



# Civil Rights and Title IX Office

## Definitions

This page provides the definitions that pertain to Middlebury's Non-Discrimination policy and Title IX procedures.

### Reporting Individual

A reporting individual is an individual who is reported to have experienced conduct that could constitute Prohibited Conduct, regardless of whether the individual makes a report or seeks disciplinary action

### Respondent

A respondent is an individual who has been reported to have engaged in conduct that could constitute Prohibited Conduct and whose alleged conduct is being investigated to determine if it is in violation of Middlebury's policies.

### Parties

Only the reporting individual and respondent are considered a "party" or "parties" as that term is used within this policy.

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### Report

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A Report is any information received by Middlebury College that a reporting individual has allegedly been subjected to conduct which could constitute Title IX Sexual Harassment. A Report is not a Formal Complaint and does not trigger a formal investigation or adjudication. Instead, reports serve as a basis for statistical reporting under the Jeanne Clery Act, and allow Middlebury to provide Supportive Measures to those who have experienced Title IX Sexual Harassment. Any reporting individual who reports Title IX Sexual Harassment will receive information about the Formal Complaint and Investigation Process.

## **Formal Complaint**

Formal complaint means a document filed by a reporting individual or signed by the Civil Rights and Title IX Coordinator alleging Title IX Sexual Harassment against a respondent and requesting that the recipient investigate the allegation of Title IX Sexual Harassment. At the time of filing a formal complaint, a reporting individual must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail.

## **Human Relations Officer**

A Human Relations Officer (“HRO”) is an administrator responsible for overseeing investigations and adjudicating complaints under this Procedure. HROs are also the Civil Rights and Title IX Coordinator’s designees responsible for overseeing investigations and adjudicating sexual misconduct complaints in accordance with this Procedure.

## **Civil Rights and Title IX Coordinator**

The Civil Rights and Title IX Coordinator (“CRTIX Coordinator”) is the administrator designated and authorized to coordinate Middlebury’s efforts to comply with and carry out its responsibilities under Title IX. The CRTIX Coordinator’s responsibilities include overseeing the process for handling and responding to all complaints of possible sex discrimination and identifying and addressing any patterns or systemic problems that arise, including the review of student complaints. Middlebury’s CRTIX Coordinator also participates in Middlebury’s handling and responding to complaints of sexual misconduct, domestic and dating violence and misconduct, and stalking.

# 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 present or valid when a person is incapable of giving consent because they are incapacitated by drugs or alcohol; when intimidation, threats, physical force, or other actions that a reasonable person in that person's circumstances would consider coercive are applied; when that person is placed in fear that any person will suffer imminent bodily injury; 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 that person's responsibility for determining whether another is capable of giving consent, as described above.

# Coercion

Coercion means the use of unreasonable pressure to gain sexual access. Coercion is more than a momentary effort to persuade, entice, or attract another person to engage in sexual activity. When a person makes clear a decision not to engage in sexual activity, or makes a decision to stop sexual activity, or a decision not to go beyond a certain sexual activity, continued pressure to engage can be coercive. In evaluating whether coercion was used, the College will consider: (i) the frequency of the application of pressure; (ii) the intensity of the pressure; (iii) the degree of isolation of the person being pressured; (iv) the duration of the pressure; and (v) any other similar or related conduct.

# Dating Violence

Dating violence means violence committed by a perpetrator who is a victim's current or former intimate partner. By with the victim. For the purposes of this definition, dating violence includes, but is not limited to, sexual assault, [Privacy Policy](#) of such abuse, if involving individuals who are

or have been dating as defined here, and violence means conduct that involves the use or threatened use of physical force against a person, or creates a reasonable belief that physical force may be used against a person in the course of the conduct. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

## Domestic Violence

Domestic Violence means conduct that constitutes a crime of violence in the relevant jurisdiction (either felony or misdemeanor) committed:

- a. By a current or former spouse or intimate partner of the victim;
- b. By a person with whom the victim shares a child in common;
- c. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- d. By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- e. By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

For the purposes of this definition, domestic violence includes but is not limited to sexual or physical abuse or the threat of such abuse, if involving individuals who are or have been in a domestic relationship as defined here, and violence means conduct that involves the use or threatened use of physical force against a person, or creates a reasonable belief that physical force may be used against a person in the course of the conduct.

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## Harassment

Harassment means 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 defined and protected by local law, 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 abusive 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, New Mexico, 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.

Harassment "based on an individual's actual or perceived sex" includes sexual harassment. Some common examples include: touching or grabbing a sexual part of a person's body; touching or grabbing any part of a person'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 person to socialize when that person has indicated they're 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 and other technologies as outlined in our **Privacy Policy**.

or provoking remarks about or relating to a person's sex or sexual orientation; harassing acts or behavior directed against a person on the basis of their sex or sexual orientation.

## Quid Pro Quo Sexual Harassment

Quid Pro Quo Sexual Harassment means unwelcome sexual advances, requests for sexual favors, and other verbal, written, visual or physical conduct of a sexual nature if:

- 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.

## Stalking

Stalking means engaging in two or more acts directed at a specific person in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property, that would cause a reasonable person to either (i) fear for the person's safety or the safety of others; OR (ii) suffer substantial emotional distress.

## Reasonable person

Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

## Substantial emotional distress

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Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

# Sexual Assault

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, and with or without physical resistance or violence. Under Middlebury policy Sexual Assault includes:

- a. rape,
- b. fondling without consent,
- c. incest, or
- d. statutory rape

## Rape

Rape is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

## Fondling

Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity; for purposes of this definition, "private body parts" is defined as a person's breast(s), buttock(s), groin or genitals, and prohibited touching may be over or under clothing.

## Incest

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

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## Statutory rape

Statutory rape is sexual intercourse with a person who is under the statutory age of consent.

## Confidential Resources

Confidential resources include the staff of the Center for Health and Wellness, the staff of the Chaplain's office, Middlebury Safe and Confidential Advocates or other medical, counseling, support or religious personnel and volunteers who are required by law to maintain confidentiality.

## No Contact Order

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.

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Civil Rights and Title IX Office  
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