I. PURPOSE

Madison Area Technical College (Madison College) has established the following complaint procedure for an employee to utilize for matters concerning discipline, termination, or workplace safety covered under this procedure. This procedure provides an employee with the opportunity to address concerns regarding discipline, termination, or workplace safety matters; to have those matters reviewed by an Impartial Hearing Officer (IHO); and, to appeal to the Madison College District Board. The College expects an employee and management to exercise reasonable efforts to resolve any questions, problems, or misunderstandings prior to utilizing the complaint procedure. This internal complaint resolution procedure is consistent with the requirements of state law, Stat., § 66.0509. This complaint procedure does not create a legally binding contract of employment. This procedure may be revised, updated or repealed at any time.

II. ELIGIBILITY

This policy is applicable to non-union, full-time, part-time, and limited-term employees.

This procedure is not applicable to:
- Temporary employees;
- Casual employees;
- Student employees; or,
- Work study student employees.

III. Definitions

A. Complaint: Complaint means any complaint regarding the discipline or workplace safety as defined in this policy.

B. Complainant: Complainant means an employee of Madison Area Technical College who has a personal complaint as defined in this policy. At the College’s discretion, personal and individual written complaints with the same or sufficiently similar underlying facts and policy issues may be combined at any step in the proceeding.

C. Days: All days listed in this policy are regular business days when the College is open for business. Weekends, holidays and days when the campus is closed for business are excluded.
D. **Discipline:** Any employment action that results in disciplinary suspension without pay, disciplinary reduction in pay or other benefits, or disciplinary demotion.

“Discipline” under this policy **shall not** include:

- Voluntary termination
- An employee’s termination from work which was temporary, project or limited term
- Retirement
- Layoff or failure to be recalled from layoff
- Termination due to lack of work or position elimination
- Any action taken due to lack of qualifications or license/certification for the position (WTCS or occupation related)
- Medical inability to perform the functions of the position
- Transfer
- Change in assignment or location
- Awarding, reassignment or assignment of work (including amount of work)
- Hiring or selection decisions
- Reorganization
- Administrative leave (unpaid or paid), however, any discipline related to an administrative leave may be appealed using this process and any remedy requested may address the period of unpaid leave.
- Actions taken to address work performance including providing guidance or counseling, a performance improvement plan, incident/observation reports or adverse performance evaluation

E. **Termination:** Discharge from employment.

“Termination” under this policy **shall not** include:

- Layoff
- Voluntary termination including, without limitation, quitting, resignation, retirement, or death
- Job abandonment (no-call, no-show)
- Elimination of position and subsequent termination
- Inability to perform the functions or failure to meet the qualifications of the position or lack of qualification or license or any other cessation of employment not involving involuntary termination
- End of employment and/or completion of assignment of temporary, seasonal, contract, daily assignment, substitute, or replacement employment relationship
- Non-renewal of an employment contract governed by Wis. Stat., § 118.22 and 118.24
- Workforce reduction activities
- End of employment due to disability
- Job transfers or voluntary demotions
- Or other personnel actions taken by the College for non-disciplinary reasons
F. **Workplace Safety:** Conditions of employment relating to safety of the complainant’s physical work environment, tools and equipment, protective equipment, and state, federal and regulatory body training and warning requirements. This complaint procedure does not apply to an appeal of a determination by a state or federal agency or regulatory body relating to workplace safety involving a College employee.

1. The issue must concern the safety of a person (not the “safety” of one’s vehicle or other possession).

2. The complaint must be filed by an employee who is presently affected by the issue or who might reasonably in the future be affected by the issue. The issue presented by the complaint must be under the reasonable control of the College.

3. The College reserves the right to require additional documentation if required.

G. **Burden of Proof:** The responsibility of proving or disproving a disputed charge or allegation.

The complainant shall bear the burden of production and proof in cases involving workplace safety. The Vice President of Human Resources or designee shall bear the burden of production and proof in cases involving termination or employee discipline.

IV. **COMPLAINT PROCESS STEPS**

Steps in the Process:
1. Informal complaint with supervisor
2. Written complaint to supervisor, with a copy to Human Resources
3. Appeal to the President or assigned designee
4. Appeal to Impartial Hearing Officer
5. Final appeal to the Board of Trustees

A. **Step 1: Informal Complaint with Supervisor**

An employee shall first attempt to resolve a complaint informally with his or her immediate supervisor. An informal complaint may be initiated through an informal meeting and discussion with the employee’s immediate supervisor. The informal complaint must be made within fifteen (15) days of the event giving rise to the complaint. The immediate supervisor will meet with the employee and respond to the complaint within ten (10) days of its initiation, unless the immediate supervisor determines that more time is needed due to special circumstances. If the complaint is not resolved or if the immediate supervisor fails to give an answer within the above time frame, the complainant may file a written complaint.
B. Step 2: Written Complaint to Supervisor

If the complaint is not resolved at Step 1, the complainant may file a written complaint to his or her immediate supervisor with a copy submitted to Human Resources within ten (10) days of the decision in Step 1 or, if no response was given, within ten (10) days of the deadline for the response. The written complaint must contain:

1. A statement of the pertinent facts surrounding the complaint including witnesses if applicable;
2. The date the complained about event occurred;
3. The steps taken to informally resolve the complaint;
4. The individuals involved in the attempt at resolving the complaint, and the results of such discussion;
5. The specific remedy requested; and,
6. Procedures or policies violated or a description of the workplace safety rule allegedly violated, if applicable.

In order to provide enough time for the organization to do an investigation of the issue, the immediate supervisor will respond with a decision within fifteen (15) days after the written complaint is filed, including rationale for the decision.

C. Step 3: Appeal to the President or Designee

If the complainant does not agree with the result of the supervisor’s decision in Step 2, the complainant may appeal.

To appeal, the complainant, within ten (10) days of the issuance of the decision at Step 2 or time when the decision was due, must provide to the President or designee a clear and concise statement of the issue or complaint in writing to include:

1. All information provided in Step 2;
2. Any additional information; and,
3. Rationale of why the complainant disagrees with the Step 2 decision.

The President or designee will first determine if the applicable issue qualifies for application under this procedure (qualifying discipline, termination, workplace safety). Once determined that the issue qualifies, the Step 3 process will proceed.

The President or designee will then call a meeting of all appropriate parties to discuss the complaint.

In order to provide enough time for the organization to do an investigation of the issue, the President or designee will respond with a decision within fifteen (15) days of the meeting, including rationale for the decision.
D. Step 4: Appeal to Impartial Hearing Officer

If the complainant does not agree with the result of Step 3, the complainant may appeal the decision to an Impartial Hearing Officer (IHO). The IHO shall have the authority to determine whether the IHO has jurisdiction, which may be subject to review by the Board.

To appeal, the complainant, within five (5) days of the issuance of the decision given from Step 3, must provide to the Vice President of Human Resources or designee a clear and concise statement of the issue or complaint in writing to include:

1. All information provided in previous steps;
2. Any additional information; and,
3. Rationale regarding why the complainant disagrees with the previous decisions.

The Vice President of Human Resources or designee shall create a pool of IHO candidates and determine the process for selection of an IHO. The IHO shall not be an employee of the district. The IHO may be an employee of another district, a retired administrator, a lawyer, a professional mediator/arbitrator, or other qualified individual.

The following shall apply to the hearing before an IHO:

1. Neither the complainant nor the College can discuss the case with the IHO in advance of the formal hearing.
2. Every effort will be made to schedule a future hearing date within fifteen (15) days of the selection of the IHO. However, if, due to scheduling and availability issues, it may be necessary to use an alternate IHO or mutually agree on rescheduling the hearing.
3. The IHO cannot have an interest in the case. The IHO will determine whether they have a conflict or interest in the case and report so to the Associate Vice President of Human Resources or designee.
4. If there are costs incurred for the IHO, the College will pay the costs.
5. The hearing will be documented by a court reporter and paid for by the College. Either party may request a transcription of the hearing and will bear those costs.

Hearing Process:

The hearing will be presided over by the IHO. The complainant and the College will be allowed a maximum of one hour each to present necessary information at the hearing. The complainant will go first for both the initial statement and presentation of witnesses. The IHO has discretion to allow additional witnesses with time given to both parties equally.

The hearing shall be held in compliance with the Wisconsin Open Meetings Law when applicable.
The IHO will only consider information provided at the hearing. The IHO may uphold the decision in Step Two or may over-rule the prior decision if it is determined that the College acted in a way that was arbitrary or capricious and recommend appropriate action to be taken. The IHO will issue a timely written decision, making every effort to make a decision within fifteen (15) working days.

The decision will include:

1. A summary of facts and evidence;
2. A summary of relevant policies;
3. Analysis of above; and,
4. Decision.

E. Step 5: Appeal to District Board

If the complaint is not resolved at Step 4, the non-prevailing party may appeal the impartial officer’s decision to the District Board. The appeal must be filed within ten (10) days of the impartial hearing officer’s decision. The Board will meet in a timely manner to hear the appeal. The hearing will be limited to review of the impartial hearing officer’s decision. No new evidence may be provided by the complainant unless the Board requests. After the meeting, the Board may affirm, reverse, or modify the IHO’s decision in its sole discretion. The Board’s decision is final and binding and may not be appealed.

V. GUIDELINES

A. Role of Human Resource
   A representative from the HR department may attend any of the meetings authorized by this procedure. All documents filed in accordance with this procedure shall be copied to the HR department.

B. Role of the Vice President for Human Resources
   It is the primary responsibility of the Vice President of HR to ensure the effective implementation, maintenance, processing, recordkeeping, and notification required by the complaint procedure. The authority to interpret this policy rests with the President and is generally delegated to the Vice President of HR.

C. Compensation for Employees
   Employees will not be compensated for time spent pursuing a complaint during non-scheduled hours.
D. Limitations of the Scope of the Complaint Procedure
The scope of a complaint that is subject to the jurisdiction of a governmental body or specific procedure by other Wisconsin Statutes shall be governed by those statutes and not the complaint procedure.

The scope of a complaint that is subject to other policy or ordinance for formal or informal investigation or dispute resolution procedures may not be brought forth under this procedure.

E. Group Complaints
The College may, in its sole discretion, consolidate multiple complaints and process them together.

F. Restrictions
- It is not intended that the outcome of a complaint be determined by a non-substantial procedural violation.
- The College may also use any information obtained in the proceedings to defend itself against any claims, complaints or allegations brought against it or as may be required by law.
- The College shall not be restricted in its right to designate the person to handle complaint proceedings at any step in lieu of the individual designated in this policy.
- Neither the complainant nor the College shall arbitrarily delay action of the complaint procedure.

VI. PROCEDURAL REQUIREMENTS

A. Time Limits Substantive
The time limits set forth in this procedure shall be considered as of the essence, and failure of the complainant to file and process the complaint within the time limits set forth in this procedure shall be deemed a waiver of the complaint. The time limits in this procedure may, however, be extended by the mutual consent of the College and the complainant. Further, the College may extend deadlines for its performance, as it deems necessary, and provide the employee notice of and the reason for such extension(s). The parties may, by mutual consent, initiate a complaint at Step 4 if the complaint involves termination and it is initially filed in a timely manner.

A complainant may advance a complaint to the next step if a response is not provided within the designated timeframes. The Associate Vice President of Human Resources or designee may advance a complaint to the next step at the written request of either the complainant or the Administration.

Failure of the IHO to respond within the timelines shall not grant or validate the complaint.
B. Dispute Statement and Remedy
The written signed complaint shall give a clear and concise statement of the alleged complaint including the facts upon which the complaint is based, the issue involved, the specific policies alleged to have been violated if any, the supervisor’s name and date of the informal conversation to resolve the complaint, and the relief sought. At each stage of the appeal process the appealing party must state the reason(s) why the appealing party disagrees with the action or decision. The written complaint will only be processed if all of the required information is provided by the complainant. While the written complaint may not be amended following the decision at Step 1, the remedy requested may be modified at any time without prejudice to the complainant’s position in the appeal.

C. Complainant’s Right to Representation
The complainant may be represented by a person of his or her choosing during Steps 4 and 5 of this procedure. The representative must be identified at least three (3) days in advance of every step of the proceeding.

D. Information
The College shall provide complainant and the representative with access to copies of relevant College policies, upon request.

E. Retaliation
No person shall be subjected to any form of retaliation for having used or assisted others in the use of the complaint process.
Madison College is committed to creating and maintaining a community in which students and employees can work together in an atmosphere free of all forms of harassment, exploitation, intimidation, unfair treatment, and misconduct. The College has established the following form for an employee to utilize for matters concerning harassment, discrimination, discipline, termination, or workplace safety.

Return the completed form to Human Resources, 1701 Wright Street, Room AB121, Madison, WI 53704

<table>
<thead>
<tr>
<th>Date:</th>
<th></th>
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</thead>
<tbody>
<tr>
<td><strong>Complainant (Name):</strong></td>
<td><strong>Title:</strong></td>
</tr>
<tr>
<td><strong>Complainant Status:</strong></td>
<td>□ Faculty  □ Administrator  □ PSRP  □ Other: ______________________</td>
</tr>
<tr>
<td><strong>Learning Center/Division:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Office Location/Room #:</strong></td>
<td><strong>Office Phone:</strong></td>
</tr>
<tr>
<td><strong>I wish to complain against:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Date(s) of Alleged incident:</strong></td>
<td></td>
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<tr>
<td><strong>What is your relationship to the alleged offender?</strong></td>
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<tr>
<td><strong>Have you spoken to anyone in management about the complaint? If yes, who and what was their reaction? If no, please explain.</strong></td>
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<tr>
<td><strong>Reason for complaint:</strong></td>
<td></td>
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<tr>
<td>□ Harassment  □ Sexual Harassment  □ Discrimination</td>
<td></td>
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<tr>
<td>□ Discipline  □ Termination</td>
<td></td>
</tr>
<tr>
<td>□ Workplace Safety  □ Other(specify):</td>
<td></td>
</tr>
</tbody>
</table>
Provide a clear and concise statement of the pertinent facts related to the charge, act, or behavior. Describe each incident separately. For each action provide the following information: 1) Date(s) the action occurred; 2) What happened; and, 3) Why you believe the action was harassment/misconduct. Please be sure to include the names of all persons involved and possible witnesses. Describe their involvement or what you believe they may know (attach additional pages as necessary).

Steps taken to informally resolve the complaint:

Please list the names, emails, and phone numbers of persons involved or any witnesses:

(1) Name:          Phone #:
   Email Address:

(2) Name:          Phone#:
   Email Address:

(3) Name:          Phone#:
   Email Address:

(4) Name:          Phone #:
   Email Address:

What would you like the Madison College to do as a result of your complaint – What remedy are you seeking and why?
Do you have any additional facts or information that would be helpful in an investigation, if one is warranted?

I certify that this information is correct to the best of my knowledge.
*(please print and sign)*

_______________________________________ _____________________________
Signature Date