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## Madison College Harassment/Discrimination Grievance Process

Madison Area Technical College (“Madison College” or “College”) is committed to maintaining an environment in which students, faculty, and staff can work and learn together in an atmosphere free of all forms of harassment and discrimination. In order to foster a climate of respect that effectively contributes to a safe campus, Madison College has developed policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment, on the basis of protected class status, and for allegations of retaliation.

The procedures below apply **only** to qualifying allegations of harassment or discrimination involving members of the College community.<sup>1</sup> This may include allegations of sexual misconduct that do NOT qualify as sexual harassment under the [Title IX / Sexual Harassment Grievance Process](#).

**Discrimination**, for the purposes of the Harassment / Discrimination Grievance Process (“Grievance Process”), is defined by Madison College as unfair or unequal treatment on the actual or perceived basis of:

- Age
- Ancestry
- Arrest or Conviction Record
- Color
- Creed
- Disability
- Gender Identity
- Genetic Testing
- Marital Status
- Military Service
- National Origin
- Political Affiliation
- Race
- Sex
- Sexual Orientation
- The Use or Non-Use of Lawful Products during Non-Working Hours

**Discriminatory harassment** is unwanted, deliberate, or repeated unsolicited comments, slurs, demeaning references, gestures, graphic materials, physical contact, solicitation of favors, advances, bullying, or other adverse treatment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, student status or academic participation.
- Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting an individual.
- The conduct has the purpose or effect of substantially creating an intimidating, hostile, or offensive environment that tangibly affects or interferes with an individual's job performance or other employment or academic opportunities.

([Appendix A](#) contains definitions of terms used in Madison College’s Harassment / Discrimination Grievance Process.)

**NOTE:** When an allegation does NOT qualify as harassment or discrimination under the Equal Opportunity, Harassment and Nondiscrimination Policy, resolution of the complaint may be sought under other College

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<sup>1</sup> *The Madison College Community includes, but is not limited to, students, employees, and third parties (i.e., vendors, contractors, visitors, guests, etc.). For the Harassment / Discrimination Grievance Process, student is a broad term that includes individuals who are planning to, currently or formerly participating in or attempting to participate in an education program or activity of the College.*

guidelines (e.g., [Student Code of Conduct](#), Employee Handbook – [Professional Conduct & Civility](#), etc.).

The standard of evidence used in the resolution of cases alleging harassment or discrimination, is the **preponderance of evidence** standard; that is, **it is more likely than not**, that a violation of this policy has occurred. When a violation is determined, Madison College will take prompt corrective action and impose appropriate sanctions.

For the purposes of this Grievance Process, the individual who is alleged to be the victim of conduct that could constitute harassment or discrimination is the “**Complainant**”. The individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination is the “**Respondent**”. Both the Complainant and the Respondent are encouraged to participate in the Grievance Process.

If either party does not wish to participate in the Grievance Process, the process will proceed without their contribution to the determination of the facts of the case.

### Time Frames for Resolution

Madison College seeks to resolve all allegations of harassment or discrimination within sixty (60) working days of an allegation of harassment or discrimination being reported. All time frames expressed in this Grievance Process are meant to be guidelines rather than rigid requirements. Circumstances may arise that require the extension of time frames, including extension beyond sixty (60) working days. Such circumstances may include, but are not limited to, the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, any intervening school break or vacation, or other unforeseen circumstances or reasons.

In general, the Complainant and Respondent can expect that the process will proceed according to the time frames outlined herein. If the investigation and adjudication exceed these time frames, Madison College will notify all parties of the reason for the delay and the expected adjustment in time frames. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness. Table 1 offers an overview of the expected time frame for resolution.

**Table 1. Harassment / Discrimination Grievance Process: General Time Frame for Resolution**

Allegation of harassment or discrimination reported		# of days after report date
  60 Working Days	Appropriate College Designee Follows Up w/ Complainant	2 Working Days
	Initial Review / Preliminary Assessment	7 Working Days
	Resolution Action Determined	9 Working Days
	Written Notice Provided	12 Working Days
	Investigation Commenced	15 Working Days
	Draft Investigation Report Available for Review	45 Working Days
	Parties Provide Feedback Regarding Draft Investigation Report	50 Working Days
	Final Investigation Report Reviewed by Compliance Team	55 Working Days
Notice of Outcome		# of days after outcome sent

Determination Decision Final (No Appeal) / Date to File Appeal	5 Working Days
Appeal Decision / Determination Decision Final (Appeal Filed)	25 Working Days

### Accommodations in the Grievance Process

Madison College is committed to providing reasonable accommodations and support to students, employees, or others with disabilities to ensure equal access to a resolution action. A participant in the Grievance Process may request accommodations related to disabilities or health conditions.

- Students should contact [Disability Resource Services](#) at 608-246-6716 or [drstransition@madisoncollege.edu](mailto:drstransition@madisoncollege.edu) to make a request for accommodations.
- Employees should contact their [Human Resources Business Partner](#) to make a request for accommodations.

The appropriate College designee will review the request, and in consultation with the requestor, determine whether accommodations are necessary and appropriate for full participation in the resolution process. The appropriate College designee will oversee the implementation of reasonable accommodations, if any.

Accommodations for language assistance, and/or interpretation services that may be needed for Investigation Interviews, will require advance notice of at least seven (7) working days prior the date of scheduled meetings or interviews.

## STEP 1: REPORT AN ALLEGATION OF HARASSMENT / DISCRIMINATION

There is no single source for filing a report.

It is preferred that reports be submitted online, using the [Harassment / Discrimination Report](#) form located on the College's website.

- Complaints alleging a violation by an employee, vendor, or third party will be referred to the Human Resources Department.
- Complaints alleging a violation by a student or community member (guest) will be referred to the Dean of Students Office.

If a complaint is provided verbally, a report will be summarized in writing by a Madison College employee taking the report, and the Complainant will be given an opportunity to review the summary. The Complainant may still be requested to complete the online form. ([Appendix B](#) identifies additional resources for reporting allegations of harassment or discrimination.)

Individuals **needing assistance with filing a report** are encouraged to access one of the following Madison College resources:

- [Counseling Services](#)
- [Public Safety Services](#)
- [Dean of Students Office](#)
- [Human Resources Department](#)

## **Amnesty for Students**

The College recognizes that students who have consumed alcohol when they are not of legal drinking age or who have been using illegal drugs may be hesitant to report an allegation of harassment or discrimination. In cases when a Complainant or witness(es) was under the influence of alcohol or illicit drugs at the time of an alleged incident, the College will not pursue college-based disciplinary actions against the Complainant (or against a witness) for a policy violation (e.g., underage drinking, drug use). However, the College reserves the right to require counseling, education, or other preventative measures to help prevent alcohol or drug violations in the future. The College's commitment to amnesty in these situations does not prevent action by police or other legal authorities against a student.

## **Responsible Employees**

All College employees, except for College counseling staff, have a duty to report allegations of discrimination, harassment, or retaliation to the appropriate College designee. All employees observing or receiving reports of a potential violation of the Equal Opportunity, Harassment, and Nondiscrimination Policy must promptly file a [report](#) including all relevant details about the alleged incident. This includes the name of the alleged Respondent (if known), the individual who experienced the alleged incident, possible witnesses, as well as relevant facts, including the date, time, and location.

## **Anonymous Reporting**

Anonymous reports will not be denied on the basis of anonymity but may hinder or impact the ability to conduct an investigation. Madison College tries to provide supportive measures to all Complainants, which is made more difficult with an anonymous report. The Complainant may request to dismiss the complaint at any time. The College will comply unless there is a compelling threat to health or safety.

## **False Allegations**

It is considered a serious offense to make deliberate false and/or malicious allegations. In addition, parties or witnesses that knowingly provide false evidence, tamper with, or destroy evidence after being directed to preserve such evidence, or deliberately mislead an official investigating a complaint, can be subject to appropriate disciplinary action. This does not include allegations made in good faith.

## **Supportive Measures**

Upon receiving a report of an alleged policy violation, the College will offer supportive measures to involved parties as appropriate. Supportive measures are made available when an allegation of harassment, discrimination, or retaliation is reported and warrant supportive measures.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant and/or the Respondent. Such measures are designed to restore or preserve equal access to Madison College's education programs or activities without unreasonably burdening the other party. Such measures can be requested by the involved parties and are subject to approval. These may include, but are not limited to:

- Counseling
- Extensions of deadlines or other course-related adjustments
- Leaves of absence
- Increased security and monitoring of certain areas of the campus

- Modifications of work or class schedules
- Campus escort services
- Mutual restrictions on contact between the parties
- Work accommodations
- No contact orders (Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.)
- Or similar measures

### Confidentiality

Madison College will make reasonable efforts to respect the privacy of complainants, respondents, witnesses and others who have brought, participated in or are otherwise involved in complaints or investigations adjudicated under this Grievance Process. Madison College makes every effort to preserve confidentiality of reports that fall under this Grievance Process and related policy. Generally, those individuals with a role in the Grievance Process will be informed about the complaint to preserve the rights and privacy of the involved parties. The College reserves the right to designate which college officials have a legitimate interest in being informed about incidents that fall within this process.

All persons present at any time during the Grievance Process are expected to maintain the confidentiality of the proceedings in accordance with Madison College policy. While there is an expectation of privacy around what investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose.

Notwithstanding the forgoing, the College may reveal the identity of any person or the contents of any record if permitted by FERPA, if necessary to carry out the College's obligations under applicable laws and regulations including the investigation, adjudication, or appeal under this Grievance Process or any subsequent judicial proceeding or as otherwise required by law.

Certain types of harassment and discrimination are considered crimes for which the College must disclose in its Annual Security Report that is provided to the campus community and available to the general public. Such disclosures are made without including personally identifying information.

### Referral to Law Enforcement

Depending on the nature of the allegations, a report to local law enforcement for legal action may be recommended. A criminal investigation and Madison College's resolution process may happen simultaneously. In such cases that Madison College's Grievance Process should be delayed due to a criminal investigation, the parties would be informed of the potential delay in resolution timeframe.

Students, employees and community members may also consider a direct report to the local Police Department.

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## STEP 2: INITIAL REVIEW AND PRELIMINARY ASSESSMENT

After receiving a report of an allegation of harassment or discrimination, Madison College's Compliance Team, will conduct an initial review and preliminary assessment. ([Appendix C](#) describes the role of the Compliance Team and identifies the names of the individuals who will serve to assist in resolving civil rights complaints.) The preliminary assessment typically requires one (1) to five (5) working days and will be initiated no greater than two (2) working days from the time the report is received.

The goal of the preliminary assessment is to assess any eminent risk, provide an integrated and coordinated response to reports of harassment or discrimination, and offer supportive measures to the Complainant, as needed. The assessment will consider the nature of the report; the safety of the parties and of the campus community; and the Complainant's expressed preference for resolution.

Upon receiving a report of an allegation of harassment or discrimination, Madison College's Compliance Team will initiate a prompt initial assessment to determine the next steps. At least one of the following three responses will be initiated:

- Offer supportive measures because the Complainant does not want to proceed formally, or the incident does not qualify as harassment or discrimination under College Policy; and/or
- An informal resolution; and/or
- A formal investigation and resolution.

Madison College reserves the right to take whatever measures it deems necessary in response to an allegation of harassment or discrimination in order to protect party rights, personal safety and the safety and security of the College community. The Compliance Team may consult with professional resources such as the Director of Public Safety Services, the Behavioral Intervention Team or other(s) in making this assessment.

The appropriate College designee will contact the Complainant to discuss the reported allegations, gather additional information relevant to making the assessment, and review the Grievance Process and possible next steps with the Complainant, including, but not limited to:

1. Offering supportive measures to the Complainant;
2. Determining if the Complainant wishes to make a formal complaint, and will assist them in doing so, if desired. (**NOTE:** If a person does not wish to file a formal complaint, the College will determine whether there is sufficient information and evidence of a risk to the larger campus community to initiate a complaint. See [Appendix D](#) for information about Madison College's process for conducting a risk assessment. [Appendix E](#) provides a sample risk assessment tool.)
3. Discussing with the Complainant possible resolution options to determine if the Complainant's preference is for an informal or alternative dispute resolution process, or to pursue a formal investigation. (Step 4 describes possible resolution options.)

**NOTE:** If a person files a complaint but does not wish to participate in the Grievance Process, it will be determined whether there is sufficient information to proceed with an investigation and adjudication without the participation and/or cooperation of the Complainant.

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### STEP 3: WRITTEN NOTICE OF HARASSMENT / DISCRIMINATION COMPLAINT

When a formal complaint is filed and it is determined that the allegations meet requirements for resolution under the Harassment / Discrimination Grievance Process, Madison College will provide written notice of the complaint to the Complainant and Respondent (if known), including:

- A. Madison College's Harassment / Discrimination Grievance Process, as outlined in this document, including the options, where appropriate, to resolve the complaint through an informal resolution process, based on the preference of the Complainant.

- B. The allegations of harassment or discrimination, including sufficient details known at the time, the identities of the parties involved in the incident, the conduct allegedly constituting harassment or discrimination, and the date and location of the alleged incident.
- C. 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.
- D. Notice that the parties may have an advisor<sup>2</sup> (e.g., community advocate, support person, or employee representative) of their choosing to accompany them in any interview and/or meeting related to the process.
- E. The names of the Madison College team members assigned to facilitate the informal resolution process or to investigate the alleged conduct. ([Appendix C](#) describes the roles of individuals assigned to assist in the Grievance Process and identifies the names of the pool of individuals serving in the identified roles.)
- F. Notice that knowingly making false statements or knowingly submitting false information during the Harassment / Discrimination Grievance Process is prohibited.

Such notice will be provided in writing and delivered by electronic mail to the Madison College e-mail address(es) of the parties and/or by certified mail to the local or permanent address(es) of the parties as indicated in the College's official records. Once sent, notice will be presumed to have been delivered.

At the time that written notice is issued, the appropriate College designee will ensure that the Respondent is offered supportive measures, as needed.

If a student is under the age of eighteen (18), the written notice will also be sent to the parent(s) or guardian(s) of the student. For college employee groups, the direct supervisor for the employee may be included in this notice.

### **Retaliation**

Retaliating directly or indirectly against a person who has in good faith made a report or participated in an investigation of a complaint of any form of harassment or discrimination is strictly prohibited. Retaliation includes but is not limited to: ostracizing the person; pressuring the person to drop, not support the complaint, or to provide false or misleading information; or engaging in conduct that may reasonably be perceived to affect adversely that person's educational, living, or work environment; threatening, intimidating, or coercing the person; or otherwise discriminating against any person for exercising their rights or responsibilities under this policy. Retaliation may be determined even if the complaint is ultimately found to have no merit.

Retaliation is a serious violation of Madison College's Equal Opportunity, Harassment and Nondiscrimination Policy. Acts of alleged retaliation should be reported immediately to the Director of Employee Relations or the Dean of Students and will be promptly investigated. Madison College is prepared to take appropriate steps to protect individuals who fear that they may be or have been subjected to retaliation.

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<sup>2</sup> The advisor serves as a support person and offers direct assistance to the party. Madison College may assist in locating an advisor upon request. The advisor may not speak for the party, ask questions of the interviewer(s), or make legal arguments, objections, or otherwise disrupt the interview, meeting or the like in any way. In those instances where the party is under the age of eighteen (18), the parent or guardian can observe the investigation process and give the student counsel. If the advisor is an attorney or a law student, Madison College reserves the right to reschedule the interviews and/or meetings so that Madison College legal counsel may be present.

## **STEP 4: INITIATE RESOLUTION ACTION**

The resolution action will be determined based on the preference of the Complainant, and in the case of informal resolution, agreement by the Respondent.

### **Informal or Alternative Dispute Resolution**

Madison College recognizes that informal or alternative dispute resolution processes present the same potential benefits for resolving harassment or discrimination cases as for other disputes. Therefore, Madison College will pursue informal resolution actions for the following circumstances:

- When the matter can be resolved informally through supportive measures to remedy the situation.
- When the parties agree to resolve the matter through an alternative resolution mechanism [including mediation, restorative practices, etc.]; or
- When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process

Informal resolution does not need to be attempted in order for a formal investigation to be pursued. Any party participating in the Informal Resolution Process can stop the process to begin or resume a formal investigation. Once written assent is provided by the parties, the complaint will be considered resolved at which time it can no longer be referred to formal investigation and it is NOT subject to an appeal. When the parties cannot agree on all terms of resolution, a formal investigation will be initiated.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented to effectively stop the conduct, prevent its recurrence and remedy the effects of the conduct, both on the Complainant and the Community.

STEP 7 identifies the actions that will follow the implementation of the informal resolution action.

**NOTE: Informal resolution is NOT available to resolve allegations that an employee harassed a student.**

### **Formal Investigation**

The investigation seeks to gather information from the parties and other witnesses related to the alleged conduct and will be conducted by individuals assigned by the Compliance Team to address:

1. An incident or incidents, and/or
2. A pattern of alleged misconduct, and/or
3. A culture / climate issue based on the nature of the complaint.

Refer to STEP 5 for additional detail regarding the formal investigation.

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## **STEP 5: INVESTIGATION**

In cases where an attempt at informal resolution has failed or where the preference for resolution is a formal investigation, the investigation will be initiated with the objective to make a draft investigation report available within thirty (30) working days from the date that written notice of the complaint is given. This time frame may be extended depending on the complexity of the circumstances of the case. Madison College seeks to ensure a thorough, reliable, and impartial investigation. In most cases, College officials, who have received, annual training conduct the investigation in a manner that treats parties equitably and aligns with College values.

Unless indicated otherwise, the Compliance Team will assign two investigators to investigate the complaint. The names of the investigators will be identified in the written notice of the complaint. For harassment or discrimination complaints in which the Respondent is an employee (faculty, staff member, administrator, or student employee), the lead investigator will be assigned from a pool of Human Resources investigators, or designee. For harassment or discrimination complaints involving students or other person(s), the lead investigator will be assigned from a pool of Student Affairs investigators, or designee. ([Appendix C](#) describes the roles of individuals assigned to assist in the Grievance Process and identifies the names of the pool of individuals serving in the identified roles.)

**NOTE:** The Compliance Team reserves the right to assign an external third-party investigator, as circumstances require (e.g., when a substantial conflict of interest is alleged by the complainant, respondent, or investigator or where special expertise is needed). In circumstances that require the use of an external third-party investigator, the specific timelines provided in this procedure will be suspended pending that appointment.

### Overview of the Investigation

The following statements outline the process the College will follow when investigating a harassment or discrimination complaint.

1. The Compliance Team assigns investigators. Involved parties receive notification of the assigned investigators by the written notice of alleged complaint.
2. The investigators contact the parties directly to schedule investigative interviews or meetings to further discuss the allegations and gather available evidence.
  - Parties will receive written notice delivered by electronic mail to the Madison College e-mail address(es) (on file for each party) with reasonable time for the party to prepare to participate. This includes making good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible.
  - **NOTE:** If a Respondent does not wish to participate in the investigation process, the process will proceed without their contribution to the determination of the facts of the case. The Respondent should note that, the appeal process based on “the presence of new information not available to the investigators,” does not apply in cases of deliberate omission of information by the Respondent, including refusal by the Respondent to participate in the investigation.
3. A meeting summary is prepared following the investigative interview.
  - Each party is given an opportunity to review and verify the meeting summary from their respective interview. The meeting summary is delivered by electronic mail to the Madison College e-mail address(es) of the respective party.
  - Feedback is generally requested within five (5) working days after delivery of the meeting summary.
4. Investigators request from each party the names of potential witnesses.
5. The investigators contact, by telephone or electronic mail, available, relevant witnesses to schedule investigative interviews or meetings.
  - Witnesses will receive written notice by electronic mail, with reasonable time for the party to prepare to participate. Witnesses who have a Madison College e-mail account will receive notification at their College account.
6. A meeting summary is prepared following the witness interviews.
  - Each witness is given an opportunity to review and verify the meeting summary from their respective interview. The meeting summary will be delivered by electronic mail.

- Feedback is generally requested within five (5) working days after delivery of the meeting summary.
7. Follow up interviews are conducted with the parties or witnesses, as needed. Any additional notes are again shared with the respective person for review and verification.
8. The investigators draft an investigation report which includes all evidence directly related to the allegations raised in the complaint.
9. Each party is sent an electronic version of the investigation report to review. Parties receive five (5) working days to review the draft investigation report and provide a written response to the investigators.
  - Materials are provided in a secure format and intended for the receipt and review of the identified person receiving it. Failure to maintain the confidentiality of the shared materials is considered a violation of Madison College Policy and appropriate disciplinary action will be taken.
  - If a student is under the age of eighteen (18), the Investigation Report will also be sent to the parent(s) or guardian(s) of the student.
10. The Investigators incorporate any relevant feedback received from the parties' written responses into the final investigation report.
11. The Investigators consult with the Director of Employee Relations, the Dean of Students, or designee to discuss any questions that may be outstanding related to preparing the final investigation report.
12. The Investigators finalize the investigation report by making necessary revisions. Rationales for any changes to the document following the review and comment period are noted in the final investigation report.
13. The final report is shared with the Compliance Team.
14. Parties are notified that the investigation is complete. If a student is under the age of eighteen (18), the notice will also be sent to the parent(s) or guardian(s) of the student.

If, in the course of an investigation, Madison College decides to investigate other allegations about the Complainant or Respondent that are not included in the written notice of allegations, the appropriate College designee will provide notice of the additional allegations to the parties whose identities are known.

The investigation provides a thorough, impartial, and reliable gathering of the facts, and all individuals will be treated with appropriate sensitivity and respect. The investigation will be conducted in a manner that is respectful of individual privacy concerns.

Investigation interviews or meetings will occur between the investigators and a party (and their advisor if any) or the witnesses. The interview will occur in a private room on campus\* or through remote means if necessary. Interviews or meetings may be held via remote means at the discretion of the investigators where safety, public health or other legitimate concerns are present. While video conference is the preferred means, in situations where video technology is not available, audio conferencing will be allowed.

**\*NOTE:** Such options may also be requested if a party is unable or prefers not to attend in person. The request should be made to the assigned investigators at the time the meeting request is made. Remote participation will require:

- Confirmation of privacy in the remote location.
- Ability for parties and their advisor, if any, to consult during the meetings if needed.

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## STEP 6: REVIEW OF INVESTIGATION FINDINGS AND DECISION

The Compliance Team will determine whether the Harassment/Discrimination Policy has been violated. Depending on the nature of the complaint, the Director of Employee Relations, the Dean of Students, or designee, will notify all relevant parties of the decision within five (5) working days of receiving the report of the findings from the assigned investigators. If a student is under the age of eighteen (18), the notice will also be sent to the parent(s) or guardian(s) of the student. The decision and related documentation are maintained and these records will be kept confidential to the extent permitted by law.

Investigation findings will be used to evaluate the responsibility of the Respondent, and impose remedies as necessary to address the effects of the alleged conduct. Where there is sufficient information to determine that it is more likely than not that a violation of policy has occurred, Madison College will have the discretion to institute disciplinary resolution sanctions against the Respondent. (Appendix F outlines possible disciplinary sanctions.)

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## **STEP 7: NOTICE OF OUTCOME**

Madison College will provide written notice regarding the outcome of the resolution process, including if the resolution is a result of a dismissal of the complaint, informal resolution, or investigation and formal resolution. The written notice of outcome will be provided to involved parties.

### **1. Dismissal of the complaint**

Instances in which a complaint is dismissed will result in an outcome notification provided in writing and delivered by electronic mail to the Complainant's Madison College e-mail address(es) and/or by certified mail to the local or permanent address(es) as indicated in the College's official records. The outcome notification will provide the rationale for dismissal. The dismissal decision can be appealed per the bases and guidelines outlined below.

**NOTE:** Dismissal of a complaint because it does not qualify as harassment or discrimination under the College's Equal Opportunity, Harassment and Nondiscrimination Policy does not limit Madison College's authority to continue to address the complaint with an appropriate process and remedies. In instances that the complaint is referred to another College process, a separate notification will be provided to involved parties.

### **2. Informal Resolution Action**

Instances in which the complaint is resolved using an informal or alternative resolution process will result in an outcome notification provided in writing and delivered by electronic mail to the Madison College e-mail address(es) of the parties and/or by certified mail to the local or permanent address(es) of the parties as indicated in the College's official records. The outcome notification will outline the circumstances leading to the informal resolution, the agreed upon sanctions / actions and remedies, and statement that parties agreed to the identified resolution. Once an outcome is agreed upon by the parties, the complaint will be considered resolved at which point the process is concluded and cannot be referred to formal investigation; the result of an informal resolution is NOT subject to an appeal once written assent is provided by the parties.

### **3. Investigation Findings and Decision**

The determination regarding responsibility will be provided in writing and delivered by electronic mail to the

Madison College e-mail address(es) of the parties and/or by certified mail to the local or permanent address(es) of the parties as indicated in the College's official records. The written determination will include:

- a) identification of the allegations constituting harassment or discrimination;
- b) a description of the procedural steps taken by the College of the complaint through the determination
- c) findings of fact supporting the determination;
- d) conclusions regarding the application of College Policies including the College's Student Code of Conduct to the facts;
- e) a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the Complainant; and
- f) the College's procedures and permissible bases for the Complainant and Respondent to appeal.

The determination regarding responsibility becomes final on the date that an appeal would no longer be considered timely (five (5) working days after receiving determination decision); unless an appeal is filed in which case, the determination becomes final with the written determination of the result of the appeal. Any party has a right to appeal the determination decision based on the bases and guidelines outlined below.

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## APPEALS

Any party has the right to file an appeal from the College's dismissal of a formal complaint or any allegations therein<sup>3</sup>, and from a determination regarding responsibility based only on the following reasons:

- a) significant procedural errors, and/or
- b) the appearance of substantive new evidence not available at the time of the original decision, and/or
- c) a conflict of interest or bias by the Title IX Coordinator(s), investigators, or decision-makers assigned to the grievance process.

**NOTE:** Deliberate omission of information by the appealing party in the original investigation is not grounds for appeal. Appeals for other reasons are NOT permitted.

(**NOTE:** Employees have the right to appeal disciplinary action resulting from Harassment / Discrimination Grievance Process that involves employee termination, employee discipline or workplace safety in accordance with College [grievance procedures](#).)

### Appeal Submission Guidelines

The appeal must be in writing and filed with the Director of Employee Relations or the Dean of Student within five (5) working days of the date of the decision letter. It is preferred that Appeals be submitted online, using the [Request for An Appeal](#) Form located on the College's website. The Request for An Appeal Form will be referred to an Appeal Officer no greater than two (2) working days from the time the College designee receives the form.

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<sup>3</sup> The dismissal decision is appealable by any party. The decision NOT to dismiss is also appealable by any party claiming that a dismissal is warranted.

Upon receipt of an appeal, the Appeal Officer will conduct an initial evaluation to confirm that the appeal is timely filed and that the appeal invokes at least one of the permitted reasons for an appeal. If the Appeal Officer determines that the appeal is not timely filed or that the appeal fails to invoke a permitted reason for appeal, the Appeal Officer shall dismiss the appeal and provide notice of same to the parties.

Upon the filing of a timely and proper appeal, the other party will be provided a copy of the appeal and may file an independent appeal, or a rebuttal statement of the original appeal filed. The appeal shall consist of a concise and complete written statement outlining the grounds for the appeal.

The Appeal Officer, or designee, will review the written appeal, investigation findings, and decision by the Compliance Team, or designee as well as the statement from the other party. At their sole discretion, the Appeal Officer may interview the parties and/or any additional witnesses or the investigators. The Appeal Officer, or designee, will issue a final written decision to all parties identifying the determination and rationale for the decision. All parties will be notified of the appeal decision within twenty (20) working days of the receipt of the appeal. The decision of the Appeal Officer, or designee, is final. All deadlines indicated above may be extended for good cause at the discretion of the Appeal Officer.

No further review beyond the appeal is permitted.

### **OTHER COMPLAINT PROCESSES**

The filing of a formal complaint with Madison College does not restrict the right of a person to complain to state or federal equal rights agencies or to take other legal action. There are time limits applicable to the filing of such complaints with external agencies. Waiting too long may jeopardize the right to initiate an action. Contact the appropriate external agency for more information.

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### **SANCTIONS**

The specific sanction(s) will depend on the type of conduct, severity, and other relevant factors related to the findings and decision. However, sanctions may include, but are not limited to warnings, education, suspension, expulsion, separation, and the prohibition from campus property or activities. The Director of Employee Relations or the Dean of Students is responsible for effective implementation of any remedies. ([Appendix F](#) provides additional explanation regarding possible sanctions.)

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### **DEADLINES, TIME, NOTICES AND METHOD OF TRANSMITTAL**

Where this policy specifies a period of days by which some act must be performed, the following method of calculation applies:

- Exclude the day of the event that triggers the period;
- Count each weekday that the College is open and conducting regular business (This does NOT include intermediate Saturdays, Sundays, legal holidays recognized by the federal government, or time periods where the College is closed for an extended period of time such as winter break);
- Include the last day of the period until 5:00 p.m. central time, but if the last day is a Saturday, Sunday, or legal holiday recognized by the federal government, the period continues to run until 5:00 p.m. central

time on the next day that is not a Saturday, Sunday, or legal holiday recognized by the federal government.

All deadlines and other time periods specified in this policy are subject to modification by the College where, in the College's sole discretion, good cause exists. Good cause may include, but is not limited to, the unavailability of parties or witnesses; the complexities of a given case; extended holidays or closures; sickness of the investigator, adjudicator, or the parties; the need to consult with the College's legal counsel; unforeseen weather events; and the like.

Any party who wishes to seek an extension of any deadline or other time period may do so by filing a request with the investigator, administrative officer, appeal officer, Director of Employee Relations, or Dean of Students, as the case may be, depending on the phase of the process. Such request must state the extension sought and explain what good cause exists for the requested extension. The College officer resolving the request for extension may, but is not required to, give the other party an opportunity to object. Whether to grant such a requested extension will be in the sole discretion of the College.

The parties will be provided written notice of the modification of any deadline or time period specified in this policy, along with the reasons for the modification.

Unless otherwise specified in this policy, the default method of transmission for all notices, reports, responses, and other forms of communication specified in this policy will be email using College email addresses.

A party is deemed to have received notice upon transmittal of an email to their College email address. In the event notice is provided by mail, a party will be deemed to have received notice three (3) days after the notice in question is postmarked.

Any notice inviting or requiring a party or witness to attend a meeting or interview will be provided with sufficient time for the party to prepare for the meeting or interview as the case may be, and will include relevant details such as the date, time, location, purpose, and participants. Unless a specific number of days is specified elsewhere in this policy, the sufficient time to be provided will be determined in the sole discretion of the College, considering all the facts and circumstances, including, but not limited to, the nature of the meeting or interview; the nature and complexity of the allegations at issue; the schedules of relevant College officials; approaching holidays or closures; and the number and length of extensions already granted.

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## RECORDINGS

Only the College is permitted to make audio or video recordings under this process. The recording will be made only by the College and is considered property of the College, subject to any right of access that a party may have under this process, FERPA, and other applicable federal, state, or local laws. The surreptitious recording of any meeting, interview, or other interaction contemplated under this process and associated policies is strictly prohibited. Any party who wishes to transcribe a hearing by use of a transcriptionist must seek pre-approval from the appropriate College designee in the Human Resources Department or the Dean of Students Office.

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## VENDORS, CONTRACTORS AND THIRD PARTIES



## **Harassment/Discrimination Grievance Process (7101C)**

The College does business with various vendors, contractors, and other third parties who are not students or employees of the College. Notwithstanding any rights that a given vendor, contractor, or third-party Respondent may have under the College's Equal Opportunity, Harassment and Non-Discrimination Policy, the College retains its right to limit any vendor, contractor, or third-party's access to campus for any reason. And the College retains all rights it enjoys by contract or law to terminate its relationship with any vendor, contractor, or third-party irrespective of any process or outcome under the policy.

## **APPENDIX A: DEFINITIONS OF RELEVANT TERMS**

**Adjudicator.** The individual who makes the formal decision regarding the allegation or dispute.

**Campus Security Authority.** Under the Clery Act, a campus security authority (CSA) is a campus security official or other official with significant responsibility for campus and student activities such as student discipline and campus judicial proceeding. A CSA has responsibilities under Clery to report information for timely warnings and crime statistics.

**College Community.** The Madison College community includes, but is not limited to, students, employees, and third parties (i.e., vendors, contractors, visitors, guests, etc.). For the Title IX/ Sexual Harassment Grievance Process, Student is defined as an individual who is participating in or attempting to participate in an education program or activity of the College. (Per 34 CFR 106, §106.3).

**Complainant.** An individual who is alleged to be the victim of conduct that could constitute sexual harassment (per 34 CFR Part 106, §106.3). At the time of filing a complaint, a complainant must be participating in or attempting to participate in the education program or activity of Madison College.

**Consent.** Wisconsin law defines consent as words or overt actions by a person who is competent<sup>4</sup> to give informed consent. Wis. Stat. § 940.225 (4). Consent is informed, freely and actively given, and mutually understood permission/agreement. If physical force, coercion, intimidation, and/or threats are used, there is no consent. If a person is mentally or physically incapacitated or impaired so that they cannot understand the sexual situation, there is no consent. This includes impairment due to alcohol or drug consumption and being asleep or unconscious.

Examples of some of the behaviors that would constitute a lack of consent include, but are not limited to, the following:

- Engaging in sexual activity with an unconscious or semi-conscious person;
- Engaging in sexual activity with someone who is asleep or passed out;
- Engaging in sexual activity with someone who has said “no”;
- Engaging in sexual activity with someone who is not reciprocating by body movement;
- Engaging in sexual activity with someone who is vomiting, unable to stand without assistance, or must be carried to bed;
- Allowing another person to engage in sexual activity with your partner without his or her consent;
- Requiring any person to perform any sexual activity as a condition of acceptance into a student club, athletic, or any other organization affiliated with the College;
- Telling someone you will “out” him/her if he/she does not engage in sexual activity (e.g., threatening to disclose the person’s sexual orientation without his/her consent);
- Telling someone you will fail him/her or give him/her a grade different from what is deserved if he/she do not agree to engage in sexual activity; or
- Facilitating or assisting in a sexual assault including purchasing or providing alcohol or drugs to further a sexual assault.

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<sup>4</sup> *Competent is defined by Merriam-Webster as having the necessary ability, knowledge, or skill to do something successfully.*

Lack of consent is a critical factor in determining whether Sexual Harassment has occurred. As defined above, consent is a mutual, voluntary, and informed agreement to participate in specific sexual acts with another person that is not achieved through unreasonable manipulation or coercion—or any kind of physical force or weapon—and requires having cognitive ability to agree to participate. Consent requires an outward demonstration, through mutually understandable words, conduct or action, indicating that an individual has freely chosen to engage in the specific sexual acts. A verbal “no” constitutes lack of consent, even if it sounds insincere or indecisive.

Impairment or incapacitation due to alcohol and/or drug use, permanent/ temporary psychological or physical disability, and being below the age of consent in the applicable jurisdiction are factors which detract from or make consent impossible.

- Silence or an absence of resistance does not imply consent, and consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Even in the context of an ongoing relationship, consent must be sought and freely given for each specific sexual act. Consent may be withdrawn at any time. When consent is withdrawn, sexual activity must immediately stop.

**Course of Conduct.** As pertains to the definition of stalking, two or more acts, including, but not limited to, acts 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.** As defined in 34 U.S.C. 12291(a)(10), Violence committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

**Domestic Violence.** As defined in 34 U.S.C. § 12291(a)(8), felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or 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.

**FERPA.** The Family Educational Rights and Privacy Act (FERPA) is a federal law that affords parents the right to have access to their children’s education records, the right to seek to have the records amended, and the right to have some control over the disclosure of personally identifiable information from the education records. When a student turns 18 years old, or enters a postsecondary institution at any age, the rights under FERPA transfer from the parents to the student (“eligible student”). The FERPA statute is found at 20 U.S.C. § 1232g and the FERPA regulations are found at 34 CFR Part 99.

**First Amendment Considerations.** The Equal Opportunity, Harassment and Non-discrimination Policy does not impair the exercise of rights protected under the First Amendment. The College’s Policy prohibits all forms of harassment, exploitation, intimidation, unfair treatment, and misconduct. In this and other ways, the College applies and enforces this policy in a manner that respects the First Amendment rights of students, faculty, and others.

**Formal Complaint.** A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that MC investigate the allegation of sexual harassment.

**Incapacitation.** Incapacitation is a state where an individual cannot make an informed and rational decision to consent to engage in sexual contact because the individual lacks conscious knowledge of the nature of the act (e.g., to understand the “who, what, where, when, why or how” of the sexual interaction) and/or is physically or mentally helpless. An individual is also considered incapacitated, and therefore unable to give consent, when asleep, unconscious, or otherwise unaware that sexual contact is occurring.

Incapacitation can only be found when the Respondent knew or should have known that the Complainant was incapacitated when viewed from the position of a sober, reasonable person. One’s own intoxication is not an excuse for failure to recognize another person’s incapacitation.

Incapacitation may result from the use of alcohol and/or other drugs; however, consumption of alcohol of other drugs, inebriation, or intoxication alone are insufficient to establish incapacitation. Incapacitation is beyond mere drunkenness or intoxication. The impact of alcohol or drugs varies from person to person, and evaluating incapacitation requires an assessment of how consumption of alcohol and/or drugs impacts an individual’s:

- Decision-making ability
- Awareness of consequences
- Ability to make informed judgments
- Capacity to appreciate the nature of circumstances of the act.

No single factor is determinative of incapacitation. Some common signs that someone may be incapacitated include slurred speech, confusion, shaky balance, stumbling or falling down, vomiting, and unconsciousness.

**Investigation.** Systematic and formal inquiry into allegations of prohibited discrimination or protected status harassment brought by complainants through the process described

**Reasonable Person.** As pertains to the definition of stalking, a reasonable person under similar circumstances and with similar identities to the victim.

**Respondent** An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment (per 34 CFR Part 106, §106.3)

**Responsible Employee.** Under Title IX, a responsible employee includes any employee: who has the authority to take action to redress sexual violence; who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX coordinator or other appropriate college designee; or whom a student could reasonably believe has this authority or duty.

All College employees, with the exemption of College counseling staff, must report to the school’s Title IX Coordinator, or other appropriate College designee, all relevant details about the alleged sexual violence that the student or another person has shared and that the College will need to determine what occurred and to resolve the situation. This includes the names of the alleged respondent (if known), the student who experienced the alleged sexual violence, other students involved in the alleged sexual violence, as well as relevant facts, including the date, time, and location.

**Report.** See definition of “Actual Knowledge.”

**Sexual Assault.** An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. A sex offense is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of temporary or permanent mental or physical incapacity.

- **Forcible Rape:** 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 of the Complainant.
- **Forcible Sodomy:** Oral or anal sexual intercourse with another person, without the consent of the Complainant.
- **Sexual Assault with An Object:** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the Complainant.
- **Forcible Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- **Incest:** Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.

For the State of Wisconsin's definition of sexual assault, go to Wis. Stat. § 940.225 at [Wisconsin Legislative Documents - Statutes Related](#)

**Sexual Exploitation.** Sexual exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another for their 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 other sexual misconduct offenses.

Examples of behavior that would constitute sexual exploitation include the following:

- Prostituting another;
- Allowing a third party to watch consensual sexual contact without the permission of both parties involved in the sex act or showing voluntarily recorded sexual activity to others without permission;
- Knowingly giving another a sexually transmitted infection (STI) or HIV; or
- Allowing others to have sex with an incapacitated person.

**Sexual Harassment.** Conduct on the basis of sex that satisfies one or more of the following.

- 1) An employee of the College conditioning the provision of an aid, benefit, or service of the College, on an individual's participation in unwelcome sexual conduct (Quid Pro Quo); and/or
- 2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity (Hostile Environment); and/or
- 3) Sexual assault.

**Sexual Misconduct.** A broad term that identifies forms of discrimination and harassment based on sex including, sexual harassment, sexual assault, sexual exploitation, dating violence, domestic violence, and stalking. Sexual misconduct includes other acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.

**Stalking.** *As defined in 34 U.S.C. 12291(a)(30)*, Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- A. Fear for their safety or the safety of others; or
- B. Suffer substantial emotional distress.

## Harassment/Discrimination Grievance Process (7101C)

**Student.** For the purposes of the Title IX / Sexual Assault Grievance Process, an individual who is participating in or attempting to participate in an education program or activity of Madison College.

**Substantial Emotional Distress.** As pertains to the definition of stalking, a significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

**Supportive Measures.** Non disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or Respondent before or after 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 College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. These may include:

- Counseling
- Extension of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services
- Mutual restrictions on contact between the parties
- Changes in work locations
- Leaves of absence
- Increased security and monitoring of certain areas of the campus
- No contact orders (Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.)
- Or similar measures

**Working Days.** Weekdays, Monday through Friday, in which Madison College is open and conducting regular business. Working days does NOT include Saturdays, Sundays, legal holidays recognized by the federal government, or time periods where the College is closed for extended periods such as winter break.

## **APPENDIX B: RESOURCES FOR REPORTING HARASSMENT / DISCRIMINATION ALLEGATIONS**

### **ADA/504 Coordinators**

Madison College’s ADA/504 Coordinators are the College’s officials with responsibility for coordinating Madison College’s efforts to comply with and carry out the requirements under Title I and Title II of the Americans with Disability Act. These responsibilities include the centralized review, investigation, and resolution of reports of Title I and Title II complaints.

**ADA / 504 Coordinator – Students & Community Members (Guests)**  
**Geraldo VilaCruz, Ph.D.**  
Dean of Students  
Dean of Students Office  
Truax Campus, Room C1434  
gvilacruz@madisoncollege.edu  
(608) 246-6442

**ADA / 504 Coordinator – Employees, Vendors & Third Parties**  
**Lisa Muchka, M.S.**  
Compliance Coordinator  
Human Resources Department  
Truax Campus, Room AB121  
muchka@madisoncollege.edu  
(608) 246-5221

**ADA / 504 Coordinator – Facilities**  
**Joshua Cotillier**  
Risk Manager

### **Equal Employment Opportunity (EEO)/Affirmative Action Officer**

Madison College’s EEO/Affirmative Action Officer is the College’s official with responsibility for INSERT TEXT.

**EEO/Affirmative Action Officer**  
**Lisa Muchka, M.S.**  
Compliance Coordinator  
Human Resources Department  
Truax Campus, Room AB121  
muchka@madisoncollege.edu  
(608) 246-5221

### **Public Safety Services**

File an incident report with Public Safety Services. Reports can be made from any campus to either of these Public Safety Services locations.

**Public Safety Services**  
Truax Campus, Room B1240  
PublicSafety@madisoncollege.edu  
(608) 245-2222

**Public Safety Services**  
Goodman South Campus, Room 101  
PublicSafety@madisoncollege.edu  
(608) 245-2222

## APPENDIX C: ROLES WITHIN THE HARASSMENT / DISCRIMINATION GRIEVANCE PROCESS

Table 1. Delineation of Roles in the Harassment / Discrimination Grievance Process outlines some of the main roles within the Grievance Process and identifies the names of the individuals who serve in the identified roles. The individuals identified to serve in the various roles have received training regarding civil rights violations and on the college's Policy and Process.

<b>TABLE 1. DELINEATION OF ROLES IN THE HARASSMENT / DISCRIMINATION GRIEVANCE PROCESS</b>			
<b>ROLE</b>	<b>DESCRIPTION OF ROLE</b>	<b>SELECTION REQUIREMENTS</b>	<b>ASSIGNMENT</b>
Compliance Team	<ul style="list-style-type: none"> <li>Facilitates the Harassment / Discrimination Grievance Process.</li> <li>Completes the initial review and preliminary assessment of referred complaints.</li> <li>Determines violations on the college's Equal Opportunity, Harassment and Nondiscrimination Policy and determines appropriate sanctions / actions, when necessary.</li> <li>Decision making authority related to the Harassment / Discrimination Grievance Process.</li> </ul>	<ul style="list-style-type: none"> <li>Assigned by Madison College.</li> </ul>	<ul style="list-style-type: none"> <li>Rose Buschhaus</li> <li>Tim Casper</li> <li>Kate Jochimsen</li> <li>Lisa Muchka</li> <li>Mark Thomas</li> <li>Geraldo VilaCruz</li> </ul>
Informal Resolution Facilitator	<ul style="list-style-type: none"> <li>Assists in the resolution of complaints when the Complainant(s) and Respondent(s) agree to pursue an informal resolution.</li> </ul>	<ul style="list-style-type: none"> <li>Identified by Compliance Team.</li> </ul>	<ul style="list-style-type: none"> <li>John Boyne (Student Affairs)</li> <li>Charles Cunningham (Student Affairs)</li> <li>Blanca De Leon (Student Affairs)</li> <li>Barbara DuCharme (Student Affairs)</li> <li>Jenni McKay (Student Affairs)</li> <li>Deb Olsen (Student Affairs)</li> <li>Joshua Schiffman (Student Affairs)</li> <li>Gerard Xavier (Student Affairs)</li> <li>Lara Baehr (Human Resources)</li> <li>Eric Barber (Human Resources)</li> <li>Kate Jochimsen (Human Resources)</li> <li>Katie Rikli (Human Resources)</li> </ul>

## Harassment/Discrimination Grievance Process (7101C)

Investigator(s)	<ul style="list-style-type: none"> <li>• Completes the formal investigation process once written notice of complaint is issued through the preparation of final investigation report.</li> <li>• Conducts a prompt and thorough investigation.</li> <li>• Acts as a neutral party in the investigation.</li> <li>• Prepares a detailed, unbiased report regarding the findings of the investigation.</li> <li>• The Investigator is NOT responsible for determining whether the policy was violated or recommended sanctions / actions.</li> </ul>	<ul style="list-style-type: none"> <li>• Assigned by Compliance Team.</li> <li>• Two Investigators assigned to investigate any formal complaint.</li> <li>• For complaints involving an employee, both investigators are assigned from a pool of Human Resources Investigators.</li> <li>• For complaints involving only students or other person(s), the investigators are assigned from a pool of Student Affairs Investigators.</li> </ul>	<ul style="list-style-type: none"> <li>• Lisa Muchka (Student Affairs &amp; Human Resources)</li> <li>• Luke Adler (Student Affairs )</li> <li>• Jenni McKay (Student Affairs)</li> <li>• Scott Ritter (Student Affairs)</li> <li>• Gretchen Rixie (Student Affairs)</li> <li>• Aunton Terry (Student Affairs)</li> <li>• Taylor Weckerly (Student Affairs )</li> <li>• Lara Baehr (Human Resources)</li> <li>• Eric Barber (Human Resources)</li> <li>• Kate Jochimsen (Human Resources)</li> <li>• Katie Rikli (Human Resources)</li> </ul>
Appeal Officer	<ul style="list-style-type: none"> <li>• Reviews investigation report, determination notice, and written appeal.</li> <li>• Makes determination decision upon receipt of a request for an appeal.</li> <li>• Decision by Appeal Officer is final.</li> </ul>	<ul style="list-style-type: none"> <li>• Identified by Madison College.</li> </ul>	<ul style="list-style-type: none"> <li>• Lucia Nunez</li> </ul>

## **APPENDIX D: CONDUCTING A RISK ASSESSMENT**

Threat assessment is the process of assessing the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A Violence Risk Assessment (VRA) is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

The implementation of VRAs require specific training and are typically conducted by counselors, public safety officers, human resources staff, case managers, student conduct officers, and/or other Behavioral Intervention Team (BIT) members.

A VRA occurs in collaboration with the BIT, which include public safety services and human resources and must be understood as an on-going process, rather than a singular evaluation or meeting. A VRA is not an evaluation for an involuntary behavioral health hospitalization, nor is it a psychological or mental health assessment.

A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

When conducting a VRA, the assessor(s) use an evidence-based process consisting of:

1. an appraisal of risk factors that escalate the potential for violence;
2. a determination of stabilizing influences that reduce the risk of violence;
3. a contextual analysis of violence risk by considering environmental circumstances, hopelessness, and suicidality; catalyst events; nature and actionability of threat; fixation and focus on target; grievance collection; and action and time imperative for violence; and
4. the application of intervention and management approaches to reduce the risk of violence.

To assess an individual's level of violence risk, the Title IX Coordinator will initiate the violence risk assessment process through the BIT. The BIT will assign a trained individual(s) to perform the assessment, according to the specific nature of the Title IX case.

The assessor will follow the process for conducting a violence risk assessment as outlined in the BIT process and will rely on a consistent, research-based, reliable system that allows the for the operationalization of the risk levels.

The VRA is conducted independently from the Title IX process, free from outcome pressure, but is informed by it. The individual(s) conducting the assessment will be trained to mitigate any bias and provide the analysis and findings in a fair and equitable manner.

The BIT team member(s) conducts a VRA process and makes a recommendation to the Title IX Coordinator as to whether the VRA indicates there is a substantial, compelling, and/or immediate risk to health and/or safety of an individual or the community. [Appendix E](#) provides a sample of a tool used in assessing risk.

## APPENDIX E: NABITA RISK ASSESSMENT TOOL<sup>5</sup>

### D-SCALE

Life Stress and Emotional Health

**DECOMPENSATING**

- ▲ Behavior is severely disruptive, directly impacts others, and is actively dangerous.
- ▲ This may include life-threatening, self-injurious behaviors such as:
  - ▲ Suicidal ideations or attempts, an expressed lethal plan, and/or hospitalization
  - ▲ Extreme self-harm, life-threatening disordered eating, repeated DUIs
  - ▲ Repeated acute alcohol intoxication with medical or law enforcement involvement, chronic substance abuse
  - ▲ Profoundly disturbed, detached view of reality and at risk of grievous injury or death and/or inability to care for themselves (self-care/protection/judgment)
  - ▲ Actual effective, impulsive violence or serious threats of violence such as:
    - ▲ Repeated, severe attacks while intoxicated; brandishing a weapon
    - ▲ Making threats that are concrete, consistent, and plausible
    - ▲ Impulsive stalking behaviors that present a physical danger

**DETERIORATING**

- Destructive actions, screaming or aggressive/harassing communications, rapid/odd speech, extreme isolation, stark decrease in self-care
- Responding to voices, extremely odd dress, high risk substance abuse; troubling thoughts with paranoid/delusional themes; increasingly medically dangerous bingeing/drugging
- Suicidal thoughts that are not lethal/minor or non-life threatening self-injury
- Threats of effective, impulsive, poorly planned, and/or economically driven violence
- Vague but direct threats or specific but indirect threat; explosive language
- Stalking behaviors that do not harm, but are disruptive and concerning

**DISTRESSED**

- Distressed individuals engage in behavior that concerns others, and have an impaired ability to manage their emotions and actions. Possible presence of stressors such as:
  - Managing chronic mental illness, mild substance abuse/abuse, disordered eating
  - Situational stressors that cause disruption in mood, social, or academic stress
  - Difficulty coping/adapting to stress/trauma; behavior may subside when stressor is removed, or trauma is addressed/processed
- If a threat is present, the threat is vague, indirect, implausible, and lacks detail or focus

**DEVELOPING**

- ◆ Experiencing situational stressors but demonstrating appropriate coping skills
- ◆ Often first contact or referral to the BIT/CARE team, etc.
- ◆ Behavior is appropriate given the circumstances and context
- ◆ No threat made or present

**OVERALL SUMMARY**

CRITICAL

4

In this stage, there is a serious risk of suicide, life-threatening self-harm, dangerous risk taking (e.g. driving a motorcycle at top speed at night with the lights off) and/or assault on oneself. They may display racing thoughts, high risk substance dependence, intense anger, and/or perceived unfair treatment or grievance that has a major impact on the student's academic, social, and peer interactions. The individual has clear target for their threats and ultimatums, access to lethal means, and an attack plan to punish those they see as responsible for perceived wrongs. Without immediate intervention (such as law enforcement or psychiatric hospitalization), it is likely violence will occur. There may be leakage about the attack plan (social media posts that say "I'm going to be the next school shooter" or telling a friend to avoid coming to campus on a particular day). There may be stalking behavior and escalating predatory actions prior to violence such as intimidation, telegraphing, and "test runs" such as causing a disruption to better understand reaction time of emergency response.

ELEVATED

3

Behavior at the elevated stage is increasingly disruptive (with multiple incidents) and involves multiple offices such as student conduct, law enforcement, and counseling. The individual may engage in suicidal talk, self-injury, substance intoxication. Threats of violence and ultimatums may be vague but direct or specific but indirect. A fixation and focus on a target often emerge (person, place, or system) and the individual continues to attack the target's self-esteem, public image, and/or access to safety and support. Others may feel threatened around the individual, but any threat lacks depth, follow-through, or a warning against an individual, office, or organization. The individual is in need of most timely support and resources to avoid further escalation. Conditional ultimatums such as "do this or else" may be made to instructors, peers, faculty, and staff.

MODERATE

2

Prior to this stage, conflict with others has been fairly limited. The hallmark of moderate is an increase in conflict with others through aggressive speech, actions, and manifestations. They may begin to irritate and engage in non-verbal behaviors or begin to post things on social media about their problems. They may be increasingly fixated on a target. They may be lacking of friends, and support are now becoming an increasing concern. The individual may be fearful, sad, hopeless, anxious, or frustrated. This may be caused by difficulty adjusting, doing stress, failure in class assignments, and/or increasing social isolation. If there is a threat or physical violence such as endlessly pushing someone out of their way while storming off, the violence is typically limited and driven by adrenaline and impulsiveness, rather than any deeper plan to hurt others.

MILD

0/1

The individual here may be struggling and not doing well. The impact of their difficulty is limited around others, with the occasional report being made to the BIT/CARE team out of an abundance of caution and concern rather than any direct behavior or threats. They may be having trouble fitting in, adjusting to college, making friends, or may not people the wrong way. They connect with others with their thoughts or manifestations, and there may be minor bullying and conflict. With supported resources, it is likely the individual will be successfully adjusting and overcoming obstacles. Without support, it is possible they will continue to escalate on the rubric.



### E-SCALE

Hostility and Violence to Others

#### EMERGENCE OF VIOLENCE

- ▲ Behavior is moving towards a plan of targeted violence, sense of hopelessness, and/or desperation in the attack plan; looked into an all or nothing mentality
- ▲ Increasing use of military and tactical language, equocation of costume for attack
- ▲ Clear fixation and focus on an individual target or group; feels justified in actions
- ▲ Attack plan is credible, repeated, and specific; may be shared; may be hidden
- ▲ Increased research on target and attack plan, employing counter-surveillance measures, access to lethal means; there is a sense of imminence to the plan
- ▲ Leakage of attack plan on social media or telling friends and others to avoid locations

#### ELABORATION OF THREAT

- Fixation and focus on a singular individual, group, or department; depersonalization of target, intimidating target to lessen their ability to advocate for safety
- Seeking others to support and empower future threatening action; may find extremists looking to exploit vulnerability; encouraging violence
- Threats and ultimatums may be vague or direct and are motivated by a hardened viewpoint; potential leakage around what should happen to fix grievances and injuries
- There is newly physical violence here, but rather an escalation in the dangerousness and lethality in the threats; they are more specific, targeted, and repeated

#### ESCALATING BEHAVIORS

- Driven by hardened thoughts or a grievance concerning past wrongs or perceived past wrongs; increasingly adopts a singular, limited perspective
- When frustrated, storms off, disengaged, may create signs or boll on social media
- Argues with others with intent to embarrass, shame, or shut down
- Physical violence, if present, is impulsive, non-lethal, and brief; may seem similar to effective violence, but driven here by a hardened perspective rather than mental health and/or environmental stress

#### EMPOWERING THOUGHTS

- ◆ Passionate and hardened thoughts; typically related to religion, politics, academic status, money/power, social justice, or relationships
- ◆ Rejection of alternative perspectives, critical thinking, empathy, or perspective-taking
- ◆ Narrowing on consumption of news, social media, or friendships; seeking only those who share the same perspective
- ◆ No threats of violence

TRAJECTORY?

BASELINE

TRAJECTORY?

<sup>5</sup> The NaBITA Risk

## **APPENDIX F: DISCIPLINARY SANCTIONS**

The sanctioning and disciplinary outcomes of individuals found responsible for a violation of Madison College policies including relevant Codes of Conduct is a complex task that considers several factors. Such factors may include, but are not limited to, the following:

- a) The need to remedy the effects of the respondent's behavior on the complainant and the community and to ensure future safety;
- b) Protecting the safety of the community; and
- c) Holding the Respondent accountable for the Respondent's actions.

To meet these multiple goals, an appropriate mix of sanctions may be determined for each case.

### **Possible Student Sanctions**

1. Fair Warning
2. Fines
3. Restitution
4. Community/Madison College Service Requirements
5. Loss of Privileges
6. Confiscation of Prohibited Property
7. Behavioral Requirement
8. Educational Program
9. Disciplinary Probation
10. Probated suspension
11. Eligibility Restriction
12. Suspension
13. Expulsion
14. Student Groups and Organizations Sanctions
15. Other Sanctions

### **Possible Employee Sanctions**

Sanctions for employees follow a progressive discipline process. The following sanctions may apply; however, any of the steps may be skipped depending on the severity of the action(s) of the respondent.

1. Training
2. Verbal Redirection
3. Formal Verbal Warning
4. Written Warning
5. Suspension
6. Termination