I. PURPOSE

Madison Area Technical College (Madison College) has established the following grievance 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 this procedure. This procedure is intended to comply with the requirements of state law, Stat., § 66.0509.

This grievance procedure does not create a legally binding contract of employment. This procedure may be revised, updated or repealed at any time.

II. ELIGIBILITY

This procedure is applicable to union, non-union, full-time, and part-time employees.

This procedure is not applicable to:
- Temporary employees;
- Casual employees;
- Student employees;
- Work study student employees; or,
- Employees covered by a collective bargaining agreement that contains a grievance procedure covering discipline, termination or workplace safety matters.

III. Definitions

A. Grievance: Grievance means any concern regarding discipline, termination or workplace safety as defined in this procedure.

B. Grievant: Grievant means an employee of Madison Area Technical College who has a personal grievance as defined in this procedure. At the College’s discretion, personal and individual written grievances 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 action defined by the employer to be disciplinary action.

“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; or,
- 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 grievant’s physical work environment, tools and equipment, protective equipment, and state, federal and regulatory body training and warning requirements. This grievance 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.

• The issue must concern the safety of a person (not the “safety” of one’s vehicle or other possession).
• The grievance 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 grievance must be under the reasonable control of the College.
• 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 grievant 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. **GRIEVANCE PROCESS STEPS**

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

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

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

If the grievance is not resolved at Step 1, the grievant may file a written grievance to his or her immediate supervisor with a copy submitted to HR 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 grievance must contain:

1. A statement of the pertinent facts surrounding the grievance including witnesses if applicable;
2. All pertinent dates including the date the event occurred;
3. The steps taken to informally resolve the grievance;
4. The individuals involved in the attempt at resolving the grievance, 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 grievance is filed, including rationale for the decision.

C. **Step 3: Appeal to the President or Designee**

If the grievant does not agree with the result of the supervisor’s decision in Step 2 or in the event the supervisor does not respond in a timely manner as provided in this procedure, the grievant may appeal.

To appeal, the grievant, 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 grievance in writing to include:

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

The President or designee will first determine if the applicable issue qualifies for resolution under this procedure (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 grievance. The President or designee also has the right to decide the matter without a meeting.
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. If no meeting is held, the President or designee will respond with a decision within twenty-five (25) days.

D. Step 4: Appeal to Impartial Hearing Officer

If the grievant does not agree with the result of Step 3 or in the event the President or designee does not respond in a timely manner as provided in this procedure, the grievant may appeal the decision to an Impartial Hearing Officer (IHO). The IHO shall have the authority to determine whether the grievance is covered by the procedure, which may be subject to review by the Board of Trustees.

To appeal, the grievant, 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 grievance in writing to include:

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

The Vice President of Human Resources or designee shall create a pool of qualified IHO candidates and determine the process for selection of an IHO. The IHO shall not be an employee of the district and shall have no interest in the outcome. 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 grievant nor the College can discuss the case with the IHO in advance of the formal hearing.
2. Every effort will be made to schedule the hearing date as soon as possible following the selection of the IHO with the hearing conducted within forty-five (45) days of the appeal request. The parties may mutually agree to extend the timelines.
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 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 grievant and the College will be allowed a maximum of one hour each to present necessary information at the hearing.
The grievant will go first for both the initial statement and presentation of witnesses in grievances concerning workplace safety. In other cases, the College will go first. The IHO has discretion to allow additional witnesses with time given to both parties equally.

The IHO will only consider information provided at the hearing. The IHO may uphold the decision in Step 3 or may over-rule the prior decision if it is determined that the College acted in a way that was arbitrary or capricious and, in such cases the IHO may 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 after the close of the hearing.

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

V. GUIDELINES

A. Role of Human Resources
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 of Human Resources
It is the primary responsibility of the Vice President of Human Resources to ensure the effective implementation, maintenance, processing, recordkeeping, and notification required by the grievance procedure. The authority to interpret this procedure rests with the President and is generally delegated to the Vice President of Human Resources.
C. Compensation for Employees
   Employees will not be compensated for time spent pursuing a grievance during non-
scheduled working hours.

D. Limitations of the Scope of the Grievance Procedure
   This procedure may not be used to resolve disputes covered by another procedure
   provided by law or pursuant to a grievance procedure under an applicable collective
   bargaining agreement.

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

F. Restrictions
   • It is not intended that the outcome of a grievance 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, grievances 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
     grievance proceedings at any step in lieu of the individual designated in this policy.
   • Neither the grievant nor the College shall arbitrarily delay action of the grievance
     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 grievant to file and process the grievance within the time limits set forth in
   this procedure shall be deemed a waiver of the grievance. The time limits in this
   procedure may, however, be extended by the mutual consent of the College and the
   grievant. 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 grievance at Step 4 if the grievance involves
   termination and it is initially filed in a timely manner.

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

   Failure of the IHO to respond within the timelines shall not grant or validate the
   grievance.
B. **Dispute Statement and Remedy**
   The written signed grievance shall give a clear and concise statement of the alleged grievance including the facts upon which the grievance 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 grievance, 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 grievance will only be processed if all of the required information is provided by the grievant. While the written grievance may not be amended following the decision at Step 1, the remedy requested may be modified at any time without prejudice to the grievant’s position in the appeal.

C. **Grievant’s Right to Representation**
   The grievant may be represented by a person of his or her choosing at the expense of the grievant 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 grievant 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 good faith use of the grievance process.
The College has established the following form for an employee to utilize for matters concerning discipline, termination or workplace safety.

Return completed form to Madison Area Technical College, Human Resources, 1701 Wright Street, Madison, WI 53704

Date: __________________________

<table>
<thead>
<tr>
<th>Grievant (Name):</th>
<th>Title:</th>
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<tr>
<th>Grievant Status:</th>
<th>FT Faculty</th>
<th>PT Faculty</th>
<th>PSRP</th>
<th>Other: ________________________________</th>
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<tr>
<th>School/Center/Division:</th>
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<tr>
<th>Office Location/Room #:</th>
<th>Office Phone:</th>
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I wish to complain against: ________________________________

Date(s) of alleged incident: ________________________________

Have you spoken to anyone in management about the grievance? If yes, who and what was their response? If no, please explain.

Reason for grievance:

- [ ] Discipline
- [ ] Termination
- [ ] Workplace Safety

Provide a clear and concise statement of the pertinent facts related to the grievance. 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 wrong. 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 grievance: ________________________________
Please list the names, emails, and phone numbers of persons involved or any witnesses:

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<th>Name:</th>
<th>Phone #:</th>
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<tr>
<td>(1)</td>
<td>Email Address:</td>
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<td>(2)</td>
<td>Email Address:</td>
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<td>(3)</td>
<td>Email Address:</td>
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<td>(4)</td>
<td>Email Address:</td>
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</tbody>
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What would you like the Madison College to do as a result of your grievance – what remedy are you seeking and why?

Do you have any additional facts or information that would be helpful in reviewing your grievance?

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

Signature ___________________________  Date ________________

Print Name ___________________________