

# Middlebury College

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## Harassment/Sexual Harassment Policy

As an educational institution, 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, ethnicity, religious beliefs, physical ability, 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 below, is antithetical to the mission of this college. In addition, many forms of harassment have been recognized as violations of the civil rights laws by the Federal Courts, by the U.S. Equal Employment Opportunity Commission, by the State of Vermont, and by the U.S. Department of Education.

Middlebury College defines harassment as verbal or physical conduct which on the basis of sex, sexual orientation, gender identity or expression, race, religion, national origin, age, or physical ability has the purpose or effect, from the point of view of a reasonable person, either of:

- (a) interfering with an individual's educational or work performance; or
- (b) creating an intimidating, hostile, or offensive educational, work, or living environment.

Harassment includes such conduct specifically directed at an individual or a small group of individuals and expresses hatred or contempt on the basis of stereotyped group characteristics or because of a person's identification with a particular group. Harassment also includes violence in word or deed or attempts to incite violence directed against members of these groups because of their group identification. In addition, harassment may include repeated slurs, or taunts in the guise of a joke, or disparaging references to others, when such conduct is based on sex, sexual orientation, gender identity or expression, race, religion, ethnic origin, religion, physical ability, or age.

Sexual harassment is a form of sex discrimination and means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. submission to that conduct is made either explicitly or implicitly a term or condition of employment or educational status;
2. submission to or rejection of such conduct by an individual is used as a component of the basis for employment or educational decisions affecting that individual; or
3. the conduct has the purpose or effect of substantially interfering with an individual's work or academic performance, or creating an intimidating, hostile, or offensive working, shared living, or educational environment.

Examples of sexual harassment include, but are not limited to the following, when such acts or behavior come within one of the above definitions:

- (a) either explicitly or implicitly conditioning any term of employment or educational decision on the provision of sexual favors;
- (b) touching or grabbing a sexual part of a student or employee's body;
- (c) touching or grabbing any part of a student or employee's body after that person has indicated, or it is known or should be known that such physical contact is unwelcome;
- (d) continuing to ask a student or employee to socialize on or off-campus when that person has indicated he or she is not interested;
- (e) displaying or transmitting sexually suggestive pictures, objects, cartoons, or posters if it is known or should be known that the behavior is unwelcome;
- (f) continuing to write sexually suggestive notes or letters if it is known or should be known that the person does not welcome such behavior;
- (g) 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;
- (h) 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;
- (i) retaliating in any way against anyone who has 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.);
- (j) communicating derogatory or provoking remarks about or relating to a student or employee's sex or sexual orientation;
- (k) directing harassing acts or behavior against a person on the basis of his or her sex or sexual orientation;
- (l) off-campus conduct which falls within the above definition and affects a person's on-campus educational, shared living, or work environment.

Moreover, Middlebury College embraces the ethical standard set forth by the American Association of University Professors, which holds that a faculty member, in order to pursue the free pursuit of learning, must avoid any exploitation of students for his/her private advantage. Accordingly, faculty and staff members should be aware that romantic or sexual involvements with students over whom they have direct or indirect authority are discouraged by Middlebury College, even though such involvements need not constitute a form of sexual harassment.

Middlebury College recognizes that the protection of free and open speech and the open exchange of ideas are essential to any academic or artistic community, crucial for the activity of scholars and artists. It is, therefore, an important element in the "reasonable person standard" to be used in judging whether harassment has occurred. 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 physical ability, when in the judgment of a reasonable person they arise appropriately and with respect for the dignity of others. Middlebury College is a community of learners and as such recognizes and affirms that free, honest 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. Middlebury College also recognizes, however, that verbal conduct can be used specifically to intimidate or coerce and to inhibit genuine discourse, free inquiry, and learning. Such abuses are unacceptable. If someone believes that another's speech or writing is offensive, wrong, or hurtful, he or she is encouraged to express that judgment in the exercise of his or her own freedom of speech or to seek redress when appropriate.

State and federal laws strictly prohibit retaliation against a complainant who has filed a complaint in good faith, and against individuals who have participated in good faith in the investigation and/or resolution of harassment claims. This includes investigators, members of hearing boards, witnesses, etc. Middlebury College will investigate claims of retaliation and impose disciplinary sanctions where appropriate.

Middlebury College maintains that all members of its community have the right to participate in the life of the College without harassment or intimidation. The College remains firmly committed to protecting these rights for all members of the College community.

*Note:* At the Language Schools, many different cultures are represented, each with its own patterns of personal behavior. Cultural differences do not excuse inappropriate or offensive behavior; they do call for particular awareness of and sensitivity to other people's rights and dignity.

*You have the right to be treated with respect and dignity as an employee or student at Middlebury College.*

### **Procedures in Cases of Alleged Harassment**

A person with a harassment complaint is encouraged to go to one of the human relations advisers. Lists of these advisers and information about procedures are available at the Offices of the Dean of Student Affairs, Dean of Faculty, Human Resources, and the Department of Public Safety. A human relations adviser will provide a complainant with complete information regarding the various options available for addressing and resolving a harassment issue, i.e., informal and formal in-house procedures, and options beyond the College, such as filing a grievance with the State of Vermont or EEOC. If the complainant chooses to try to resolve the matter on an informal basis, the human relations adviser will facilitate this process by helping the complainant to deal directly with the matter him/herself (such as by writing a letter to the alleged offender in order to set limits, etc.) or, when appropriate, by providing shuttle diplomacy or mediation.

To initiate a formal complaint, one must give the human relations officer a written statement setting forth the nature and details of the complaint. (Special procedures govern the summer Language Schools, the Bread Loaf School of English, and the Bread Loaf Writers' Conference.) The human relations officer then appoints five human relations advisers to serve on a Human Relations Grievance Board, which should include two representatives each from the constituencies of the complainant and the alleged harasser, and one from outside those groups. (For purposes of these procedures, constituencies means students, faculty, and staff.) If for any reason an adviser believes that he or she would be unable to participate in a hearing in an impartial and fair manner, then he or she should disqualify him/herself, and another adviser should be selected for the grievance board. The human relations officer will call together the board, organize the hearing, and select an additional human relations adviser to act as a neutral fact finder. The human relations officer will neither deliberate nor vote in the case. The complainant and the alleged offender may also testify on their own behalf. No legal counsel will be allowed at these hearings. The complainant and the alleged offender may each bring one support person from the College community to the proceedings.

The Human Relations Grievance Board will arrive at a finding and, where indicated, recommend disciplinary action. This disciplinary action will range from reprimand up to and including expulsion and/or job termination. In the instance of a formal charge, and where deemed appropriate based on the evidence, the College reserves the right to deliver a finding of guilt to a lesser charge. All findings and recommendations will go to the senior officer in the area of the appropriate constituency (dean of the college, vice president for academic affairs, executive vice president and treasurer), who will hear the findings and recommendation and take appropriate action. In a case where the Human Relations Grievance Board recommends termination of the contract of a faculty member, the vice president for academic affairs will turn this recommendation over to the Promotions Committee for deliberation and action under the provisions for termination for cause.

In all other cases, within 10 working days after the alleged offender receives notification of the senior administrator's decision, the alleged offender may file an appeal. Appeals must be submitted in writing to the president and shall state the grounds for appeal. The grounds for appeal are procedural error, new evidence, and violation of academic freedom. The appeal will be conducted by the Appeals Council in the case of a faculty member, the Judicial Appeals Board in the case of a student, and the Staff Appeals Board in the case of a staff member. In all cases, an appeals committee shall not include persons who heard the case originally or who work in the same department as any of the parties involved. The decision of the appeals committee is final, except in cases where the appeal board recommends termination or expulsion, the decision may be reviewed by the president. The Human Relations Officer will communicate the final outcome of the grievance process to the complainant.

### **Appointment of Human Relations Advisers and Officer**

Approximately 20 individuals in the College community will be appointed as human relations advisers.

The human relations advisers will be drawn from faculty, staff, students, and administrative constituencies; be individuals toward whom people naturally gravitate for information and to discuss issues; and be representative of the diversity of our community.

The human relations officer will solicit nominations from department heads, academic department chairs, commons staff, the Student Government Association, Faculty Council, Staff Council, Community Council, and other student organizations. Based on these consultations, the human relations officer will recommend to the president individuals to be appointed as human relations advisers for harassment complaints. The membership of this group will be representative of the diversity of our community and will be composed of a minimum of five faculty, five staff, and ten students. The representatives will serve staggered terms (students two to three years, faculty and staff three to four years) in order to insure continuity. Students must have completed their first year before being eligible to serve as advisers. Faculty and staff must have completed at least one year of employment at the College before being eligible to serve as advisers.

The human relations officer will be appointed by the president for a three-year term. The term can be renewed. The human relations officer will report directly to the president.

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