

B.1.a. Non-Discrimination Policy

Middlebury is committed to creating and maintaining a diverse, equitable and inclusive campus environment where we value openness, curiosity, rigor, and equality. Discrimination, including harassment, is antithetical to our values and mission, and, therefore, Middlebury seeks to eradicate unlawful discrimination based on protected personal characteristics in its educational and employment environments.

Individuals who feel they have experienced discrimination, including harassment, based on a protected personal characteristic are strongly encouraged to report the behavior to our Civil Rights and Title IX Office. Middlebury provides timely services to those who have been affected by discrimination, including harassment. It is not necessary to file a complaint with Middlebury or participate in an adjudication process in order to request “supportive measures” from Middlebury. Appropriate supportive measures may vary depending on specific facts and circumstances and will be determined on a case-by-case basis. Moreover, Middlebury provides procedures to assure prompt and equitable investigation and resolution intended to stop discrimination/harassment, remedy harms and prevent repetition. Different types of behavior are subject to different procedures, in accordance with federal law.

Violations of this Policy may result in sanctions up to and including termination, dismissal, or expulsion, as determined by the appropriate Middlebury officials. Concerns about conduct under this Policy may be resolved through informal or “adaptable” resolutions, when appropriate. Retaliation against an individual for raising an allegation of discrimination, for cooperating in an investigation of such a complaint, or for opposing discriminatory practices is prohibited. Submitting a complaint that is not in good faith or providing false or misleading information in any investigation of complaints is also prohibited. Nothing in this Policy shall be construed to abridge academic freedom and inquiry, principles of free speech, or Middlebury’s educational mission.

Scope:

This Policy applies to all students, staff, faculty, applicants and visitors to Middlebury’s programs and campus. “Middlebury” includes 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 Middlebury Institute of International Studies at Monterey.

Types of Behavior Prohibited by Law and this Policy:

Members of and visitors to the Middlebury community are prohibited from engaging in:

(i) Sexual Harassment as defined by Title IX, including but not limited to sexual assault, domestic and dating violence and misconduct, sex-based stalking, and *quid pro quo* sexual harassment;

(ii) Discriminatory harassment, based on or motivated by an individual’s actual or perceived race, creed, color, place of birth, ancestry, ethnicity, religion, national origin, age, disability, marital status, pregnancy or sex, sexual orientation, gender identity or expression (including but not limited to sexual assault, domestic and dating violence and misconduct, and stalking) not meeting the definition of Title IX Sexual Harassment, or other characteristics as defined and protected by law in the location where a particular program is operating (e.g. crime victim status in Vermont); and

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(iii) Discrimination in employment, or in admission or access to Middlebury's educational or extracurricular programs, activities, benefits or facilities based on an individual's race, creed, color, place of birth, ancestry, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, marital status, pregnancy, service in the armed forces of the United States, positive HIV-related blood test results, genetic information, or disability and/or any other status or characteristic as defined and to the extent protected by applicable law (e.g. crime victim status in Vermont).

Defining Prohibited Conduct:

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

1. By a current or former spouse or intimate partner of the victim;
2. By a person with whom the victim shares a child in common;
3. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
4. 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
5. 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.

2. **Dating Violence** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

3. **Discrimination** in employment, admission or access to Middlebury's education or extracurricular activities means taking an action against a person based on or motivated by that individual's protected characteristic(s) (identified in (iii) above).

4. Discriminatory **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 significantly:

1. undermining and detracting from or interfering with an individual's educational or work performance or access to Middlebury resources; or
2. creating an intimidating, hostile, or abusive educational, work, or living environment.

5. *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:

1. submission to that conduct is made either explicitly or implicitly a term or condition of employment or educational status; OR
2. 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

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educational/student life-related decisions (such as grades, class assignments, or letters of recommendation, or residence-related decisions) affecting an individual.

6. Retaliation means intimidating, threatening, or coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing regarding violations of this Policy. **Retaliation** also means taking an adverse action against a person because of their report of prohibited conduct or participation in any procedure(s) under this Policy, including intimidation, threats, coercion, harassment or negative employment or educational actions that would discourage a reasonable person from engaging in activity protected by this Policy. Middlebury will not engage in retaliation and will investigate and address reports of retaliatory conduct. 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 to the CRTIX, under the procedures described below.

7. 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. Sexual Assault in this Policy includes:

1. **rape**,
2. **fondling** without consent,
3. **incest**, or
4. **statutory rape**

8. Stalking means engaging in two or more **acts** directed at a specific person 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**.

Other Definitions:

Consent means words or actions, affirmatively, unambiguously and voluntarily spoken or engaged in 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 consenting, as defined below; when intimidation, use of force, threat of 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 revoked at any time.

A person is "incapable of consenting" for purposes of this policy if they:

- are incapable of understanding the nature of the conduct at issue;

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- are physically incapable of resisting, declining participation in, or communicating unwillingness to engage in the conduct at issue; or
- are asleep, unconscious, or otherwise unaware that the conduct is occurring; or
- lack the mental ability to make or communicate a decision about whether to engage in the conduct at issue.

A person may be incapable of consenting due to the effects of alcohol, drugs or other intoxicants, or due to a physical, mental or other condition.

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.

Determinations regarding whether a person is responsible for violating this policy will be made by considering whether the person knew, or a reasonable, unimpaired person in their circumstances should have known, that the other person was incapable of consenting to the sexual conduct at issue.

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.

Please also see [Appendix A: Applicable Definitions: U.S. State and Federal Law where Middlebury Operates Programs](#).

Investigation and Resolutions Procedures.

Violations of this policy are investigated and adjudicated using the following procedures:

(A) Title IX Investigation & Resolutions Procedure

In accordance with Federal law and the Title IX regulations issued in May 2020, all Title IX Sexual Harassment prohibited by this policy is investigated and adjudicated using Middlebury's [Title IX Investigation & Resolutions Procedure](#), which applies to:

- (i) Sexual assault, domestic violence, dating violence, or stalking on the basis of sex, committed in an education program or activity of Middlebury in the United States;
- (ii) *Quid pro quo* sexual harassment committed in an education program or activity of Middlebury in the United States by which an employee of Middlebury conditions the provision of a Middlebury aid, benefit, or service on a student's or employee's participation in unwelcome sexual conduct; and
- (iii) Severe, pervasive and objectively offensive sexual harassment on the basis of sex committed in an education program or activity of Middlebury in the United States that constitutes unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a student or employee equal access to the College's education program or activity.

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(B) Non-Discrimination Investigations & Resolutions Procedure

All other conduct prohibited by this policy that is not covered by Middlebury's Title IX Investigation & Resolutions Procedure is investigated and adjudicated using Middlebury's [Non-Discrimination Investigation & Resolutions Procedure](#).

(C) General Conduct Procedures.

Middlebury prohibits other violent, threatening or exploitative conduct, some of which may have been included in previous versions of Middlebury's SMDVS Policy, but for which the respondent need not be motivated by an individual's actual or perceived protected status in order for a violation to be found, such as dating misconduct and sexual exploitation, through its conduct policies for students, staff and faculty.

Amnesty

Middlebury encourages the reporting of all concerns regarding harassment and discrimination. Sometimes individuals are hesitant to report such instances because they fear they may be charged with other policy violations, such as underage alcohol consumption. While not condoning infractions of any kind, 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, particularly those involving underage drinking or drug use. The nature and scope of the leniency will depend on the particular circumstances involved. Individuals should understand that the use of alcohol or drugs never makes them at fault for instances of harassment or discrimination committed against them, nor does it mitigate accountability for committing such violations against another.

Confidentiality

Middlebury will treat information it has received with appropriate sensitivity and care and will endeavor to protect the privacy of the individuals to the extent it can do so, consistent with its obligations to respond to reports of violations of its policies. More detailed information on confidentiality can be found in the appropriate Procedure.

Glossary of Terms

Acts:

Acts 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.

Dating violence:

For the purposes of this definition, dating 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 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

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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:

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.

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 (as defined above) 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.

Harassment:

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.

Incest:

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

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 (as defined below) of the victim.

Reasonable person:

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

Retaliation:

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Retaliation can include making charges against an individual for conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance process under this policy does not constitute prohibited retaliation, provided, however, that a determination regarding responsibility is not alone sufficient to establish that any party made a materially false statement in bad faith.

Actual or perceived sex:

Based on “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 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.

Statutory rape:

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

Substantial emotional distress:

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

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B.1.b. Non-Discrimination Investigations & Resolutions Procedure

A. General Provisions

1. Scope

Except as otherwise specified herein, this Non-Discrimination Investigations & Resolutions Procedure (**“Procedure”**) applies to faculty, staff, students, and applicants (for employment at Middlebury or to Middlebury's programs; hereinafter referred to as "applicants") 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 Middlebury Institute of International Studies at Monterey (“the Middlebury Institute”). The policy also applies to volunteers, interns and persons providing services pursuant to a contract to the extent required by applicable local law.

See also [Addendum](#) applicable to California employees only, in this document below.

This Procedure is available online at [go/antiharassment](http://go.antiharassment). Printed copies may be requested from the Civil Rights and Title IX Coordinator.

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 [Appendix A](#) for contact information.

2. Proceedings Outside of Middlebury

Any individual has the right to pursue discrimination and harassment complaints, including sexual harassment and related retaliation utilizing local, state, or federal enforcement agencies, including local and state police agencies, as appropriate, regardless of whether they choose to file a complaint with Middlebury (see contact information available on the Civil Rights and Title IX website). The agencies listed on the Civil Rights and Title IX website 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.

a. Criminal Complaints

Any student or employee may pursue criminal charges with local, state, or federal law enforcement agencies. Middlebury will offer and, upon request, provide assistance to individuals covered under this procedure with notifying law enforcement agencies. These options are available regardless of whether an individual chooses to file a complaint with Middlebury. Individuals have the option to notify such agencies with or without assistance from Middlebury, and have the option not to personally notify such authorities.

b. Orders of Protection

Middlebury does not have the authority to issue Relief From Abuse Orders, Orders of Protection or Restraining Orders as these are granted by the court system. Individuals who have experienced Title IX Sexual Harassment may be eligible to pursue Orders of Protection, Restraining Orders and/or Relief from

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Abuse Orders from courts in the United States or courts outside of the United States as applicable. Middlebury will offer its support to individuals if they request Middlebury's assistance with making contact with law enforcement authorities and other external resources to seek such orders. Middlebury will respect such orders to the extent applicable.

c. Assistance by Middlebury

Requests for assistance with contacting law enforcement authorities or obtaining an Order of Protection, a Relief from Abuse Order, a Restraining Order or other lawful order may be made in person, via email, phone or teleconference to the CRTIX Coordinator, an HRO, or Public Safety For additional information regarding making reports to the police and/or obtaining an Order of Protection, Restraining Order, or Relief from Abuse Order.

3. What This Procedure Covers

This Non-Discrimination Investigations & Resolutions Procedure is intended to address instances of prohibited discrimination, including sexual harassment and other harassment, as defined in Middlebury's Non-Discrimination Policy that are not required by the Department of Education to be handled under Middlebury's Title IX Investigation & Resolutions Procedure.

Middlebury may, in exceptional circumstances, vary from this Procedure. So long as such a variation is consistent with relevant law and allows for fundamental fairness in the processes followed, variations from this process under those circumstances will not invalidate an outcome.

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

4. Retaliation

Retaliation against an individual for raising an allegation of discrimination, for cooperating in an investigation of such a complaint, or for opposing discriminatory practices is prohibited under the Non-Discrimination Policy.

5. Confidentiality

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 and maintain confidentiality to the extent possible 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

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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 the Civil Rights and Title IX website).

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. Confidentiality

Middlebury is responsible for providing a safe and nondiscriminatory environment for students, faculty and staff. Outside of the Confidential Resources outlined above, Middlebury will take reasonable steps to avoid disclosure of the identity of a complainant. Depending on a number of factors including the specifics of a concern, the identity of a complainant may become readily apparent. Middlebury will only disclose information regarding a concern of discrimination on a need to know basis or as required to by law.

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d. Other Disclosures Required by Law

Middlebury will not include the names of complainants or other identifying information in publicly available reports as required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. 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, instances involving abuse of minors, or situations in which there is clear and imminent danger and/or a weapon may be involved.

B. Procedures for Addressing Harassment, Discrimination and Related Retaliation

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. Individuals are encouraged to report their concerns to the Civil Rights and Title IX Coordinator.

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 a Middlebury Human Relations Officer or the Civil Rights and Title IX Coordinator (see [Appendix A](#) for contact information), or the appropriate dean or program director in cases involving the Language Schools, Schools Abroad, Bread Loaf, the Middlebury 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 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 A.5. Confidentiality for more information.

Employees with supervisory responsibility must report incidents of discrimination, harassment, including sexual harassment, or retaliation, and, if directed by HR or another appropriate official, 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 a HRO, Human Resources, or the Civil Rights and Title IX Coordinator in accordance with Section 2, below. 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.

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2. Complaint Procedures

Any Middlebury student, faculty member, staff member or applicant (for employment or to any Middlebury program) 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, staff member or applicant 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 official who is designated to receive such reports in the Middlebury program at issue (reports or complaints can be made verbally or in writing).^[1] Reports may also be made to the Civil Rights and Title IX Coordinator or any HRO (student, faculty and staff matters), or to Human Resources (employees).

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. 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 are listed on the Civil Rights and Title IX website.

Middlebury encourages students, faculty, staff and applicants 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, including through our online form, 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 that may be investigated and adjudicated under this Procedure, 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 the [Non-Discrimination Policy](#) and whether an investigation and adjudication should proceed under this Procedure.
- b. If the HRO determines that the report or complaint does fall within the scope of the [Non-Discrimination Policy](#) and that an investigation and adjudication should proceed, a copy of the [Non-Discrimination Policy](#) and this Procedure 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 the [Non-Discrimination Policy](#) using this Procedure (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, timely, equitable, and impartial manner.

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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.

All witnesses identified in connection with an investigation under this Procedure are expected to cooperate fully in the investigation by providing complete, accurate, and truthful information. Middlebury policy prohibits intentionally making a false report or providing false or misleading information in any investigation under this Procedure. 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.

The parties may retain legal counsel at any time, although legal counsel is not permitted to participate in Middlebury's investigation and adjudication process under this Procedure. 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, where appropriate, also be resolved through the investigation and adjudication process in this Procedure. 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 HROs, Civil Rights and Title IX Coordinator, Vice President for Academic Affairs/Dean of Faculty ("VPAA"), Human Resources Department, Vice President for Student Affairs and Dean of Students, Vice president for Academic Affairs and Dean of the Language Schools, Dean of International Programs, RDs, public safety staff, or other supervisory authority for the program at issue (or their designees) 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 adjudicating HRO, together with recommended findings, based on a preponderance of the evidence standard, i.e., whether it was more likely than not that the [Non-Discrimination 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.

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- e. The adjudicating HRO is not bound by the investigator's report. Rather, it is advisory to the HRO. The adjudicating 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 adjudicating 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 a violation of the [Non-Discrimination Policy](#) occurred. The HRO's determination will be based on a preponderance of the evidence standard, and the HRO will reach a reasonable conclusion based on the evidence presented.
- h. If the HRO finds that a staff or faculty member has engaged in conduct that violates the [Non-Discrimination Policy](#) the HRO will refer the matter to the appropriate supervisory authority (e.g., the Middlebury College VPAA or designee, Provost, the Middlebury Institute's Chief Academic Officer or designee ["the Middlebury Institute's CAO"], Vice President for Academic Affairs and Dean of the Language Schools, Dean of International 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 Middlebury Institute's Human Resources Department, as applicable, in the case of a staff member) to take appropriate remedial measures. 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 the [Non-Discrimination 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 Vice President for Student Affairs and Dean of Students, Vice President for Academic Affairs and Dean of the Language Schools, Dean of International Programs, Dean of the Institute, Director of the Bread Loaf School of English, Director of the Bread Loaf Writer's Conference, 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).

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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.^[2]

3. Timely Investigation and Determination

Middlebury works to resolve all complaints handled under this Procedure in a timely manner. The investigation will be documented, and the HRO will track the investigation for reasonable and timely progress. Both the complainant and respondent will be informed when the investigation is complete, a determination has been issued, and, where appropriate, a sanction has been imposed.

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

The purpose of an appeal is to review the adjudication process.

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, prior omission of factual information that the appealing party knew or reasonably should have known is not a ground for an appeal;
- procedural error where the error prevented fundamental fairness;
- The HRO, investigator(s), or another decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally, or the individual complainant or respondent, that affected the outcome of the matter.

An appeal must be made in writing to the appellate officer for the program in connection with which the finding of responsibility was made. Therefore, an appeal must be directed to the VPAA (complaints against undergraduate students and complaints against MiddCore students), the Provost (complaints against Language Schools, Schools Abroad, Bread Loaf School of English, Bread Loaf Writers' Conference, and

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School of the Environment students) or the Middlebury Institute's CAO (complaints against Institute students), as applicable.

Appeals must be made within 5 days of receipt of notice of the HRO's determination and must include the grounds for appeal and an outline of any supporting evidence.

The Middlebury official responsible for hearing the appeal (i.e., VPAA, Provost, or the Middlebury Institute's CAO, as applicable) will invite an informational response to the appeal from the HRO 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 for reconsideration; or
- appoint an alternate HRO to review the case, which will ordinarily occur when the original outcome was deemed to be affected by an official's bias.

It is the responsibility of the Middlebury official to determine which aspects of the case merit a new review, and to direct the HRO 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 following a second review of the case are final.

5. Informal Resolutions/Disposition Prior to a Final Determination

At all stages of the investigation and determination processes, Middlebury officials, when appropriate, may make available to complainants informal resolution options 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 this Procedure.

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.i., 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)

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Students will be held accountable for the [Scope of Oversight provision in section II.B.2.a.iii. of the Handbook](#).

Middlebury retains sole discretion to determine whether to initiate an investigation and adjudication under this Procedure regardless of the outcome of any disciplinary proceeding conducted by a non-Middlebury institution or program and/or the outcome of any law enforcement investigation or court proceeding.

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 or other school or 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 and/or other program or school in which the student is or will be enrolled.

7. Emergency Removals

Middlebury's [Emergency Removals Policy](#) is found at [section I.C.3 of the Handbook](#).

8. 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.

9. Revisions & Complaints about the Civil Rights & TIX office

The [Non-Discrimination Policy](#) and this Procedure may be amended from time to time; the policies and procedures published on Middlebury's Website should be consulted for any updates. Amended policies and procedures, as published through Middlebury's Website, shall supersede wholly any prior versions. Reasonable accommodations will be provided for persons with disabilities who need assistance in reviewing the [Non-Discrimination Policy](#) and this Procedure and/or filing or pursuing a complaint under this Procedure, upon request.

A student may file a complaint of discrimination, harassment, including sexual harassment, or related retaliation relating to the conduct of the HRO, Civil Rights and Title IX Coordinator, or investigator appointed under this policy with Khuram Hussain, VP of Equity & Inclusion (315-729-2286; khussain@middlebury.edu), 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, Civil Rights and Title IX Coordinator, or investigator appointed under this policy with Khuram Hussain, VP of Equity & Inclusion (315-729-2286; khussain@middlebury.edu). These officials may appoint an individual to serve as a special alternate HRO, as appropriate.

10. The Human Relations Officer and Record Keeping

The HRO may keep confidential records or reports developed under this Procedure and the actions taken in response to those reports, and use them for purposes such as to identify individuals or departments

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likely to benefit from training. Information about the HRO is available at several college offices: Human Relations Office, [Civil Rights and Title IX Coordinator/Compliance Officer](#), [Vice President for Student Affairs and Dean of Students](#), Student Life deans, Vice President for Academic Affairs and Dean of the Faculty, Public Safety, Human Resources, program directors, and the Middlebury Institute's HROs.

11. Addendum (California Employees Only)

California law has specific requirements for what must be set forth in a harassment/discrimination policy applicable to employees. In accordance with California's Fair Employment and Housing Act Regulations ("FEHA"), and in addition to the policy provisions set forth above, this addendum applies to faculty, staff and other employees who are employed by the Middlebury Institute of International Studies at Monterey, Middlebury's Language Schools at Mills College and any other Middlebury program that is located in California.

1. Definitions

Employees

With respect to protections of individuals from unlawful harassment, the term "employee" shall include unpaid interns, volunteers, and persons providing services pursuant to a contract. With respect to protections of individuals from unlawful discrimination, the term "employee" shall include a person who serves in an unpaid internship or any other limited-duration program that provides work experience.

Discrimination

Discrimination is defined as conduct directed at an individual based on their perceived or actual race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex (includes pregnancy, childbirth, breastfeeding, and related medical conditions), gender, gender identity, gender expression, age (over 40), sexual orientation, or military and veteran status of any person and/or any other status or characteristic as defined and to the extent protected by law.

Discrimination is established if a preponderance of the evidence demonstrates that an enumerated basis (see above definition) was a substantial motivating factor in the denial of an employment benefit to that individual by the employer or other covered entity, and the denial is not justified by a permissible defense. This standard applies only to claims of discrimination on a basis above (see also Government Code Section 12940, subdivision (a)), and to claims of retaliation under Government Code section 12940 subdivision (h). A substantial factor motivating the denial of the employment benefit is a factor that a reasonable person would consider to have contributed to the denial. It must be more than a remote or trivial factor. It does not have to be the only cause of denial.

Harassment

Harassment is defined as verbal, written, visual, or physical conduct based on or motivated by an individual's actual or perceived race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex (includes pregnancy, childbirth, breastfeeding, and related medical conditions), gender, gender identity, gender expression, age (over 40), sexual orientation, or military and veteran status of any person and/or any other status or characteristic as defined and to the extent protected by law in the location where a particular program is

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operating, that has the purpose or effect, from the point of view of a reasonable person, of objectively and significantly:

1. undermining and detracting from or interfering with an individual's educational or work performance or access to Middlebury resources; or
2. creating an intimidating, hostile, or offensive educational, work, or living environment.

Harassment may include but is not limited to:

1. Verbal harassment, e.g., epithets, derogatory comments or slurs on a basis enumerated in the above;
2. Physical harassment, e.g., assault, impeding or blocking movement, or any physical interference with normal work or movement, when directed at an individual on a basis enumerated above;
3. Visual forms of harassment, e.g., derogatory posters, cartoons, or drawings on a basis enumerated above; or
4. Sexual favors, e.g., unwanted sexual advances, which condition an employment benefit upon an exchange of sexual favors.

National Origin

(a) National origin includes, but is not limited to, the individual's or ancestors' actual or perceived:

- (1) Physical, cultural, or linguistic characteristics associated with a national origin group;
- (2) marriage to or association with persons of a national origin group;
- (3) tribal affiliation;
- (4) membership in or association with an organization identified with or seeking to promote the interests of a national origin group;
- (5) attendance or participation in schools, churches, temples, mosques, or other religious institutions generally used by persons of a national origin group; and
- (6) name that is associated with a national origin group.

(b) "National origin groups" include, but are not limited to, ethnic groups, geographic places of origin, and countries that are not presently in existence.

(c) "Undocumented applicant or employee" means an applicant or employee who lacks legal authorization under federal law to be present and/or to work in the United States.

Retaliation

Retaliation against any individual because the individual has opposed discrimination or harassment on the basis of any protected category, has participated in the filing of a complaint, or has testified, assisted, or participated in any other manner in a proceeding in which discrimination, harassment, or retaliation has been alleged is prohibited.

Retaliation may include, but is not limited to:

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(1) threatening to contact or contacting immigration authorities or a law enforcement agency about the immigration status of the employee, former employee, applicant, or a family member (e.g., spouse, domestic partner, parent, sibling, child, uncle, aunt, niece, nephew, cousin, grandparent, great-grandparent, grandchild, or great-grandchild, by blood, adoption, marriage, or domestic partnership) of the employee, former employee, or applicant; or

(2) taking adverse action against an employee because the employee updates or attempts to update personal information based on a change of name, social security number, or government-issued employment documents.

Prohibited Conduct (Coworkers, Third Parties, Supervisors and Managers)

The law prohibits coworkers and third parties, as well as supervisors and managers, with whom the employee comes in contact from engaging in unlawful harassment, discrimination, or retaliation.

2. Complaint Process

Employees may complain orally or in writing. The complaint reporting process is described in more detail in Section B above. In addition to those procedures, the parties involved in a harassment, discrimination or related retaliation complaint will receive a designation of confidentiality, to the extent possible. Confidentiality will be kept by Middlebury to the extent possible, although Middlebury cannot promise absolute confidentiality.

When Middlebury receives allegations of misconduct under this policy, it will conduct a fair, timely, and thorough investigation and reach reasonable conclusions based on the evidence presented.

Supervisors must report any complaints of misconduct under this policy to a Human Relations Officer so that Middlebury can try to resolve the claim internally. (This provision does not preclude employees from filing complaints with external agencies. See the Civil Rights and Title IX website for more information.).

If at the end of the investigation misconduct under this policy is found, appropriate remedial measures shall be taken.

The investigation will be documented, and the Human Relations Officer will track the investigation for reasonable progress.

3. Dissemination of the Policy

This addendum, along with the full text of Middlebury's [Non-Discrimination Investigations & Resolutions Procedure](#), will be disseminated to all California employees via email with an acknowledgement return form.

C. Policy on Consensual Relationships Between Faculty and Staff Members and Students

The integrity and trust of the faculty-student relationship is central to Middlebury's educational mission. Amorous relationships, defined as any dating, sexual, or other romantic relationship of any length between a faculty member and a student, even if they are not directly in any advisory or teaching role, involve a power differential, and therefore raise serious questions about unfair grading or other

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imbalanced evaluation practices, conflicts of interest, favoritism and bias. These concerns have an adverse impact on the educational environment of other students, as well as the student directly involved.

A seemingly consensual relationship between any employee with a student may meet the legal definition of sexual harassment, as lack of mutual consent may be inferred from the power differential between the employee – whether faculty or staff – and a student. Accordingly, amorous relationships between all Middlebury employees – faculty and staff – and all students enrolled in any Middlebury program are prohibited.

In exceptional cases falling outside of the anticipated scope of this policy, such as a relationship between an employee and a graduate student in an unrelated Middlebury program, exemptions to this policy may be granted by the Vice President for Academic Affairs/Dean of Faculty (“VPAA/DoF”), or their designee(s), for faculty members, and the Vice President of Human Resources (“VPHR”), or their designee(s), for staff members. Any employee, whether faculty or staff, who wishes to request such an exemption, shall submit a written statement to the VPAA/DoF or the VPHR, as applicable, explaining the reasons for the request. The VPAA/DoF or the VPHR will consult with the student and then respond in writing to the faculty or staff member with their decision and any conditions of approval that may apply, as applicable.

Questions about this policy shall be directed to the VPAA/DoF for faculty, or the VPHR for staff.

If Middlebury receives information that a faculty or staff member has violated this policy, the procedures laid out in the applicable misconduct policy shall be followed. If the employee is found to have violated this policy, the faculty or staff member will be subject to all appropriate discipline, including termination, consistent with the procedures of the applicable 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. Middlebury’s [Non-Discrimination Policy](#) and this Procedure are 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.

GLOSSARY

Human Relations Officer

The Human Relations Officer (“HRO”) is the administrator responsible for overseeing investigations and adjudicating complaints under this policy.

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Civil Rights and Title IX Coordinator

The Civil Rights and Title IX Coordinator is the administrator responsible for receiving initial complaints and concerns about any form of discrimination and/or harassment, as well as coordinating training, outreach, etc.

Complainant

A complainant is usually an individual who has alleged a violation(s) of Middlebury's [Non-Discrimination Policy](#) that can be investigated and adjudicated under this Procedure. 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 Procedure without a designated complainant. In these cases, Middlebury may extend the full rights of the complainant as defined in this Procedure 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 the [Non-Discrimination Policy](#) or other Middlebury policies, if applicable. See also B.6.Scope of Oversight 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" [3]) or other medical, counseling, support or religious personnel and volunteers who are required by law to maintain confidentiality. For more information, see Section A.5. Confidentiality.

No Contact Order

When harassment or other forms of interpersonal misconduct have been alleged, or when otherwise deemed appropriate under the circumstances, the vice president for student affairs and dean of students, vice president for academic affairs and dean of language schools, dean of international programs, RDs, Civil Rights and Title IX Coordinator, 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.

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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.

Appendix A: Civil Rights and Title IX Coordinator

Inquiries concerning the application of Title IX may be referred to Middlebury’s [Civil Rights and Title IX Coordinator](#) or to the United States Department of Education Office for Civil Rights. The full text of Middlebury’s [Nondiscrimination Statement](#) is available at <https://www.middlebury.edu/pages/general/nondiscrimination>. Printed copies may be obtained from the offices of the Vice President for Student Affairs, the Student Life deans, the Civil Rights and Title IX Coordinator, human relations officer(s) or the supervisory authority for the program at issue. Reasonable accommodations will be provided for persons with disabilities who need assistance in reviewing Middlebury’s [Nondiscrimination Statement](#) and its Non-Discrimination policies and procedures.

The [Civil Rights and Title IX Coordinator](#) is the administrator responsible for coordinating Middlebury’s efforts to comply with and carry out its responsibilities under Title IX. The Civil Rights and 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.

Middlebury’s Human Relations Officers serve as the Civil Rights and Title IX Coordinator’s designees for the purposes of overseeing investigations and adjudicating sexual harassment and related retaliation complaints under this policy and sexual misconduct and related retaliation complaints under Middlebury’s [Non-Discrimination Policy](#). Middlebury’s Alternate Human Relations Officers serve in a similar capacity as the Title IX Coordinator’s designee(s) when the Human Relations Officers are unavailable or have a conflict of interest.

Civil Rights & Title IX Coordinator

Butterfly Blaise Boire
802.443.2147
Service Building
bboire@middlebury.edu

Human Relations Officer

Thaddeus Watulak, J.D.
802.443.5741
Service Building
twatulak@middlebury.edu

[1] Everyone is entitled to report complaints of sexual harassment and sexual misconduct. Complaints should be made under the [Non-Discrimination Policy](#).

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[2] 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)

[3] Middlebury's Vermont undergraduate campus program includes a confidential resource called [MiddSafe](#); for more information, see <https://www.middlebury.edu/offices/health/saoc/midsafe>

B.1.b (1) TIX Investigation & Resolutions Procedure

- I. What This Procedure Covers
 - II. Reporting Title IX Sexual Harassment
 - III. Formal Complaints/Grievances & Pre-Investigation
 - IV. Investigations
 - V. Hearings and Determinations of Responsibility
 - VI. Sanctioning
 - VII. Appeals
 - VIII. Admission of Responsibility
 - IX. Informal Resolution
 - X. Training of Individuals Conducting Investigations and Adjudications and Facilitating Informal Resolution Processes
 - XI. Record Keeping
- APPENDIX A

I. What This Procedure Covers

This Title IX Formal Grievance Procedure (“Procedure”) applies to instances of Sexual Harassment (as defined by May 2020 U.S. Department of Education Title IX regulation) which occur on or after August 14, 2020. All references to Sexual Harassment within this Procedure are intended to apply to and comply with the definition of Sexual Harassment as defined by Department of Education in its Title IX regulation.

Middlebury may, in exceptional circumstances, vary from this Procedure. So long as such a variation is consistent with Title IX regulations and allows for fundamental fairness in the processes followed, variations from this process under those circumstances will not invalidate an outcome.

Except as otherwise specified herein, this Procedure applies to faculty, staff and students, as well as to others who participate or attempt to participate in Middlebury’s programs and activities. This includes the undergraduate college, the Language Schools, the School of the Environment, MiddCore, Bread Loaf School of English, Bread Loaf Writers’ Conference, and the Middlebury Institute of International Studies at Monterey (“the Institute”).^[1] Faculty and staff are, together, referred to as “Employee” or “Employees” in this Procedure.

This Procedure applies to Sexual Harassment as defined by the Department of Education and as set forth in the [Non-Discrimination Policy](#) so long as the following conditions are met:

- (i) The alleged conduct was perpetrated against a person in the United States; and
- (ii) The alleged conduct took place within Middlebury’s programs and activities, meaning that the conduct occurred in a location, at an event, or in a circumstance where Middlebury exercises substantial control over both the respondent and the context in which the conduct occurs, or in any building owned or controlled by a student organization recognized by Middlebury; **and**, the Complainant is participating in or attempting to participate in Middlebury’s programs or activities.

Conduct that occurs off campus in locations or at events without direction or control by Middlebury does not meet the definition of occurring in “a program or activity of Middlebury”. Such conduct may be prohibited under other Middlebury policies, including the Non-Discrimination Policy provisions addressing

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forms of discrimination other than Title IX Sexual Harassment, and is addressed using different procedures. Only behavior meeting the definitional requirements of this section will be addressed utilizing this Procedure. Where a complaint alleges other Middlebury policy violations arising out of the same facts and circumstances as allegations that must be addressed utilizing this Procedure, Middlebury may, in its discretion, address those other alleged violations through this Procedure.

Conduct that occurred prior to August 14, 2020 will be investigated and adjudicated consistent with the procedures detailed in the [SMDVS Policy](#) and/or the [Anti-Harassment/Discrimination Policy](#) in effect during Academic Year 2019-2020, prior to the August 14, 2020 effective date of the Department of Education's May 2020 regulations. However, informal or "adaptable" resolutions may be available to address concerns about alleged conduct under the [Non-Discrimination Policy](#) regardless of the date it occurred.

II. Reporting Title IX Sexual Harassment

In order to fulfill its commitment to fostering a safe and inclusive learning environment, Middlebury values reporting of all types of sexual harassment, which includes sexual assault. Any person who believes that they have been subject to Title IX Sexual Harassment, or who has reason to believe that Title IX Sexual Harassment has occurred or is occurring, should report this information to the immediate attention of the Civil Rights and Title IX ("CRTIX") Coordinator. The CRTIX Coordinator is:

Butterfly Blaise Boire
Civil Rights and Title IX Coordinator
Middlebury College
Service Building, Room 213
84 S Service Rd
Middlebury, VT 05753
(802) 443-2147
bboire@middlebury.edu

A report or complaint may be made verbally (in person, by phone, or videoconferencing) during applicable business hours, or in writing (via mail or email) 24 hours per day, 7 days per week. You may also report using the online reporting tool at [go/report](#). Please note that while a report may be made anonymously, this will limit Middlebury's ability to take action to provide supportive measures or to address the situation.

Which Middlebury Employees Must Report Sexual Harassment?

With the exception of certain persons designated as "Confidential Resources," as described below, all Middlebury employees must report any incident that could constitute Sexual Harassment involving a Middlebury student, employee or other covered person, to the CRTIX Coordinator and/or an HRO. The report should 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 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 and dating violence and misconduct, stalking and/or related retaliation reports; deans; program directors; supervisors; Human Resources staff;

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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.

A. Who Are 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 ("MiddSafe") [2] or other medical, counseling, support or religious personnel and volunteers who are required by law to maintain confidentiality.

Middlebury encourages individuals to use confidential services. Individuals who seek those services should understand that confidentiality is not absolute and that those resources may have ethical or legal obligations to report certain information to others. As one example, Confidential Resources are typically obligated under state law to report instances of child abuse.

B. Participation and Cooperation

All members of Middlebury's community covered by the Non-Discrimination Policy and identified in connection with an investigation under this Procedure are expected to cooperate and provide complete, accurate, and truthful information. Middlebury prohibits intentionally making a false report or providing false or misleading information in any investigation under this Procedure. Complainants will not be deemed to have provided false or misleading information under this Procedure 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.

C. Supportive Measures (Previously called "Interim Measures")

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment. Supportive measures may include but are not limited to:

- counseling;
- academic accommodations, such as extensions of deadlines or other course-related adjustments, course changes or late drops, or other arrangements as appropriate (see the Academics: Course Registration and Conduct of Courses and Grades and Transcripts sections of the Handbook for more information);
- modifications of work or class schedules;
- campus escort services;

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- mutual restrictions on contact between the parties;
- Residential accommodations, including but not limited to arranging for new housing, or providing temporary housing options, as appropriate;
- changes in work locations;
- leaves of absence;
- increased security and monitoring of certain areas of the campus;
- Changing transportation or working arrangements or providing other employment accommodations, as appropriate;
- Assisting the individual in accessing support services, including, as available, victim advocacy, academic support, counseling, disability, health or mental health services, visa and immigration assistance, student financial aid services, and legal assistance both on and off campus, as applicable (see Appendix C for a list of resources);
- No Trespass Notices prohibiting the presence of an individual on Middlebury property, and/or other properties on which Middlebury programs are occurring;
- Informing the individual of the right to report a crime to local law enforcement and/or seek orders of protection, restraining orders, or relief from abuse orders from United States courts or courts outside of the United States as applicable, and providing assistance if the individual wishes to do so. Middlebury will also work with complainants and others as appropriate to respect and implement the requirements of such orders on premises that it owns or controls, as necessary and appropriate;
- and other similar measures.

It is not necessary to file a complaint with Middlebury, participate in an adjudication process, or file a criminal complaint in order to request supportive measures from Middlebury.

Where a complainant reportedly subjected to Sexual Harassment makes a request for supportive measures like those described above, Middlebury will consider the request and provide those Supportive measures which are reasonably available and reasonably allow for the preservation or restoration of access to or participation in Middlebury programs.

Students or employees seeking supportive measures should direct their request to the CRTIX Coordinator, HROs, Human Resources, dean, or program director, as appropriate. The request will be evaluated and responded to by the CRTIX Coordinator or designee (e.g. HRO, Student Life Dean, or program director) after consultation, as needed, with the appropriate authority or authorities for the school or program at issue. The CRTIX Coordinator is ultimately responsible for coordinating the effective implementation of supportive measures. Factors to be considered in determining whether to provide certain supportive measures may include the following:

- the specific need expressed by the party;
- the severity and/or pervasiveness of the allegations;

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- any continuing effects on the party;
- whether the parties share the same residence hall, dining hall, class, extracurricular activities, transportation and/or job location;
- whether other judicial measures have been taken to protect a party or the parties; and.
- whether other measures are reasonably available to support the individual.

Middlebury will maintain as confidential any supportive measures provided to a party, to the extent that maintaining such confidentiality would not impair the ability of Middlebury to provide the supportive measures. As such, Middlebury may need to disclose some information about the individual to a third party to provide the supportive measures in a timely manner. The following individuals are typically responsible for determining what information should be disclosed and to whom it should be disclosed: CRTIX Coordinator, an HRO, dean, Public Safety officer or program director. The decision to disclose information will be made after careful consideration of possible alternatives to disclosure and/or limiting the information provided to the third party as much as possible without compromising Middlebury's ability to provide the supportive measures.

D. Emergency Removal and Administrative Leave

Nothing in this Procedure limits Middlebury's rights to terminate or suspend the employment of any staff or faculty member under otherwise-applicable Middlebury policies, practices, contracts, or procedures.

1. Emergency Removal

Where there is an immediate threat to the physical health or safety of any student or other individual arising from the alleged Title IX Sexual Harassment, Middlebury can remove a respondent from its education program or activity (which may include removing an employee respondent from their employment at Middlebury) and issue any necessary related no-trespass and no-contact orders. Middlebury will make the decision to remove a respondent from its education program or activity based on an individualized assessment and risk analysis. If Middlebury makes such a decision, the respondent will be provided with notice and an opportunity to challenge the decision immediately following the removal.

2. Administrative Leave for Employees

Middlebury may place employee respondents (non-students) on paid administrative leave during the pendency of an investigation and resolution process as outlined below. Middlebury reserves the right to place an employee respondent (non-student) on unpaid administrative leave during the pendency of an investigation and resolution process. In those instances in which Middlebury determines that an administrative leave will be unpaid and the respondent was not offered the opportunity to challenge the suspension without pay before it was imposed through some other process, the respondent may present a written challenge regarding the need for or the adequacy of the unpaid administrative leave to the CRTIX Coordinator. Once a written challenge of unpaid administrative leave is received, the CRTIX Coordinator will involve the relevant Middlebury leadership, which may include Human Resources and/or department leaders, and schedule a virtual or in-person meeting with the respondent prior to making a determination.

E. Options to Pursue Criminal or Legal Actions (Reporting Outside of Middlebury)

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1. Criminal Complaints

Any student or employee may pursue criminal charges with local, state, or federal law enforcement agencies. Middlebury will offer and, upon request, provide assistance to individuals covered under this procedure with notifying law enforcement agencies. These options are available regardless of whether an individual chooses to file a complaint with Middlebury. Individuals have the option to notify such agencies with or without assistance from Middlebury, and have the option not to personally notify such authorities.

2. Orders of Protection

Middlebury does not have the authority to issue Relief From Abuse Orders, Orders of Protection or Restraining Orders as these are granted by the court system. Individuals who have experienced Title IX Sexual Harassment may be eligible to pursue Orders of Protection, Restraining Orders and/or Relief from Abuse Orders from courts in the United States or courts outside of the United States as applicable. Middlebury will offer its support to individuals if they request Middlebury's assistance with making contact with law enforcement authorities and other external resources to seek such orders. Middlebury will respect such orders to the extent applicable.

3. Assistance by Middlebury

Requests for assistance with contacting law enforcement authorities or obtaining an Order of Protection, a Relief from Abuse Order, a Restraining Order or other lawful order may be made in person, via email, phone or teleconference to the CRTIX Coordinator, an HRO, or Public Safety For additional information regarding making reports to the police and/or obtaining an Order of Protection, Restraining Order, or Relief from Abuse Order.

III. FORMAL COMPLAINTS/GRIEVANCES & PRE-INVESTIGATION

In addition to the reporting options and access to supportive measures addressed above, a complainant may file a formal written complaint alleging Title IX Sexual Harassment against a respondent and requesting that Middlebury investigate the allegation. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in Middlebury's programs or activities. A formal complaint may be filed with the CRTIX Coordinator in person, by mail, or by electronic mail, by using the contact information contained in Section II, above.

A. Pre-Investigation: Determinations of Applicable Procedures, Dismissals, Transfers and Appeals of Such Determinations

1. Middlebury will investigate alleged Title IX Sexual Harassment where a complainant submits a signed or electronically submitted formal complaint to the CRTIX coordinator, requests an investigation, and the signed written complaint meets the requirements of this section. In cases where the complainant does not wish to submit a formal complaint but the CRTIX Coordinator decides in their discretion to sign a complaint and initiate an investigation and resolution process, the CRTIX Coordinator will not be a complainant or otherwise a party to the matter. Middlebury will terminate the Title IX Sexual Harassment Investigation if a complainant notifies the CRTIX Coordinator in writing that the complainant would like to withdraw the formal complaint.

2. When a complainant requests an investigation,

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(a) the CRTIX Coordinator will, promptly upon receipt of a report, determine whether:

i) the conduct alleged would, if proved, constitute Title IX Sexual Harassment (i.e., *Quid Pro Quo* Sexual Harassment, Severe, Pervasive and Objectively Offensive Sexual Harassment, Sexual Assault, or sex-based Domestic Violence, Dating Violence or Stalking) as defined in the Non-Discrimination Policy as Title IX Sexual Harassment;

ii) the conduct allegedly occurred in Middlebury's education program or activity; and

iii) the conduct allegedly occurred in the United States.

(b) the CRTIX Coordinator/HRO or designee may gather additional information as appropriate before making the determinations required by part (a) of this subsection. During any such initial inquiry, all individuals are expected to cooperate.

3. If some but not all of the conduct alleged in the complaint satisfies all 3 of these elements and a formal complaint is received from a complainant or signed by the CRTIX Coordinator, Middlebury may choose to address the entire matter through this Title IX Sexual Harassment Procedure (that is, it will as required by federal regulations follow Title IX Sexual Harassment procedures to address the alleged Title IX Sexual Harassment, and it may, to promote efficiency or for other compelling reasons, choose to follow this Title IX Sexual Harassment Procedure to address other prohibited conduct in such mixed cases, so that all related misconduct may be addressed through one investigation and resolution process).

4. If it appears based upon initial review or upon information gathered during an investigation that the matter does not satisfy and/or no longer satisfies all 3 of these elements, Middlebury will, as required by Title IX regulations, dismiss the matter from the Title IX Sexual Harassment Procedure, and will transfer it for handling under the Non-Discrimination Investigation and Resolutions Procedure or other Middlebury procedures, as deemed appropriate by Middlebury.

5. Even if the allegations of a matter fall within the definition of Title IX Sexual Harassment, Middlebury may (but is not required to) dismiss a formal complaint or any allegations therein if at any time during the investigation or resolution process:

- A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
- The respondent is no longer enrolled or employed by Middlebury; or
- Specific circumstances prevent Middlebury from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

6. If a formal complaint is dismissed by Middlebury under the circumstances described above, Middlebury will simultaneously provide to the parties written notice (by electronic or other means) of the dismissal and the reasons for the dismissal, and notice of the parties' opportunity to appeal such dismissal through the Title IX Sexual Harassment appeal procedures outlined below.

7. If the respondent is a Student and an Employee, the CRTIX Coordinator will determine which procedures apply based upon the facts and circumstances, such as whether the respondent's status as a Student or an Employee predominates in the context of the Prohibited Conduct. If a Student-Employee is found to have engaged in Prohibited Conduct, the Student-Employee may be subject to sanctions both in

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connection with their employment and in connection with their student status, as appropriate under these and other applicable procedures.

Additional Policy Violations:

1. If the CRTIX Coordinator/HRO becomes aware, at any point prior to or during the investigation and adjudication process, of additional allegations against the respondent that, if proven, could constitute violations of other non-academic policies, including harassment or discrimination investigated under Middlebury's Anti-Harassment/Discrimination Policy, these allegations may, at Middlebury's discretion, be investigated and adjudicated in accordance with the procedures set forth herein. In matters involving Employees, where the CRTIX Coordinator/HRO becomes aware of additional allegations of violations of Middlebury Policy, those concerns will be reported to the Employee's appropriate supervisory authority (e.g., VPAA/dean of the Faculty, VPAA/dean of the Institute, VPAA/dean of the Language Schools, Executive Vice President/Provost), who, in consultation with Human Resources, will consider whether and how to proceed under the relevant Faculty Handbook or Employee Handbook procedures and/or applicable contracts or policies.
2. If one party alleges that another party violated a No Contact Order (NCO) or No Trespass Notice (NTN) and makes the allegations at a time when they can be evaluated during an ongoing Title IX Sexual Harassment investigation/adjudication or after the Title IX Sexual Harassment investigation/adjudication process has been completed, the HRO or HRO's designee will determine how to proceed.
3. If the HRO does not assume jurisdiction, the allegations may be addressed through Middlebury's conduct process for the appropriate school or program, or through the appropriate employment process. Alternatively, the HRO may designate an appropriate Middlebury official(s) to oversee and/or conduct an investigation and adjudicate the matter. If a violation of a NCO or NTN is found, the matter will be referred to the appropriate supervisory authority for discipline and/or other appropriate action in accordance with existing handbook policies.
4. If the HRO assumes jurisdiction over the allegations and deems an investigation to be necessary, the HRO will determine the scope, process, and timeline of the NCO/NTN investigation and adjudication, which may not necessarily follow the procedures outlined in this Title IX Investigation & Resolutions Procedure, if the HRO determines that using other procedures is more appropriate. The HRO has the discretion to determine whether an advisor of choice may be present at any processes or meetings related to an NCO/NTN investigation, depending on the circumstances. Both parties will have an opportunity to review and respond to all evidence relevant to the NCO/NTN investigation according to a timeline established by the HRO. The HRO will make a finding and will refer the matter to the appropriate sanctioning authority if a violation is found. Should the HRO determine that an NCO/NTN violation may also constitute retaliation, the parties will be notified in writing that retaliation will be added to the policies under consideration in the Title IX Sexual Harassment investigation or be part of a subsequent investigation, as applicable.
5. In all cases the parties will receive written notification if the CRTIX Coordinator/HRO determines that additional possible policy violations will be investigated and adjudicated in accordance with the Title IX procedures set forth herein or through a different set of procedures.

B. Bias

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If either party is concerned that an official involved in the investigation or adjudication (such as, for example, an investigator, CRTIX Coordinator, or HRO) may be biased or have a conflict of interest, the party should share their concerns immediately. Concerns of this nature about the investigator should be shared with the CRTIX Coordinator; concerns about the CRTIX Coordinator or an HRO should be shared with the Chief Diversity Officer. The official with whom the concern is shared will consider the concern and inform the parties of a decision as to whether any related action is appropriate and whether an alternate will be appointed. If an alternate investigator, HRO, or CRTIX Coordinator is appointed, the alternate shall have the same authority as the originally designated official.

C. Additional Procedures for Dismissed Complaints.

If the CRTIX Coordinator dismisses a complaint under subsections (A)(1) or (A)(6) of this Part III, the CRTIX must promptly:

1. inform the parties that the dismissal is appealable in accordance with the appeal provisions described in this Procedure, below; and
2. consider whether the conduct alleged, if proved, would constitute a violation of Middlebury policy that should be investigated and adjudicated in accordance with another Middlebury policy, and initiate applicable procedures accordingly.

IV. INVESTIGATIONS

A. Investigations Procedure

1. General Investigation Provisions

As required by the 2020 Title IX regulations, in investigations conducted under this Procedure, the following provisions will apply:

- The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Middlebury and not on the parties;
- Parties will have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
- Parties are not restricted in their ability to discuss the allegations under investigation or to gather and present relevant evidence; and
- When a party is invited or expected to attend a hearing, investigative interview, or other meeting, they will receive written notice of the date, time location, participants, and purpose of such a hearing, investigative interview or meeting, with sufficient time for the party to prepare to participate.

2. Initial Notice of Investigation

When Middlebury initiates an investigation under this Procedure it will provide to the parties a written notice (by electronic or other means) that includes:

- Information about Middlebury's formal and informal resolution processes;

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- A statement of the allegations of behavior potentially constituting Title IX Sexual Harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial post-intake interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Title IX Sexual Harassment, and the date and location of the alleged incident, if known;
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- Information regarding Middlebury’s presumption of good faith reporting and a summary of false complaint information outlined below;
- Notification that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney; and
- Notification that the parties may inspect and review evidence during the investigation and resolution process, as provided below.

If, in the course of an investigation, Middlebury decides to investigate allegations about any party that are not included in the notice described above, it will provide notice of the additional allegations to the parties whose identities are known.

3. Consolidation of Formal Complaints

Middlebury may consolidate formal complaints of Title IX Sexual Harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of such Title IX Sexual Harassment arise out of the same facts or circumstances. Where a grievance process involves more than one complainant or more than one respondent, references in this section to the singular “party,” “complainant,” or “respondent” include the plural, as applicable.

4. Disabilities

Students registered with the [Disability Resource Center](#) can request accommodations to ensure their full and equal participation in any conduct process and/or proceeding. Accommodation requests may be made directly to the CRTIX Coordinator. Accommodations are determined on an individual basis in consultation with the ADA Coordinators. Employees with disabilities may contact Human Resources.

B. Conduct of the Investigation

1. The CRTIX Coordinator will appoint an investigator. In selecting the investigator for a particular matter, the CRTIX Coordinator will take care to select an individual who does not have a conflict of interest or bias against complainants or respondents generally or an individual complainant or respondent. The CRTIX Coordinator will notify the parties of the identity of the investigator and parties may, within three calendar days of such notice, object to the appointment of the investigator by providing a written statement (which may be transmitted electronically) as to why the party believes that the investigator has a conflict of interest or bias. The CRTIX Coordinator will make decisions regarding such objections and the appointment of an alternate investigator, as necessary.

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2. The investigator is authorized to contact any and all individuals who may have relevant information. The nature and scope of the investigation is within the discretion of the investigator. 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. 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 will not access, consider, disclose or otherwise use a party's privileged records without the party's voluntary, written consent to do so, and such information will not be deemed relevant to an investigation or adjudication absent the voluntary, written consent of the party.
3. The complainant and respondent will be asked to identify, preserve and submit all evidence pertaining to the matter under investigation, and to identify witnesses they believe may have relevant testimony to share. The investigator is not required to consider particular evidence submitted or interview any particular witness, even if identified by one of the parties.
4. All participants in the investigation are expected to provide complete, accurate, and truthful information.

C. Preliminary Report

1. After the complainant and the respondent have had the opportunity to make their own statement and to identify witnesses and other potential information, and the investigator has completed witness interviews and the gathering of evidence, the investigator will prepare a preliminary report.
2. Middlebury will provide each party with an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised, including the evidence upon which Middlebury does not intend to rely in reaching a determination regarding responsibility and/or which the investigator does not deem relevant, and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Such evidence will not include privileged records or information that may have been gathered or received during the investigation, absent written consent from the party holding the privilege.
3. Middlebury will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy.
4. Parties and advisors are not permitted to download, print or copy such evidence subject to inspection and review, and are not permitted to re-disclose such evidence without Middlebury's permission. Parties and advisors will be required to sign an acknowledgment form indicating that they understand these prohibitions. Violations of these prohibitions may subject parties to Middlebury discipline under applicable conduct codes.
5. The complainant and the respondent will have an opportunity to review the preliminary report within the same time period and provide written responses to the report. The complainant and the respondent must submit any comments, feedback, additional documents, evidence, suggested questions for individuals interviewed, requests for additional investigation, names of additional witnesses, or any other information they deem relevant to the investigator, including additional documents or other evidence, within 10 calendar days after the preliminary report is sent to them

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for review. The parties' written responses will be considered by the investigator prior to completion of the final investigative report, and some or all of the responses may be attached or otherwise incorporated into the final investigative report.

6. In the event that new, relevant information is provided or identified at this stage, the information will be incorporated into the preliminary report as deemed appropriate by the investigator, and the complainant and the respondent will be provided a second opportunity to review and provide a written response regarding the new information, which the investigator will consider prior to completion of the final investigation report. Identification of new and relevant information after the parties' review of the preliminary report is likely to extend the time frame of the investigation.

D. Final Investigative Report

1. After considering any written response submitted by either party, or after the 10 calendar day comment period has lapsed without receiving a written response or responses, the investigator will address any relevant issues identified by the complainant and/or the respondent, and as appropriate, pursue any additional investigative steps as needed. The final investigative report will be reviewed for completeness by the CRTIX Coordinator or one HRO (not the hearing officer) before it is issued.
2. The final investigative report created by the investigator will fairly summarize relevant evidence and include as exhibits evidentiary materials as deemed appropriate by the investigator;
3. The final investigative report will include the investigator's recommendation as to whether the respondent should be found responsible for violating the policy provisions at issue;
4. At least 10 days prior to the hearing referenced below, Middlebury will send to each party and the party's advisor, if any, the final investigative report and exhibits in an electronic format or a hard copy, for their review and written response; and
5. The final investigative report and the parties' written responses, if any, will be provided to the hearing officer in advance of the hearing.

V. Hearings and Determinations of Responsibility

A. In General

Live hearings will be provided as required by the 2020 Title IX regulations. At the request of either party, Middlebury will provide for the hearing to occur with the parties located in separate rooms with technology enabling the hearing officer and parties to simultaneously see and hear the party or the witness answering questions. Live hearings may be conducted with all parties physically present in the same location or, at Middlebury's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

B. Hearing Officers

Hearings will be presided over by a hearing officer, who will make the decision by a preponderance of the evidence as to whether or not the respondent violated the policy provisions at issue. The hearing officer has broad authority to determine the process, timing and conduct of a hearing. For example, the hearing officer will determine the order of presentation, timing and overall duration of the hearing, what

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information and evidence will be heard, what information and questions are relevant to the determination of the matter, and what cross-examination questions will or will not be permitted.

Hearing officers, ordinarily one of Middlebury's HROs, will be appointed by the CRTIX Coordinator. In selecting a hearing officer for a particular matter, the CRTIX Coordinator will take care to select an individual who does not have a conflict of interest or bias against complainants or respondents generally or an individual complainant or respondent. Middlebury will notify the parties of the identity of the hearing officer in advance of the hearing, and parties may, within 3 calendar days of such notice, object to the service of the hearing officer by providing a written statement (which may be transmitted electronically) as to why the party believes that the hearing officer has a conflict of interest or bias. The CRTIX Coordinator or designee will make decisions regarding such objections and the appointment of an alternate hearing officer, as necessary.

C. Advisors

Each party may have an advisor of their choice present at a hearing for the limited purpose of conducting cross-examination on behalf of that party. Advisors are not required to be attorneys, but attorneys are permitted to serve as advisors. If a party does not have an advisor of their choice present at a hearing, Middlebury will without fee or charge to the party provide an advisor of Middlebury's choice, for the limited purpose of conducting cross-examination on behalf of that party. No later than 10 calendar days before the hearing, parties should inform the CRTIX Coordinator of the identity of any advisor of choice who will accompany them to the hearing, so that Middlebury will know whether or not it needs to arrange for the presence of a Middlebury-provided advisor, even if the party declines to attend the hearing.

At a time and manner deemed appropriate by the hearing officer, the advisor for each party will be permitted to ask the other party and any witnesses all relevant cross-examination questions and follow-up questions, including those challenging credibility. Advisors must comply with the conduct expectations for hearings. Except for the limited role of asking cross-examination questions, advisors may not participate actively in the hearing and may not speak or otherwise communicate on the part of the party that the advisor is advising. However, the advisor may consult privately in a non-disruptive manner with their advisee during and/or at a recess in the hearing. Scheduling accommodations generally will not be made for advisors if they unduly delay the process. Middlebury reserves the right to take appropriate action regarding any advisor who disrupts the process, or who does not abide by the restrictions on their participation as determined in the sole discretion of the hearing officer, which may include exclusion of the advisor from the hearing and the appointment of an alternate Middlebury-provided advisor.

D. Middlebury Faculty and Staff as Advisors

A Middlebury faculty or staff member who agrees to serve as an advisor to a complainant or respondent is not an agent of Middlebury when acting in that capacity and does not speak or act on Middlebury's behalf while serving as an advisor. The relationship between a party and their advisor for the TIX Sexual Harassment hearing is not confidential (or privileged), and the faculty or staff member's duties to Middlebury—including all reporting obligations—remain intact. Before agreeing to serve as an advisor, faculty and staff members should evaluate whether any conflict or potential conflict of interest may warrant their declining the invitation to serve as an advisor. In addition, only licensed attorneys can provide legal advice. Parties seeking legal advice should consult their attorney.

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E. Requests for Appearance of Witnesses

If a Party wishes to have an individual appear at the hearing as a witness, they must provide notice of the identity of the proposed witness and a brief description of the subject matter of the witnesses' testimony to the CRTIX Coordinator or designee at least 10 calendar days before the date of the hearing. The CRTIX Coordinator or designee, in consultation with the hearing officer as necessary, will determine whether the witness is likely to have information that is relevant to the hearing, and if it is determined that the witness is likely to have relevant information, the CRTIX Coordinator or designee will inform the witness that their presence at the hearing is expected. These provisions apply equally to both fact and expert witnesses.

F. Conduct of Hearings and Relevance

A) Report to be provided to Hearing Officer

At or before the hearing, the hearing officer will receive a copy of the investigative report, any attachments thereto, and copies of the parties' written responses to the investigative report, if any, which will be part of the information of record to be considered by the hearing officer to the extent appropriate in light of the rules regarding evidence to be considered that are outlined below.

B) General Order of the Hearing

(i) Subject to the discretion of the hearing officer, hearings will ordinarily begin with introductory remarks by the hearing officer to explain the process, followed by a brief opening statement from any party who wishes to provide one, followed by the hearing officer's asking relevant initial questions of the parties as deemed appropriate by the hearing officer. During this portion of the hearing, advisors may confer privately and in a non-disruptive manner with their advisee, but they are not allowed to make opening statements or otherwise address the hearing officer or anyone else present at the hearing.

(ii) After the hearing officer has asked their initial questions of the parties, the hearing officer will permit each party's advisor to ask the other party all relevant questions and follow-up questions, including those challenging credibility. Subject to the discretion of the hearing officer, questioning of witnesses will generally follow a similar process, whereby the hearing officer will pose relevant questions to each witness, then the parties' advisors will be permitted to ask relevant questions of witnesses. In accordance with the 2020 Title IX regulations, such cross-examination by advisors will be conducted orally, and in real time by the party's advisor of choice and never by a party personally.

(iii) Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the hearing officer will first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Advisors are not permitted to object to hearing officer decisions regarding relevance during a hearing.

(iv) The evidence gathered throughout the investigation will be made available at the hearing, and each party and/or their advisor (as applicable) will have an equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

(v) At the discretion of the hearing officer, parties (but not their advisors) will usually be given an opportunity to make a closing statement at the conclusion of the hearing.

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C) Evidence

(i) Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant and will not be permitted, except for the limited circumstance where such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

(ii) Information protected under a legally recognized privilege (such as, for example, privileged communications between a party and their physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in a treatment capacity, or privileged communications between a party and their attorney), are not relevant unless the person holding the privilege has waived the privilege in writing and the hearing officer determines it is relevant.

(iii) If a party or witness does not submit to cross-examination at the live hearing, the hearing officer will only consider any statement of that party or witness in reaching a determination regarding responsibility to the extent permitted by the law, Title IX regulations and/or U.S. Department of Education guidance that apply or applies as of the time of the hearing. The hearing officer will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

G. Record of Hearings

Middlebury will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

H. Determinations Regarding Responsibility

Within a reasonable time, the hearing officer (and if necessary the sanctioning authority, as provided below) will prepare and issue a written determination regarding responsibility and a recommendation on sanctions. In determining responsibility, the hearing officer will apply the preponderance of the evidence standard. The written determination will include:

- Identification of the section(s) of Middlebury's Non-Discrimination Policy alleged to have been violated
- A description of the procedural steps taken from the receipt of the complaint through the determination, including but not limited to, as applicable, any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held
- Findings of fact supporting the determination
- Conclusions regarding the application of definitions of Title IX Sexual Harassment in Middlebury's Non-Discrimination Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility; and

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- Identification of Middlebury’s procedures and permissible bases for the Complainant and Respondent to appeal (as outlined below).

The determination regarding responsibility becomes final either on the date that Middlebury provides the parties with the written determination of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which the appeal would no longer be considered timely.

If sanctions are necessary, they will be assigned in accordance with the Sanctions section below. The parties will receive notice simultaneously of the written determination and, if necessary, any sanctions as determined through the procedures outlined below.

VI. Sanctioning

1. If the hearing officer finds that the respondent engaged in behavior that violates Middlebury policy, the CRTIX Coordinator will, in accordance with this Procedure, forward the case to the appropriate supervisory authority for the program at issue (“sanctioning authority”), who will assign a sanction or sanctions, and other actions as appropriate. The hearing officer and the sanctioning authority will collaborate on the creation of a single written determination that will include the hearing officer’s statement and rationale regarding responsibility as described in more detail above, a statement of and rationale for any disciplinary action Middlebury is imposing on the respondent, and whether remedies designed to restore or preserve equal access to the educational program or activity of Middlebury will be provided by Middlebury to the complainant.

In determining the sanction or sanctions and/or other actions, the sanctioning authority will be guided by a number of considerations, including but not limited to the following:

- The severity, pervasiveness and/or objective offensiveness of the behavior;
- The nature of the Title IX Sexual Harassment;
- The impact of the Title IX Sexual Harassment on the complainant;
- The impact or implications of the Title IX Sexual Harassment within the Middlebury community;
- Any prior misconduct by the respondent, including the respondent’s relevant prior conduct history, at Middlebury or elsewhere;
- Whether the respondent has accepted responsibility for the Title IX Sexual Harassment;
- The maintenance of a safe, nondiscriminatory and respectful environment conducive to living, learning, and/or working, as applicable; and
- Any other mitigating, aggravating, or compelling factors.

When a student respondent is found responsible for sexual assault, suspension or expulsion are the likely outcomes.

2. Sanctions and other actions will go into effect at either the expiration of the deadline for the submission of an appeal where no appeal is submitted, or at the conclusion of the appeal process if applicable. This language does not preclude the possibility of emergency action as needed; please see Section II.D, Emergency Removals and Non-Student Administrative Leave.

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3. If the hearing officer finds conduct that violates the Non-Discrimination Policy (or other Middlebury policies under investigation), the CRTIX Coordinator will provide the case materials to the appropriate supervisory authority or authorities (e.g., for students: the Vice President for Student Affairs at the College, the Dean of the Language Schools, the Dean of Enrollment, Advising and Student Services at the Institute, the Dean of the Bread Loaf School of English, etc.; for staff, that staff member's supervisor, and for faculty, the Provost). When multiple supervisory authorities are involved in assigning sanctions, they may collaborate with each other as appropriate.

After a review of the case materials and the hearing officer's recommendation regarding sanctions, the supervisory authority may impose disciplinary sanctions. Sanctioning and appeals for faculty whose primary appointment is in the undergraduate college will follow the procedures for Middlebury College faculty, regardless of the program for which the individual was employed at the time of the incident.

Sanctions for Prohibited Conduct could include written reprimands, probationary status, letters of official discipline, and/or suspension, expulsion, reassignment of duties, referral to other disciplinary processes, or termination from employment from any or all Middlebury program(s). Students should note that although sanctions for violation(s) of this policy can include any form of discipline as stated in this section, those found to have committed sexual assault will most likely receive a sanction of suspension or expulsion. Middlebury may also take other non-disciplinary 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 designed to restore or preserve the complainant's equal access to Middlebury's educational program or activity). Middlebury may also provide notice of the matter to the appropriate supervisory authority of any Middlebury program in which the respondent intends to participate, who may consider this information in determining the respondent's admission to the program and/or other program participation parameters, as appropriate. Notification of a finding of responsibility, sanction, or other action under this policy may also be provided to the home institution of non-Middlebury undergraduate and graduate students or any other program in which the student is enrolled or to which the student is pursuing enrollment.

4. If the hearing officer finds that a **faculty member** has engaged in conduct that violates this policy, or other Middlebury policies under investigation, if applicable (absent or following an appeal of that finding in accordance with paragraph G3, above, if an appeal was granted), the CRTIX Coordinator and/or HRO will provide the case materials to the appropriate supervisory authority for the program at issue (e.g., the Middlebury College VPAA/Dean of Faculty, VPAA/Dean of the Institute, Vice President of the Language Schools, Dean of International Programs or Executive Vice President/Provost). The supervisory authority will refer the matter for separate procedures that may result in the imposition of appropriate disciplinary action according to the procedures in existing Faculty Handbook policies and/or contracts, as applicable. Disciplinary sanctions under this policy may therefore include written reprimands, salary freeze, termination of employment, reassignment or restriction of duties, and/or referral to separate procedures that govern employment status issues.

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

VII. Appeals

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Either party may file an appeal from: 1) a determination regarding responsibility; and/or 2) the CRTIX Coordinator's dismissal of a formal complaint or any allegations therein from the Title IX Sexual Harassment process, solely on the basis of one or more of the following circumstances:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that could affect the outcome of the matter and that was not reasonably available at the time the determination regarding responsibility or dismissal was made has become available; and/or
- The CRTIX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally, or the individual complainant or respondent, that affected the outcome of the matter.

Regardless of which party appeals, both parties may participate in the appeals process. Middlebury will provide written notification to the complainant and the respondent of any applicable appeal procedures at the time they receive the written determination regarding responsibility and any sanctions.

An appeal must be made in writing to the appropriate appellate officer, which are:

1. Students:

- a. Undergraduate College students (including non-Middlebury students enrolled in Middlebury summer undergraduate courses): **VPAA/Dean of Faculty or designee**
- b. Middlebury Institute students: **VPAA/Dean of the Institute or designee**
- c. All other students in any other program: **Executive Vice President/Provost or designee**

2. Staff: **VP of HR**

3. Faculty: **Executive Vice President/Provost or designee**

An appeal must articulate one of the three bases above and provide information to support the appealing party's argument. Appeals must be filed no later than 5 business days after the date on which Middlebury transmitted the hearing officer's written determination to the parties. The CRTIX Coordinator or appellate officer may extend this deadline if warranted by the circumstances. Middlebury reserves the right to assign an alternate appellate officer to avoid a conflict of interest or bias. The appellate officer will not be the same person as the hearing officer, the investigator, the CRTIX Coordinator, or a person who made a decision to dismiss a formal complaint.

Middlebury will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties. The other party may then have a period of 5 business days to submit a statement in support of the written determination and/or in opposition to the appeal. Any such statement will be shared with the party who filed the appeal and their advisor.

The appellate officer will issue a written decision describing the result of the appeal and the rationale for the result; and Middlebury will provide the written decision simultaneously to both parties. The appellate officer's decision on any appeal is the final step in the adjudication process, unless the appellate officer provides otherwise as discussed below.

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The appellate officer may uphold the determination by the sanctioning authority, or modify the determination by the sanctioning authority or return the case to the original hearing officer (or an alternate, if warranted) in the event that the appellate officer concludes that either (1) a procedural irregularity affected the outcome of the matter; (2) new evidence that could affect the outcome, and which was not available at the time of the determination, has become available; or (3) a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

It is the responsibility of the appellate officer to determine which if any aspects of the case merit a new review, and to direct the CRTIX Coordinator accordingly.

Absent extenuating circumstances, the appellate officer will notify the complainant and respondent of the appeal decision simultaneously in writing within twenty business days of the appeal receipt deadline and will notify the CRTIX Coordinator in writing of any instructions for further action. This deadline may be extended if warranted by the circumstances. If this deadline is extended, the parties will be notified in writing at the time the extension is determined.

The decision to uphold or modify the determination by the appellate officer is final. If a case is returned for an additional hearing, the subsequent determination and/or sanction from that hearing are ordinarily final.

Pending Discipline (Students)

A student respondent will not be permitted to graduate from or otherwise be deemed to have officially completed a program in which they are enrolled while a disciplinary matter is pending; the student's graduation or certification will be held in abeyance until the matter is resolved. If a respondent withdraws with a disciplinary matter, sanction, or appeal pending, the withdrawal will be considered a resignation from Middlebury, and the student will have given up the opportunity to return to Middlebury. The student's official status at Middlebury will reflect the point in the process at which they withdrew, and the nature of the finding and sanction, as appropriate. Examples include but are not limited to "Withdrawal with a Disciplinary Matter Pending," "Withdrawal with a Disciplinary Sanction Pending," and "Withdrawal with a Disciplinary Appeal Pending."

In extraordinary circumstances, the appropriate supervisory authority may, after appropriate consultation, a review of the case, and consideration of Middlebury's best interests, grant permission for a respondent to withdraw from Middlebury when a disciplinary matter is pending. If the student is readmitted to Middlebury, the disciplinary matter must be resolved either before the student's return, or immediately upon the student's return (as determined by Middlebury).

VIII. Admission of Responsibility

If at any point a respondent chooses to accept responsibility for violating all policies under investigation, an official designated by the CRTIX Coordinator will issue a determination and refer the matter to the appropriate supervisory authority or authorities for the program at issue in accordance with this Procedure. The appropriate supervisory authority or authorities will issue a sanction and/or take other action that is designed to restore or preserve the complainant's equal access to Middlebury's education program or activity.

IX. Informal Resolution

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A. General Information

Informal resolution is a voluntary option that does not involve a hearing process. Informal resolution may be used in Title IX Sexual Harassment matters in which a formal complaint has been filed by a complainant or signed by the CRTIX Coordinator.

The CRTIX Coordinator will assess the request for informal resolution in light of factors such as, but not limited to, the severity of the alleged violation and the potential risks to campus community members posed by the reported misconduct. Middlebury will only proceed with an informal resolution process if both parties provide their voluntary, written consent to initiate the informal resolution process. Middlebury will not offer or facilitate an informal resolution process in matters that involve allegations that an employee committed Title IX Sexual Harassment against a student.

At any time prior to reaching a determination regarding responsibility, Middlebury may facilitate an informal resolution process (e.g., mediation or restorative justice) where requested by one party and agreed to by the other party. If a party requests the initiation of an informal resolution process and the CRTIX Coordinator agrees that the matter is appropriate for informal resolution, Middlebury will provide to each party a written notice that discloses:

- The allegations;
- The requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations-
- As noted below, Middlebury generally permits parties to withdraw from the informal resolution process and initiate or re-initiate a formal investigation and hearing process at any time before the informal resolution process is completed and any informal resolution is agreed to in writing by the parties); and
- Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

The matter will be deemed resolved if and when the parties expressly agree in writing to an outcome that is acceptable to them and which is approved by the CRTIX Coordinator (in consultation with other Middlebury administrators as deemed necessary). A party may withdraw from the informal resolution process at any time prior to their execution of a written informal resolution agreement. After an informal resolution is agreed to in writing between the parties, neither party may initiate a formal resolution process regarding substantially the same factual allegations.

At any time before a matter is resolved through informal resolution, the CRTIX Coordinator may terminate an informal resolution process and initiate or re-initiate a formal investigation and hearing process at any time, as they deem appropriate in their discretion.

X. Training of Individuals Conducting Investigations and Adjudications and Facilitating Informal Resolution Processes

The CRTIX Coordinator, investigators, decision-makers, sanctioning authorities, appellate authorities, and individuals facilitating informal resolution processes (collectively, “Middlebury Officials”) receive training on the definition of Title IX Sexual Harassment in this policy, the scope of Middlebury’s education

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programs or activities, how to serve impartially (including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias), and on issues of relevance of evidence as well as questions, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. Any materials used to train Middlebury Officials will not rely on sex stereotypes and will promote impartial adjudications of formal complaints. Middlebury will ensure that all Middlebury Officials comply with the standards on serving impartially that are outlined in this paragraph.

XI. Record Keeping

The HROs and the CRTIX Coordinator will maintain as required by the May 2020 Title IX regulations any records related to Title IX Title IX Sexual Harassment cases, and will keep confidential records and/or reports under this policy and the actions taken in response to those reports.

APPENDIX A

A. DEFINITIONS

1. Complainant

A complainant 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

2. 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.

3. Report

A Report is any information received by Middlebury College that a complainant 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 Complainant who reports Title IX Sexual Harassment will receive information about the Formal Complaint and Investigation Process.

4. Formal Complaint

Formal complaint means a document filed by a complainant 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 complainant 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, by using the contact information required to be listed for the Title IX Coordinator under § 106.8(a), and by any additional method designated by the recipient.

5. 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

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designees responsible for overseeing investigations and adjudicating sexual misconduct complaints in accordance with this Procedure.

6. 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 during the review of such 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, as defined in this policy.

References throughout this Procedure to the CRTIX should be read as including individuals to whom the CRTIX has designated certain duties either in general or in the context of a particular case or situation.

7. 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. In computing any period of time referenced in this Procedure, the day of the act or event (e.g., provision of evidence for review and response, issuance of a determination or sanction) from which the designated time period begins to run shall not be included. The last day of the period so computed shall be included if it is a business day; when not a business day, the period will conclude at the end of the next business day.

8. Parties

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

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[1] Note that Schools Abroad are covered under AHD

[2] Middlebury's Vermont undergraduate campus program includes a confidential resource called MiddSafe; for more information, see <https://www.middlebury.edu/student-life/health-wellness-education-and-saf...>