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## Harassment/Discrimination Grievance Process

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## **Madison College Harassment/Discrimination Grievance Process**

Madison Area Technical College (hereafter referred to as “Madison College” or “the college”) is committed to maintaining a positive and safe environment.

Students, faculty and staff must work and learn together in a harassment- and discrimination-free atmosphere. College policies and procedures provide a prompt, fair and impartial process for anyone 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 where the college has jurisdiction and which involve 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 is severe or pervasive and objectively offensive that it unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.

(Refer to [Appendix A](#) for definitions.)

**NOTE:** When it is determined that an allegation does NOT qualify for resolution under the Harassment/Discrimination Grievance Process, resolution may be sought under other college guidelines (e.g., [Student Code of Conduct](#), Employee Handbook – [Professional Conduct & Civility](#), etc.).

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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.

The ***preponderance of evidence*** standard is used to resolve cases alleging harassment or discrimination; that is, ***it is more likely than not***, that a policy violation 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 alleged victim of conduct that could constitute harassment or discrimination is the “**complainant**.” The reported 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. When either party is under the 18-years-old, parent(s) or guardian(s) of the student are included on notices provided, as permitted by the Family Educational Rights and Privacy Act (FERPA).

### **Deadlines, Time, and Time Frames for Resolution**

Once a formal complaint is filed, Madison College seeks to resolve all allegations of harassment or discrimination within 60 working days. All time frames expressed in this Grievance Process are guidelines, not rigid requirements. Circumstances may require time frame extensions, potentially beyond 60 working days. Circumstances may include, but are not limited to, the complexity of allegations, number of witnesses, availability of 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 any 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 outlines the steps associated with the Harassment/Discrimination Grievance Process.

Table 1. <b>Overview of Harassment/Discrimination Grievance Process</b>
<ul style="list-style-type: none"> <li>• Step 1. <a href="#">Report an allegation</a></li> <li>• Step 2. <a href="#">Initial Review and Preliminary Assessment</a></li> <li>• Step 3. <a href="#">Written Notice of Complaint</a></li> <li>• Step 4. <a href="#">Initiate Resolution Action</a></li> <li>• Step 5. <a href="#">Investigation</a></li> <li>• Step 6. <a href="#">Review of Investigation Findings and Decision</a></li> <li>• Step 7. <a href="#">Notice of Outcome</a></li> <li>• <a href="#">Appeal</a></li> </ul>

Madison College will comply with law enforcement agency requests for cooperation, and this may delay the college’s fact gathering. The college will communicate with the parties regarding rights, procedural options, and implementation of supportive measures to ensure safety and well-being. In cases of delay, Madison College will promptly resume fact gathering as soon as law enforcement has completed its initial investigation.

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; complexities of a given case; extended holidays or closures; sickness of the investigator, adjudicator, or parties; need to consult with the college’s legal counsel; unforeseen weather events; and the like.

Any party seeking a deadline extension or other adjustment may do so by submitting a written request to the appropriate college representative consistent with the phase of the process (i.e., investigator, appeal officer). The request must state the adjustment being sought and rationale. The college representative may, but is not required to, give the other party an opportunity to object. Whether to grant the request is in the college's sole discretion.

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

### **Complaints Involving Minors**

For the purposes of this Grievance Process a minor student is defined as an individual younger than 18-years-old who is under the care, custody and control of a parent and/or guardian.

If a minor student is involved in an allegation of sexual harassment and if the alleged harassment falls within the definition of abuse (as found in college policy), then all employees with knowledge shall be considered mandatory reporters and the allegations must be reported to the county department of social services, the county department of human services, or to law enforcement (county sheriff or the city, village, or town police department, or Madison College Public Safety department). Such reporting must be made in addition to notification to the Title IX Coordinator.

When a minor student is involved in an allegation of sexual harassment, parent(s) or guardian(s) of the student are also provided on notices as permitted by FERPA.

### **Accommodations in the Grievance Process**

Madison College will provide reasonable accommodations and support to students, employees, or others with disabilities to ensure equal access to a resolution. A participant in the Grievance Process may request accommodations related to disabilities or health conditions. Requests will be reviewed in a timely manner. At least five working days is needed to process the request.

- Students should contact Disability Resource Services with questions or to request disability-related accommodations. Inquiries can be made by calling Disability Resource Services at 608-246-6716 or emailing [drstransition@madisoncollege.edu](mailto:drstransition@madisoncollege.edu).
- Employees should contact their [Human Resources Business Partner](#) with questions or to make a request for disability-related accommodations.

Requests will be reviewed in consultation with the designated college official and the requestor to determine whether accommodations are necessary and appropriate for full participation in the resolution process. The designated college official will oversee the implementation of reasonable accommodations.

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

There is no single source for filing a report. Harassment/discrimination allegations may be made using any of the following options:

- It is preferred to submit reports online, using the [Harassment/Discrimination Report](#) form.  
Complaints alleging a violation in which either party is an employee (including student employee), vendor or third party, will be referred to the Human Resources Department.  
Complaints alleging a violation involving students or other person(s), in which an employee is not involved, will be referred to the Dean of Students Office.
- Contact the Dean of Students Office (students and guests) or the Human Resources Department (employees, vendors and third parties).

**Dean of Students Office**  
Truax Campus, Room C1434  
1701 Wright St.  
Madison, WI 53704  
[deanofstudents@madisoncollege.edu](mailto:deanofstudents@madisoncollege.edu)

**Human Resources Department**  
Truax Campus, Room AB121  
1701 Wright St.  
Madison, WI 53704  
[hrcompliance@madisoncollege.edu](mailto:hrcompliance@madisoncollege.edu)

- 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  
1701 Wright St.  
Madison, WI 53704  
[PublicSafety@madisoncollege.edu](mailto:PublicSafety@madisoncollege.edu)  
(608) 245-2222

**Public Safety Services**  
Goodman South Campus, Room 101  
2429 Perry St.  
Madison, WI 53713  
[PublicSafety@madisoncollege.edu](mailto:PublicSafety@madisoncollege.edu)  
(608) 245-2222

College resources (listed below) can **assist with filing a report**:

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

[Appendix B](#) identifies additional resources for reporting allegations of harassment or discrimination.

Upon notice of an alleged policy violation involving 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 occur:

- Offer supportive measures and/or refer to another college process because the complainant does not want to proceed formally, or the incident does not qualify as harassment or discrimination; and/or
- An informal resolution; and/or

- A formal investigation and resolution.

## **Amnesty for Students**

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 discrimination policy violation. In cases when a complainant or witness(es) was under the influence of alcohol or 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. The college's commitment to amnesty in these situations does not prevent action by police or other legal authorities against a student.

## **Responsible Employees**

College employees, except for college counseling staff, must report allegations of discrimination, harassment, or retaliation to the designated college official. All employees observing or receiving reports of a potential violation of the Equal Opportunity, Anti-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 an investigation. Madison College tries to provide supportive measures to all complainants, which is made more difficult by 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**

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

## **Supportive Measures**

Supportive measures are made available when the college is provided actual knowledge of allegations of harassment, discrimination, or retaliation. 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

- Employee Assistance Program
- Modifications of work or class schedules
- Campus safety 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.)
- Safety planning
- Or similar measures

Upon conclusion of a resolution action, similar measures may also be applied to remedy the effects of the alleged conduct.

### Confidentiality

While Madison College makes every effort to preserve confidentiality of reports that fall under this Grievance Process and related policy, it cannot guarantee confidentiality in every instance. Madison College will make reasonable efforts to respect the privacy of complainants, respondents, witnesses, and others who have brought forward, participated in or are otherwise involved in complaints or investigations adjudicated under this Grievance Process. Once Madison College is aware of an incident, information is only shared with those who have a “need to know” the information in order to assist with Madison College’s management or resolution of the incident.

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 within this process.

All persons present at any time during the Grievance Process are expected to maintain the confidentiality of the proceedings. 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. Madison College encourages parties to discuss any such sharing with their (grievance process) advisors<sup>2</sup> before doing so.

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 that must be disclosed in the college’s Annual Security Report, provided to the campus community and available to the general public. Such disclosures are made without including personally identifying information.

### Referral to Law Enforcement

Reports involving the attempted or actual physical or sexual abuse of children (defined as persons under the age

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<sup>2</sup> Parties have the right to an advisor of their choosing to assist in the process. 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 age 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. Parties may choose to select an advisor at any point in the process.



of 18) will automatically be referred to law enforcement and the appropriate state agency responsible for child protection.

Students, employees, and community members may also consider a direct report to the local police department. ([Appendix C](#) identifies contact information for local police departments.)

A criminal investigation and Madison College's resolution process may happen simultaneously.

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## **STEP 2: INITIAL REVIEW AND PRELIMINARY ASSESSMENT**

After receiving a report of an allegation of harassment or discrimination/alleged policy violation, Madison College's Compliance Team, will conduct an initial review and preliminary assessment. ([Appendix D](#) describes the role of the Compliance Team and identifies the names of the individuals who will serve to assist in resolving complaints which fall under this grievance process.)

The preliminary assessment will assess any eminent risk (refer to [Appendix E](#)), 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.

Madison College reserves the right to take whatever measures it deems necessary in response to an allegation of harassment or discrimination to protect party rights (refer to [Appendix G](#)), 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 designated college official 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.

**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 to the complainant and respondent (if known).

Such notice will be provided in writing and delivered by electronic mail (email) to the Madison College email address(es) of the parties. Once sent, notice will be presumed to have been delivered.

At the time that written notice is issued, the designated college official will ensure that the respondent is offered supportive measures, as needed.

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

## **Notices and Methods of Transmittal**

Notices made under this Grievance Process will be provided in writing and delivered by electronic mail to the Madison College email address of each party. This includes all notices, reports, responses, and other forms of communication specified in this process. Once sent, notice will be presumed to have been delivered. If a student is under age 18, the notice will also be sent to the student's parent(s) or guardian(s) as permitted by FERPA.

Parties can expect to receive regular and at times, frequent, correspondence from individuals with a role in the Grievance Process. It is the responsibility of the party to monitor their Madison College email account for correspondence related to the case.

If a party wants notices to be sent to an alternate email address, they must submit to the designated college official a written request providing the preferred contact information, including any alternate email address. Only upon confirmation from the designated college official will an alternate method of transmittal be approved.

Where this process refers to notice being given to parties "simultaneously," notice will be deemed simultaneous if it is provided in relative proximity on the same day.

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 days after the notice in question is postmarked.

Any notice inviting or requiring a party to attend a meeting, interview, or hearing will be provided with sufficient time for the party to prepare for the meeting, interview, or hearing, 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 process, sufficient time is determined at the sole discretion of the college, considering all facts and circumstances, including, but not limited to, the nature of the meeting, interview, or hearing; 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.

Correspondence is generally limited to the complainant and respondent. In the case of students under age 18 this includes the student's parent(s) or guardian(s). Complainants and respondents can request in writing that the college include the advisor in any communications. Madison College will not send correspondence directly to a party's attorney, even if requested, who is not otherwise involved in the Grievance Process in the role of advisor.

## **Retaliation**

Retaliating 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 adversely affect 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, Anti-harassment and Nondiscrimination Policy. Acts of alleged retaliation should be reported immediately to the designated college official 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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## **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 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; or
- When the matter can be resolved informally through supportive measures to remedy the situation.

Informal resolution does not need to be attempted for a formal investigation to be pursued. Any party participating in an informal resolution 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 an informal resolution is reached, the 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 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 investigators' names will be provided in the written notice of the complaint. For harassment or discrimination complaints in which either party is an employee (including student employee), the investigators will be assigned from a pool of Human Resources investigators. 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 D](#) identifies the roles within the Grievance Process including the names of individuals serving in the pool.)

**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 generally follow when investigating a formal 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.
  - **NOTE:** If a party does not wish to participate in the investigation process, the process will proceed without their contribution. Parties 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 a party, including refusal 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 interview.
4. Investigators request from each party the names of potential witnesses.
5. Available, relevant witnesses will be asked to provide a statement via an online statement form. When additional information or explanation is needed, the investigators may meet with select witnesses.
6. 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.
7. The investigators draft an investigation report which includes all evidence directly related to the allegations raised in the formal complaint.
8. Each party is sent an electronic version of the investigation report to review.
  - Materials are generally provided electronically and are intended for the receipt and review of the identified person receiving it. Failure to maintain the confidentiality of shared materials is considered a college policy violation and appropriate disciplinary action may be taken.

9. Investigators incorporate any relevant feedback received from the parties' written responses into the final investigation report.
10. The final investigation report is shared with the parties. The final investigation report is also shared with the college's Compliance Team to initiate a decision in the case.

If, during 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 designated college official 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 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 virtual means. Video conference is preferred over audio calls, but audio conferencing is allowed when video technology is not available.

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**

At the conclusion on the investigation, the Compliance Team will determine whether the respondent is responsible or not responsible for the alleged policy violation(s), based on the ***preponderance of evidence standard*** that is, ***it is more likely than not***, that a policy violation has occurred.

All relevant parties will be notified of the decision. If a student is under age 18, the notice will also be sent to the student's parent(s) or guardian(s). The decision and related documentation are maintained, and these records will be kept confidential to the extent permitted by law ([Appendix H](#) outlines the college's record keeping standard for this process).

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 I](#) outlines possible disciplinary sanctions.)

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

Madison College will provide written notice regarding the resolution process outcome, whether the resolution is a result of informal resolution, or investigation and formal resolution. Written notice of outcome will be provided

to involved parties simultaneously.

### **Informal resolution action**

Instances in which the formal complaint is resolved using an informal or alternative resolution process will result in an outcome notification provided in writing to the parties. 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 written assent is provided by the parties, the complaint will be considered resolved. This concludes the process and referral to formal investigation cannot occur; the result of an informal resolution is NOT subject to an appeal once written assent is provided by the parties.

### **Investigation findings and decision**

The determination regarding responsibility will be provided in writing to the parties. The written determination will include:

- a) identification of the allegations potentially constituting harassment or discrimination;
- b) a description of the procedural steps taken by the college;
- c) findings of fact supporting the determination;
- d) a statement of determination regarding responsibility to each allegation, any disciplinary sanctions the college imposes on the respondent, and whether remedies will be provided by the college to the complainant; and
- e) the college's procedures and permissible bases for an appeal.

The determination regarding responsibility becomes final on the date that an appeal would no longer be considered timely (five 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. Any party has a right to appeal the determination.

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## **APPEALS**

Any party has the right to file an appeal from the college's 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 designated college official, 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 the 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 (for complaints in which either party is an employee) or the Dean of Students (for complaints in which neither party is an employee) within five 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 written appeal is referred to an appeal officer appointed by the college.

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 other party's statement. 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 20 working days of the appeal's receipt. The appeal officer's (or designee's) decision is final. All deadlines indicated above may be extended for good cause at the appeal officer's discretion.

Additional review is not permitted.

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## **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**

Specific sanction(s) will depend on the type of conduct, severity, and other relevant factors related to the findings and decision. Sanctions may include, but are not limited to warnings, education, suspension, expulsion, separation, and restriction from campus property or activities. ([Appendix I](#) provides additional explanation regarding possible sanctions.) [Supportive measures](#) may also be applied to remedy the effects of the alleged conduct at the conclusion of a resolution action. The Director of Employee Relations (employee-related sanctions) or the Dean of Students (student-related sanctions) is responsible for effective implementation of any remedies.



## **RECORDINGS AND RECORD KEEPING**

Wherever this grievance process specifies that an audio or video recording will be made, 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. Only the college is permitted to make audio or video recordings under this process.

Secret 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 designated college official.

Madison College will retain records of each investigation into harassment and/or discrimination instituted under this grievance process for no less than seven years or as may be required by the college's records retention schedule. Details are outlined in [Appendix H](#).

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## **VENDORS, CONTRACTORS AND THIRD PARTIES**

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, Anti-harassment and Nondiscrimination Policy, the college retains its right to limit any vendor, contractor, or third-party's access to campus for any reason. The college retains all rights 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**

**Actual Knowledge.** For the purposes of the Title IX/Sexual Harassment Grievance Process, notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of Madison College who has authority to institute corrective measures on behalf of the college (per 34 CFR Part 106, §106.3). For the purposes of the Harassment/Discrimination Grievance Process, notice of an alleged incident of harassment/discrimination to the designated college official.

**Advisor.** A person chosen by a party or appointed by the college to accompany the party to meetings related to the grievance process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any. The advisor can be an attorney, advocate, or support person.

**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.

**Coercion.** Use of intimidation or unreasonable pressure for sexual activity.

**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 college activity (per 34 CFR 106, §106.3).

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

**Consent.** Wisconsin law defines consent as words or overt actions by a person who is competent<sup>3</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;

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<sup>3</sup> *Competent is defined by Merriam-Webster as having the necessary ability, knowledge, or skill to do something successfully.*

- 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” them if they do not engage in sexual activity (e.g., threatening to disclose the person’s sexual orientation without their consent);
- Telling someone you will fail them or give them a grade different from what is deserved if they 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.

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.

**Discriminatory Harassment.** 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 is severe or pervasive and objectively offensive that it unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.

**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.

**Employee.** An employee, for the purposes of these processes, is defined as an individual who performs services for Madison College in exchange for wages. It does not include those who are contractors or contingent workers. Someone becomes an employee on their hire date and is no longer an employee the day after the last day of employment.

**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, Anti-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.

**Fondling.** The touching of the private parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

**Formal Complaint.** A document signed by a complainant or by the designated college official (the Title IX Coordinator in allegations of sexual harassment) alleging harassment and/or discrimination (including sexual harassment) against a respondent and requesting that Madison College investigate the allegation.

**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 or 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.

**Incest.** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

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

**Jurisdiction.** Involved parties, locations, events, or circumstances over which Madison College has authority or ability to exercise substantial control.

**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 victim.

**Reasonable Person.** A hypothetical person with an ordinary degree of reason, care, or intelligence in conduct and who serves as a comparative standard.

**Respondent.** An individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination (including 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.

College employees, with the exemption of college counseling staff, must report to the school's Title IX Coordinator, or other designated college official, 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.** As defined in 20 U.S.C. § 1092(f)(6)(A)(v), an offense classified as a forcible or nonforcible sex offense that meets the definition of rape, fondling, incest, or statutory rape under the uniform crime reporting (UCR) 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.

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.

**Sexual Violence.** A broad, non-legal term used to refer to crimes involving any sexual act or attempt to obtain a sexual act by violence or coercion, including but not limited to sexual assault, rape, and sexual abuse.

**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.

**Statutory Rape.** Sexual intercourse with a person who is under the statutory age of consent.

**Student.** For the purposes of the Harassment/Discrimination Grievance Process, an individual who is participating in or attempting to participate in an education program or activity of Madison College. "Participating" for the purposes of this grievance process includes, but is not limited to, an individual who is enrolled at the college. "Attempting to participate" for the purposes of this grievance process includes, but is not limited, an individual who is active in a program or who is assigned a priority registration appointment based on recent enrollment.

**Student Employee.** Student workers are employees of the college who work in a variety of campus departments. This includes student help and work study employees.

### *Student Help (On Campus)*

Student Help jobs are on campus positions funded and supported through individual departments. Positions are available for eligible and qualified students who do not receive assistance from the federal work-study program.

### *Work Study (On and Off Campus)*

Work Study students are student employees whose wages are funded by the Federal Work Study Program. Positions are available for eligible and qualified students who are awarded financial aid. Employees may view the [Federal Work Study Program](#) web page for more information.

**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
- Employee Assistance Program
- Modifications of work or class schedules
- Campus safety services
- Mutual restrictions on contact between the parties
- Work accommodations
- 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.)
- Safety planning
- Or similar measures

**Virtual.** Not physically existing as such but made by technological means to appear to do so (e.g., telephone, computer, etc.).

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

Where this process 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 (does NOT include intermediate Saturdays, Sundays, federal holidays or times the college is closed for an extended period;
- Include the last day of the period until 4:30 p.m. Central Standard Time (CST), but if the last day is a Saturday, Sunday, or federal holiday, the period continues to run until 4:30 p.m. CST the next day that is not a Saturday, Sunday, or federal holiday.



## **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 college 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  
Risk Management Department  
Truax Campus, Room B1244  
jcotillier@madisoncollege.edu  
(608) 246-6291

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

Madison College’s EEO/Affirmative Action Officer is the college’s official with responsibility for coordinating college efforts to prevent discrimination on the basis of race, color, national origin, sex, disability or age in employment, admissions or its programs or activities. The identified individual also handles inquiries regarding the college’s nondiscrimination policies.

**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**

Public Safety Services provides multiple services to the Madison College campus community for increased protection while on campus. Officers are available 24/7, 365 days a year. Incident reports can be filed with Public Safety Services from any campus to either of these 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: LOCAL LAW ENFORCEMENT AUTHORITIES**

Madison College Truax and Metro Campus Police Resources			
Madison College Campus	Police Department	Non-emergency number	Self-reporting form/Additional Resources
Truax Campus	Madison Police Department - 211 S Carroll Street, Madison, WI 53704	608-255-2345	<a href="https://www.cityofmadison.com/police/sru/">https://www.cityofmadison.com/police/sru/</a>
Commercial Avenue Campus	Madison Police Department - 211 S Carroll Street, Madison, WI 53704	608-255-2345	<a href="https://www.cityofmadison.com/police/sru/">https://www.cityofmadison.com/police/sru/</a>
Goodman South Campus	Madison Police Department - 211 S Carroll Street, Madison, WI 53704	608-255-2345	<a href="https://www.cityofmadison.com/police/sru/">https://www.cityofmadison.com/police/sru/</a>
West Campus	Madison Police Department - 211 S Carroll Street, Madison, WI 53704	608-255-2345	<a href="https://www.cityofmadison.com/police/sru/">https://www.cityofmadison.com/police/sru/</a>
All Madison Campuses	Dane County Sherriff's Office - 115 W Doty St, Madison, WI 53703	608-266-4948	<a href="https://danesherriff.com/Crime-and-Resources/Report-Crime">https://danesherriff.com/Crime-and-Resources/Report-Crime</a>
Madison College Regional Campus Police Resources			
Portage Campus	Portage Police Department 117 W Pleasant St, Portage, WI	608-742-2174	<a href="https://www.portagewi.gov/crime-stoppers/">https://www.portagewi.gov/crime-stoppers/</a>
Portage Campus	Columbia County Sherriff's Office 711 E Cook St, Portage, WI 53901	608-742-4166	<a href="https://www.co.columbia.wi.us/ColumbiaCounty/sheriff/SheriffsOfficeHome/Forms/tabid/8234/Default.aspx">https://www.co.columbia.wi.us/ColumbiaCounty/sheriff/SheriffsOfficeHome/Forms/tabid/8234/Default.aspx</a>
Public Safety Training Facility	Columbia County Sherriff's Office - 711 E Cook St, Portage, WI 53901	608-742-4166	<a href="https://www.co.columbia.wi.us/ColumbiaCounty/sheriff/SheriffsOfficeHome/Forms/tabid/8234/Default.aspx">https://www.co.columbia.wi.us/ColumbiaCounty/sheriff/SheriffsOfficeHome/Forms/tabid/8234/Default.aspx</a>
Reedsburg Campus	Reedsburg Police Department - 200 S Park St, Reedsburg, WI	608-524-2376	<a href="https://www.reedsburgwi.gov/police">https://www.reedsburgwi.gov/police</a>
Reedsburg Campus	Sauk County Sherriff's Office - 1300 Lange Ct, Baraboo, WI 53913	608-356-4895	Report a crime-1-888-Tip-Sauk (1-888-847-7285)
Fort Atkinson Campus	Fort Atkinson Police Department - 101 S Water St W, Fort Atkinson, WI 53538	920-563-7777	<a href="http://www.fortatkinsonwi.net/new_departments/forms.php">http://www.fortatkinsonwi.net/new_departments/forms.php</a>
Watertown Campus	Watertown Police Department - 106 Jones St, Watertown, WI	920-261-6660	<a href="https://www.ci.watertown.wi.us/departments/directory.php">https://www.ci.watertown.wi.us/departments/directory.php</a>



Fort Atkinson and Watertown Campuses	Jefferson County Sherriff's Office 411 S Center Ave, Jefferson, WI 53549	920-674-7310	Anonymous Tip Line- 1-800-782-7463
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## APPENDIX D: ROLES WITHIN THE HARASSMENT/DISCRIMINATION GRIEVANCE PROCESS

Table 1. Delineation of roles in the Harassment/Discrimination Grievance Process generally outlines some of the roles within the grievance process. It also identifies the names of the individuals assigned to the roles. The identified individuals have received training regarding civil rights violations and on college policy and process. Madison College reserves the right to alter roles should need arise or the situation warrant a change.

<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, Anti-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> <li><i>NOTE: Informal resolution is not available to resolve allegations that an employee sexually harassed a student.</i></li> </ul>	<ul style="list-style-type: none"> <li>Identified by Compliance Team.</li> </ul> <p><i>NOTE: The area listed following the resolution facilitator's name indicates when they may be involved:</i></p> <ul style="list-style-type: none"> <li><i>Student Affairs = Informal resolution involving student(s)</i></li> <li><i>Human Resources = Informal resolution involving employee(s)</i></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>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>

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 from a pool of college investigators.</li> <li>• For complaints in which either party is an employee, the investigators are assigned from a pool of Human Resources 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>• 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>• Turina Bakken</li> </ul>

## **APPENDIX E: 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. The assessment is 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 must be understood as an on-going process, rather than a singular evaluation or meeting.

(NOTE: VRAs conducted to determine whether a student poses a threat occur in collaboration with the BIT, which include team members from Public Safety Services and Human Resources. VRAs conducted to determine whether an employee poses a threat occur in collaboration of Human Resources and Public Safety Services.)

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, a trained individual(s) is assigned to perform the assessment, according to the specific nature of the harassment/discrimination case. The assessor will rely on a consistent, research-based, reliable system for conducting a VRA that allows for the operationalization of the risk levels.

The VRA is conducted independently from the Harassment/Discrimination Grievance 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 individual assigned to conduct the VRA process makes a recommendation to the BIT (in the case of students) or Human Resources (in the case of employees) 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 F](#) provides a sample of a tool used in assessing risk.

# APPENDIX F: NABITA RISK ASSESSMENT TOOL<sup>4</sup>

**NabITA Risk Rubric**  
Life, Stress and Emotional Health

**D-SCALE**  
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/taunting 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-harm
- 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**

- Depressed 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

**NABITA**

**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; locked 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 toll 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

**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 lights off), inability to care for 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-wins" 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-harm, 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 department. 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 that irritate others. They may be displaying 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 angrily 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.

BASELINE

TRAJECTORY?

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<sup>4</sup> The NabITA Risk Assessment Rubric, @National Behavioral Intervention Team Association, 2019

September 2021

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## **APPENDIX G: STATEMENT OF RIGHTS OF THE PARTIES**

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment or discrimination made in good faith to Madison College officials.
- The right to timely written notice of all alleged violations, including the identity of parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- The right to have any personally identifiable information withheld from the public when consent is not provided, except to the extent permitted by law.
- The right to be treated with respect by Madison College officials.
- The right to have Madison College policies and procedures followed without material deviation.
- The right to pursue informal resolution of any reported misconduct involving violence, including sexual violence as permitted, without feeling pressured.
- The right to report harassment or discrimination (including sexual harassment) to both on-campus and off-campus authorities without interference from Madison College officials.
- The right to be informed, without pressure, by Madison College officials of options to notify proper law enforcement authorities and the option(s) to be assisted by Madison College Public Safety Services in notifying such authorities if the party so chooses.
- The right to have allegations of violations of this policy responded to promptly and with sensitivity by Madison College officials.
- The right to be informed of available interim actions and supportive measures, such as counseling; advocacy; health care; legal, student financial aid, visa, and immigration assistance; or other services, both on campus and in the community that are available at no cost to the party. Interim actions and supportive measures may continue beyond the conclusion of the grievance process.
- The right to a Madison College-implemented no-contact order [or a no-trespass order against a non-affiliated third party] when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct that presents a danger to the welfare of the party or others.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:
  - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
  - Transportation accommodations
  - Visa/immigration assistance
  - Exam, paper, and/or assignment rescheduling or adjustment
  - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)



- Transferring class sections
- Temporary withdrawal/leave of absence (may be retroactive)
- Campus safety escorts
- Alternative course completion options.
- The right to have Madison College maintain such actions for as long as necessary and for supportive measures to remain confidential, provided confidentiality does not impair Madison College's ability to provide the supportive measures.
- The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
- The right to ask the investigator(s) and decision-maker(s) to identify and question relevant witnesses, including expert witnesses.
- The right to provide the investigator(s)/decision-maker(s) with a list of questions that, if deemed relevant by the investigator(s)/hearing examiner, may be asked of any party or witness.
- The right to have irrelevant prior sexual history, previous relationships, or character excluded as evidence unless the relations are with the other party.
- The right to know the relevant and directly related evidence obtained and to respond to that evidence.
- The right to have a fair opportunity to provide the investigator(s) with their account of the alleged misconduct and have that account be on the record.
- The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the confidentiality limitations imposed by state and federal law, prior to the hearing, and the right to have at least 10 working days to review the report prior to the hearing.
- The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged policy violations addressed by investigators, Title IX Coordinators or other designated college official(s), and decision-maker(s) who have received at least eight hours of relevant annual training.
- The right to preservation of privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any Madison College representative in the process be recused based on disqualifying bias and/or conflict of interest.
- The right to have an advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
- The right to have Madison College compel the participation of faculty and staff witnesses.
- The right to the use of the preponderance of the evidence to make a finding after an objective evaluation of all relevant evidence.

- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing for an allegation of sexual harassment.
- The right to have an impact statement considered by the decision-maker(s) for an allegation of sexual harassment following a determination of responsibility, but prior to sanctioning.
- The right to be promptly informed in a written notice of outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale therefor (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by Madison College is considered final and any changes to the sanction(s) that occur before the decision is finalized.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by Madison College.
- The right to a fundamentally fair resolution as defined in these procedures.



## **APPENDIX H: RECORD KEEPING**

Madison College will retain all records of each investigation into harassment/discrimination instituted under this grievance process for at least seven years or longer as may be required by the college's records retention schedule. Records of harassment/discrimination cases will include:

- Each investigation including any determination regarding responsibility and any recording or transcript, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant;
- Any appeal and the result;
- Any informal resolution and the result;
- All materials used to train designated college officials, investigators, decision-makers, appeal officers, and any person who facilitates an informal resolution process;
- Documentation of any supportive measures taken in response to a report or formal complaint of harassment/discrimination, including documentation regarding the basis for any conclusion that the college's response was not deliberately indifferent;
- Documentation of why a complainant alleging harassment/discrimination was not provided with supportive measures, including the reasons why such response was not clearly unreasonable in light of the known circumstances.

## **APPENDIX I: 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

### **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