the power differential in faculty-student relationships. In addition, where a faculty member's relationship with a student has, on the basis of sex, the purpose or effect of substantially interfering with the work or academic performance of other persons, or creates, on the basis of sex, an intimidating, hostile, or offensive working, living, or educational environment, the faculty member's conduct may constitute a violation of the College's sexual harassment policy.

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### **E. Intellectual Inquiry and Debate**

Middlebury College is a community of learners and as such recognizes and affirms that free intellectual inquiry, debate, and constructive dialogue are vital to the academic mission of the College and must be protected even when the views expressed are unpopular or controversial. This harassment policy statement is meant neither to proscribe nor to inhibit discussions, in or out of the classroom, of complex, controversial, or sensitive matters, including sex, sexual orientation, gender identity or expression, race, ethnicity, religious orientation, age, or disability, when in the judgment of a reasonable person they arise appropriately and with respect for the dignity of others. Middlebury College also recognizes that verbal conduct can be used specifically to intimidate or coerce and to inhibit genuine discourse, free inquiry, and learning. Such abuses are unacceptable. The "reasonable person standard" is to be used in judging whether harassment has occurred.

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