

Harassment Policy

STATEMENT ON HARASSMENT

Verbal, written, or physical, harassment of any kind is unacceptable in the Macalester community. Members of the College community and guests have the right to be free from all forms of harassment and violence. Any individual who harasses or abuses another is subject to the disciplinary procedures of the College and the civil and criminal laws that may pertain. The College expects its members will educate themselves about such behavior and be vigilant in protecting the right to an environment free of harassment and abuse.

Macalester College values the right to free speech and the open exchange of ideas and views in our learning environment. We, as a community, are committed to embracing multiculturalism, internationalism, anti-racism, social justice and a celebration of all forms of diversity. Macalester College is dedicated to assuring dignity for all and desires to be welcoming to every member of the campus community. Allegations of any act that has the purpose or effect of unreasonably or substantially interfering with an individual's safety, security, or educational opportunities by creating an intimidating, hostile, or offensive educational or working environment, will be investigated. If a respondent is found responsible for acts of harassment, serious sanctions will be used to ensure that such actions are not repeated.

RELATIONSHIPS BETWEEN STUDENTS AND FACULTY OR CAMPUS EMPLOYERS

Relationships between a faculty member and a student, a student and a professional staff member or between a supervisor and employee should be considered ones of professional and client in which the initiation of sexual relationships is inappropriate and unethical. The power differential inherent in faculty/student, staff/student, and supervisor/employee relationships compromises the subordinate's ability to freely decide. The respect and trust accorded a professor by a student, as well as the power exercised by the professor in giving praise or blame, grades, recommendations for further study and future employment, greatly diminish the student's actual freedom of choice should sexual favors be included among the professor's demands. The same is true with respect to a supervisor and employee. Codes of ethics for most professional associations forbid the initiation of sexual relationships where professional/client, teacher/student, or supervisor/employee relationships exist.

HARASSMENT DEFINITIONS

In general, **harassment** includes any verbal, written, or physical conduct that unreasonably interferes with or deprives someone with academic, social or work-related access, benefits, or opportunities in the College community. Harassment that is directed at a person's actual or perceived race, gender, gender identity, sexual orientation, religion, disability or any other characteristic or behavior is prohibited at Macalester.

Sexual harassment, specifically, is harassment of this nature that is gender-based. That is gender-based verbal or physical conduct that unreasonably interferes with or deprives

someone of educational access, benefits, or opportunities.

Sexual harassment involves a wide range of verbal and non-verbal behaviors that impose unwanted sexual attention on an individual, regardless of the power differential between the individuals involved.

What are often called **hate incidents**, may also be a form of harassment. Hate incidents are words or actions that target, threaten, or attack an individual or group because of their actual or perceived race, color, national or ethnic origin, religious affiliation, gender, disability, or sexual orientation. It becomes harassment when these words or deeds unreasonably interfere with or deprive someone of educational access, benefits, or opportunities.

HARASSMENT OFFENSES

The requirements of this harassment policy apply regardless of sexual orientation, gender identity, or gender expression, age, race, nationality, class status, ability, religion or physical appearance. For reference to the pertinent state statutes on harassment, see <https://www.revisor.mn.gov/statutes/?id=609.748>

Four primary types of Harassment:

1. Hostile Environment (sexual harassment or otherwise)
2. Retaliatory harassment (sexual harassment or otherwise)
3. Quid pro quo sexual harassment
4. Sexual Exploitation

1. **Hostile Environment:** Includes any situation in which there is harassing conduct that is sufficiently severe, pervasive/persistent and patently/objectively offensive that it alters the conditions of education or employment, from both a subjective (the victim's) and an objective (reasonable person's) viewpoint. The circumstances to determine whether an environment is "hostile" could include:

- The frequency of the conduct
- The nature and severity of the conduct
- Whether the conduct was physically threatening
- Whether the conduct was humiliating.
- The effect of the conduct on the victim's mental or emotional state;
- Whether the conduct was directed at more than one person;
- Whether the conduct arose in the context of other discriminatory conduct
- Whether the conduct unreasonably interfered with the alleged victim's educational or work performance
- Whether the statement is an utterance of an epithet which engenders offense in an employee or student, or offends by rudeness
- Whether the speech or conduct deserves the protections of academic freedom

2. **Retaliatory harassment** is any adverse employment or educational action taken

against a person because of the person's participation in a complaint or investigation of discrimination, assault or harassment.

3. **Quid pro quo sexual harassment** is unwanted sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature; and submission to or rejection of such conduct results in adverse educational or employment action.
4. **Sexual Exploitation** occurs when a student takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other forms of harassment or sexual assault. Examples of sexual exploitation include, but are not limited to:
 - Prostituting another student;
 - Non-consensual video or audio-taping sexual activity;
 - Going beyond the boundaries of consent (e.g., letting your friends hide in the closet to watch you have consensual sex);
 - Engaging in non-consensual viewing of another person or exposing of oneself
 - Knowingly transmitting an STI or HIV to another student
 - Posting sexually explicit photos in public or on social media sites

Examples of Harassment

Not all workplace or educational conduct that may be described as "harassment" affects the terms, conditions or privileges of employment or education. For example, a one-time utterance of an ethnic, gender-based, or racial epithet that creates offensive feelings in an individual may not affect the terms and conditions of that individual's employment or education.

For instance, a boss who yells all the time may cause an intimidating or stressful work environment but as long as she/he does this in a general manner and refrains from making any discriminatory statements about a particular person, then she/he is likely not exhibiting harassment. The supervisor may be found responsible for other charges or policy violations, however, such as intentional infliction of emotional distress. The College would take these violations seriously but would pursue investigation and response via other College processes (i.e., employment or conduct)

For a behavior to be termed as harassment, it must be pervasive and constitute a pattern rather than 1-2 isolated incidents or have a pattern and/or degree of severity that the behavior reasonably interferes with or deprives the targeted person of employment, educational access, benefits, or opportunity. For example:

- A professor insists that a student have sex with him/her in exchange for a better grade. This is harassment regardless of whether the student accedes to the request.
- A student continues to send racially oriented jokes around on an email list, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall where they both live.

- Explicit sexual pictures are displayed in a professor's office, on the exterior of a residence hall door, or on a computer monitor in a public space.
- Two supervisors frequently "rate" several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.
- A student's roommate repeatedly tells jokes that are derogatory toward gays and lesbians, despite being asked to stop by the roommate. The offending student justifies the jokes by saying, it's ok because he/she has many gay friends
- A student widely spreads false stories about her sex life with her former partner to the clear discomfort of her partner, and making other students weary of her ex-partner
- Graffiti is found written on residence hall memo boards that includes images of swastikas, and anti-Jewish sentiments

CONFIDENTIALITY

Different people on campus have different legal reporting responsibilities, and different abilities to maintain your confidentiality, depending on their roles at the college.

On campus, some individuals may be able to maintain your complete confidentiality, offering you options and advice without any obligation to tell anyone, unless you want them to. Other resources are primarily there for you to report policy violations, and they will take action when you report harassment to them. Most resources fall in the middle of these two extremes. Neither the college nor the law requires employees to divulge private information that you share with them, except in extremely rare circumstances, described below. You may seek assistance from them without being required to file a complaint or having your privacy violated.

Legally Confidential Resources

If you desire that details of the incident be kept confidential, you should speak with one of the following resources:

- Macalester College Center for Religious and Spiritual Life chaplains (or off-campus clergy and chaplains)
- Health and Wellness Center Counselors, Physician, Registered Nurse or Nurse Practitioner
- Sexual Offense Services of Ramsey County Victims Advocates (or other state certified trained victims advocates)

Campus Private Resources

You can seek advice and support from the following campus resources who will not tell anyone your private, personally identifiable information unless there is cause for fear for your safety, or the safety of others. These resources include those without supervisory responsibility or remedial authority to address sexual misconduct such as

- Faculty members,
- Advisors to student organizations,
- Student Affairs staff such as Hall Directors, Career Development Center, International Student Programs, Campus Life, Department of Multicultural Life (not

- including the Office of Student Affairs staff), or
- Members of the Macalester Sexual Assault or Harassment Support Teams

If you are unsure of someone's duties and ability to maintain your privacy, ask them before you talk to them.

Non-Confidential Reporting Resources

You are encouraged to make a formal complaint of incidents that will be investigated by the Macalester College Harassment Committee (MCHC). You have the right and can expect to have incidents of harassment be taken seriously by the College when formally reported, and to have those incidents investigated and properly resolved through the MCHC process. Formal reporting does not mean that your report won't be kept as private as possible, but it does mean that people who need to know will be told, and information will be shared as necessary with investigators, witnesses, and the accused. If information needs to be shared it will be as limited as possible to preserve your rights and privacy. Deans, Vice Presidents, or other administrators with supervisory responsibilities, campus security, and employment services are legally mandated to follow up on any report of harassment or sexual misconduct.

Complainants and Respondents Responsibility to Confidentiality

The **complainant** is the person who is the target of the Harassment who has chosen to make a complaint. The **respondant** is the person who is accused of engaging in harassment and is responding to the complaint. Both complainants and respondents are expected to observe community standards of responsibility and confidentiality. During the course of an investigation, the investigators may impose restrictions on the parties and other participants for the purpose of maintaining the confidentiality of those involved in the investigation and minimizing the potential disruptiveness that the investigation may have on the College community. Anyone involved in an investigation that violates such restrictions will be subject to appropriate sanctions.

REPORTING AND/OR MAKING A COMPLAINT OF HARASSMENT

The College encourages anyone who has been harassed to report the situation and seek appropriate emotional/medical support and to consider filing a formal complaint. Sometimes students choose to make a **report**, a written account of the harassment that has occurred, to a confidential or private resource while the information is fresh in their minds and determine later if they want to file a formal complaint. Reports may also be filed anonymously with campus security or using the online reporting [form](#) without requesting further action from the MCHC. Reports and formal complaints noting offenses occurring within campus boundaries are represented in the annual crime statistics published by the college.

A **complaint** is an official written statement given by the victim of harassment (or on his/her behalf), that is used as the basis for initiating and supporting an investigation by the MCHC. In most cases, complaints are only pursued upon the request of the victim. The College reserves the right to pursue a report of harassment if information is given that suggests there is a risk to members of the community. Victims should be aware of

confidentiality and mandatory reporting (as discussed above) in order to make informed choices concerning filing a report.

Reporting Options

- Call 911 immediately if you are in physical danger or in need of medical attention
- Avoid touching objects or area where an incident or a crime has occurred. Call **Campus Security** staff (651-696-6555) who will photograph vandalism and graffiti for future record. Campus Security will also contact a professional staff member trained to deal with crisis situations to assist with further follow-up and reporting.
- Contact a member of the **Macalester College Harassment Support Team** or **Sexual Assault Support Team** (if it is sexual harassment). Members of these teams are prepared to provide initial emotional support, assist in writing a report, discuss options, attend meetings with students, and provide campus and community resources. More information about these teams and other information can be found on the Harassment and Bias Prevention, Support & Resources [website](#)
- **Contact the Dean or Associate Dean of Students**, located in the Office of Student Affairs, 119 Weyerhaeuser Hall (651-696-6220), or any other member of the **MCHC**. **They** can discuss complaints of harassment and assist the victim(s) in identifying support resources and options. Community members may also use the MCHC as a resource regarding questions or concerns about an incident or situation without registering a complaint. Please note: Sharing names of accused harassers to a MCHC members will likely initiate an investigation and potential response from the College.
- Report confidentially or anonymously via an online reporting [form](#), found on the Harassment and Bias Prevention, Support & Resources [website](#).
- Talk with a trusted member of the Macalester staff or faculty who could support you and assist you as you make decisions about how you'd like to proceed

The person who receives a report from a victim, that person will offer support services to the individual and determine whether a report must be made to the police (the law requires reporting in certain instances). Regardless of whether a report to the police is made, the support person will follow established Macalester procedures independent from any police involvement and is specifically prohibited from engaging in any information outside of established college procedures except as the law requires.

Community Hate Incident Notification Procedures

Hate incidents are an affront to the entire community. If one occurs, the entire Macalester College community will likely be informed via the College's official daily communication vehicle, the *Daily Piper*. Notification about hate incidents is necessary both to protect the safety of community members, as well as to raise campus awareness. Notification is necessary for facilitating the healing process for the targeted person, group, and the entire community through campus dialogue and collective problem solving.

A Hate Incident Notice will be sent as soon as agreed upon by the investigation team after the incident has been reported to campus officials. A Hate Incident Notice will be issued if the incident occurred on campus or in the surrounding neighborhood and a Macalester community member was the target.

FILING A HARASSMENT COMPLAINT

If a victim wants to file a complaint he/she use any of the above reporting options and indicate that she/he wants to file a complaint. A member of the Macalester College Harassment Committee (MCHC) will contact the person directly.

Macalester College Harassment Committee

All harassment complaints, except against the College President, will be received and processed by the Macalester College Harassment Committee (MCHC). Official complaints against the President will be promptly heard and dealt with by the Macalester Board of Trustees. For additional information on the MCHC please see the section MCHC General Policies on the committees [website](#). There is no parallel process whereby anyone other than a MCHC member may attempt to resolve the suspected harassment problem.

Three members of the MCHC will be selected to participate in complaint resolution (the Review Team), with one person designated as chair. The chair assumes responsibilities for coordinating the review team throughout the process. A fourth member of the MCHC will be informed that an investigation is occurring but will not receive information specific to the complaint. This fourth individual will serve as part of the appeal process if necessary.

Jurisdiction

The College is able to respond formally to situations:

- that occurred on campus or
- were part of official College programs (regardless of location)
- where the complainant (victim) and respondent (accused) are members of the campus community.

Even if the perpetrator is unknown or is not a member of the college community College staff will assist victims in identifying appropriate campus or civil authorities and making a report.

Timeframe

The College does not limit the time frame for a report of harassment. Reports may be taken at any time after an offense has occurred, although the College's ability to take action may be limited if significant time has passed.

Evaluation of Complaint

The MCHC Review Team receiving the complaint will determine the appropriate course of action that could include:

1. No action
2. Investigation
3. Informal Resolution Options

4. Formal Action Options

In evaluating a case to determine the appropriate course of action, past records may be consulted. In cases involving a third party bringing forward a concern, the MCHC member receiving the information will consult with the individual reportedly being harassed. Persons named as respondents in the complaint will also be promptly notified of the complaint and informed of procedures and options available to them.

1. **No Action Option.** Following initial review of the complaint, if the MCHC Review Team concludes that no further investigation or action is warranted, a memorandum detailing the complaint and the reasons for this conclusion will be completed for the files.
2. **Investigation Option.** If the MCHC Review Team determines that an investigation should take place, the investigation will begin as soon as feasible. The Review Team will conduct a thorough and impartial investigation that will be completed as soon as possible.

Outcome. Upon completion of the investigation, the MCHC Review Team may

- close the case without action and file a report summarizing the case and the reason for the conclusion;
- obtain agreement of the parties involved to enter into an informal resolution, or
- move to a formal resolution and if found responsible,
- make recommendations to the appropriate College authority (identified below) of the next appropriate course of action or sanction.

3. **Informal Resolution Option.** In essence, informal resolution includes a variety of ways for resolving conflicts or misunderstandings between a complainant and respondent (i.e., facilitated conversations, mediation, written communication). Outcomes of informal resolutions are not part of a student's permanent record. The goal of any informal option is for two parties, using a facilitated problem-solving approach, to come to a mutual agreement regarding the solution to the problem or issue between them. They then clearly specify any changes in behavior toward one another to which the parties have agreed. Institutional sanctions or punishments are not permitted outcomes of informal resolutions.

Procedure. If the MCHC Review Team determines that informal resolution is appropriate at any point after receiving a complaint, it will be recommended and explained to both the complainant and respondent. If both parties agree to participate, a facilitator will be provided to discuss informal options.

Outcome. If informal resolution is rejected by one or both parties, or if an attempt at informal resolution fails to conclude with a mutually agreed upon resolution, the MCHC Review Team may decide to take no further action or continue an investigation or move to formal resolution. If informal resolution was undertaken, a report will be filed at its conclusion, successful or unsuccessful.

- 4. Formal Action Option.** A formal action becomes part of a student's permanent record. The respondent is notified of the decision to engage in a formal action and is able to have access to all reports and information used to determine responsibility.

Rights of the Complainant

- To have their complaint taken seriously
- To receive assistance in formulating a complaint
- To receive information on campus and community services.
- To have a meeting/interview that includes:
 - An opportunity to review all information included in the case
 - An explanation of all the options open to the MCHC
 - Clear information on procedures to be followed
 - An explanation of the time table involved
 - Identity of MCHC members involved in the case
 - To present information on their own behalf, including written and oral statements and physical exhibits
 - To know all information of the case
 - To have a member of the faculty, staff, or student body serve as an advisor throughout the process
 - To present witnesses who are familiar with information pertinent to the case.
 - To receive a timely written decision
 - To have confidentiality as provided by the Family Educational Rights and Privacy Act.
 - To appeal the decision.

Rights of the Respondent

- To receive assistance in formulating a statement response.
- To receive information on campus and community services. To have a meeting/interview with a member of the MCHC that includes:
 - An explanation of specific charges
 - An opportunity to review all information to be considered in the case
 - An explanation of all the options considered in the case
 - Identity of MCHC members involved in the case
 - An explanation of the time table involved
 - To decline to make self-incriminating statements or to answer questions with the understanding that to do so shall not be interpreted as evidence of guilt.
 - To present information on their own behalf, including written and oral statements and physical exhibits.
 - To know all information presented against them.
 - To have a member of the faculty, staff or student body serve as an advisor throughout the process.
 - To present witnesses who are familiar with information pertinent to case.
 - To receive a timely written decision.
 - To have confidentiality as provided by the Family Educational Rights and Privacy Act.
 - To appeal the original decision.

Normally, in resolving formal cases involving a student as the respondent, the Vice President for Student Affairs will be the relevant authority. In cases involving a faculty member as the respondent, the Provost will be the relevant authority, and in cases involving a staff member, the member of the President's Senior Staff to whom the individual ultimately reports will be called to hear the facts presented by the MCHC Review Team and the recommended sanction. If the specifics of a case require one of the above named authorities to recuse himself/herself from a case, one of the other authorities will take the case. If a student is involved as either the complainant or the respondent, then an impartial student observer, a trained member of the Student Conduct Board, will be called to listen to the presentation of the facts. This student observer will observe and, if necessary, ask questions and enter into discussions regarding the procedures followed in the investigation. The student will not participate in a discussion of the facts in the case or their interpretation. If there are concerns about procedural errors, they may be remedied before the sanctions phase.

Sanctions

At the completion of a formal process the chair of the MCHC Review Team and the relevant College authority will meet and make a determination regarding the case including any sanctions that are warranted. Past records will normally be reviewed only at the sanctioning phase of the investigation. When a student is found responsible of a violation through formal action, the relevant College authority will consider the recommendations of the review board and make a determination regarding the case including any sanctions that are warranted.

The relevant College authority will also prepare a written "Case Determination" that describes the decision and sanctions in detail. This document must indicate whether any record is to be placed in the respondent's personnel file and if so, the precise statement is to be attached to the document and will be included in the case file kept by the MCHC. The College authority will then meet with the respondent to inform her or him of the decision and provide a copy of the Case Determination and any attachment. In most cases, the complainant will be made aware of the outcome of the case. Records are kept in accordance with policies outlined under the section Macalester College Harassment Committee, General Procedures.

The College reserves the right to take whatever measures deemed necessary in response to an allegation of harassment in order to protect students' rights and personal safety. Such measures include, but are not limited to, modification of living arrangements, interim suspension from campus pending a MCHC meeting, and reporting to the local police. Not all forms of harassment will be deemed to be equally serious offenses, and the College reserves the right to impose differing sanctions. A member of the College community found responsible for knowingly, intentionally and willfully violating the policy on sexual exploitation or harassment will likely receive a recommended sanction consistent with the severity of the incident, and taking into account any previous campus conduct violations. The College will consider the concerns and rights of complainants and respondents in determining sanctions. Other information on sanctioning:

- Sanctions for staff may range from reprimands or training to immediate termination of employment, depending on the severity of the incident and taking into account any previous employment concerns
- Sanctions for students may range from warning to expulsion, depending on the severity of the incident and taking into account any previous campus conduct violations
- In the case of sanctions against a member of any collective bargaining unit, contractual grievance and arbitration procedures will remain available to the employee.
- When a severe sanction against a faculty member is recommended, a hearing must first be held and conducted according to the rules stipulated by the American Association of University Professors (AAUP). A hearing will take place before the Faculty Personnel Committee. Members who find it necessary to recuse themselves will be replaced by available former members of the Committee with preference given to those having served most recently.
- Sanctions take effect at the time in which they are determined, unless otherwise specifically noted. Should a respondent provide an intention to appeal, the implementation of sanctions will be delayed until the outcome of the appeal is determined.
- The respondent will be notified about the decision/sanction in writing.
- The complainant will be notified in writing about the appropriate relevant information of the decision/sanction.

Appeals

Appeals of decisions made by the MCHC may be submitted by either party within ten working days of the date of the letter notifying the parties of the decision. Appeals should be submitted in writing and outline the basis for the appeal. Appeals are accepted on the basis of procedural errors that may have impacted the final decision, new information that was not previously available, or claims that the decision or sanctions were arbitrary or capricious. Appeals will be heard by the fourth member of the MCHC designated at the beginning of the process and the Associate Dean of Student Services. If the respondent is a student then the student member of the Conduct Hearing Board who observed the process will be a part of the appeal review. The appeal review team may overturn the decision determined through formal action or request that the Vice President reconsider the case. Decisions of the appeal review team are final.

*The procedures described in this policy are intended as guidelines describing how harassment complaints will typically be handled. The College reserves the right to vary from these procedures based upon its evaluation of the circumstances of each matter.