Supplement to the Language Schools 2014 Handbooks

Special Policies

Emergency Withdrawal, Suspension, or Dismissal
In addition to fostering the growth of its individual students, Middlebury recognizes its obligation to promote the welfare of its community as a whole and to take appropriate action when that welfare is jeopardized. To that end, Middlebury reserves the right, notwithstanding and apart from the disciplinary procedures described herein, on an emergency basis, to suspend, dismiss, or require to withdraw any student whose presence at any of its Language Schools is determined by the appropriate authorities (e.g., Language School director, dean, and/or the Vice President for Language Schools, Schools Abroad and Graduate Programs) to pose a danger to the Middlebury community or its members or to be unduly disruptive of the living and/or learning environment of others, or who appears to be unwilling or incapable of effectively and/or safely participating in the Language School’s academic and/or residential life program(s). In cases of emergency suspension or required withdrawal, the conditions and procedures for readmission, if applicable, will be determined and communicated in writing to the student at the time of the student’s departure or shortly thereafter.

Scope of Oversight
Students will be held accountable for policy violations that take place between the first day of orientation for their Language School program and the completion of the program. Conduct that takes place on or near Middlebury premises or property or in connection with a Language Schools-related event; or occurs off-site but violates the law or may represent a threat to the safety of the Language Schools or Middlebury community or its members, the pursuit of the program’s objectives, and/or the educational environment of others, may be subject to the disciplinary process outlined below (see “Disciplinary Action”).

In cases where a student is found responsible for a policy violation while participating in any Middlebury Language Schools program, the finding of responsibility may also be referred to the appropriate authority overseeing the student’s home institution or any additional Middlebury or non-Middlebury program in which the student is or will be enrolled for other action as deemed appropriate. This may include but is not limited to: further investigation; additional adjudication under existing policies (using only information gathered in the first disciplinary process, or using subsequently gathered information, or both, as deemed appropriate by the overseeing authority); disciplinary action; or other remedies or processes deemed appropriate by the authority overseeing the home institution or additional Middlebury program.

Prohibited Conduct
The following conduct is prohibited and may result in discipline up to and including dismissal from the Language School program:

- Violation of any Middlebury College Handbook policy (see, e.g., “General Conduct” and “Other Policies and Information”). See www.middlebury.edu/about/handbook
- Conduct that poses a danger to the Middlebury Language Schools community or its members or is unduly disruptive of the living and/or learning environment of others.
- Conduct that demonstrates an inability or unwillingness to safely and/or effectively participate in the Language School’s academic and/or residential life program(s).
- Disrespect for persons, flouting of common standards of decency, behavior unbecoming of a Middlebury Language Schools student, or continued behavior that demonstrates contempt for the generally accepted values of the intellectual community.
- Any disruption of the educational function of the Middlebury Language School(s) or conduct that is otherwise
detrimental to its operation.

• Disrespect for the dignity, freedom, and rights of others.
• Hazing as defined by Middlebury’s [Hazing policy].
• Violation of Middlebury’s Academic Honesty/Honor Code policy (see below).
• Violation of the Language Pledge.
• Violation of state or federal law.
• Violation of Middlebury’s [Smoking Policy].
• Violation of Middlebury’s Residence Hall Regulations (see above)
• Violence in word or deed against another; incitement or provocation to violence; negligent or reckless use of physical force; conduct that may reasonably be expected to exploit or coerce another; prevention of another’s free expression of ideas by intimidation, abuse, or physical force; defamation; violation of another’s privacy; unauthorized entry and, specifically, uninvited hostile presence in another’s room or office.
• Theft of, vandalism or other damage to the property of any Language Schools site or the property of others, unauthorized access or entry to Language Schools property or that of others, undermining authorized access to Language Schools property (this includes but is not limited to unauthorized use of services, and disposition of Language Schools property to another under the pretense that it is one’s own).
• Failure to maintain and/or return on time instructional and/or other Middlebury Language Schools equipment.
• Disrespect for the authority of Middlebury officials (including all faculty and staff) or law enforcement personnel. Middlebury vests many employees, students, and outside service providers with specific duties and authority to effect the purposes of the institution. These include but are not limited to faculty members; directors; vice president; deans; administrative, custodial, dining, and library staff; Public Safety officers; residential life staff; and other individuals such as members of the police and ambulance forces, vendors, and security staff. All students are expected to respect the authority of these individuals when they are executing their responsibilities, and failure to do so is prohibited. Students are expected to identify themselves by showing their Middlebury identification card upon request of Middlebury officials.
• Providing information to any Middlebury official (including all faculty and staff) that an individual knows or reasonably should know is false, inaccurate or misleading.
• Retaliating directly or indirectly against a person who has in good faith supported or participated in an investigation of a policy violation of any type. Retaliation includes but is not limited to ostracizing the person, pressuring the person to drop or not support a complaint or to provide false or misleading information, or otherwise engaging in conduct that may reasonably be perceived to affect adversely that person’s educational, living, or work environment.

Alcohol and Other Drugs

Links to the full text of Middlebury's Alcohol and Other Drugs policies are available below (printed copies are available from the School's director or the Vice President for Language Schools, Schools Abroad and Graduate programs)

Alcohol and Other Drugs
http://www.middlebury.edu/about/handbook/student_policies/alcohol_drugs_policy

Middlebury College Handbook “9.3 Discharge” (“Use or possession of, or being under the influence of illegal substances or alcohol while at work”):
www.middlebury.edu/about/handbook/employee/leaving_midd/discharge
Middlebury is committed to promoting individual and community health, safety, and responsibility. We expect all students to observe all local, state, and federal laws governing the possession, use, and furnishing of alcoholic beverages and controlled substances, also referred to as illegal drugs. We have also committed to ensuring that, in accordance with the Drug Free Schools and Community Act of 1989, our policies concerning alcohol and drugs are clear, readily understood, and applied consistently and equally to all students. When alcohol violations occur, students may face disciplinary action. Serious incidents that put a student or others at risk of harm, as well as repeated offenses, require a more vigorous response, including referral to counseling or a treatment facility, and/or disciplinary outcomes as appropriate.

All Language Schools students, faculty, staff, and visitors are subject to local, state, and federal laws, as well as Middlebury’s drug and alcohol policies, while on Middlebury-owned or leased properties or involved with off-campus programs or activities sponsored by Middlebury or a registered Middlebury organization. Middlebury does not protect students from prosecution for drug or alcohol offenses under local, state, or federal laws and does not interfere with legitimate law enforcement activities. Law enforcement officials may have a legal right to search individuals, and with consent or proper documentation may search property—including residence hall rooms—without prior notice. Middlebury also reserves the right to furnish law enforcement officials with information regarding alleged illegal activities.

The following actions are prohibited:

1. Alcohol
   a. Underage drinking. Only persons of legal age (21 or older in the United States) may possess or consume alcoholic beverages. Legal proof of age, such as a valid driver’s license, state issued liquor identification card, or a passport, may be required.
   b. Purchasing, serving, or furnishing alcohol for or to a minor.
   c. Selling, manufacturing, or distributing alcohol illegally.
   d. Possession, production, or provision of false identification.
   e. Operating a motor vehicle while under the influence of alcohol or other drugs. Driving on or off campus under the influence of drugs or alcohol is prohibited: fines are assessed, and driving privileges on campus will be suspended. Students who are charged by law enforcement officers with Driving Under the Influence (DUI) and are awaiting the outcome of legal proceedings shall have their campus driving privileges suspended pending disposition of the matter. In those incidents where the DUI involves an accident with injuries to others, or other exceptional factors, immediate disciplinary action may take place.
   f. Violation of Summer Alcohol Policy and Language School Party Registration Regulations

Middlebury’s alcoholic beverage and party regulations take into account local and state law, a concern for the health and welfare of the members of the Middlebury community and respect for town residents. It is illegal in the State of Vermont for people under the age of 21 to possess or drink alcoholic beverages. It is also illegal to supply or sell beverages to someone under the age of 21. Social functions involving alcohol are permitted for summer Language Schools students under certain limited conditions. Violations of alcoholic beverage and party regulations may result in citations, alcohol education, fines, a loss of hosting privileges, and disciplinary action. See http://www.middlebury.edu/offices/health/pubsafety/forms/SummerAlcoholPolicy. Printed copies of the Language School Party Registration regulations are available from the Language Schools Coordinators and the Department of Public Safety. Note: Party Hosts must complete training prior to registration. See also Middlebury College Language Schools Party Registration Form.

Private parties with alcohol must be registered with the Department of Public Safety. Party registration forms and information regarding party host training may be obtained, at the request of the School’s office, from Public Safety.
g. Bringing alcohol to an event, or leaving a Middlebury event with alcoholic beverages provided at the event.

h. Possessing alcoholic beverages in unauthorized spaces. Open containers of alcohol are prohibited in public spaces, or outside on campus grounds, unless the area has been designated for a registered or catered event. For purposes of this policy, residential hallways are normally considered private spaces. Students of legal age may transport open alcohol containers for personal use within residence halls, but the use of hallways for parties is prohibited.

i. Kegs are not permitted.

j. Engaging in drinking games and other behaviors designed for the purpose of becoming intoxicated through the abusive use of alcohol (e.g., funnels, keg stands, “around-the-world” parties, and other alcohol consumption based on speed and/or volume, etc.).

2. Drugs
   a. Using or possessing illegal drugs.
   b. Using, possessing, selling, distributing, or manufacturing prescription medication without a properly issued prescription.
   c. Distributing, selling, or possessing with the intent to distribute illegal drugs or controlled substances.
   d. Growing and/or manufacturing any illegal substance.
   e. Possession of drug paraphernalia that has been used.

Alcohol Citation System
In addition to Middlebury’s disciplinary process, Middlebury issues written alcohol citations to underage students found to be in possession of alcohol. Alcohol citations may result in additional disciplinary sanctions and/or health-related referrals.

Health and Community Responsibility
Middlebury believes that alcohol and other drug-related problems affect our entire community and that each of us has a responsibility to help safeguard the community health by respecting Middlebury’s policy and intervening in situations of abuse. Any member of the Middlebury community having knowledge of an individual participating in the Middlebury Language Schools who is abusing alcohol or in possession of or using illegal drugs is urged to encourage the individual to seek counseling and/or medical assistance. All members of the community are also expected to help protect the community health by informing the dean of the Language Schools or a Language School director of instances of drug distribution and/or sales.

Involvement with or dependency upon drugs or illegal use of alcohol is viewed by Middlebury as a health concern, as well as a disciplinary matter. Any time the dean or his/her designee has reasonable concerns that a student’s health is being compromised by alcohol or other drug use (even in cases where no concrete evidence or direct witness is involved) a drug and/or alcohol assessment, on or off campus, may be required.

Laws, Resources, and Additional Information
For information specific to state and federal laws governing the use, possession, and distribution of drugs and alcohol, as well as additional resources, see “Drugs and Alcohol: Policies, Laws, and Resources” [http://www.middlebury.edu/about/handbook/misc/drug_and_alcohol].

Good Samaritan Policy
Middlebury’s Good Samaritan Policy is intended to encourage students to seek swift medical assistance for themselves and others without fear of penalty. Our primary concern is the health and safety of our students. We urge students
not only to take care of their own wellbeing, but to behave in an equally responsible way with their peers.

There may be times when safety concerns arise from a student’s excessive drinking or drug use, and in these situations, students should not hesitate to seek help from the Student Life staff, Public Safety, medical or counseling professionals, and/or local or state police out of fear of disciplinary action. Under this Good Samaritan policy, neither the student in distress nor the student or organization seeking assistance will ordinarily be subject to disciplinary action for the possession, provision, or consumption of drugs or alcohol.

This policy refers to isolated incidents only, and does not excuse or protect those who flagrantly or repeatedly violate the Alcohol and Other Drugs Policy, nor does it preclude disciplinary action arising from violations of other College policy. However, in cases involving additional policy violations, Middlebury will consider the positive impact of reporting an incident as well as the health and safety needs of the involved student(s) when determining the appropriate course of action.

This policy cannot protect students from action by law enforcement personnel, but it is consistent with a law enacted by Vermont in June 2013 that provides limited immunity from prosecution to a witness or victim of a drug or alcohol overdose who seeks medical assistance to save the life of an overdose victim. For more information about this act, please see Drugs and Alcohol: Policies, Laws and Resources.

Laws, Resources, and Additional Information
For information specific to state and federal laws governing the use, possession, and distribution of drugs and alcohol, as well as additional resources, see Drugs and Alcohol: Policies, Laws, and Resources.

Honor System
The Language Schools believe that students must assume responsibility for their own integrity in all assigned academic work. Accordingly, any aid received on work must be acknowledged. Work submitted in language courses must be your own. For other written work you may consult friends or native speakers about a very limited number of specific problems, but your work may not be corrected or rewritten by others. Exceptions to this rule must be made explicitly by the teacher and/or director and must apply to all students. Students who violate the honor code may be dismissed from the program. You are strongly encouraged to ascertain the format in which faculty expect and will accept quotations from secondary sources.

Plagiarism
As an academic community devoted to the life of the mind, Middlebury requires of every student complete intellectual honesty in the preparation of all assigned academic work. Plagiarism is a violation of intellectual honesty. Plagiarism is passing off another person’s work as one’s own. It is taking and presenting as one’s own the ideas, research, writings, creations, or inventions of another. It makes no difference whether the source is a student or a professional in some field. For example, in written work, whenever as much as a sentence or key phrase is taken from the work of another without specific citation of the source, the issue of plagiarism arises. Paraphrasing is the close restatement of another’s idea using approximately the language of the original. Paraphrasing without acknowledgment of authorship is also plagiarism and is as serious a violation as an unacknowledged quotation.

The individual student is responsible for ensuring that his or her work does not involve plagiarism. Ignorance of the nature of plagiarism or of Middlebury’s academic work. Plagiarism is a violation of intellectual honesty. Plagiarism is perjune work of the individual student, unless otherwise directed by the instructor. At the beginning of the session, instructors should discuss with their students the faculty’s policies concerning plagiarism as they relate to a particular course. It is the student’s responsibility to seek clarification about such matters as paraphrasing lecture notes, giving proper citations and footnotes, and proper recognition of joint work. A paper submitted to meet the requirements of a particular course is assumed to be work completed for that course; the same paper, or substantially similar papers, may not be used to meet the requirements of two different courses, in the same or different terms, without the prior
consent of each faculty member involved.

Cheating
Cheating is defined as giving or attempting to give or receive during an examination any aid unauthorized by the instructor. An examination is any quiz, preannounced test, hourly examination, or final examination. Take-homes will ordinarily be considered as examinations.

Duplicate Use of Written Work
A paper submitted to meet the requirements of a particular course is assumed to be work completed for that course; the same paper, or substantially similar papers, may not be used to meet the requirements of two different courses, in the same or different terms, without the prior consent of each faculty member involved. Students incorporating similar material in more than one paper are required to confirm each professor's expectations in advance. Students who have uncertainties and questions on these matters should consult with the course instructor for whom they are preparing work.

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Use of Electronic Resources at the Language Schools
All work submitted by students must be their own; just as it is unacceptable for students to have a native speaker of the language write their work and unacceptable to copy language from any source without quotation marks and proper reference use of any translation program to create work that is then turned in as the student's own, unless the assignment explicitly calls for the use of such programs is plagiarism and will be treated as such.

The use of online dictionaries is acceptable because students are still responsible for taking the provided words or short phrases, choosing the most appropriate one, putting it in the proper grammatical context, and providing all the necessary punctuation. A translation program, on the other hand, provides a complete phrase or longer piece of text; here a student has no work to do except copy the provided words. Therefore anything created by a translation program cannot be considered the student's own work and, if you turn in such work, it must be considered academic misconduct, which is a serious offense and can result in punishments up to and including expulsion from Middlebury.

Middlebury Language Schools students are bound by the Middlebury Honor Code:
All assigned academic work is conducted under the terms of the Undergraduate Honor System, which follows in full:

The students of Middlebury College believe that individual students must assume responsibility for their own integrity on all assigned academic work. This constitution has been written and implemented by students in a community of individuals that values academic integrity as a way of life. The Middlebury student body, then, declares its commitment to an honor system that fosters moral growth and to a code that will not tolerate academic dishonesty in the College community.

http://www.middlebury.edu/middlebury_google_custom_search/go/Honor%20code

Policy Against Sexual Misconduct, Domestic Violence, Dating Violence, and Stalking

1. Introduction
Middlebury College ("Middlebury") is committed to providing a campus and workplace environment that is safe and secure for all students, staff, faculty and others who participate in Middlebury’s programs. Sexual misconduct, domestic violence, dating violence, stalking, and related retaliation, as defined by the law in the state where the conduct allegedly occurs and/or the corresponding terms of this policy, are strictly prohibited. Middlebury will take reasonable, prompt and appropriate action to respond to sexual misconduct, domestic violence, dating violence, stalking and related retaliation where such conduct impacts or has the potential to impact the educational, residential, or employment environment of any member of the Middlebury community. Such action could include, for example, disciplinary action such as verbal warnings, written warnings, written reprimands or termination of employment (employees); warnings, written reprimands, probationary status, official college discipline, suspension or expulsion (students); the issuance of No Contact Orders and/or No Trespass Orders; and/or the provision of safety and support services, as appropriate. Information about on-campus and off-campus support services (i.e., counseling, health, victim advocacy, legal assistance and other related services) is provided in Appendix C, below.

Except as otherwise specified herein, this policy applies to faculty, staff and students, as well as to others who participate in Middlebury’s programs and activities (see “Covered Third Parties,” defined below), including the undergraduate college, the Language Schools, the School of the Environment, MiddCore, Bread Loaf School of English, Bread Loaf Writers’ Conference, Middlebury College Schools Abroad, the Monterey Institute of International Studies (“the Institute”), and all other Middlebury on- or off-campus programs.

The procedures for addressing complaints or reports of sexual misconduct, domestic violence, dating violence, stalking and related retaliation are set forth below. However, where applicable law mandates different procedures or policies with respect to Middlebury programs outside of Vermont, those procedures or policies will apply.

Middlebury’s process to address cases of alleged sexual misconduct, dating violence, domestic violence, stalking and related retaliation is designed to:

- Consider the rights of the complainant, the rights of the respondent, the safety of the community, and applicable laws and Middlebury policies;
- Conduct a timely, fair, impartial, and equitable investigation and adjudication process with thoroughness and respect for all involved parties;
- Protect the privacy of all parties to the extent practical, while balancing the need to comply with applicable law, maintain campus safety and provide a safe and nondiscriminatory environment for all students, faculty, staff and covered third parties;
- Hold all individuals found to have violated Middlebury’s policies accountable for their actions and provide appropriate remedies to address the effects of sexual misconduct, domestic violence, dating violence, stalking and/or related retaliation on the complainant and others.

The parties will be provided procedural rights as outlined in this policy. Since Middlebury lacks full judicial authority, such as the power to subpoena or place witnesses under oath, an individual’s rights cannot be coextensive with or identical to the rights afforded an accused in a civil or criminal legal proceeding. The procedures outlined below are designed, however, to assure fundamental fairness and to protect individuals from arbitrary or capricious disciplinary action. All adjudicators, investigators, and Middlebury officials shall conduct their proceedings in the spirit of these principles. If exceptional circumstances dictate variation from these procedures, the variation will not invalidate a decision unless it prevented fundamental fairness.

2. Definitions

The definitions of sexual assault, domestic violence, dating violence and stalking used in this policy are intended to be at least as protective of complainants as those that are used in the criminal laws of the states in which Middlebury operates its programs. The criminal law definitions used in many of those states are described in Appendix A for the sake of information only. However, Middlebury utilizes its own expanded definitions of these prohibited behaviors for purposes of this policy, and determines responsibility for violations of Middlebury policy through its own procedures and standards of proof (that is, by a preponderance of the evidence standard), not through the procedures or standards of proof employed in the criminal justice system. The definitions outlined immediately below apply as a matter of Middlebury policy in all locations where Middlebury operates its programs.
Sexual Misconduct
Sexual misconduct violates the rights of others, and demonstrates flagrant disregard for the principles of this community. Middlebury seeks to prevent all forms of sexual misconduct, and desires to establish and maintain a safe and healthy environment for all members of the community through sexual misconduct prevention, education, support, and a fair adjudication process. Use of alcohol or other drugs does not minimize or excuse a person’s responsibility for conduct that violates this policy.

Sexual misconduct may include sexual assault, inappropriate sexual conduct, or both. The definitions below are intended to provide clarity, and do not suggest that one behavior is more severe or violating than the other.

Sexual Assault
Sexual assault occurs when a person engages in a sexual act, as defined in this subsection, with another person and compels that person to participate in a sexual act without consent; by threat or coercion; by placing the other person in fear that any person will suffer imminent bodily injury; by impairing substantially the ability of another person to appraise or control conduct by administering or providing drugs or intoxicants without the knowledge or against the will of the other person; or when a person is under the age of 16.

A sexual act for purposes of this subsection is contact, including oral contact, with the genitals or the anus of another person.

Sexual assault can be committed by any person against any other person, regardless of gender, gender identity, sexual orientation, or past or current relationship status. Sexual assault may occur with or without physical resistance or violence.

Inappropriate Sexual Conduct
Inappropriate sexual conduct includes unwelcome sexual conduct that does not constitute sexual assault as defined above but is sexually violating in nature. It includes but is not limited to the following:

- Nonconsensual physical contact of a sexual nature. This includes intentional contact with the breasts, buttocks, groin, mouth, genitals, or contact of a sexual nature with any other body parts;
- Sexually exploitative behavior. Examples include but are not limited to:
  - Capturing through any means images of sexual activity, sexually explicit images, or another’s nudity without consent, and/or sharing this material with others without all participants’ consent;
  - Viewing or allowing or aiding others to view sexual activity or another’s nudity without all participants’ consent.

Exception: This section is not intended to prohibit the use of sexually explicit materials that are reasonably related to Middlebury’s academic mission. Specifically, this section is not intended to proscribe or inhibit the use of sexually explicit materials, in or out of the classroom, when in the judgment of a reasonable person they arise appropriately to promote genuine discourse, free inquiry, and learning.

Consent
Consent means words or actions, freely and actively given by each party, which a reasonable person would interpret as a willingness to participate in agreed-upon sexual conduct.

Consent is not valid when a person is incapable of giving consent due to the person’s use or consumption of drugs or alcohol; when intimidation, threats, physical force, or other actions that a reasonable person would consider coercive are applied; when a physical or mental condition is present such that the person cannot knowingly or voluntarily give consent; or when a person is under the age of 16. Silence, non-communication, or a lack of resistance does not necessarily imply consent. Previous relationships or consent do not imply consent to future sexual conduct. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent can be rescinded at any time.

The use of alcohol or drugs does not minimize or excuse a person’s responsibility for committing sexual misconduct, or for determining whether another is capable of giving consent, as described above.
Capability to Give Consent
An objective standard will be used in determining whether a person is incapable of giving consent due to the person’s use or consumption of drugs or alcohol, or if a physical or mental condition as described above is present. That is, consent is not valid when:

(a) From the standpoint of a reasonable person, the respondent knew, or reasonably should have known, that the person was incapable of giving consent due to the person’s use or consumption of drugs or alcohol, or that the person’s physical or mental condition would prevent knowing and voluntary consent; and

(b) The person was, in fact, incapable of giving consent due to the person’s use or consumption of drugs or alcohol, or the person was incapable of providing knowing or voluntary consent due to a physical or mental condition.

Coercion
Coercion is defined as compelling someone to act by applying pressure, harassment, threats, intimidation, or other actions a reasonable person would consider to be coercive.

Domestic Violence
Domestic violence includes attempting to cause or willfully or recklessly causing bodily injury to a family or household member, or willfully causing a family or household member to fear imminent serious bodily injury. “Household members” are those persons who, for any period of time, are living or have lived together, are sharing or have shared occupancy of a dwelling, are engaged in or have engaged in a sexual relationship, or individuals who are dating or have dated. For purposes of the prohibitions in this Middlebury policy, “household members” do not include roommates in residential campus housing (or who are living together off campus) where (a) the individuals have not had any dating relationship or sexual relationship or (b) neither of the individuals has expressed interest in or pursued a dating or sexual relationship with the other individual.

Domestic violence also includes the following behaviors directed against a family or household member: violence or threats of violence (even in the absence of bodily injury); incitement or provocation to violence; negligent or reckless use of physical force; conduct that may reasonably be expected to exploit or coerce another; restraint; prevention of another’s ability to communicate or move freely by the use of threats, intimidation, abuse or physical force; violation of another’s privacy; and unauthorized entry and, specifically, uninvited hostile presence in another’s room or office.

Dating Violence
Dating violence includes attempting to cause or willfully or recklessly causing bodily injury to a person one is dating or has dated, or willfully causing such person to fear imminent serious bodily injury. “Dating” is defined as a social relationship of a romantic and/or sexual nature. Factors to consider in determining whether a dating relationship exists or existed include:

(a) the nature of the relationship;
(b) the length of time the relationship has existed;
(c) the frequency of the interaction between the parties; and
(d) the length of time since the relationship ended, if applicable.

Dating violence also includes the following behaviors directed against a person one is dating or has dated: violence or threats of violence (even in the absence of bodily injury); incitement or provocation to violence; negligent or reckless use of physical force; conduct that may reasonably be expected to exploit or coerce another; restraint; prevention of another’s ability to communicate or move freely by the use of threats, intimidation, abuse or physical force; violation of another’s privacy; and unauthorized entry and, specifically, uninvited hostile presence in another’s room or office.

Stalking
“Stalking” is defined as engaging in a course of conduct directed at a specific person which includes but is not limited to following, lying in wait, or harassment, when such conduct:

(a) Serves no legitimate purpose; and

(b) Would cause a reasonable person to fear for his or her physical safety or health or that of others, including fear of sexual conduct, unlawful restraint, bodily injury, or death; or would cause a reasonable person to suffer emotional distress.
“Course of conduct” is defined as a pattern of conduct composed of two or more acts over a period of time, however short, evidencing a continuity of purpose.

“Following” is defined as maintaining over a period of time a visual or physical proximity to another person.

“Lying in wait” means hiding or being concealed for the purpose of attacking, alarming, or harming another person.

“Harassment” includes but is not limited to verbal threats, written, telephonic, or other electronically communicated threats, vandalism, trespassing, surveillance, physical contact without consent, or other unwanted contact directed at a specific person, the person’s partner, or a member of the person’s family.

Examples of stalking behaviors or activities include, but are not limited to:

- Non-consensual communication, including face-to-face communication, telephone calls, voice messages, e-mails, text messages, written letters, gifts, or any other communications that are unwelcome.
- Use of online, electronic or digital technologies in connection with such communication, including but not limited to:
  - Posting of pictures or text in chat rooms or on websites;
  - Sending unwanted/unsolicited e-mail or talk requests;
  - Posting private or public messages on Internet sites, social networks, and/or school bulletin boards;
  - Installing spyware on a person’s computer;
  - Using Global Positioning Systems (GPS) or similar technology to monitor a person.
- Pursuing, following, waiting for, or showing up uninvited at or near a residence, workplace, classroom, or other places frequented by the person.
- Surveillance or other types of observation including staring or “peeping”
- Trespassing
- Vandalism
- Non-consensual touching
- Direct verbal or physical threats
- Gathering information about an individual from friends, family, or co-workers
- Accessing private information through unauthorized means
- Threats to harm self or others
- Defamation and/or lying to others about the person
- Using a third party or parties to accomplish any of the above

Complainant
A complainant is usually an individual filing a complaint of a violation of Middlebury policies. In some cases (such as, e.g., cases in which a person involved in an incident of alleged sexual misconduct, domestic violence, dating violence, stalking, or related retaliation does not wish to participate in the process but Middlebury decides that the alleged misconduct needs to be investigated), Middlebury may pursue an investigation and adjudication under this policy without a designated complainant. In these cases Middlebury may extend the full rights of a complainant as defined in this policy to affected parties as deemed appropriate by the Human Relations Officer or the Judicial Affairs Officer, as applicable.

Respondent
A respondent is an individual whose alleged conduct is being investigated to determine if it is in violation of Middlebury’s policies. See Scope of Oversight and Pending Discipline at the end of this policy for more information.
Covered Third Parties
Under Title IX and/or Middlebury policy, third parties who participate in Middlebury’s programs or activities are protected from sexual misconduct, domestic violence, dating violence, stalking and related retaliation arising out of those programs or activities. Such individuals will be referred to in this policy as “covered third parties.” Thus, any covered third party who participates in any Middlebury program or activity may report a complaint of sexual misconduct, domestic violence, dating violence, stalking or related retaliation under this policy, as applicable. Also, Middlebury will take appropriate action, to the extent practicable given Middlebury’s limited authority, in response to a report or complaint of sexual misconduct, domestic violence, dating violence, stalking or related retaliation by a student, faculty or staff member against a third party.

Human Relations Officer
The Human Relations Officer (“HRO”) is the administrator responsible for overseeing investigations and adjudicating complaints under this policy, except complaints that are adjudicated by the Sexual Misconduct Review Panel (see Section 10, “Complaint Investigation and Resolution Procedures”). Contact information may be found in Appendix B. The HRO is also the Title IX Coordinator’s designee responsible for overseeing investigations and adjudicating sexual misconduct complaints in accordance with this policy.

Judicial Affairs Officer
The Judicial Affairs Officer (“JAO”) is the administrator responsible for overseeing the investigation and adjudication of sexual misconduct, domestic violence, dating violence, stalking and related retaliation complaints against undergraduate students when they are not enrolled in other Middlebury programs (see Section 10, “Complaint Investigation and Resolution Procedures” and “Sexual Misconduct Review Panel,” below). The JAO may serve as an informational resource for all parties involved in the adjudication process under this policy. The JAO is also the Title IX Coordinator’s designee responsible for overseeing the investigation and adjudication of sexual misconduct complaints against undergraduate students in accordance with this policy.

Sexual Misconduct Review Panel (SMRP)
The Sexual Misconduct Review Panel is convened at the conclusion of an investigation under this policy to review the investigator’s final report, determine a finding, and if required, determine a sanction under the following circumstances: Where a complaint under this policy is against an undergraduate student who is enrolled in classes on the Vermont campus when the alleged conduct occurs during the academic year, or when the alleged conduct occurs in the summer and the respondent is not participating in another Middlebury program (see Section 10, “Complaint Resolution Procedures”). This panel will ordinarily consist of the Community Judicial Board (CJB) administrative co-chair, one CJB faculty or staff member, and two CJB student members. When the undergraduate program is not in session, it may not be possible to include student members, and the SMRP may consist entirely of staff and faculty members from the judicial boards. If extraordinary circumstances dictate that a case must be resolved when it is not possible to convene the SMRP, the HRO will adjudicate the case, and will assume all authority otherwise granted to the SMRP. See General Disciplinary Process for more information about the CJB.

Title IX Coordinator
The dean of the College serves as Middlebury’s Title IX Coordinator for the purposes of coordinating Middlebury’s efforts to comply with and carry out its responsibilities under Title IX. The Title IX Coordinator’s responsibilities include overseeing the process for handling all Title IX complaints and identifying and addressing any patterns or systemic problems that arise during the review of such complaints. See also Appendix D.

Responsible Employees
Responsible employees are the Title IX Coordinator, the HRO and the JAO. These employees have the authority to redress sexual misconduct, domestic violence, dating violence, stalking and related retaliation under Middlebury’s policies. The HRO and JAO have a duty to report these incidents to Middlebury’s Title IX Coordinator. Other Middlebury employees may also be “responsible employees,” to the extent described in Section 3, “Confidentiality,” below.

Confidential Resources
Confidential resources include the staff of the Parton Center for Health and Wellness, the staff of the Chaplain’s office, Middlebury Safe and Confidential Advocates (“MiddSafe” or other medical, counseling, support or religious personnel and volunteers who are required by law to maintain confidentiality. For more information, see Section “3. Confidentiality” below.
No Contact Order
When sexual misconduct, domestic violence, dating violence, stalking, related retaliation, or other forms of interpersonal misconduct have been alleged, or when otherwise deemed appropriate under the circumstances, the dean of the College, dean of students, Commons deans, JAO, HRO, Public Safety staff, or appropriate supervisory authority for the program at issue may issue No Contact Orders to the persons involved, whether or not disciplinary action is taken. A No Contact Order is used to restrict encounters between individuals. While a No Contact Order in and of itself does not constitute discipline and will not appear in an employee’s personnel file or on a student’s disciplinary record, refusal to adhere to the order after written or verbal notification of its terms is prohibited and may result in disciplinary action.

No Trespass Notice
A No Trespass Notice prohibits the presence of an individual on Middlebury property, or other properties on which Middlebury programs are occurring. No Trespass Notices are legally enforceable and may lead to the arrest of individuals in violation.

Relief from Abuse Orders, Protection Orders, Restraining Orders
In the United States, a relief from abuse order, also called a protective order or restraining order, is a court order that is designed to stop violent, harassing and threatening behavior. It can also stop the respondent from any contact or communication with the complainant, and protect the complainant and the complainant’s family members, as appropriate, from the respondent. Relief from Abuse Orders may be awarded by courts in the United States on a temporary basis, in which case they are instituted by a judge immediately and reviewed within approximately two weeks through a court hearing process for consideration to be instituted permanently. Similar resources may exist in the other countries in which Middlebury operates programs. For more information, please see [Appendix C).

Days
Unless otherwise noted, “days” indicates calendar days, regardless of whether the majority of Middlebury’s administrative offices are open. “Business days” indicates days on which the majority of Middlebury’s administrative offices are open, and generally connotes Mondays through Fridays.

3. Confidentiality

Middlebury encourages individuals to report incidents of sexual misconduct, domestic violence, dating violence, stalking and related retaliation so that they can get the support they need, and so that Middlebury can respond appropriately. Certain Middlebury employees may maintain confidentiality, but most cannot. Although strict confidentiality may therefore not be guaranteed, in all cases Middlebury will handle information in a sensitive manner and will endeavor to protect the privacy of individuals to the extent it can do so consistently with its obligations to respond to reports of sexual misconduct, domestic violence, dating violence, stalking and/or related retaliation.

This section is intended to inform students, faculty, staff and covered third parties of the various reporting and confidential disclosure options available to them, so that they can make informed choices about where to go for help.

(A) Confidential Resources
A confidential resource is an individual who is legally and ethically bound to keep confidential all information shared with them in the course of providing counsel and support, except under the circumstances noted below. Middlebury respects that the decision to come forward may be difficult and that individuals may wish to seek assistance from someone who can provide confidential information and support, and who can provide assurances that what is disclosed will not be acted on except in the circumstances outlined below. (For a list of confidential resources, see [Appendix C, below). In general, the law recognizes and protects the confidentiality of communications between a person seeking care and a medical or mental health professional, religious advisor or MiddSafe Advocate. The medical, mental health, religious professionals and MiddSafe advocates at Middlebury and their off-campus counterparts respect and protect confidential communications from students, faculty, and staff to the extent they are legally able to do so. These professionals may have to breach a confidence, however, when they perceive a serious risk of danger or threat to any person or property. In addition, medical and mental health professionals may be required by law to report certain crimes (e.g., any allegation of sexual and/or physical abuse of a person under 18). These exceptions to confidentiality are governed by the law of the state in which the confidential resource is located.
An individual who speaks to a confidential resource must understand that, if they want to maintain confidentiality, Middlebury will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator. However, confidential resources may assist the individual in receiving other forms of protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working, transportation or academic arrangements. An individual who initially requests confidentiality may later decide to file a complaint with Middlebury or report the incident to local law enforcement, and thus have the incident fully investigated. These confidential resources will help to direct the individual to the appropriate resources in the event that the individual wishes to file an internal complaint with Middlebury or report to the police.

(B) Non-Confidential Resources
Non-confidential resources are all faculty or staff members, including residential life staff and ombudspersons, who are not medical or counseling professionals, clergy, or MiddSafe Advocates, and are therefore not permitted to honor requests for confidentiality. Non-confidential faculty or staff who learn of an incident of sexual misconduct, domestic violence, dating violence, stalking or related retaliation involving a student are required to report that information to the HRO or JAO, and are “responsible employees” to this extent (see “9. Reporting Requirements for Staff and Faculty” for more information). The HRO and JAO are “responsible employees” for the purposes of redressing reports of sexual misconduct, domestic violence, dating violence, stalking and related retaliation in accordance with this policy (see Appendix B for contact information).

Faculty and staff who are “Campus Security Authorities” are required to report certain sex offense crimes to the Department of Public Safety for the purpose of compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.

Employees with supervisory responsibility are expected to report all incidents of sexual misconduct, domestic violence, dating violence, stalking or related retaliation involving employees to the HRO and/or to Human Resources.

General inquiries to Middlebury officials about policies or procedures, and conversations in which the alleged perpetrator is not identified by name or by implication from the circumstances, may remain private. Otherwise, individuals who want to maintain confidentiality should seek a confidential resource.

(C) Disclosure to Responsible Employees and Request for Confidentiality
When a responsible employee (e.g., the HRO or JAO) learns of an incident of sexual misconduct, domestic violence, dating violence, stalking or related retaliation involving a student, faculty or staff member or covered third party, the responsible employee will report to the Title IX Coordinator (and/or the HRO or JAO, if a responsible employee other than the HRO/JAO learns of such an incident). The report will include relevant details about the incident of which they are aware, including the names of the parties, any witnesses, and any other relevant facts, including the date, time, and specific location of the alleged incident.

To the extent possible, information reported to a responsible employee will be shared with others only to the extent necessary to respond to the situation and support the parties and in accordance with state and federal law. Examples include individuals who are responsible for processing, investigating, adjudicating, and responding to sexual misconduct, domestic violence, dating violence, stalking and/or related retaliation reports, deans, program directors, supervisors, Human Resources staff, and Department of Public Safety or other campus security personnel who are responsible for reporting campus crime statistics and issuing timely warnings under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.

(D) Evaluating Requests for Confidentiality in Sexual Misconduct Cases
If an individual discloses an incident of sexual misconduct but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, Middlebury will make every effort to respect this request and will evaluate the request against its responsibility to provide a safe, non-discriminatory environment for all students, faculty and staff, including the individual who reported sexual misconduct. Although rare, there are times when Middlebury may not be able to honor the individual’s request. Further, if Middlebury honors the request for confidentiality, Middlebury’s ability to appropriately investigate the incident and pursue disciplinary action against the alleged perpetrator(s), if warranted, may be limited.
Middlebury has designated the JAO, HRO, and the Title IX Coordinator to evaluate requests for confidentiality, as appropriate to the circumstances. In considering an individual’s request for confidentiality, the HRO, JAO, and/or Title IX Coordinator may consult with Middlebury’s Threat Assessment and Management Team and other college personnel, as appropriate.

Factors to be considered in determining whether confidentiality should be maintained may include but are not limited to:

(i) The increased risk that the alleged perpetrator will commit additional acts of sexual misconduct or other violence, such as:

- whether there have been other sexual misconduct complaints about the same alleged perpetrator;
- whether the alleged perpetrator has a history of arrests or records from a prior institution indicating a history of violence;
- whether the alleged perpetrator has threatened further sexual misconduct or other violence against the individual or others;
- whether the alleged sexual misconduct was committed by multiple perpetrators;
- circumstances that suggest there is an increased risk of future acts of sexual misconduct or other violence under similar circumstances (e.g., whether the report reveals a pattern of perpetration);

(ii) whether the alleged sexual misconduct was perpetrated with a weapon;

(iii) whether the alleged victim is a minor;

(iv) whether Middlebury possesses other means to obtain relevant evidence (e.g., security cameras, information known to Middlebury personnel, or physical evidence);

(v) whether the report reveals a pattern of perpetration at a given location or by a particular group;

(vi) the extent of any ongoing threat to the Middlebury community or any of its members.

The presence of one or more of these factors may prompt an investigation and adjudication under Middlebury’s policies and, if appropriate, result in disciplinary action. If none of these factors is present, Middlebury will likely honor the individual’s request for confidentiality.

(E) Evaluating Requests for Confidentiality in Domestic Violence, Dating Violence, Stalking and Related Retaliation Cases
In cases involving domestic violence, dating violence, stalking, and/or related retaliation, if an individual insists that their name or other identifiable information not be revealed, or asks that Middlebury not investigate or seek action against the alleged perpetrator, Middlebury will evaluate the request in the context of its commitment to provide a safe environment for that individual as well as all students, staff and faculty. Thus, Middlebury may weigh the individual’s request against a number of factors, including but not limited to the seriousness of the alleged conduct; circumstances that suggest there is a risk of repeated conduct; whether there have been other reports or complaints about the alleged perpetrator; the credibility and significance of existing relevant evidence; and the extent of any ongoing threat to the individual, the Middlebury community or any of its members.

In considering an individual’s request for confidentiality, the HRO, JAO, and/or Title IX Coordinator may consult with Middlebury’s Threat Assessment and Management Team and other college personnel, as appropriate.

(F) If Confidentiality is Requested but Cannot be Maintained
If Middlebury determines that it cannot maintain an individual’s confidentiality after it has been requested, Middlebury will inform the individual prior to conducting an investigation (unless extenuating circumstances are present) and will, to the extent possible, only share information with those individuals who are responsible for Middlebury’s response to the incident. Middlebury will not require the individual to participate in any investigation or disciplinary proceeding.
If when responding to reports of sexual misconduct, domestic violence, dating violence, stalking, or related retaliation, Middlebury determines it is obligated to take any action that would involve disclosing a reporting individual’s identity to the respondent, or an action from which the reporting individual’s identity may be easily determined by the respondent, the individual will be informed before the action is taken unless extenuating circumstances are present. If the reporting individual requests that the respondent be informed that they requested that there be no investigation or disciplinary action, Middlebury will endeavor to honor this request and inform the respondent that Middlebury made the decision to investigate the matter.

Middlebury will take supportive measures when requested, reasonably available and necessary, as described below. Retaliation against individuals will not be tolerated. Please see “Section 4. Retaliation” below. For example, Middlebury will:

* Assist the individual in accessing support services, including available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus, as applicable (see Appendix C for list of resources)

* Provide other support, which could include a No Contact Order; work and transportation accommodations; or changing living arrangements, course schedules, or other academic accommodations.

* Inform the individual of the right to report a crime to local law enforcement, and provide the individual with assistance if the individual wishes to do so.

See also Section 6. “Services and Accommodations” below.

(G) When Confidentiality Can be Maintained
If Middlebury determines that it can respect the individual’s request for confidentiality, Middlebury will take action to assist the individual, to the extent possible, including the measures identified in the preceding section (e.g., support services referrals, changing living arrangements or course schedules, assignments or tests, providing other support, as appropriate, and work and transportation accommodations), where such measures are requested, reasonably available and necessary. See also Section 6. “Services and Accommodations” below.

As noted in Section D, above, individuals should be aware that, if Middlebury honors their request for confidentiality, this may limit Middlebury’s ability to fully respond to the incident, including pursuing disciplinary action against the alleged perpetrator.

(H) Disclosure During Internal Investigations and Adjudications
Middlebury will handle information related to alleged violations of this policy with sensitivity and discretion. However, Middlebury may need to disclose information relating to an incident (including the identity of parties, witnesses or others) to the extent necessary to conduct a thorough, fair, and impartial investigation and adjudication process for all involved parties.

(I) Disclosure Required by Law
Middlebury will not include the names of complainants or other identifying information in publicly available reports that are compiled as required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. Middlebury is also part of a larger community and context. If there is an independent investigation, lawsuit, or criminal proceeding related to a sexual misconduct, domestic violence, dating violence, stalking or related retaliation matter, those involved or others may be required by law to provide testimony or documents (e.g., investigation reports, witness statements, and any other information gathered or obtained in the course of a particular matter).

(J) Disclosure to Law Enforcement
In certain circumstances, Middlebury may need to report an incident to law enforcement authorities. Such circumstances include but are not limited to incidents that warrant the undertaking of safety and security measures for the protection of the individual and/or the campus community, or situations in which there is clear and imminent danger and/or a weapon may be involved. Complainants may choose to notify authorities directly with or without Middlebury’s assistance, or may choose not to notify such authorities; for more information, see “7. Pursuing a Criminal Complaint” below.

4. Retaliation
Retaliating directly or indirectly against a person who has in good faith made a report under this policy or participated in an investigation is prohibited. Retaliation includes but is not limited to ostracizing the person, pressuring the person to drop or not support the complaint or to provide false or misleading information, engaging in conduct that may reasonably be perceived to affect adversely that person's educational, living, or work environment, threatening, intimidating or coercing the person, or otherwise discriminating against any person for exercising their rights or responsibilities under this policy. Depending on the circumstances, retaliation may also be unlawful. Retaliation under this policy may be found whether or not the underlying complaint is ultimately found to have merit. Complaints of retaliation should be reported under the procedures described below.

5. Emergencies

If the safety of any individual is an immediate concern, involved parties or observers in the United States should contact local law enforcement by dialing 911. Involved parties or observers in other countries should notify local law enforcement and their program director.

Individuals participating in Middlebury’s programs in the United States should also report incidents of sexual misconduct, domestic violence, dating violence, stalking and related retaliation to the Department of Public Safety (Vermont programs), or other campus security personnel applicable to the program at issue (see contact information in Appendix B, below).

Middlebury’s Department of Public Safety (or other campus safety/security personnel for programs outside of Vermont, as applicable) will coordinate its response to the report with other officials, as appropriate (including the HRO, the JAO, the Title IX Coordinator, and responsible Threat Assessment and Management Team) and, if necessary, law enforcement, to intervene at the earliest practical point to stop the behavior and coordinate services to the complainant. A coordinated response will include consideration of the complainant’s request for confidentiality in accordance with Section 3, above and may also include the implementation of safety measures as deemed necessary; see “6. Services and Accommodations” below for examples.

6. Services and Accommodations

It is not necessary to file a complaint, participate in an adjudication process, or file a criminal complaint in order to request from Middlebury services or accommodations. These may include but are not limited to No Contact Orders between the parties, academic or residential accommodations, changing transportation or working situations, or providing other employment accommodations, and/or other support resources, as appropriate (see, e.g., Appendix C, below). Middlebury personnel will identify appropriate options and work with complainants to determine whether these services or accommodations are reasonably available and necessary in a particular case.

7. Pursuing a Criminal Complaint

In addition to (or instead of) Middlebury’s processes, any student, faculty or staff member or covered third party who wishes to report a complaint of sexual misconduct, domestic violence, dating violence, stalking or related retaliation under this policy may and should also pursue criminal charges with local, state, or federal law enforcement agencies (see Appendix B for contact information). Middlebury will offer and upon request provide assistance to students, employees or covered third parties in contacting law enforcement agencies. This action may be taken and these options are available regardless of whether an individual chooses to file a complaint with Middlebury. Individuals may choose to notify such agencies with or without assistance from Middlebury, or may choose not to notify such authorities.

In addition to (or instead of) Middlebury’s processes, individuals who are being or who may have been subjected to sexual misconduct, domestic violence, dating violence, stalking and/or related retaliation may have the right to obtain orders of protection, restraining orders and/or relief from abuse orders from United States courts. Middlebury will support complainants if they wish to have Middlebury’s assistance in making contact with law enforcement authorities and other external resources to seek such orders. Middlebury will respect such orders to the extent applicable. In addition, Middlebury can also impose no-contact conditions on students, employees and third parties over which it has some measure of control.
8. Medical Care and Evidence Preservation

Any individual who may be experiencing or has experienced sexual misconduct, domestic violence, dating violence, stalking or related retaliation is encouraged to immediately seek any necessary medical care and to seek help from appropriate Middlebury, law enforcement and/or medical personnel, even if the individual is uncertain about whether to ultimately pursue a complaint or criminal charges or seek a protective order. It is important for individuals to preserve all possible evidence in case they decide at some point to do so. Therefore, if at all possible, they should refrain from changing clothes, showering or otherwise changing their physical state after an incident, until after consulting with medical personnel about how to best preserve evidence.

9. Reporting Requirements for Staff and Faculty

Any staff or faculty member who learns of an incident of sexual misconduct, domestic violence, dating violence, stalking or related retaliation involving a student or covered third party must report this information to Middlebury’s Title IX Coordinator, HRO, or JAO (see Appendix B for contact information) or the appropriate program director in cases involving the Language Schools, Schools Abroad, Bread Loaf, the Institute, or other Middlebury programs as applicable, unless their status as a confidential resource precludes this disclosure. Confidential resources include the staff of the Parton Center for Health and Wellness, the staff of the Chaplain’s Office, MiddSafe Advocates, or other medical, counseling, support or religious personnel and volunteers who are required by law to maintain confidentiality; please see Section 2.3, Confidentiality, for more information.

Employees with supervisory responsibility are expected to report all incidents of sexual misconduct, domestic violence, dating violence, stalking or related retaliation involving employees to the Title IX Coordinator, the HRO, and/or to Human Resources.

10. Complaint Investigation and Resolution Procedures

(A) In General

The information in the sections below, except as noted, applies to Middlebury students, staff, faculty or covered third parties who wish to report a complaint of sexual misconduct, dating violence, domestic violence, stalking or related retaliation against a Middlebury student, staff or faculty member as defined above, through Middlebury’s processes.

All Middlebury students, faculty members, staff members and covered third parties have the right to pursue sexual misconduct, domestic violence, dating violence and stalking complaints beyond Middlebury, and are encouraged to use local, state, or federal enforcement agencies, including local police, as applicable, regardless of whether they choose to file a complaint on campus. See contact information in Appendix B.

Middlebury will not wait for the conclusion of a criminal investigation or proceeding to begin its own investigation and resolve complaints under this policy. Middlebury will, however, comply with valid requests by law enforcement for cooperation in a criminal investigation. As such, Middlebury may need to delay temporarily an investigation under this policy while law enforcement is in the process of gathering evidence. Once law enforcement has completed its gathering of evidence, Middlebury will promptly resume and complete its investigation. Middlebury may also take interim measures to promote the safety and well-being of the complainant and the school community while law enforcement is gathering evidence.

(B) Complaints Directed to the HRO or JAO

In addition to the mandatory reporting requirements in Section 9, above, any Middlebury student, faculty member, staff member or covered third party who has reasonable cause to believe that sexual misconduct, domestic violence, dating violence, stalking and/or related retaliation has occurred or is occurring should report this information to the immediate attention of the HRO who is designated to receive such reports in the Middlebury program at issue, or the JAO, as applicable (see below), and/or to the Title IX Coordinator.

Complaints against a student who is enrolled in the undergraduate program at the time the alleged conduct occurred (and who is not participating in another Middlebury program at the time of the alleged conduct) should be directed to the JAO.
Contact information for the HRO and JAO can be found in Appendix B. A complaint may be made verbally or in writing and will ultimately need to be recorded in written form by the complainant or a member of the staff involved with the investigation.

If the designated HRO is unavailable, or if the HRO has a conflict of interest, the report should be made to the designated alternate HRO for the program at issue, and/or the Title IX Coordinator. The alternate shall have the same authority as the designated HRO to oversee investigations and adjudicate sexual misconduct, domestic violence, dating violence, stalking and retaliation complaints. Appendix B to this policy lists the names and contact information for offices and/or individuals serving as Human Relations Officers and alternate Human Relations Officers in Middlebury’s various programs and locations.

**Rights of Complainants**
Individuals whose complaints of sexual misconduct, domestic violence, dating violence, stalking or related retaliation are being investigated by Middlebury can anticipate that:

- They will be treated with sensitivity, dignity, respect and in an unbiased manner by all involved administrators, investigators and adjudicators.
- They will be informed in writing that their complaint is being investigated, and of any other suspected related policy violations being explored through this investigation.
- They will be advised of Middlebury’s Sexual Misconduct, Domestic Violence, Dating Violence and Stalking Policy and procedures.
- They will be afforded the same rights and opportunities as the respondent throughout the investigation and adjudication process.
- They will be given periodic status updates throughout the investigation and adjudication process.
- They may access Middlebury and/or external resources for medical and counseling services at any time.
- They may choose to pursue a formal complaint with external law enforcement authorities or other federal or state agencies at any time, or they may decline the option to do so.
- They may invite an advisor of their choice to accompany them at all meetings regarding the investigation and adjudication process.
- They may submit one character reference letter for consideration by the HRO or the SMRP, as applicable.
- They may meet with the HRO or the SMRP, as applicable in person prior to the HRO’s or SMRP’s determination of a finding.
- In the event of a finding of a policy violation, they may submit a Sanction Statement.
- They will be informed in writing, simultaneously with the respondent, of the adjudication outcome, as well as the outcome of any appeal, to the extent permitted by law.
- They will have the right to appeal the outcome in cases where a student is a respondent based on the grounds designated in this policy, provided they have participated in the investigation process.
- They may retain legal counsel at any time, although legal counsel is subject to the same restrictions applicable to all advisors (see section D.2, below). Attorneys who wish to communicate about a case may contact Middlebury’s legal counsel directly.

**Rights of Respondents**
Individuals responding to complaints of sexual misconduct can anticipate that:

- They will be treated with sensitivity, dignity, respect and in an unbiased manner by all involved administrators, investigators and adjudicators.
- They will be informed in writing that a complaint of sexual misconduct, domestic violence, dating violence, stalking or related retaliation against them is being investigated, and of any other suspected related policy violations being explored through this investigation.
• They will be advised of Middlebury’s Sexual Misconduct, Domestic Violence, Dating Violence and Stalking Policy and procedures.
• They will be afforded the same rights and opportunities as the complainant throughout the investigation and adjudication process.
• They will be given periodic status updates throughout the investigation and adjudication process.
• They may access Middlebury College and/or external resources for medical and counseling services at any time.
• They may invite an advisor of their choice to accompany them at all meetings regarding the investigation and adjudication process.
• They may submit one character reference letter for consideration by the HRO or the SMRP, as applicable.
• They may meet with the HRO or the SMRP, as applicable, in person prior to the HRO’s or SMRP’s determination of a finding.
• In the event of a finding of a policy violation, they may submit a Sanction Statement.
• They will be informed in writing, simultaneously with the complainant, of the adjudication outcome, as well as the outcome of any appeal, to the extent permitted by law.
• If they are a student, they will have the right to appeal the outcome based on the grounds designated in this policy, provided that they have participated in the investigation process.
• They may retain legal counsel at any time, although legal counsel is subject to the same restrictions applicable to all advisors (see Section D.7, below). Attorneys who wish to communicate about a case may contact the College’s legal counsel directly.

(C) Complaint Receipt and Review

When the HRO or JAO, as applicable (hereinafter referred to as the “HRO/JAO”) receives actual notice—i.e., a written or oral complaint or report directed to the HRO/JAO—of conduct that may constitute sexual misconduct, domestic violence, dating violence, stalking, or related retaliation as defined by this policy, Middlebury will initiate the following process, except as otherwise provided in subsection L, below:

1. The HRO/JAO will promptly determine initially whether the report or complaint alleges conduct that is prohibited by this policy. If so, the HRO/JAO will determine whether the complaint will be adjudicated by the SMRP or the HRO.

2. If it is determined that the complaint should be resolved by the HRO, then the HRO will adjudicate the matter in accordance with the procedures set forth herein and in Section F, below. If it is determined that the complaint should be resolved by the SMRP, then the SMRP will adjudicate the matter in accordance with the procedures set forth herein and in Section G, below.

3. Prior to an investigation or adjudication, the HRO/JAO will consider the complainant’s request for confidentiality, if any, in accordance with Section "3. Confidentiality," above.

4. The HRO may seek the assistance of the JAO or other Middlebury official to meet with the parties and serve as an informational resource for them throughout the investigation and adjudication process. The JAO also serves in this capacity throughout the SMRP process.

5. Upon receiving the complaint, and at any point during the investigation and adjudication process, the HRO/JAO may determine if a complaint of sexual misconduct, domestic violence, dating violence, stalking or related retaliation also contains allegations that, if proven, could constitute other forms of harassment or discrimination as defined by Middlebury’s Anti-Harassment/Discrimination Policy. If so, the HRO may investigate and adjudicate the other allegations of harassment or discrimination and issue a determination in accordance with the procedures set forth herein (see also Section E, below).

In cases where the student is a respondent, if at any point prior to or during the investigation and adjudication process, the HRO/JAO becomes aware that other Middlebury policies may have been violated in relation to the matter under investigation, these alleged policy violations may also be resolved by the HRO or the SMRP, as
applicable, through the investigation and adjudication process in this policy. The decision to investigate and adjudicate other alleged policy violations is within the sole discretion of the HRO/JAO.

In all cases the parties will receive written notification if the HRO/JAO determines that additional alleged policy violations will be investigated and adjudicated in accordance with the procedures set forth herein.

6. In cases where the HRO/JAO believes that the allegations, if proven, would not constitute a violation of this policy, the complainant will be advised of other judicial and support options as appropriate, and no further investigation will be pursued under this policy. If new information is subsequently provided to the HRO/JAO, this decision may be reevaluated.

(D) Investigation Overview

1. The HRO/JAO (or designee) will provide a copy of this policy to the complainant and respondent, and will inform both parties in writing that Middlebury is investigating the possibility that the respondent may have committed sexual misconduct, domestic violence, dating violence, stalking or related retaliation. This will include notification of any additional alleged policy violations being investigated in relation to the incident.

2. Should a respondent who has been notified of an investigation fail to cooperate with the investigator, the investigation may proceed, a finding may be reached, and a sanction may be imposed based on the information available.

3. A No Contact Order is normally issued to restrict contact and communication between the complainant and respondent for the duration of the investigation. In particularly serious cases, temporary removal of a student or employee from campus may be initiated by Middlebury at any time.

4. While not condoning infractions of any kind, Middlebury considers reporting incidents of sexual misconduct, domestic violence, dating violence, stalking and related retaliation to be of paramount importance. Therefore, to encourage reporting, Middlebury may, where appropriate, offer leniency with respect to other policy violations that may be revealed as a result of a report. The nature and scope of the leniency will depend on the particular circumstances involved. The Title IX Coordinator, HRO, JAO and/or other supervisory authority, as appropriate (in the case of faculty or staff), will have sole discretion in determining the appropriate course of action.

5. Middlebury may choose to discontinue an investigation at any time. The complainant may request that an investigation be discontinued at any time. Middlebury will attempt to honor the wishes of the complainant. However, to accommodate cases where compelling evidence suggests significant individual or community safety concerns, the decision to discontinue an investigation is within the sole discretion of Middlebury.

6. To the extent permitted by law, the complainant and respondent will be afforded the same rights and opportunities throughout the investigation and adjudication process, including the opportunity to recommend witnesses and submit other evidence. However, the decision to interview particular witnesses or consider evidence offered by the parties is within the sole discretion of the HRO and/or investigator.

7. Complainants and respondents are entitled to the same opportunities to have an advisor of their choice present at any interviews or meetings related to the investigation and adjudication process under this policy (such advisors may advise the complainant or respondent privately, but cannot act as speaking advocates at a meeting). An investigator or other Middlebury representative may terminate meetings and proceed with the investigation or adjudication based on otherwise-available information if advisors refuse to comply with these requirements.

8. If a complainant or respondent involved in Middlebury’s investigation or adjudication of a report of sexual misconduct, domestic violence, dating violence, stalking or related retaliation is concerned that another person involved in the investigation or adjudication (such as, for example, an investigator, HRO, or member of the SMRP) may be biased or has a conflict of interest, the person should inform the HRO/JAO of that concern as soon as possible. If this concern involves the HRO or the JAO, the complainant or respondent should inform the Title IX Coordinator. The HRO, JAO, or Title IX Coordinator, as applicable, will consider the concern and inform the parties of a decision as to whether an alternate will be named.
(E) Investigation

1. If it is determined that an investigation and adjudication should proceed under this policy, an investigator will be appointed to conduct an investigation that is appropriate under the circumstances, and is prompt, thorough, fair, equitable, objective and impartial.

2. Middlebury’s investigation and adjudication process does not require or permit the complainant and respondent to interact or communicate directly or indirectly with each other at any time. The parties are therefore not permitted to question or cross-examine each other during the course of the investigation.

3. The investigator is authorized to contact any and all individuals with potentially relevant information. Middlebury recognizes, however, that individuals who are bound by legal privileges may not be able to disclose privileged information, unless an exception applies. The investigator is authorized to access relevant records, except those legally protected as confidential or privileged, and may collect any additional evidence relevant to the complaint. The nature and scope of the investigation is within the sole discretion of the investigator and/or the HRO or the SMRP, as applicable.

4. The parties may retain legal counsel at their own expense at any time. Legal counsel may attend any meeting associated with the investigation or adjudication process as “an advisor of the complainant’s or respondent’s choice,” subject to the restrictions in paragraph D.7, above. Attorneys who wish to communicate about a case may contact Middlebury’s legal counsel directly.

5. The HRO/JAO, vice president for academic affairs or designee (“VPAA”), Human Resources Department, vice president for Language Schools, Schools Abroad and Graduate Programs, dean of students, Commons dean(s), Public Safety staff, or other supervisory authority for the program at issue may also at any time take appropriate steps, including by way of example only, issuance of No Contact Orders and/or No Trespass Orders, temporary changes in assignment of duties or housing, changes in class schedules or class requirements, transportation accommodations, or other accommodations, as appropriate, to protect complaining parties on an interim basis. These measures can be taken, if appropriate, regardless of whether a complainant pursues a complaint under this policy.

6. The complainant and respondent will be asked to identify all relevant evidence they would like the investigator to review, as well as witnesses they would like the investigator to interview. Both parties may provide, if they wish, a list of questions they would like the investigator to ask of particular witnesses or of each other. The investigator is not required to consider the evidence submitted or interview any particular witness, even if identified by one of the parties, nor to ask questions provided by either party. However, in determining whether to interview witnesses or review evidence, the investigator should consider such factors as equity, fairness, thoroughness, and impartial treatment of both parties.

7. All participants in the investigation are expected to cooperate fully by providing complete, accurate, and truthful information. They may also be expected to sign statements or other documents memorializing the information they provided, and may be asked to keep the substance of the interview confidential. Failure to cooperate fully with the investigator may subject the individual to the full range of disciplinary actions, as applicable.

8. Formal rules of evidence do not apply in Middlebury’s disciplinary proceedings. In cases where an evidentiary or procedural question arises in connection with the investigation or adjudication process, the HRO/JAO may make a determination or refer the matter to the Title IX Coordinator or other appropriate Middlebury official for a ruling.

9. At the conclusion of the investigation, the investigator will share the witness statements and other relevant materials with the complainant and the respondent. Both will have an opportunity to respond to this information in writing within seven days.

10. The deadline for the receipt of the complainant’s and respondent’s written responses is also the deadline for receipt by the investigator of the character reference letters for each party. Guidelines for character references will be provided by the HRO/JAO.

11. If at any stage following the submission of these responses new relevant evidence is gathered, it will be shared with the complainant and respondent, who will have an opportunity to submit a written response within a time frame determined by the HRO/JAO.
12. The complainant and respondent may request to see the other party’s written statement and character references once they have been submitted.

(F) Determination and Sanction (Complaints Adjudicated by the HRO)

1. The investigator will submit a final report to the HRO. The final report will include all investigation materials, the complainant and respondent responses, both parties’ character references, the investigator’s recommended finding of whether this policy and any additional policies being explored through this investigation have been violated, and the investigator’s rationale. This recommendation will be based on the standard of preponderance of evidence, i.e., whether it is more likely than not that the policy was violated.

2. The HRO is responsible for making the determination of whether any Middlebury policy under investigation has been violated. The HRO is not bound by the investigator’s report. Rather, it is advisory to the HRO. The HRO may accept or reject the investigator’s recommended finding in whole or in part, and may request additional relevant information before making a determination. The HRO may consult with other persons as appropriate. The HRO should avoid duplicating the efforts of the investigator, as well as accepting the investigator’s recommended finding without careful review of all of the evidence.

3. Either party may choose to meet individually with the HRO prior to the HRO’s determination. The HRO may also request an individual meeting with either party or any other person(s) as appropriate.

4. After review of the investigator’s report and recommended finding, the HRO shall issue a determination as to whether sexual misconduct, domestic violence, dating violence, stalking and/or related retaliation (or a violation of other Middlebury policies, if applicable) occurred. The HRO’s determination will be based on a preponderance of the evidence standard.

5. If the HRO finds that a staff or faculty member has engaged in conduct that violates this policy the HRO will refer the matter to the appropriate supervisory authority (e.g., the Middlebury College VPAA, the Institute’s Chief Academic Officer or designee [“the Institute’s CAO”] or the vice president for Language Schools, Schools Abroad, and Graduate Programs in the case of a faculty member, as applicable to the program at issue, and/or the Middlebury College Human Resources Department, or the Institute’s Human Resources Department, as applicable, in the case of a staff member). The supervisory authority may impose disciplinary action under existing policies and/or contracts, as applicable, including verbal warnings, written warnings, written reprimands, termination of employment, or other action as deemed appropriate under the circumstances.

6. If the HRO finds that a student has engaged in conduct that violates this policy (or other Middlebury policies under investigation), the HRO may invite each party to submit a Sanction Statement sharing any thoughts they would like the appropriate authority to consider when assigning a sanction (guidelines for each statement will be provided by the HRO or JAO). The HRO will then refer the matter (together with the parties’ sanction statements, if any) to the appropriate supervisory authority for the program in which the student is enrolled at the time of the misconduct and the supervisory authority for any other Middlebury program in which the student is or will be enrolled (e.g., dean of the Language Schools, dean of International Programs, appropriate Institute dean, director of the Bread Loaf School of English, director of the Bread Loaf Writers’ Conference, director of MiddCore, dean of students, director of the School of the Environment, etc.), as applicable, for disciplinary action. Such disciplinary action could include warnings, written reprimands, probationary status, official college discipline, or suspension or expulsion from any or all Middlebury program(s) in which the student is enrolled or participating, or other action as deemed appropriate under the circumstances (e.g., remedies applied to the respondent to address the needs of the complainant, including but not limited to room changes, class changes, building restrictions, extracurricular activity restrictions, modification of No Contact Orders to favor the complainant, and other actions to preserve the rights of the complainant to a safe environment). Although sanctions for violation(s) of the sexual misconduct policy can include any form of discipline as stated in this section, students found to have violated the sexual misconduct policy will most likely receive a sanction of suspension or expulsion.

If the conduct occurred during the course and scope of the student’s employment at Middlebury, the matter will be referred jointly to the Human Resources Department and the appropriate supervisory authority for the program at issue, as applicable, for disciplinary action such as verbal warnings, written warnings, written reprimands, termination of employment, or warnings, written reprimands, probationary status, official college discipline, suspension, or expulsion from Middlebury, or other action as deemed appropriate under the circumstances. Additional non-
disciplinary outcomes, such as extending and modifying mutual No Contact Orders, may also be imposed regardless of the finding.

7. To the extent permitted by law, the complainant and respondent will be simultaneously informed, in writing, of (a) the HRO’s determination and the outcome of any discipline or other action arising out of an allegation of sexual misconduct, domestic violence, dating violence, stalking and/or related retaliation; (b) Middlebury’s procedures for complainants and respondents to appeal the HRO’s decision and/or discipline imposed, if applicable; (c) any change to the results of a disciplinary process that occurs prior to the time that such results become final; and (d) when such results become final.

8. In cases where the respondent is a student, the complainant and the respondent each has the right to an appeal in accordance with the procedures in Section I, “Appeals,” below.

(G) Determination and Sanction (Complaints Adjudicated by the SMRP)

1. Upon receipt of the investigation report, the JAO will convene the SMRP.

2. The SMRP (or in extraordinary circumstances as noted above, the HRO, henceforth implied in all following references to “the panel”) will be provided with the investigator’s final report. The final report will include all investigation materials deemed admissible by the JAO, the complainant and respondent responses, both parties’ character references, the investigator’s recommended finding of whether this policy and any additional policies being explored through this investigation have been violated, and the investigator’s rationale. This recommendation will be based on the standard of preponderance of evidence, i.e., whether it is more likely than not that the policy was violated.

3. The panel is responsible for making the determination of whether any Middlebury policy under investigation has been violated. The panel is not bound by the investigator’s report. Rather, it is advisory to the panel. The panel may accept or reject the investigator’s recommended finding in whole or in part, and may request additional relevant information before making a determination. The panel may consult with other persons as appropriate. The panel should avoid duplicating the efforts of the investigator, as well as accepting the investigator’s recommended finding without careful review of all of the evidence.

4. Either party may choose to meet individually with the panel prior to the panel’s determination. The panel may also request an individual meeting with either party or any other person(s) as appropriate.

5. After review of the investigator’s report and recommended finding, the panel shall issue a determination as to whether sexual misconduct, domestic violence, dating violence, stalking and/or related retaliation (or a violation of other Middlebury policies, if applicable), occurred. The panel’s determination will be based on a preponderance of the evidence standard. Three of the four panel members must find that a policy has been violated for a finding of responsibility.

6. If the panel determines that there has been a policy violation, both parties may submit Sanction Statements to the panel, within three business days of notification of the panel’s determination by the JAO. Guidelines for each statement will be provided by the JAO.

7. The panel will reconvene, consider the Sanction Statements if they have been submitted, and determine a sanction. Prior conduct and judicial history may also be taken into account in determining a sanction. Sanctions could include disciplinary action such as warnings, written reprimands, probationary status, official college discipline, suspension or expulsion, or other action as deemed appropriate under the circumstances (e.g., remedies applied to the respondent to address the needs of the complainant, including but not limited to room changes, class changes, building restrictions, extracurricular activity restrictions, modification of No Contact Orders to favor the complainant, and other actions to preserve the rights of the complainant to a safe environment). Although sanctions for violation(s) of the sexual misconduct policy can include any form of discipline as stated in this section, students found to have violated the sexual misconduct policy will most likely receive a sanction of suspension or expulsion. See also Student Life Policies – General Disciplinary Processes.

8. To the extent permitted by law, the complainant and respondent will be simultaneously informed, in writing, of (a) the panel’s determination and the outcome of any discipline or other action arising out of an allegation of sexual
misconduct, domestic violence, dating violence, stalking and/or related retaliation; (b) Middlebury’s procedures for complainants and respondents to appeal the panel’s decision and/or discipline imposed, if applicable; (c) any change to the results of a disciplinary process that occurs prior to the time that such results become final; and (d) when such results become final.

9. The complainant and respondent have a right to appeal the panel’s decision in accordance with the procedures in Section I. “Appeals” below.

(H) Time Frames for the Investigation and Adjudication

Absent extenuating circumstances, the investigation of a report or complaint under this policy will ordinarily be completed within 45 days from the time a report or complaint is made to the HRO/JAO. This time period may be shorter or longer depending on the circumstances, including but not limited to the complexity of the case and the availability of witnesses. If either the complainant or respondent would like to request an extension of this time frame, a request with a description of the reasons for the request should be directed to the HRO/JAO. The HRO/JAO will notify the other party, make a decision, and inform the parties and any other individual who needs to know, of that decision. If extenuating circumstances are present, the HRO/JAO may also decide independently to extend this general 45-day time frame, and will inform the parties, and any other individual who needs to know, of any such decision.

Absent extenuating circumstances, in cases adjudicated by the HRO, the HRO will issue a finding regarding whether this policy and/or another Middlebury policy has been violated within 10 days after receipt of the investigator’s complete report. The 10-day period may be extended if the HRO determines that further information or investigation is needed. Absent extenuating circumstances, the appropriate supervisory authority or responsible official will issue a decision regarding discipline or other appropriate action, to the extent applicable, within 5 days after the HRO issues a determination. In faculty or staff matters, this time period may be shorter or longer depending on the circumstances, including any contractual rights of the parties.

Absent extenuating circumstances, in cases adjudicated by the SMRP, the SMRP will issue a finding regarding whether this policy and/or another Middlebury policy has been violated within 10 days after the receipt of the investigator’s complete report. The 10-day period may be extended if the SMRP determines that further information or investigation is needed. Absent extenuating circumstances the SMRP will issue a decision regarding discipline or other appropriate action, to the extent applicable, within 5 days after the SMRP issues its finding as to whether there was a policy violation.

Middlebury will not wait for the conclusion of a criminal investigation or proceeding to begin its own investigation and resolve complaints under this policy. Middlebury will, however, comply with valid requests by law enforcement for cooperation in a criminal investigation. As such, Middlebury may need to delay temporarily an investigation under this policy while law enforcement is in the process of gathering evidence. Once law enforcement has completed gathering evidence, Middlebury will promptly resume and complete its investigation. Middlebury may also take interim measures to ensure the safety and well-being of the complainant and the school community while law enforcement is gathering evidence.

(I) Appeals

In cases where the respondent is a student, the complainant and respondent each has the right to appeal the outcome under the circumstances described below. The purpose of an appeal is to review the adjudication process.

Grounds

Appeals are accepted on the basis of one or more of the following:

- discovery of significant new factual material not available to the HRO or SMRP, as applicable (hereinafter referred to as “HRO/SMRP”), that could have affected the original outcome; however, deliberate omission of factual information by the appealing party is not a ground for an appeal;
- procedural error where the error prevented fundamental fairness;
• abuse of discretion in the issuance of a sanction, meaning that the SMRP, or appropriate supervisory authority in cases adjudicated by the HRO, imposed a sanction significantly disproportionate to the offense.

The right of appeal is only available to a respondent or complainant who participated in the investigative process.

Procedures

An appeal must be made in writing to the appellate officer for the program in connection with which the finding of responsibility and sanction were made. Therefore, an appeal must be directed to the VPAA (complaints against undergraduate students adjudicated by the SMRP, and complaints against MiddCore students adjudicated by the HRO), the vice president for Language Schools, Schools Abroad and Graduate Programs (complaints against Language Schools, Schools Abroad, Bread Loaf School of English, Bread Loaf Writers’ Conference and School of the Environment students adjudicated by the HRO), or the Institute’s CAO (complaints against Institute students adjudicated by the HRO), as applicable.

In cases where the HRO refers the matter to the supervisory authority for the program in which the student is enrolled at the time of the misconduct and to the supervisory authority for any other Middlebury program in which the student is or will be enrolled (“other Middlebury program(s)”), for further disciplinary action in accordance with Section 10.F.6, above, an appeal of the sanction(s) issued in the other Middlebury program(s) can also be made to the appellate officer for that other Middlebury program(s). Appeals regarding the finding of responsibility by the HRO must be made to the appellate officer for the program in which the student was enrolled at the time of the misconduct.

Appeals must be made within five days of receipt of the HRO/SMRP’s determination or within five days of receipt of the decision regarding sanctions, if applicable, and must include the grounds for appeal and an outline of any supporting evidence. Appeals transmitted via e-mail will considered to be “in writing” for the purposes of this section.

The Middlebury official responsible for hearing the appeal (i.e., VPAA, vice president for Language Schools, Schools Abroad and Graduate Programs or the Institute’s CAO, as applicable) will invite an informational response to the appeal from the HRO/SMRP and/or the appropriate disciplinary authority (in cases adjudicated by the HRO), if applicable, and the other party (to the extent permitted by law), who may respond within five business days of the request. The Middlebury official may request assistance from the original investigator, or from a new investigator, or any other relevant individual, as necessary.

The Middlebury official may deny the appeal, or if one or more of the appeal grounds have been met, may:

• return the case to the original HRO/SMRP or the appropriate disciplinary authority (in cases adjudicated by the HRO), as appropriate, for reconsideration; or
• convene a new SMRP, or appoint an Alternate HRO or disciplinary authority, as applicable, to review the case, which will ordinarily occur when the original outcome was deemed to be based on an abuse of discretion.

It is the responsibility of the Middlebury official to determine which aspects of the case merit a new review, and to direct the JAO, HRO, or disciplinary authority, as appropriate, accordingly.

Absent extenuating circumstances, the Middlebury official will notify the complainant and respondent of the appeal decision simultaneously in writing within fifteen days, to the extent permitted by law, and will notify the JAO, HRO or disciplinary authority, as applicable, in writing of instructions for any further action.

All decisions by the Middlebury official and following a second review of the case are final, except in cases where the sanction is expulsion of a student. In cases of expulsion, the respondent may submit a final appeal to the president of Middlebury College within five business days of written notification of the appeal outcome. The complainant may submit a response to the respondent’s final appeal within five business days thereafter, to the extent permitted by law. The president of Middlebury College may reduce the sanction, if warranted, after consultation with the VPAA and a representative of the SMRP (in cases adjudicated by the SMRP) or the HRO and other Middlebury officials, as appropriate, in cases adjudicated by the HRO (e.g., the VPAA, the vice president for Language Schools, Schools Abroad and Graduate Programs, the Institute’s CAO, or other official, as applicable). Absent extenuating
circumstances, both parties will be notified of the final decision concurrently in writing within fifteen days of receiving the appeal, and the complainant’s response, if any, to the extent permitted by law.

(j) Alternative Dispute Resolution/Disposition Prior to a Final Determination

At all stages of the investigation and determination processes, Middlebury officials, when appropriate, may make available to complainants alternative dispute resolution methods for resolving complaints. In assessing whether alternative dispute resolution is appropriate, Middlebury officials may consider factors such as, for example, (1) the nature of the allegations, (2) the agreement of the complainant and the respondent, (3) other relevant factors such as any disability of the complainant or the respondent, or any history of misconduct or other policy violations by the respondent. A complainant will not be required to engage in alternative dispute resolution and may end the alternative dispute resolution process at any time. If the complainant ends the alternative resolution process or if the process is either not appropriate or is unsuccessful, Middlebury officials shall continue to respond to the allegations in accordance with the policy.

Mediation between the complainant and the respondent will not be pursued in cases that also involve allegations of sexual assault.

If at any point before or during the investigation, a student respondent chooses to accept responsibility for violating all policies under investigation, the JAO will issue an outcome (where the complaint would otherwise be adjudicated by the SMRP) or the HRO will issue a determination and refer the matter to the appropriate supervisory authority for the program at issue in accordance with Section 10.F.6 above (where the complaint would otherwise be adjudicated by the HRO). The JAO or appropriate supervisory authority may issue a sanction and/or take other action that is reasonably calculated to address the prohibited conduct and prevent its recurrence.

11. Scope of Oversight (Students)

Students will be held accountable for policy violations that take place between the time they first arrive on campus to begin their Middlebury program and their graduation, or completion of their program, or Middlebury’s confirmation of their resignation or expulsion. Conduct that takes place on or near Middlebury premises or property; occurs at or in connection with a Middlebury-related event; or occurs off-campus but may represent a threat to the safety of the Middlebury community or any of its members, the pursuit of its objectives, and/or the educational environment of others, may be subject to Middlebury’s disciplinary process. In cases where a student is found responsible for a policy violation while participating in any Middlebury program, the finding of responsibility may also be referred to the appropriate authority overseeing any additional Middlebury program in which the student is or will also be enrolled for other action as deemed appropriate (see also Section 10.F.6 above). This may include but is not limited to: further investigation; additional adjudication under existing policies (using only information gathered in the first disciplinary process, or using subsequently gathered information, or both, as deemed appropriate by the overseeing authority); disciplinary action; or other remedies or processes deemed appropriate by the authority overseeing the additional Middlebury program.

12. Pending Discipline (Students)

A student will not be permitted to graduate or receive academic credit (or certification, if applicable) for a program in which they are enrolled while a disciplinary matter is pending; the student’s graduation, credit or certification will be held in abeyance until the matter is resolved. Nor will a student ordinarily be permitted to withdraw with a disciplinary matter pending. If a student nevertheless withdraws with a disciplinary matter pending, the withdrawal will be considered a resignation from Middlebury, and the student will have given up the opportunity to return to Middlebury. Notation thereof will be made in the student’s permanent file that the student has withdrawn with a disciplinary matter pending, or with an appeal of a disciplinary outcome pending, as appropriate. In extraordinary circumstances, however, the appropriate supervisory authority may, after appropriate consultation, a review of the case, and consideration of Middlebury’s best interests, grant permission for a student to withdraw from Middlebury when a disciplinary matter is pending. Should the student be readmitted to Middlebury, the disciplinary matter must be resolved either before the student’s return, or immediately upon the student’s return.

13. Emergency Withdrawal, Suspension, or Expulsion (Students)
Middlebury reserves the right, notwithstanding and apart from the procedures described above, on an emergency basis, to suspend, expel or require to withdraw any student whose presence at Middlebury is determined by Middlebury authorities (e.g., the dean of the College; the dean of students, the vice president for Language Schools, Schools Abroad and Graduate Programs; or the appropriate supervisory authority for the Institute) to pose a danger to the Middlebury community or its members or to be unduly disruptive of College life, or who appears to be unwilling or incapable of effectively and/or safely participating in Middlebury’s academic or other programs and/or the residential life of the College. In cases of emergency suspension or required withdrawal, the conditions and procedures for readmission will be determined and communicated in writing to the student once the circumstances surrounding the student’s departure have been clarified.

Nothing in this policy should be read to limit Middlebury’s rights to terminate or suspend the employment of any staff or faculty member under otherwise-applicable Middlebury policies, practices, contracts, or procedures.

14. Training

Individuals conducting investigations and adjudications under this policy will receive training annually on the issues related to sexual misconduct, domestic violence, dating violence and/or stalking, and how to conduct a fair, impartial and equitable investigation and/or adjudication process that protects the safety of complainants and promotes accountability.

15. Plans or Directives Issued by Middlebury Officials

In any case in which a finding of sexual misconduct, domestic violence, dating violence, stalking or related retaliation has been issued, violation of a plan or directive to address the prohibited conduct may be grounds for further discipline.

16. Other Procedures

All witnesses interviewed in connection with an investigation under this policy are expected to cooperate fully in the investigation by providing complete, accurate, and truthful information. This policy prohibits intentionally making a false report or providing false or misleading information in any investigation under this policy. Complainants will not be deemed to have provided false or misleading information under this policy if their factual allegations are intended to be truthful and are made in good faith, regardless of whether the conduct complained of is ultimately found to constitute a policy violation.

Witnesses may 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 investigation interview confidential. Failure to cooperate fully with the investigator or other Middlebury official (including but not limited to providing false information, as described above) may subject the employee or student to the full range of disciplinary actions available to the supervising authority or responsible official in accordance with the program’s existing policies and/or contracts, as applicable, up to and including termination of employment or suspension or expulsion from Middlebury.

This policy is available online at http://www.middlebury.edu/about/handbook/misc/sexual_misconduct_dy_stalking. Printed copies of the policy are also available upon request at several Middlebury offices, including dean of the College, dean of students, JAO, HRO, Commons deans, dean of the Faculty, Public Safety, Human Resources, vice president for Language Schools, Schools Abroad and Graduate Programs, and the appropriate supervisory authority for the Institute or other Middlebury program. This policy may be amended from time to time; the policy published on Middlebury’s Web site should be consulted for any updates. The amended policy, as published through Middlebury’s Web site, shall supersede wholly any prior versions of the policy. Reasonable accommodations will be provided for persons with disabilities who need assistance in reviewing this policy and/or filing or pursuing a complaint under the policy, upon request.

A student may file a complaint of domestic violence, dating violence, stalking or related retaliation relating to the conduct of the HRO or JAO with the dean of the College or the vice president for Language Schools, Schools Abroad, and Graduate Programs, or the appropriate supervisory authority for the Institute, as appropriate given the program at issue. Faculty and staff may file complaints relating to the conduct of the HRO or JAO with the dean of
the College or the associate vice president for Human Resources and Organizational Development. These officials may appoint an individual to serve as a special alternate HRO or JAO, as appropriate.

17. The Human Relations and Judicial Affairs Officers and Record Keeping

The HRO and JAO will keep confidential records or reports under this policy 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. The HRO/JAO will track reports under this policy for statistical purposes and report to the President concerning the number, nature and disposition of such reports.

Information about the HRO and JAO is available at several college offices: Human Relations Office, dean of the College, dean of Students, Commons deans, dean of the Faculty, Public Safety, Human Resources, vice president for Language Schools, Schools Abroad and Graduate Programs, and the Institute’s HROs.


Appendix A

Applicable Definitions: State and Federal Law

VERMONT

Consent is defined to mean “words or actions by a person indicating a voluntary agreement to engage in a sexual act.”[3]

Sexual Assault: Sexual assault is engaging in a sexual act with another person and compelling the other person to participate in a sexual act:

(1) without the consent of the other person; or

(2) by threatening or coercing the other person; or

(3) by placing the other person in fear of imminent bodily injury.

No person shall engage in a sexual act with another person and substantially impair the ability of the other person by administering or employing drugs or intoxicants without the knowledge of or against the will of the other person.[4]

A “sexual act” means conduct between persons consisting of contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or any intrusion, however slight, by any part of a person’s body or object into the genital or anal opening of another.[5]

Domestic Violence: Domestic assault is attempting to cause or to willfully or recklessly cause bodily injury to a family or household member or to willfully cause a family or household member to fear imminent serious bodily injury.[6] “Household members” are those persons who, for any period of time, are living or have lived together, are sharing or have shared occupancy of a dwelling, are engaged in or have engaged in a sexual relationship, or minors or adults who are dating or have dated.[7]

Dating Violence: Domestic assault includes attempting to cause or to willfully or recklessly cause bodily injury to a person one is dating or has dated or to willfully cause such person to fear imminent serious bodily injury.[8] “Dating” is defined as a social relationship of a romantic nature. Factors to consider in determining whether a dating relationship exists or existed, include:

(a) the nature of the relationship;

(b) the length of time the relationship has existed;
(c) the frequency of the interaction between the parties; and

(d) the length of time since the relationship ended, if applicable.[9]

**Stalking:** “Stalking” is defined to mean engaging in a course of conduct which consists of following, lying in wait for, or harassing a person, when such conduct:

(a) serves no legitimate purpose; and

(b) would cause a reasonable person to fear for his or her physical safety or health or would cause a reasonable person to suffer emotional distress.

“Course of conduct” means a pattern of conduct composed of two or more acts over a period of time, however short, evidencing a continuity of purpose.

“Following” means maintaining, over a period of time, a visual or physical proximity to another person in such a manner as would cause a reasonable person to have a fear of unlawful sexual conduct, unlawful restraint, bodily injury or death.

“Lying in wait” means hiding or being concealed for the purpose of attacking or harming another person.

“Harassing” means actions directed at a specific person, or a member of the person’s family, which would cause a reasonable person to fear unlawful sexual conduct, unlawful restraint, bodily injury, or death, including but not limited to verbal threats, written, telephonic, or other electronically communicated threats, vandalism, or physical contact without consent.[10]

**CALIFORNIA**

**Consent** means positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved. A current or previous dating or marital relationship shall not be sufficient to constitute consent where consent is at issue in a prosecution for rape, forcible acts of sexual penetration, sodomy or oral copulation.[11] Evidence that a victim suggested, requested, or otherwise communicated to the accused that the accused use a condom or other birth control device, without additional evidence of consent, is not sufficient to constitute consent.[12]

**Sexual Assault:** “Rape” is defined as an act of sexual intercourse accomplished:

(1) where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent;

(2) against a person’s will by means of force, violence, duress, menace or fear of immediate and unlawful bodily injury to the person or another;

(3) where a person is prevented from resisting by any intoxicating or anesthetic substance, of any controlled substances, and this condition was known, or reasonably should have been known, to the accused; or

(4) where a person is incapable of resisting, and this is known to the accused, because the person:

(a) was unconscious or asleep;

(b) was not aware, knowing, perceiving, or cognizant that the act occurred;

(c) was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the accused’s fraud in fact; or
Any sexual penetration, however slight, is sufficient to complete the crime of rape. [14]

“Forcible acts of sexual penetration” is the act of causing penetration, however slight, of the genital or anal opening of any person or causing another person to so penetrate the accused’s or another’s person’s genital or anal opening for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, or by an unknown object. [15]

“Sexual battery” is the touching of an intimate part of another person if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse. “Touches” means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim. “Intimate part” means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female. [16]

**Domestic Violence:** Domestic violence means abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the accused has had a child or is having or has had a dating or engagement relationship. A “cohabitant” means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to:

1. sexual relations between the parties while sharing the same living quarters;
2. sharing of income or expenses;
3. joint use or ownership of property;
4. whether the parties hold themselves out as husband and wife;
5. the continuity of the relationship; and
6. the length of the relationship. [17]

“Abuse” means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another. [18] California recognizes the crime of spousal rape. [19]

**Dating Violence:** Domestic violence includes abuse committed against a person with whom the accused is having or has had a dating or engagement relationship. [20] A “dating relationship” means frequent, intimate associates primarily characterized by the expectation of affectional or sexual involvement independent of financial considerations. [21]

**Stalking:** “Stalking” means willfully, maliciously, and repeatedly following or harassing a person and making a credible threat with the intent to place that person in reasonable fear for his or her safety or the safety of his or her immediate family.

“Harassing” means to engage in a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments or terrorizes the person, and that serves no legitimate purpose.

“Course of conduct” means two or more acts occurring over a period of time, however short, evidencing a continuity of purpose.

“Credible threat” means a verbal or written threat, including that performed through an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct, made with the intent to place the person that is the target of the threat in reasonable fear for his or her safety or the safety of his or her family, and made with the apparent ability to carry out
the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her family. It is not necessary to prove that the accused had the intent to actually carry out the threat. The present incarceration of a person making the threat is not a bar to criminal prosecution.

“Electronic communication device” includes, but is not limited to, telephones, cellular phones, computers, video recorders, fax machines, and pagers.

“Immediate family” means any spouse, parent, child, any person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household [22].

**Human Relations Officers**
Susan Parsons Ritter (all Middlebury programs)
Human Relations Officer
DKE 101
Middlebury College
Middlebury, VT 05753
802.443.3289 sritter@middlebury.edu

Laura Carotenuto (all Middlebury Programs)
Alternate Human Relations Officer
Middlebury College
Human Resources Services Building
Middlebury, VT 05753
802.443.2012 lcaroten@middlebury.edu

Elizabeth Karnes Keefe (all Middlebury Graduate and Special Programs)
Alternate Human Relations Officer
Middlebury College Sunderland Language Center 210
Middlebury, VT 05753
802.443.5685 karnes@middlebury.edu

**Anti-Harassment/Discrimination Policy**

**A. General Provisions**

1. **Introduction**

Middlebury College (“Middlebury”) is committed to maintaining a diverse and inclusive campus environment where bigotry and intolerance are unacceptable. Discrimination and harassment, including sexual harassment, and related retaliation, as defined by applicable law and the corresponding terms of this policy, are antithetical to Middlebury’s mission. Middlebury strictly prohibits conduct that constitutes unlawful discrimination and harassment, including sexual harassment, as well as related retaliation, as defined below. Middlebury will take reasonable and appropriate remedial action to prevent unlawful discrimination, harassment, and related retaliation, eliminate any hostile environment, prevent its recurrence, and correct its discriminatory effects on the complainant and others, if applicable.

Except as otherwise specified herein, this Anti-Harassment/Discrimination Policy applies to faculty, staff, and students, as well as to others who participate in Middlebury programs and activities, including the undergraduate college, the Language Schools, the School of the Environment, MiddCore, Bread Loaf School of English, Bread Loaf Writers’ Conference, Middlebury College Schools Abroad, and the Monterey Institute of International Studies (“the Institute”). Procedures for filing and resolving complaints of unlawful discrimination and harassment, including sexual
harassment and related retaliation in such programs are set forth in Section B below; however, where applicable law mandates different procedures and/or policies with respect to Middlebury programs outside Vermont, those procedures and/or policies will apply.

Middlebury does not discriminate on the basis of sex in its education programs and activities, and Title IX of the Education Amendments of 1972 as amended ("Title IX"), as well as applicable state law, requires that it not discriminate in such a manner. Prohibited sex discrimination includes sexual harassment and sexual misconduct (which includes sexual assault and inappropriate sexual conduct) as defined by Middlebury’s policies. The dean of the College is Middlebury’s Title IX coordinator, and is responsible for coordinating Middlebury’s efforts to comply with and carry out its responsibilities under Title IX (contact information is listed in Appendix A). The Title IX coordinator’s responsibilities include overseeing all Title IX complaints and identifying and addressing any patterns or systemic problems that arise during the review of such complaints. Inquiries concerning the application of Title IX may be referred to the dean of the College or to the United States Department of Education Office for Civil Rights (contact information is listed in Appendix A). See also Middlebury’s Nondiscrimination Statement.

Middlebury has a separate Sexual Misconduct, Domestic Violence, Dating Violence and Stalking policy, which applies to all students, faculty and staff in all Middlebury programs. The policy is available at: http://www.middlebury.edu/about/handbook/misc/sexual_misconduct_dv_stalking. Printed copies are also available upon request at a number of Middlebury offices, including dean of the College, dean of students, Commons deans, dean of the Faculty, Public Safety, Human Resources, vice president for Language Schools, Schools Abroad and Graduate Programs, and the appropriate supervisory authority for the Institute or other Middlebury program.

All members of the Middlebury community (faculty, staff, and students) have the right to pursue discrimination and harassment complaints, including sexual harassment and related retaliation, beyond Middlebury, utilizing local, state, or federal enforcement agencies, including local and state police agencies, as appropriate, regardless of whether they choose to file a complaint under this policy (see contact information in Appendix A). The agencies listed in Appendix A can conduct impartial investigations, and facilitate conciliation, and if an agency finds that there is probable cause or reasonable grounds to believe that unlawful harassment, discrimination, or retaliation has occurred, it may take the case to court.

There are certain time deadlines for the filing of complaints with state and federal agencies and/or state or federal court. Therefore, individuals who choose to pursue harassment, discrimination, or retaliation charges beyond Middlebury’s procedures should contact these agencies or their attorney for further assistance (see Appendix A).

There are many resources available to individuals who are involved in some way with an incident of discrimination, retaliation, or harassment, including sexual harassment. Please see Appendices Δ & Ρ for contact information and resources.

Faculty, staff or students found to have violated this Anti-Harassment/Discrimination Policy may be subject to the full range of disciplinary actions, as applicable, up to and including termination of employment, suspension, or expulsion.

2. Definitions

Harassment

Harassment is defined as verbal, written, visual, or physical conduct based on or motivated by an individual's actual or perceived sex, sexual orientation, gender identity or expression, race, creed, color, place of birth, ancestry, ethnicity, religion, national origin, age, disability, marital status, or other characteristics as defined and protected by law in the location where a particular program is operating, that has the purpose or effect, from the point of view of a reasonable person, of objectively and substantially:

a. undermining and detracting from or interfering with an individual's educational or work performance or access to Middlebury resources; or
b. 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, use of epithets, stereotypes, comments, gestures, threats, graffiti, display or circulation of written or visual materials, taunts on manner of speech, and negative reference to customs when such conduct is based on or motivated by one or more of the protected characteristics identified above, or other characteristics as defined and protected by applicable law.

In Middlebury’s Vermont programs, harassment may also include conduct of the type described above that is based on or motivated by a student's family member's actual or perceived race, creed, color, national origin, marital status, sex, sexual orientation, gender identity, or disability, which has the type of purpose or effect described above.

With respect to Middlebury programs operating in states other than Vermont (e.g., California, Nevada, New Mexico, Rhode Island and Washington, D.C.), harassment shall be defined as stated in this section unless the local law applicable to the program at issue mandates a broader definition, in which case such law will apply.

**Sexual Harassment**

Harassment may also include 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:

a. submission to that conduct is made either explicitly or implicitly a term or condition of employment or educational status; or

b. submission to or rejection of such conduct is used as a component of or as the basis for employment decisions (such as wages, evaluation, advancement, assigned duties, or shifts) or educational/student life-related decisions (such as grades, class assignments, or letters of recommendation, or residence-related decisions) affecting an individual.

Other 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 or reasonably should be 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 reasonably should be known that the behavior is unwelcome;
- continuing to write sexually suggestive notes or letters if it is known or reasonably 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 reasonably 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 reasonably should be known that the person does not welcome such behavior;
- 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.

**Discrimination**

Middlebury complies with all applicable provisions of state and federal law which prohibit discrimination in employment, or in admission or access to its educational or extracurricular programs, activities, or facilities. Discrimination is defined as conduct directed at an individual based on his/her race, creed, color, place of birth, ancestry, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, marital status, service in the armed forces of the United States, positive HIV-related blood test results, genetic information, or against qualified individuals with disabilities on the basis of disability and/or any other status or characteristic as defined and to the extent protected by applicable law.
With respect to Middlebury programs operating in states other than Vermont (e.g., California, Nevada, New Mexico, Rhode Island, and Washington D.C.), discrimination shall be defined as stated in this section unless the local law applicable to the program at issue mandates a broader definition, in which case such law will apply.

Human Relations Officer

The Human Relations Officer (“HRO”) is the administrator responsible for coordinating training, overseeing investigations, and adjudicating complaints under this policy. The HRO is also the Title IX Coordinator’s designee responsible for overseeing investigations and adjudicating sexual harassment complaints under this policy, as well as sexual misconduct complaints under Middlebury’s separate Policy Against Sexual Misconduct, Domestic Violence, Dating Violence and Stalking, in accordance with the procedures stated therein. Contact information may be found in Appendix A.

Title IX Coordinator

The dean of the College serves as Middlebury’s Title IX Coordinator for the purposes of coordinating Middlebury’s efforts to comply with and carry out its responsibilities under Title IX. The Title IX Coordinator’s responsibilities include overseeing the process for handling all Title IX complaints and identifying and addressing any patterns or systemic problems that arise during the review of such complaints. For more information see Appendix A and Appendix C.

Complainant

A complainant is usually an individual who has alleged a violation(s) of this policy. In some cases (such as, e.g., cases in which a person involved in an incident of an alleged policy violation does not wish to participate in the process but Middlebury decides that the alleged misconduct needs to be addressed), Middlebury may serve as the complainant or may pursue an investigation and adjudication under this policy without a designated complainant. In these cases, Middlebury may extend the full rights of the complainant as defined in this policy to affected parties as deemed appropriate by the HRO.

Respondent

A respondent is an individual whose alleged conduct is being investigated to determine if it is in violation of this policy or other Middlebury policies, if applicable. See also Scope of Oversight and Pending Discipline at the end of this policy for more information.

Confidential Resources

Confidential resources include the staff of the Parton Center for Health and Wellness, the staff of the Chaplain’s office, Middlebury Safe and Confidential Advocates ("MiddSafe") or other medical, counseling, support or religious personnel and volunteers who are required by law to maintain confidentiality. For more information, see Section “4. Confidentiality,” below.

No Contact Order

When harassment or other forms of interpersonal misconduct have been alleged, or when otherwise deemed appropriate under the circumstances, the dean of the College, dean of students, Commons deans, JAO, HRO, Public Safety staff, or appropriate supervisory authority for the program at issue may issue No Contact Orders to the persons involved, whether or not disciplinary action is taken. A No Contact Order is used to restrict encounters between individuals. While a No Contact Order in and of itself does not constitute discipline and will not appear in an employee’s personnel file or on a student’s disciplinary record, refusal to adhere to the order after written or verbal notification of its terms is prohibited and may result in disciplinary action.

No Trespass Notice
A No Trespass Notice prohibits the presence of an individual on Middlebury property, or other properties on which Middlebury programs are occurring. No Trespass Notices are legally enforceable and may lead to the arrest of individuals in violation.

Relief from Abuse Orders, Protection Orders, Restraining Orders

In the United States, a relief from abuse order, also called a protective order or restraining order, is a court order that is designed to stop violent, harassing and threatening behavior. It can also stop the respondent from any contact or communication with the complainant, and protect the complainant and the complainant’s family members, as appropriate, from the respondent. Relief from Abuse Orders may be awarded by courts in the United States on a temporary basis, in which case they are instituted by a judge immediately and reviewed within approximately two weeks through a court hearing process for consideration to be instituted permanently. Similar resources may exist in the other countries in which Middlebury operates programs. For more information, please see Appendix C.

Days

Unless otherwise noted, “days” indicates calendar days, regardless of whether the majority of Middlebury’s administrative offices are open. “Business days” indicates days on which the majority of Middlebury’s administrative offices are open, and generally connotes Mondays through Fridays.

3. Retaliation

Retaliating directly or indirectly against a person who has in good faith made a report under this policy or participated in an investigation of a complaint of any type of discrimination or harassment as defined above is prohibited. Retaliation includes but is not limited to ostracizing the person, pressuring the person to drop or not support the complaint or to provide false or misleading information, or engaging in conduct that may reasonably be perceived to affect adversely that person’s educational, living, or work environment, threatening, intimidating, or coercing the person, or otherwise discriminating against any person for exercising their rights or responsibilities under this policy. Depending on the circumstances, retaliation may also be unlawful. Retaliation under this policy may be found whether or not the complaint is ultimately found to have merit. Complaints of retaliation should be reported under the procedures described below.

4. Confidentiality

People who have concerns about discrimination, harassment, or related retaliation often ask for assurances about confidentiality. Middlebury encourages individuals to report incidents of discrimination, harassment and related retaliation so that they can obtain support and information and so that Middlebury can respond appropriately. Certain Middlebury employees may maintain confidentiality, but most cannot. Although strict confidentiality may therefore not be guaranteed, in all cases Middlebury will handle information in a sensitive manner and will endeavor to protect the privacy of individuals to the extent it can do so consistent with its obligations to respond to reports of discrimination, harassment and/or related retaliation.

This section is intended to inform students, faculty, and staff of the various reporting and confidential disclosure options available to them, so that they can make informed choices about where to go for help.

(A) Confidential Resources

A confidential resource is an individual who is legally and ethically bound to keep confidential all information shared with them in the course of providing counsel and support, except under the circumstances noted below. Middlebury respects that the decision to come forward may be difficult and that individuals may wish to seek assistance from someone who can provide confidential information and support, and who can provide assurances that what is disclosed will not be acted on except in the circumstances outlined below. (For a list of confidential resources, see Appendix B, below).

In general, the law recognizes and protects the confidentiality of communications between a person seeking care and a medical or mental health professional, religious advisor or MiddSafe Advocate. The medical, mental health, religious professionals and MiddSafe advocates at Middlebury and their off-campus counterparts respect and protect
confidential communications from students, faculty, and staff to the extent they are legally able to do so. These professionals may have to breach a confidence, however, when they perceive a serious risk of danger or threat to any person or property. In addition, medical and mental health professionals may be required by law to report certain crimes (e.g., any allegation of sexual and/or physical abuse of a person under 18). These exceptions to confidentiality are governed by the law of the state in which the confidential resource is located.

An individual who speaks to a confidential resource must understand that, if they want to maintain confidentiality, Middlebury will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the individual who is alleged to have violated this policy.

(B) Non-Confidential Resources

Non-confidential resources are all faculty or staff members, including ombudpersons and residential life staff, who are not medical or counseling professionals, clergy, or MiddSafe Advocates, and are therefore not permitted to honor requests for confidentiality. Non-confidential faculty or staff who learn of an incident of discrimination, harassment or related retaliation involving a student are required to report that information to the HRO. (See Section B.1. for more information).

Faculty and staff who are “Campus Security Authorities” are required to report certain crimes to the Department of Public Safety for the purpose of compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.

Employees with supervisory responsibility are expected to report all incidents of harassment, discrimination and related retaliation involving employees to the HRO and/or to Human Resources.

General inquiries to Middlebury 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. Otherwise, individuals who want to maintain confidentiality should seek a confidential resource.

(C) Evaluating Requests for Confidentiality

If a complainant insists that his or her name or other identifiable information not be revealed, or asks that Middlebury not investigate or take action against the person alleged to have violated this policy, Middlebury will evaluate the request in the context of its responsibility to provide a safe and nondiscriminatory environment for that individual as well as all students, staff, and faculty. Thus, Middlebury may weigh the request for confidentiality against a number of factors, including but not limited to the seriousness of the alleged conduct; circumstances that suggest there is a risk of repeated conduct; whether there have been other discrimination, harassment, or retaliation complaints about the same individual; and the extent of any adverse impact or threat to the complainant and/or the Middlebury community.

(D) Disclosure During Internal Investigations and Adjudications

Middlebury will handle information related to alleged violations of this policy with sensitivity and discretion. However, Middlebury may need to disclose information relating to an incident (including the identity of parties, witnesses or others) to the extent necessary to conduct a thorough, fair, and impartial investigation and adjudication process for all involved parties.

(E) Disclosure Required by Law

Middlebury will not include the names of complainants or other identifying information in publicly available reports that are compiled as required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. Middlebury is also part of a larger community and context. If there is an independent investigation, lawsuit, or criminal proceeding related to a discrimination, harassment or related retaliation matter, those involved or others may be required by law to provide testimony or documents (e.g., investigation reports, witness statements, determinations issued under this policy and any other information gathered or obtained in the course of a particular matter).

(F) Disclosure to Law Enforcement
In certain circumstances, Middlebury may need to report an incident to law enforcement authorities. Such circumstances include but are not limited to incidents that warrant the undertaking of safety and security measures for the protection of the individual and/or the campus community, or situations in which there is clear and imminent danger and/or a weapon may be involved. Complainants may choose to notify authorities directly with or without Middlebury’s assistance, or may choose not to notify such authorities.

5. Emergencies

If the safety of any individual is an immediate concern, involved parties or observers in the United States should contact local law enforcement by dialing 911. Involved parties or observers in other countries should notify local law enforcement and their program director.

B. Procedures for Addressing Harassment, Discrimination and Related Retaliation

1. Reporting Requirements for Staff and Faculty

All members of Middlebury’s community are expected to promote an environment free from prohibited discrimination, harassment, including sexual harassment, and related retaliation.

Any faculty or staff member who learns of an incident of discrimination, harassment, or related retaliation involving a student must report this information to Middlebury’s Human Relations Officer (see Appendix A for contact information), or the appropriate dean or program director in cases involving the Language Schools, Schools Abroad, Bread Loaf, the Institute, MiddCore, School of the Environment, or other Middlebury program, as applicable, unless their status as a confidential resource precludes this disclosure. Confidential resources include the staff of the Parton Center for Health and Wellness, the staff of the Chaplain’s Office, MiddSafe Advocates, or other medical, counseling, support or religious personnel and volunteers who are required by law to maintain confidentiality. Please see Section “4. Confidentiality” for more information.

Employees with supervisory responsibility are expected to report incidents of discrimination, harassment, including sexual harassment, or retaliation, and take appropriate remedial action should such matters come to their attention. Supervisors should report any complaints or suspected acts of harassment, discrimination, or retaliation (even if they do not involve direct reports) to the HRO in accordance with Section 2, below, and/or to Human Resources. Depending upon the circumstances of a given situation, supervisors may be responsible for taking steps such as, by way of example but not limitation, 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, discrimination, and/or retaliation, or pursuing complaints under the complaint procedures described here.

Failure to report or address harassment, discrimination, or retaliation complaints or suspected acts of harassment, discrimination, or retaliation appropriately in accordance with this section may be considered a violation of Middlebury’s policy.

2. Complaint Procedures

Any Middlebury student, faculty member or staff member who has reasonable cause to believe that discrimination or harassment, including sexual harassment, has occurred or is occurring, or who believes that a student, faculty member or staff member has been subjected to retaliation for having brought or supported a complaint of discrimination or harassment, is encouraged to bring that information to the immediate attention of the HRO who is designated to receive such reports in the Middlebury program at issue.[2]

If the designated HRO is unavailable, or if the HRO has a conflict of interest, the report should be made to the designated alternate HRO for the program at issue. The alternate shall have the same authority as the designated HRO to oversee investigations and adjudicate harassment, discrimination, and retaliation complaints. Appendix A to this policy lists the names and contact information for offices and/or individuals serving as Human Relations Officers and alternate Human Relations Officers in Middlebury’s various programs and locations.
Middlebury encourages students, faculty and staff to report instances of unwelcome protected-characteristic-related conduct (including unwelcome conduct of a sexual nature) even if the conduct is not sufficiently severe such that it undermines and detracts from or interferes with an individual’s education, work performance, or access to Middlebury resources, or creates an intimidating, hostile, or offensive educational, work, or living environment. Middlebury encourages such reports so that the behavior can be addressed before it creates a hostile environment for the affected individual. In such instances, the HRO and/or other Middlebury officials, to the extent appropriate, will address the conduct in a manner that is reasonably calculated to prevent its reoccurrence.

When the HRO receives actual notice—i.e., a written or oral complaint or report directed to the HRO—of conduct that may constitute prohibited discrimination or harassment (including sexual harassment) or related retaliation as defined by this policy, Middlebury will initiate the following process, except as otherwise provided in subsection 5, below:

a. The HRO will promptly determine initially whether the report or complaint alleges conduct that is prohibited by this policy and whether an investigation and adjudication should proceed.

b. If the HRO determines that the report or complaint does fall within the scope of this policy and that an investigation and adjudication should proceed, a copy of the policy will be provided to the complainant and the respondent and the parties will be notified that Middlebury is investigating the possibility that the respondent has violated this policy (absent extenuating circumstances). The HRO will then, individually or in conjunction with other Middlebury offices or individuals (including, if warranted, independent investigators), promptly and equitably conduct or supervise an investigation that is appropriate under the circumstances. The investigation will be conducted in a prompt, thorough, fair, equitable, and impartial manner. The parties will not be permitted to personally question or cross-examine each other during the course of the investigation.

The investigator is authorized to contact any and all individuals; Middlebury recognizes, however, that individuals who are bound by legal privileges may not be able to disclose privileged information, unless an exception applies. The investigator is authorized to access relevant records, except those legally protected as confidential or privileged, and may collect any additional evidence relevant to the complaint. The nature and scope of the investigation is within the sole discretion of the investigator and/or the HRO.

The parties may retain legal counsel at any time, although legal counsel is not permitted to participate in Middlebury’s investigation and adjudication process. Attorneys who wish to communicate about a case may contact Middlebury’s legal counsel directly.

In cases where the student is a respondent, if at any point prior to or during the investigation and adjudication process, the HRO becomes aware that other Middlebury policies may have been violated in relation to the matter under investigation, these alleged policy violations may also be resolved through the investigation and adjudication process in this policy. The decision to investigate and adjudicate other alleged policy violations is within the sole discretion of the HRO. In all cases the parties will be notified if the HRO determines that additional alleged policy violations will be investigated and adjudicated in accordance with the procedures set forth herein.

c. The HRO, vice president for academic affairs or designee (“VPAA”), Human Resources Department, vice president for Language Schools, Schools Abroad and Graduate Programs, dean of the College, dean of students, Commons dean(s), judicial affairs officer, public safety staff; or other supervisory authority for the program at issue may also at any time take appropriate steps, including by way of example only, issuance of No Contact Orders, temporary changes in assignment of duties or housing, changes in class schedules or class requirements, or other accommodations, as appropriate, to protect complaining parties on an interim basis.

d. After the investigation is completed, the investigator shall issue a report to the HRO, together with recommended findings, based on a preponderance of the evidence standard, i.e., whether it was more likely than not that the policy (or other Middlebury policies, if applicable) was violated. The report may be issued orally or in writing depending on the nature and complexity of the information.

e. The HRO is not bound by the investigator’s report. Rather, it is advisory to the HRO. The HRO may accept or reject the investigator’s recommended finding in whole or in part, and may request additional relevant information before making a determination. The HRO should avoid duplicating the efforts of the investigator, as well as accepting the investigator’s recommended finding without careful review of all of the evidence.
f. Either party may choose to meet individually with the HRO prior to the HRO’s determination. The HRO may also request an individual meeting with either party or any other person(s) as appropriate.

g. After review of the investigator’s report and recommended finding, the HRO shall issue a determination as to whether prohibited discrimination, harassment, and/or retaliation (or other Middlebury student conduct policies, if applicable) occurred. The HRO’s determination will be based on a preponderance of the evidence standard.

h. If the HRO finds that a staff or faculty member has engaged in conduct that violates this policy the HRO will refer the matter to the appropriate supervisory authority (e.g., the Middlebury College VPAA, the Institute’s Chief Academic Officer or designee [“the Institute’s CAO”], or the vice president for Language Schools, Schools Abroad, and Graduate Programs in the case of a faculty member, as applicable to the program at issue, and/or the Middlebury College Human Resources Department, or the Institute’s Human Resources Department, as applicable, in the case of a staff member). The supervisory authority may impose disciplinary action under existing policies and/or contracts, as applicable (e.g., verbal warnings, written warnings, written reprimands, or termination of employment), or other action as deemed appropriate under the circumstances.

i. If the HRO finds that a student has engaged in conduct that violates this policy (or other Middlebury policies under investigation, if applicable), the HRO will refer the matter to the supervisory authority for the program in which the student is enrolled at the time of the misconduct and the supervisory authority for any other Middlebury program in which the student is or will be enrolled (e.g., the dean of students, dean of the Language Schools, dean of International Programs, appropriate Institute dean, director of the Bread Loaf School of English, director of the Bread Loaf Writer’s Conference, director of MiddCore, director of the School of the Environment, etc.), as applicable, for disciplinary action. Such disciplinary action could include warnings, written reprimands, probationary status, official college discipline, or suspension or expulsion from any or all Middlebury program(s) in which the student is or will be enrolled or participating, or other action as deemed appropriate under the circumstances (e.g. remedies applied to the respondent to address the needs of the complainant, including but not limited to room changes, class changes, building restrictions, extracurricular activity restrictions, modification of No Contact Orders to favor the complainant, and other actions to preserve the rights of the complainant to a discrimination-free environment). Additional non-disciplinary outcomes, such as extending and modifying mutual No Contact Orders, may also be imposed regardless of the finding.

If the conduct occurred during the course and scope of the student’s employment at Middlebury, the matter will be referred jointly to the Human Resources Department and the appropriate supervisory authority for the program(s) at issue, as applicable, for disciplinary action up to and including termination of employment and expulsion from Middlebury, or other action as deemed appropriate under the circumstances (see above).

j. To the extent permitted by law, the complainant and respondent will be afforded the same rights and opportunities throughout the investigation and adjudication process, including the opportunity to present witnesses and other evidence. However, the decision to interview particular witnesses or consider evidence offered by the parties is within the sole discretion of the HRO and/or investigator.

k. The complainant and respondent will ordinarily be notified of the HRO’s determination as to whether there was a policy violation. In sexual harassment cases involving student complainants, both parties will be notified of the HRO’s determination simultaneously in writing, to the extent permitted by law. However, information regarding discipline or sanctions will not be shared with any complainant under this policy except as permitted or required by law.[3]

3. Time Frames for the Investigation and Determination

Absent extenuating circumstances, the investigation of a report or complaint under this policy will ordinarily be completed within 45 days from the time a report or complaint is made to the HRO. This time period may be shorter or longer depending on the circumstances, including but not limited to the complexity of the case and the availability of witnesses. If either the complainant or respondent would like to request an extension of this time frame, a request with a description of the reasons for the request should be directed to the HRO. The HRO will notify the other party, make a decision, and inform the parties and any other individual who needs to know, of that decision. If extenuating circumstances are present, the HRO may also decide independently to extend this general 45-day time frame, and will inform the parties, and any other individual who needs to know, of any such decision.
Absent extenuating circumstances, the HRO will issue a determination within 10 days after receipt of the investigator’s complete report. The 10-day period may be extended if the HRO determines that further information or investigation is needed.

Absent extenuating circumstances, the appropriate supervisory authority or responsible official will issue a decision regarding discipline or other appropriate action, to the extent applicable, within 5 days after the HRO issues a determination. In faculty or staff matters, this time period may be shorter or longer depending on the circumstances, including any contractual rights of the parties.

Middlebury will not wait for the conclusion of a criminal investigation or proceeding to begin its own investigation and resolve complaints under this policy. Middlebury will, however, comply with valid requests by law enforcement for cooperation in a criminal investigation. As such, Middlebury may need to delay temporarily an investigation under this policy while law enforcement is in the process of gathering evidence. Once law enforcement has completed gathering evidence, Middlebury will promptly resume and complete its investigation. Middlebury may also take interim measures to ensure the safety and well-being of the complainant and the school community while law enforcement is gathering evidence.

4. Appeals

In cases where the respondent is a student, the complainant and respondent each has the right to appeal the outcome under the circumstances described below. The purpose of an appeal is to review the adjudication process.

Grounds

Appeals are accepted on the basis of one or more of the following:

- discovery of significant new factual material not available to the HRO that could have affected the original outcome; however, deliberate omission of factual information by the appealing party is not a ground for an appeal;
- procedural error where the error prevented fundamental fairness;
- abuse of discretion in the issuance of a sanction, meaning that the supervisory authority imposed a sanction significantly disproportionate to the offense.

The right of appeal is only available to a respondent or complainant who participated in the investigative process.

Procedures

An appeal must be made in writing to the appellate officer for the program in connection with which the finding of responsibility and sanction were made. Therefore, an appeal must be directed to the VPAA (complaints against undergraduate students and complaints against MiddCore students), the vice president for Language Schools, Schools Abroad and Graduate Programs (complaints against Language Schools, Schools Abroad, Bread Loaf School of English, Bread Loaf Writers’ Conference, and School of the Environment students) or the Institute’s CAO (complaints against Institute students), as applicable.

In cases where the HRO refers the matter to the supervisory authority for the program in which the student is enrolled at the time of the misconduct and to the supervisory authority for any other Middlebury program in which the student is or will be enrolled (“other Middlebury program(s)”), for further disciplinary action in accordance with Section B.2.i., above, an appeal of the sanction(s) issued in the other Middlebury program(s) can also be made to the appellate officer for that other Middlebury program. Appeals regarding the finding of responsibility by the HRO must be made to the appellate officer for the program in which the student was enrolled at the time of the misconduct.
Appeals must be made within 5 days of receipt of the HRO’s determination or within 5 days of receipt of disciplinary action, if applicable, and must include the grounds for appeal and an outline of any supporting evidence. Appeals transmitted via e-mail will be considered to be “in writing” for the purposes of this section.

The Middlebury official responsible for hearing the appeal (i.e., VPAA, vice president for Language Schools, Schools Abroad and Graduate Programs, or the Institute’s CAO, as applicable) will invite an informational response to the appeal from the HRO, the appropriate disciplinary authority, if applicable, and the other party (to the extent permitted by law), who may respond within 5 business days of the request. The Middlebury official may request assistance from the original investigator, or from a new investigator, or any other relevant individual, as necessary.

The Middlebury official may deny the appeal, or if one or more of the appeal grounds have been met, may:

- return the case to the original HRO or the appropriate disciplinary authority for reconsideration; or
- appoint an Alternate HRO or disciplinary authority to review the case, which will ordinarily occur when the original outcome was deemed to be based on an abuse of discretion.

It is the responsibility of the Middlebury official to determine which aspects of the case merit a new review, and to direct the HRO or disciplinary authority, as appropriate, accordingly.

Absent extenuating circumstances, the Middlebury official will notify the complainant and respondent of the appeal decision simultaneously in writing within 15 days, to the extent permitted by law, and will notify the HRO in writing of instructions for any further action.

All decisions by the Middlebury official and following a second review of the case are final, except in cases where the sanction is expulsion of a student. In cases of expulsion, the respondent may submit a final appeal to the president of Middlebury College within 5 business days of written notification of the appeal outcome. In sexual harassment cases, the complainant may submit a response to the respondent’s final appeal within 5 business days thereafter, to the extent permitted by law. The president of Middlebury College may reduce the sanction, if warranted, after consultation with the HRO and the VPAA, or the vice president for Language Schools, Schools Abroad and Graduate programs, or the Institute’s CAO, as applicable. Absent extenuating circumstances, the president will inform the respondent of the final decision within 15 days of receiving the appeal. In sexual harassment cases, both parties will be notified of the final decision simultaneously in writing within 15 days of receiving the appeal, and the complainant’s response, if any, to the extent permitted by law.

5. Alternative Dispute Resolution/Disposition Prior to a Final Determination

At all stages of the investigation and determination processes, Middlebury officials, when appropriate, may make available to complainants alternative dispute resolution methods for resolving complaints. In assessing whether alternative dispute resolution is appropriate, Middlebury officials may consider factors such as, for example, (1) the nature of the allegations, (2) the agreement of the complainant and the respondent, (3) other relevant factors such as any disability of the complainant or the respondent, or any history of misconduct or other policy violations by the respondent. A complainant will not be required to engage in alternative dispute resolution and may end the alternative dispute resolution process at any time. If the complainant ends the alternative resolution process or if the process is either not appropriate or is unsuccessful, Middlebury officials shall continue to respond to the allegations in accordance with the policy.

If at any point before or during the investigation, a student respondent chooses to accept responsibility under this policy, the HRO may issue a determination and refer the matter to the appropriate supervisory authority for the program at issue in accordance with Section B.2., above. The supervisory authority may issue a sanction and/or take other action that is reasonably calculated to address the harassment or discriminatory conduct and prevent its recurrence.

6. Scope of Oversight (Students)

Students will be held accountable for policy violations that take place between the time they first arrive on campus to begin their Middlebury program and their graduation, or completion of their program, or Middlebury’s confirmation of their resignation or expulsion. Conduct that takes place on or near Middlebury premises or property; occurs at or
in connection with a Middlebury-related event; or occurs off-campus but may represent a threat to the safety of the Middlebury community or its members, the pursuit of its objectives, and/or the educational environment of others, may be subject to Middlebury’s disciplinary process. In cases where a student is found responsible for a policy violation while participating in any Middlebury program, the finding of responsibility may also be referred to the appropriate authority overseeing any additional Middlebury program in which the student is or will also be enrolled for other action as deemed appropriate (see also Section B.2.i., above). This may include but is not limited to: further investigation; additional adjudication under existing policies (using only information gathered in the first disciplinary process, or using subsequently gathered information, or both, as deemed appropriate by the overseeing authority); disciplinary action; or other remedies or processes deemed appropriate by the authority overseeing the additional Middlebury program.

7. Pending Discipline (Students)

A student will not be permitted to graduate or receive academic credit (or certification, if applicable) while a disciplinary matter is pending; the student’s graduation, credit, or certification will be held in abeyance until the matter is resolved. Nor will a student ordinarily be permitted to withdraw with a disciplinary matter pending. If a student nevertheless withdraws with a disciplinary matter pending, the withdrawal will be considered a resignation from Middlebury, and the student will have given up the opportunity to return to Middlebury. Notation thereof will be made in the student's permanent file. In extraordinary circumstances, however, the appropriate supervisory authority may, after consultation with the HRO, a review of the case, and consideration of the interests of the complainant, Middlebury, and other impacted parties, grant permission for a student to withdraw from Middlebury when a disciplinary matter is pending. Should the student be readmitted, the disciplinary matter must be resolved either before the student's return, or immediately upon the student’s return.

8. Emergency Withdrawal, Suspension, or Expulsion

Middlebury reserves the right, notwithstanding and apart from the procedures described above, on an emergency basis, to suspend, dismiss, or require to withdraw any student whose presence at Middlebury is determined by Middlebury authorities (e.g., the dean of the College; the dean of students, the vice president for Language Schools, Schools Abroad and Graduate Programs; or the appropriate supervisory authority for the Institute) to pose a danger to the Middlebury community or its members or to be unduly disruptive of College life, or who appears to be unwilling or incapable of effectively and/or safely participating in Middlebury’s academic or other programs and/or the residential life of the College. In cases of emergency suspension or required withdrawal, the conditions and procedures for readmission will be determined and communicated in writing to the student at the time of the student’s departure or shortly thereafter.

9. Plans or Directives Issued by the Human Relations Officer

In any case in which a finding of harassment, discrimination, or retaliation has been issued, violation of a plan or directive to address the harassment, discrimination, or retaliation may be grounds for further discipline.

10. Other Procedures

All witnesses interviewed in connection with an investigation under this policy are expected to cooperate fully in the investigation by providing complete, accurate, and truthful information. This policy prohibits intentionally making a false report or providing false or misleading information in any investigation under this policy. Complainants will not be deemed to have provided false or misleading information under this policy if their factual allegations are intended to be truthful and are made in good faith, regardless of whether the conduct complained of is ultimately found to constitute a policy violation.

Witnesses may 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 investigation interview confidential. Failure to cooperate fully with the investigator or other Middlebury official (including but not limited to providing false information, as described above) may subject the employee or student to the full range of disciplinary actions available to the supervising authority or responsible official in accordance with the program’s existing policies and/or contracts, as applicable, up to and including termination of employment or suspension or expulsion from Middlebury.
This policy is available online at go/antiharassment. Printed copies of the policy are also available upon request at several Middlebury offices, including the HRO, dean of the College, dean of students, Commons deans, dean of the Faculty, Public Safety, Human Resources, vice president for Language Schools, Schools Abroad and Graduate Programs, program directors, and the Institute’s HRO. This policy may be amended from time to time; the policy published on Middlebury’s Web site should be consulted for any updates. The amended policy, as published through Middlebury’s Web site, shall supersede wholly any prior versions of the policy. Reasonable accommodations will be provided for persons with disabilities who need assistance in reviewing this policy and/or filing or pursuing a complaint under the policy, upon request.

A student may file a complaint of discrimination, harassment, including sexual harassment, or related retaliation relating to the conduct of the HRO with the dean of the College or the vice president for Language Schools, Schools Abroad, and Graduate Programs, or the appropriate supervisory authority for the Institute, as appropriate given the program at issue. Faculty and staff may file complaints relating to the conduct of the HRO with the dean of the College or the associate vice president for Human Resources and Organizational Development. These officials may appoint an individual to serve as a special alternate HRO, as appropriate.

11. The Human Relations Officer and Record Keeping

The HRO will keep confidential records or reports under this policy 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. The HRO will track reports under this policy for statistical purposes and report to the President concerning the number, nature and disposition of such reports.

Information about the HRO is available at several college offices: Human Relations Office, dean of the College, dean of Students, Commons deans, dean of the Faculty, Public Safety, Human Resources, vice president for Language Schools, Schools Abroad and Graduate Programs, program directors, and the Institute’s HRO.

C. Policy on Sexual Relationships Between Faculty and Students

The integrity and trust of the faculty-student relationship is central to Middlebury’s mission. 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 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 Anti-Harassment/Discrimination Policy.

D. Intellectual Inquiry and Debate

Middlebury is a community of learners and as such recognizes and affirms that free intellectual inquiry, debate, and constructive dialogue are vital to Middlebury’s academic mission and must be protected even when the views expressed are unpopular or controversial. This Anti-Harassment/Discrimination 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, color, ethnicity, religion, marital status, place of birth, ancestry, national origin, age, or disability, when in the judgment of a reasonable person they arise appropriately and with respect for the dignity of others. Middlebury 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.
[1] Middlebury’s Vermont undergraduate campus program includes a confidential resource called MiddSafe; for more information, see http://www.middlebury.edu/offices/health/saoc/middsafe

[2] Under Title IX, third parties are protected from sexual harassment arising out of Middlebury’s programs or activities. Thus, any third party who participates in any Middlebury College program or activity may report a complaint of sexual harassment under this policy (see Section B.2., above) or a complaint of sexual misconduct under Middlebury’s Policy Against Sexual Misconduct, Domestic Violence, Dating Violence and Stalking. Also, Middlebury will take appropriate action, to the extent practicable, in response to a report or complaint of sexual harassment and/or sexual misconduct by a student, faculty member, or staff member against a third party.

[3] Disclosure of the sanction imposed on the respondent will be permitted in sexual harassment cases when the sanction directly relates to the complainant (e.g., No Contact Orders, building restrictions, classroom changes or where the respondent is prohibited from attending Middlebury for a period of time).


APPENDIX A

Contact Information

Title IX Coordinator*
Shirley M. Collado
Dean of the College
Middlebury College
Old Chapel
Middlebury, VT 05753
802.443.5382
scollado@middlebury.edu

Human Relations Officers**

Middlebury College (All Middlebury Programs)
Susan P. Ritter
Middlebury College
DKE 101
Middlebury, VT 05753
802.443.3289
sitter@middlebury.edu

Alternate Human Relations Officer (All Middlebury Programs)
Laura Carotenuto
Middlebury College
Human Resources
Service Building
Middlebury, VT 05753
802.443.2012
lcaroten@middlebury.edu

Alternate Human Relations Officer (Middlebury Language Schools, Schools Abroad, and Graduate Programs)
Elizabeth Karnes Keefe, Assistant Dean
Middlebury College
Sunderland Language Center 210
Middlebury, VT 05753
802.443.5685
karnes@middlebury.edu
Alternate Human Relations Officers (Monterey Institute of International Studies)
Ashley Fera Arrocha (Title IX Coordinator Designee for the Institute)
Assistant Dean of Student Services
Office of Student Services
440 Van Buren Street
Monterey, CA 93940
831.647.4654
arrocha@miis.edu

Michael Ulibarri
Human Resources Manager
Human Resources Department
460 Pierce Street
Monterey, CA 93940
831.647.6404
mulibarr@miis.edu

Judicial Affairs Officer***
Karen S. Guttentag
Associate Dean for Judicial Affairs and Student Life
Middlebury College
McCullough 138
802.443.2024

Middlebury Language Schools, Schools Abroad and Graduate Programs Contacts
Michael E. Geisler
Vice President for Language Schools, Schools Abroad and Graduate Programs
Middlebury College
Sunderland Language Center 210
Middlebury, VT 05753
802.443.5275
geisler@middlebury.edu

Jeffrey W. Cason
Dean of International Programs
Middlebury College
Sunderland Language Center 125
Middlebury, VT 05753
802.443.5745
cason@middlebury.edu

Stephen B. Snyder
Dean of the Language Schools
Sunderland Language Center 201
802.443.5979
snyder@middlebury.edu

Elizabeth Karnes Keefe, Assistant Dean
Middlebury College
Sunderland Language Center 210
Middlebury, VT 05753
802.443.5685
karnes@middlebury.edu

Middlebury Summer Language Schools at Mills Contact
Sasha Miyamoto
Language Schools Administration
PMB 9972, 5000 MacArthur Blvd.
Monterey Institute of International Studies Contacts
Ashley Fera Arrocha (Human Relations Officer and Title IX Coordinator Designee for the Institute)
Assistant Dean of Student Services
Office of Student Services
440 Van Buren Street
Monterey, CA 93940
831.647.4654
arrocha@miis.edu

Michael Ulibarri
Human Resources Manager and Human Relations Officer
Human Resources Department
460 Pierce Street
Monterey, CA 93940
831.647.6404
mulibarr@miis.edu

Middlebury-Monterey Summer Intensive College English Program Contact
Kathryn Good
Assistant Director (On-site)
401-601-0534
kgood@miis.edu

Patricia Szasz
Assistant Dean for Language and Professional Programs
831-647-3501
pszasz@miis.edu

Bread Loaf Writers' Conference Site Contacts
Michael Collier, Director
802.443.5286
collier@middlebury.edu

Bread Loaf School of English Site Contacts

Bread Loaf School of English (Vermont)
Emily Bartels, Director
Django Paris, Associate Director
Bread Loaf CPO
4265 Ripton, Route 125
Middlebury, VT 05753
802.443.5418
ebartels@middlebury.edu

Bread Loaf School of English (New Mexico)
Cheryl Glenn, Director
St. John's College
1160 Camino Cruz Blanca
Santa Fe, NM 87505
505.995.4083 (Office), 505.820.0410 (Home), 814.574.3333 (Cell)
cglenn@middlebury.edu

Bread Loaf School of English (Oxford)
Emma Smith, Director
Hertford College
Catte Street
Oxford OX1 3BW
United Kingdom
011.44.1865.279441 (from U.S.)
emma.smith@hertford.ox.ac.uk

Federal/State Agencies

VERMONT

Emergencies: Dial 911

Middlebury Police
802.388.3191

Vermont State Police
802.388.4919

U.S. Department of Education
Office for Civil Rights
8th Floor
5 Post Office Square
Boston, MA 02109-3921
Telephone: 617.289.0111
Facsimile: 617.289.0150
Email: OCR.Boston@ed.gov

Equal Employment Opportunity Commission
33 Whitehall Street, 5th Floor
New York, NY 10004
Phone: 1.800.669.4000
Fax: 212.336.3790
TTY: 1.800.669.6820

Vermont Attorney General’s Office, Civil Rights Unit
109 State Street
Montpelier, VT 05609-1001
802.828.3171
802.828.3665 (TTY)
civilrights@atg.state.vt.us

Vermont Human Rights Commission
14-16 Baldwin Street
Montpelier, VT 05633-6301
800.416.2010, x25 (voice)
802.828.2481 (fax)
877.294.9200 (TTY)
human.rights@state.vt.us

CALIFORNIA

Emergencies: Dial 911

Monterey Police Department
351 Madison Street Monterey, CA 93940
831.646.3914
Disciplinary Action
Faculty, staff, or students found to have violated Middlebury College policy may be subject to the full range of disciplinary actions, as applicable, up to and including termination of employment or expulsion from Middlebury and/or any Language School program. For further information regarding Middlebury’s policies, please see below:

Middlebury College Handbook
http://www.middlebury.edu/middlebury_google_custom_search/go/handbook

Middlebury College Handbook, "9.3 Discharge"
http://www.middlebury.edu/about/handbook/employee/leaving_midd/discharge

Anti-Harassment/Discrimination policy
http://www.middlebury.edu/about/handbook/general/anti-harassment

Anti-Stalking Policy
http://www.middlebury.edu/about/handbook/misc/anti-stalking

Code of Conduct for Employees
http://www.middlebury.edu/about/handbook/misc/code_of_conduct_for_employees

This section describes the disciplinary process that is normally followed when a Middlebury Language School student allegedly engages in conduct that violates a Middlebury policy or policies. Where other Middlebury policies specify separate processes, those processes will apply. (See, e.g., the Anti-Harassment/Discrimination Policy). Moreover,
where applicable laws where the program takes place mandate different procedures or policies, those procedures or policies will apply.

Alleged policy violations should be reported to the Dean of the Language Schools or assistant Dean. The Dean or his/her designee is ordinarily responsible for disciplinary action. The Dean will review the information pertinent to the situation. If the Dean determines that the circumstances do not warrant immediate dismissal, s/he may take other action, including the issuance of an oral warning or warnings, followed by a written warning which indicates that the student is at risk of being dismissed from the program. Dismissal or other discipline may be accompanied by notification of the student’s home institution (or any other program in which the student is involved) and of the parents of dependent students.

Except in cases of emergency suspension, withdrawal or dismissal as described above, the following disciplinary process will apply: In the event that a complaint or report of a policy violation is made against a Language School student, the accused student will be given notice of the alleged violation and an opportunity to respond to the allegations prior to any determination or disciplinary action. The notice may be given orally or in writing. The “opportunity to respond” means that the student will be given an opportunity to meet/communicate with the Dean.

The Dean shall then make a determination, based on a preponderance of the evidence, as to whether the student violated the policy at issue. During this process, the rules of evidence applicable to civil or criminal cases in the U.S. shall not apply.

The student may appeal the Dean decision to the Vice President for Language Schools, Schools Abroad and Graduate Programs within three business days of the Dean's determination. The appeal must be in writing and must include the grounds for the appeal and an outline of the supporting evidence. Appeals transmitted via e-mail are considered to be “in writing” for the purposes of this section. Absent extenuating circumstances, the student will be notified of the appeal decision within 5 business days of receipt of the appeal. The vice president’s decision shall be final. (Note: separate procedures exist for alleged violations of Middlebury’s Anti-Harassment/Discrimination policy).

Pending Discipline
A student will not ordinarily be permitted to withdraw from a Language School program with a disciplinary matter pending. If a student nevertheless withdraws with a disciplinary matter pending, the withdrawal will be considered a resignation from Middlebury, and the student will have given up the opportunity to return to any Middlebury program. Notation thereof will be made in the student’s file. In extraordinary circumstances however, the Dean of the Language Schools and/or the Vice President for Language Schools, Schools Abroad and Graduate Programs, after appropriate consultation, a review of the case, and consideration of Middlebury's best interests, may grant permission for a student to withdraw from his/her Language School program when a disciplinary matter is pending. Should the student be readmitted to any Middlebury program, the disciplinary matter must be resolved either before the student’s return, or immediately upon the student’s return. Middlebury may also notify all institutions or programs in which the student is (or will be) enrolled of any pending or unresolved disciplinary matter pertaining to that student.