

# Harassment

## **Statement on Harassment**

Harassment or abuse, whether verbal, written or physical, is unacceptable in the Macalester community. Any individual who harasses or abuses another is subject to the disciplinary procedures of the College and such civil and criminal laws as 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. Any act that has the purpose or effect of unreasonably or substantially interfering with an individual's safety and security by creating an intimidating, hostile, or offensive educational or working environment will not be permitted. In particular, harassment that is directed at a person's actual or perceived race, gender, gender identity, sexual orientation, religion, disability or other protected status is prohibited.

In addition, it is a gross misdemeanor to intentionally harass a person by engaging in certain acts which cause the person to feel oppressed, persecuted or intimidated. Such acts include stalking or threatening a person, sending packages, letters, computer messages, text messages or telegrams to a person, and making telephone calls to a person with the intent to harass them.

At Macalester, harassment is defined as:

- Verbal, written or physical conduct which has the purpose or effect of unreasonably interfering with an individual's academic, social or work-related participation in the College community.
- Harassment can include, but is not limited to, hostile or intimidating verbal or written statements or symbols, physical threats or intimidating conduct that adversely affects the mental or emotional health of the individual and that interferes with a person's ability to function successfully in her or his academic, work or social life at Macalester College.
- The definition of harassment includes acts that are intended to insult or stigmatize an individual or group of individuals on the basis of their race or color, or speech that makes use of inappropriate words or non-verbals.
- Speech or an act of harassment need not be addressed directly to an individual or group of individuals to insult or stigmatize.

A member of the College community who knowingly, intentionally and willfully participates in activities defined as harassing shall be considered in violation of this policy and shall be subject to disciplinary proceedings.

## **Hate Incidents**

### **Definition of Hate Incidents**

*Hate Incident:* Macalester College defines a hate incident as a speech, act or harassing action that targets, threatens, or attacks an individual or group because of their actual or perceived race, color, national or ethnic origin, religious affiliation, gender, disability, or sexual orientation.

### **Community Hate Incident Notification Procedures**

Because hate incidents and hate crimes are an affront to the entire community, if one occurs, the entire Macalester College community should be informed. 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 should 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.

### Sexual Harassment

Sexual harassment involves a wide range of verbal and non-verbal behaviors which impose unwelcome sexual attention on an individual. Sexual harassment is unacceptable, may be subject to College discipline and may be subject to criminal proceedings.

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when:

- Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment or education;
- Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or that conduct or communication has the purpose or effect of substantially interfering with an individual's employment or education, or creating an intimidating, hostile or offensive employment or educational environment.
- It involves the use of any offensive or demeaning terms which have sexual connotations including those contained in jokes and humor.
- It involves the use of images or symbols of a sexual nature that degrade and or intimidate.

Harassing behavior can occur regardless of the power differential between the individuals involved. Behavior or speech of a sexual nature, or which employs a sexual stereotype or generalization which adversely affects the academic or employment climate can be sexual harassment. Harassing behavior can be addressed to an individual or it may be more general sexual or sexist behavior or comments, in or out of the classroom or workplace, to a group of people.

### Responding to and Reporting Harassment, Hate Incidents and Sexual Harassment:

Students have many options for reporting and responding forms of harassment. If you are in physical danger always call 911 immediately.

- You may contact the Office of Student Affairs at 651-696-6220. A professional staff member will follow up to assess the situation, assist the victim(s) and contact other resources as needed.
- You may call campus Security at 651-696-6555. Avoid touching the objects or area where the incident or crime occurred. Campus Security staff will photograph vandalism and graffiti for future record. Campus Security will dispatch to the scene and page a professional staff member trained to deal with crisis situations
- You may contact a member of the Macalester College Harassment Committee ([www.macalester.edu/committees/mchc](http://www.macalester.edu/committees/mchc)) who will assist you in filing a report and begin an investigation and potential response from the College.

### Procedures for responding to Complaints of Harassment

#### **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 Macalester College Harassment Committee, General Policies.

Community members may also use the MCHC as a resource regarding questions or concerns about an incident or situation without registering a complaint.

**Contact information for members of the MCHC can be found at this link:** [ww.macalester.edu/committees/mchc](http://ww.macalester.edu/committees/mchc)  
**or by calling:**

Office of Student Affairs	651-696-6220
Office of the Provost	651-696-6160
Employment Services	651-696-6280

### **Filing a Complaint**

The College encourages anyone who has been harassed to report the situation and seek appropriate emotional/medical support and consider filing a formal complaint.

The College is able to respond formally to situations:

- that occurred on campus,
- were part of official College programs (regardless of location)
- where the complainant (victim) and respondent (perpetrator) 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

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. A formal complaint is an official statement given by the victim of harassment (or on their behalf), which is used as the basis for initiating and supporting an investigation by the MCHC. Students may also report an occurrence of harassment or sexual assault with campus security or using the online reporting form without requesting further action from the MCHC. Reports may also be filed anonymously. Further action may or may not be taken depending on the information received. Reports noting and formal complaints noting offenses occurring within campus boundaries are represented in the annual crime statistics published by the college.

- *Formal Complaints:* Formal complaints are typically made in writing, identify the accused party (ies) and are signed. The person bringing the complaint is referred to in this process as the complainant, while the person accused is referred to as the respondent. A formal complaint should also include a specific description of the objectionable behavior or circumstances, and any available supporting information, such as copies of emails, pictures of graffiti, etc.
- In cases where the complainant is unable or unwilling to provide a formal written statement, a member of the MCHC may formulate and bring forward the complaint. The complainant will not be named without their expressed permission.
- In situations where the MCHC becomes aware of pattern of behavior by a single perpetrator, the MCHC may take action without a specific individual complainant being named.
- There is no parallel process whereby anyone other than a MCHC member may attempt to resolve the suspected harassment problem.
- The MCHC will treat any public reference to possible harassment, such as an allegation in an article published in the student newspaper as cause for investigation.
- The MCHC member receiving the complaint 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 MCHC member 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.
- For additional information on the rights of the complainant and respondent in this process please see the section Macalester College Harassment Committee General Procedures

## **Confidentiality**

Individuals submitting or receiving complaints 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.

- Note: Any College employee who suspects any form of harassment has occurred or is occurring or who receives information regarding possible harassment must immediately bring the matter to the attention of the MCHC (except those exempted by position of medical, clergy or counseling privilege). In addition, all community members (not just employees) are encouraged to notify the MCHC should they become aware of incidents of harassment.

## **MCHC Procedures Upon Receiving Complaint**

### **MCHC Review Team**

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.

### **Evaluation of Complaint**

The MCHC Review Team receiving the complaint will determine the next course of action which could include mediation, investigation or a finding that the complaint does not constitute an alleged violation of College policies on harassment. To accomplish this, 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.

**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 normally be completed and reported within two weeks.

**Outcome.** Upon completion of the investigation, the MCHC Review Team may 1) close the case without action and file a report summarizing the case and the reason for the conclusion; 2) obtain agreement of the parties involved to enter into a mediated resolution, or 3) to present the results of their investigation to the appropriate College authority (identified below) in order to determine the next appropriate course of action or sanction.

**No Action Option.** If the MCHC Review Team concludes that further investigation nor mediation is warranted, a memorandum detailing the complaint and the reasons for this conclusion will be completed for the files.

**Mediation Option.** In essence, mediation is a means of resolving conflicts or misunderstandings between a complainant and respondent. The goal of a mediation procedure is for two parties, using a facilitated problem-solving approach, come to an 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 mediation.

**Procedure.** If the MCHC Review Team determines that internal or professional mediation 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 mediator, who will facilitate the mediation process, will be provided.

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

### **Formal Response Option**

**Report procedures.** Normally, in reporting 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. 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 the Formal process, the relevant College authority will make a determination regarding the case including any sanctions that are warranted.

- Sanctions may include those cited in the College Conduct Process, as described in the Student Handbook. Sanctions may be adjusted to address the circumstances of the situation at hand.
- Sanctions for staff may range from reprimands or training to immediate termination of employment or expulsion.
- 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 student provide an intention to appeal, the implementation of sanctions will be delayed until the outcome of the appeal is determined.

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.

## **Appeal**

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 will 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.

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.