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Madison College Title IX / Sexual Harassment Grievance Process

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

The procedures below apply only to qualifying allegations of sexual harassment involving members of the College community. Sexual harassment, for the purposes of the Title IX / Sexual Harassment Grievance Process (“Title IX Grievance Process” or “Grievance Process”), includes the offenses of sexual harassment, sexual assault, dating violence, domestic violence and stalking. (Refer to Appendix A for the definition of sexual harassment as applicable to Madison College’s Title IX / Sexual Harassment Grievance Process.)

NOTE: When the Title IX Coordinator determines that an allegation does NOT fall under the jurisdiction of the Title IX Grievance Process, resolution of the complaint may be sought under the College’s Harassment / Discrimination Grievance Process (PDF, 1715KB) or other resolution mechanism (e.g., Student Code of Conduct Disciplinary Procedure).

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

For the purposes of this Grievance Process, the individual who is alleged to be the victim of conduct that could constitute sexual harassment, is the “Complainant”. The individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment is the “Respondent”. Both the Complainant and the Respondent are encouraged to participate in the Grievance Process. (Appendix A defines terms used in the Title IX Grievance Process.)

Time Frames for Resolution

Madison College seeks to resolve all allegations of sexual harassment within ninety (90) working days of an allegation of sexual harassment being reported. All time frames expressed in this Grievance Process are meant to be guidelines rather than rigid requirements. Circumstances may arise that require the extension of time frames, including extension beyond ninety (90) working days. Such circumstances may include, but are not limited to, the

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1 ATIXA 2020 ONE POLICY, TWO PROCEDURES MODEL. Use and adaptation of this model with citation to ATIXA is permitted through a limited license to Madison College. All other rights reserved. ©2020. ATIXA

2 The Madison College Community includes, but is not limited to, students, employees, and third parties (i.e., vendors, contractors, visitors, guests, etc.). For the Title IX/ Sexual Harassment Grievance Process, student is defined as an individual who is participating in or attempting to participate in an education program or activity of the College. (Per 34 CFR 106, §106.3).
complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation, or other unforeseen circumstances or reasons.

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

Table 1. Title IX / Sexual Harassment Grievance Process: Time Frame for Resolution

<table>
<thead>
<tr>
<th>Allegation of sexual harassment reported</th>
<th># of days after report date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title IX Coordinator Follows Up w/ Complainant</td>
<td>2 Working Days</td>
</tr>
<tr>
<td>Initial Title IX Review / Preliminary Assessment</td>
<td>7 Working Days</td>
</tr>
<tr>
<td>Resolution Action Determined</td>
<td>9 Working Days</td>
</tr>
<tr>
<td>Written Notice Provided</td>
<td>12 Working Days</td>
</tr>
<tr>
<td>Investigation Commenced</td>
<td>15 Working Days</td>
</tr>
<tr>
<td>Draft Investigation Report Available for Review</td>
<td>45 Working Days</td>
</tr>
<tr>
<td>Parties Provide Feedback Regarding Draft Investigation Report</td>
<td>55 Working Days</td>
</tr>
<tr>
<td>Final Investigation Report Disseminated Prior to Hearing</td>
<td>60 Working Days</td>
</tr>
<tr>
<td>Hearing Panel Members Selected - Conflicts Determined</td>
<td>65 Working Days</td>
</tr>
<tr>
<td>Notice of Hearing Provided to Participants</td>
<td>70 Working Days</td>
</tr>
<tr>
<td>Parties Respond to Hearing Panel Conflicts</td>
<td>75 Working Days</td>
</tr>
<tr>
<td>Pre-Hearing Meetings Held</td>
<td>80 Working Days</td>
</tr>
<tr>
<td>Hearing Panel Chair Provides Exclusion and Inclusion Decisions</td>
<td>83 Working Days</td>
</tr>
<tr>
<td>Live Hearing Held</td>
<td>85 Working Days</td>
</tr>
<tr>
<td>Notice of Outcome</td>
<td></td>
</tr>
<tr>
<td>Determination Decision Final (No Appeal) / Date to File Appeal</td>
<td>5 Working Days</td>
</tr>
<tr>
<td>Appeal Decision / Determination Decision Final (Appeal Filed)</td>
<td>25 Working Days</td>
</tr>
</tbody>
</table>

At the request of law enforcement, Madison College may agree to delay its fact gathering until after the initial stages of a criminal investigation (generally not more than 10 working days). Madison College will communicate with the parties regarding Title IX rights, procedural options, and the implementation of supportive measures to
ensure safety and well-being. In the cases of delay, Madison College will promptly resume its fact gathering as soon as law enforcement has completed its initial investigation.

**Accommodations in the Grievance Process**

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

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

Employees should contact their [Human Resources Business Partner](#) to make a request for accommodations.

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

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

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**STEP 1: REPORT AN ALLEGATION OF SEXUAL HARASSMENT / ALLEGED POLICY VIOLATION**

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

- It is preferred that reports be submitted online, using the [Harassment / Discrimination Report](#) form located on the College’s website.
- Report directly to the Title IX Coordinators (listed below) who have responsibility for coordinating Madison College’s efforts to carry out the requirements under Title IX and all associated regulations. A verbal report will be summarized in writing by a Madison College employee taking the report, and the Complainant will be given an opportunity to review the summary. The Complainant may still be requested to complete the online form.

**Title IX 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

**Title IX Coordinator – Employees, Vendors & Third Parties**  
Lisa Muchka, M.S.  
Compliance Coordinator  
Human Resources Department  
Truax Campus, Room AB121  
muchka@madisoncollege.edu  
(608) 246-5221
- File an incident report with Public Safety Services. Reports can be made from any campus to either of these Public Safety Services locations.

<table>
<thead>
<tr>
<th>Public Safety Services</th>
<th>Public Safety Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Truax Campus, Room B1240</td>
<td>Goodman South Campus, Room 101</td>
</tr>
<tr>
<td><a href="mailto:PublicSafety@madisoncollege.edu">PublicSafety@madisoncollege.edu</a></td>
<td><a href="mailto:PublicSafety@madisoncollege.edu">PublicSafety@madisoncollege.edu</a></td>
</tr>
<tr>
<td>(608) 245-2222</td>
<td>(608) 245-2222</td>
</tr>
</tbody>
</table>

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

- **Counseling Services**
- **Public Safety Services**
- **Dean of Students Office**
- **Human Resources Department**

(Appendix B contains support resources to assist individuals who have experienced sexual harassment.) Upon receiving an allegation of sexual harassment report or notice to the Title IX Coordinator of a possible policy violation, the Title IX Coordinator will initiate a prompt initial assessment to determine the next steps. At least one of the following three responses will be initiated:

- Offer supportive measures because the Complainant does not want to proceed formally, or the incident does not fall within the College jurisdiction; and/or
- An informal resolution; and/or
- A formal grievance process including an investigation and a hearing.

**Amnesty**

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

**Responsible Employees**

All College employees, except for College counseling staff, have a duty to report allegations of discrimination, harassment, or retaliation to the Title IX Coordinator, or other appropriate College designee. All employees observing or receiving reports of a potential violation of the Equal Opportunity, Harassment, and Nondiscrimination Policy must promptly file a report including all relevant details about the alleged incident. This includes the name of the alleged Respondent (if known), the individual who experienced the alleged incident, possible witnesses, as well as relevant facts, including the date, time, and location.
Anonymous Reporting
Anonymous reports are accepted but may hinder an investigation. Madison College tries to provide supportive measures to all Complainants, which is made more difficult with an anonymous report. The Complainant may request to dismiss the complaint at any time. The College will comply unless there is a compelling threat to health or safety.

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

Supportive Measures
Upon receiving a report of an alleged policy violation, the College will offer supportive measures to involved parties as appropriate. Supportive measures are made available when 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
- Modifications of work or class schedules
- Campus escort services
- Mutual restrictions on contact between the parties
- Work accommodations
- Leaves of absence
- Increased security and monitoring of certain areas of the campus
- No contact orders (Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.)
- Or similar measures

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

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All persons present at any time during the Grievance Process are expected to maintain the confidentiality of the proceedings in accordance with Madison College policy. While there is an expectation of privacy around what investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose. Madison College encourages parties to discuss any such sharing with their Advisors 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 Title IX and its implementing 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 sexual harassment are considered crimes for which the College must disclose in its Annual Security Report that is provided to the campus community and available to the general public. Such disclosures are made without including personally identifying information.

**Referral to Law Enforcement**

Depending on the nature of the allegations, a report to local law enforcement for legal action may be recommended. Reports involving the attempted or actual physical or sexual abuse of children (defined as persons under the age of 18) will automatically be referred to law enforcement and the appropriate state agency responsible for the protection of children. A criminal investigation and Madison College’s resolution process may happen simultaneously.

Students, employees and community members may also consider a direct report to the local Police Department and victims may contact their local Forensic Nurse Examiner. (Appendix C identifies other available community resources to support individuals affected by sexual harassment.)

**NOTE:** Public awareness events such as “Take Back the Night,” the Clothesline Project, candlelight vigils, protests, “survivor speak outs,” or other forums in which students, faculty or staff disclose incidents of sexual harassment, are not considered a report of sexual harassment or notice to the College of sexual harassment for purposes of triggering the College’s obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the College may provide information about Title IX and Clery rights at these events.

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**STEP 2: INITIAL TITLE IX REVIEW AND PRELIMINARY ASSESSMENT**

After receiving a report of an allegation of sexual harassment / alleged policy violation, the Title IX Coordinator, or designee, will conduct an initial Title IX review and preliminary assessment. The preliminary assessment typically requires one (1) to five (5) working days and will be initiated no greater than two (2) working days from the time the Title IX Coordinator receives the report.

The goal of the preliminary assessment is to assess any eminent risk, provide an integrated and coordinated response to reports of sexual harassment, 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 sexual harassment in order to protect party rights (Refer to Appendix D), personal safety and the safety and security of the College community. The Title IX Coordinator may consult with professional resources such as the Director of Public Safety Services, the Director of Employee Relations, or designee(s) in making this assessment.

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

1. Offering supportive measures to the Complainant;
2. Determining if the Complainant wishes to make a formal complaint\(^3\), and will assist them in doing so, if desired. (NOTE: If a person does not wish to file a formal complaint, the Title IX Coordinator will determine whether there is sufficient information and evidence of a risk to the larger campus community to initiate a complaint. See Appendix E for information about Madison College’s process for conducting a risk assessment. Appendix F provides a sample risk assessment tool.)
3. Informing the Complainant of their right to have an Advisor. (Appendix G outlines the roles within this Grievance Process including each party’s right to an Advisor and the selection and role of an Advisor.)
4. Discussing with the Complainant possible resolution options to determine if the Complainant’s preference is for an informal or alternative dispute resolution process, or to pursue a formal investigation and hearing process.

NOTE: Informal resolution is NOT available for allegations that an employee sexually harassed a student.

Mandatory and Discretionary Dismissal

Madison College must dismiss a formal complaint or any allegations therein if, at any time during the Grievance Process, it is determined that:

- The conduct alleged in the formal complaint would not constitute sexual harassment as defined in this Grievance Process\(^4\), even if proven\(^5\); and/or
- The conduct did not occur in an educational program or activity\(^6\) controlled by Madison College; and/or
- The Respondent is NOT affiliated with Madison College; and/or
- The conduct did not occur against a person in the United States; and/or
- At the time of filing a formal complaint, the Complainant is NOT participating in or attempting to participate in an educational program or activity of the College.

\(^3\) Formal complaint is defined as a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. The complaint must contain the complainant’s physical or digital signature, or otherwise indicated that the complainant is the person filing the formal complaint. The definition of formal complaint is per 34 CFR Part 106, §106.3.

\(^4\) The definition of sexual harassment is per 34 CFR Part 106, §106.3.

\(^5\) When the Title IX Coordinator determines that an allegation does NOT fall under the jurisdiction of the Title IX / Sexual Harassment Grievance Process, resolution may be sought under the College’s Harassment / Discrimination Grievance Process.

\(^6\) “Educational program or activity” includes locations, events, or circumstances over which Madison College exercised substantial control over both the respondent and the context in which the sexual harassment occurs.

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Madison College may dismiss a formal complaint or any allegations therein if, at any time during the Grievance Process, it is determined that:

- A Complainant notifies the Title IX Coordinator, in writing, that the Complainant would like to withdraw the formal complaint or any allegations therein; or
- The Respondent is no longer enrolled in or employed by Madison College; or
- Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint and allegations therein.

The Title IX Coordinator has the responsibility to make the decision to whether a formal complaint will be dismissed under the mandatory or discretionary standards noted above. The dismissal decision is appealable by any party per the Appeal Process noted below. The decision NOT to dismiss is also appealable by any party claiming that a dismissal is warranted. A Complainant who decides to withdraw a complaint can later decide to refile it.

**NOTE:** Dismissing a complaint under Title IX is only procedural and does not limit Madison College’s authority to independently address a complaint with an appropriate process and remedies. STEP 8 identifies the actions that will follow the dismissal of a formal complaint.

### STEP 3: WRITTEN NOTICE OF SEXUAL HARASSMENT COMPLAINT

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

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

B. The allegations of sexual harassment, as defined per 34 CFR Part 106, §106.30, including sufficient details known at the time, the identities of the parties involved in the incident, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident.

C. Statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Grievance Process.

D. Notice that the parties may have an Advisor of their choosing, who may be, but is not required to be, an attorney, and may inspect and review evidence.

E. Notice that knowingly making false statements or knowingly submitting false information during the Title IX / Sexual Harassment Grievance Process is prohibited.

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7 The complainant may be redacted in some instances (e.g., if the complainant has requested anonymity).

8 Appendix G outlines the roles of individuals within this Grievance Process including each party’s right to an Advisor, the selection of an advisor, and the role of an Advisor.
Such notice will be provided in writing and delivered by electronic mail to the Madison College e-mail address(es) of the parties and/or by certified mail to the local or permanent address(es) of the parties as indicated in the College’s official records. Once sent, notice will be presumed to have been delivered.

At the time that written notice is issued, the Title IX Coordinator will ensure that the Respondent is offered supportive measures, as needed.

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

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

Retaliation is a serious violation of Madison College’s Equal Opportunity, Harassment and Nondiscrimination Policy. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator 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.

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 sexual harassment 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 Title IX Coordinator can resolve the matter informally by providing supportive measures to remedy the situation.

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

If informal resolution is applicable, the Title IX Coordinator will determine whether all parties and the College are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of the College’s Equal Opportunity, Harassment and Nondiscrimination Policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

The informal resolution is NOT subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, a formal investigation will be initiated.

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

STEP 8 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 sexually 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 Title IX Coordinator 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 and hearing process.

**STEP 5: INVESTIGATION**

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

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Unless indicated otherwise, the Title IX Coordinator will assign two investigators to investigate the complaint. The names of the investigators will be identified in the written notice of the complaint. For sexual harassment complaints in which the Respondent is an employee (faculty, staff member, administrator, or student employee), the lead investigator will be assigned from a pool of Human Resources investigators, or designee. For sexual harassment complaints involving students or other person(s), the lead investigator will be assigned from a pool of Student Affairs investigators, or designee. (Appendix H identifies the names of the individuals who will serve as a pool in roles to assist in resolving civil rights, including sexual harassment, complaints.)

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

Overview of the Investigation

The following statements outline the process the College will follow when investigating a formal complaint of sexual harassment.

1. The Title IX Coordinator assigns investigators. Involved parties receive notification of the assigned investigators by the written notice of alleged complaint.
2. The investigators contact the parties directly to schedule investigative interviews or meetings to further discuss the allegations and gather available evidence.
   - Parties will receive written notice delivered by electronic mail to the Madison College e-mail address(es) (on file for each party) with reasonable time for the party to prepare to participate. This includes making good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible.
   - NOTE: If a Respondent does not wish to participate in the investigation process, the process will proceed without their contribution to the determination of the facts of the case. The Respondent should note that, the appeal process based on “the presence of new information not available to the investigators,” does not apply in cases of deliberate omission of information by the Respondent, including refusal by the Respondent to participate in the investigation.
3. A meeting summary is prepared following the investigative interview.
   - Each party is given an opportunity to review and verify the meeting summary from their respective interview. The meeting summary is delivered by electronic mail to the Madison College e-mail address(es) of the respective party.
   - Feedback is generally requested within five (5) working days after delivery of the meeting summary.
4. Investigators request from each party the names of potential witnesses.
5. The investigators contact, by telephone or electronic mail, available, relevant witnesses to schedule investigative interviews or meetings.
   - Witnesses will receive written notice by electronic mail, with reasonable time for the party to prepare to participate. Witnesses who have a Madison College e-mail account will receive notification at their College account.
6. A meeting summary is prepared following the witness interviews.
   - Each witness is given an opportunity to review and verify the meeting summary from their respective interview. The meeting summary will be delivered by electronic mail.
• Feedback is generally requested within five (5) working days after delivery of the meeting summary.
7. Follow up interviews are conducted with the parties or witnesses, as needed. Any additional notes are again shared with the respective person for review and verification.
8. The investigators draft an investigation report which includes all evidence directly related to the allegations raised in a formal complaint.
9. Each party and the party’s advisor, if any, is sent an electronic version of the investigation report to review. Additionally, parties are provided an opportunity to review all evidence that is collected under the investigation; this includes the evidence upon which the College does NOT intend to rely on, in reaching a determination. Parties receive ten (10) working days to review the draft investigation and evidence and provide a written response to the investigators.
   • Each copy of the materials shared is watermarked for security purposes on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, and Respondent’s Advisor).
   • Materials are provided in a secure format and intended for the receipt and review of the identified person receiving it. Failure to maintain the confidentiality of the shared materials is considered a violation of Madison College Policy and appropriate disciplinary action will be taken.
   • If a student is under the age of eighteen (18), the Investigation Report will also be sent to the parent(s) or guardian(s) of the student.
10. The Investigators incorporate any relevant feedback received from the parties’ written responses into the final investigation report.
11. The Investigators consult with the Title IX Coordinator to discuss any questions that may be outstanding related to preparing the final investigation report.
12. The Investigators finalize the investigation report by including any additional relevant evidence and making necessary revisions. Rationales for any changes to the document following the review and comment period are noted in the final investigation report.
13. The final report is shared with all parties and their Advisors, if any, through secure electronic format at least ten (10) working days prior to a formal hearing. A file of any evidence that was NOT included in the report is also shared.

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

**General Requirements of the Investigation**
The following statements outline the obligations, per 34 CFR Part 106, of the College when investigating a formal complaint of sexual harassment. The College will:

1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the College, and not the parties;
2. Provide an equal opportunity for the parties to present witnesses, and other inculpatory and exculpatory evidence;
3. Not restrict the ability of either party to discuss allegations under investigation or to gather and present relevant evidence;
4. Provide the parties with the same opportunities to have others present during any grievance proceedings, including the opportunity to be accompanied to any related meeting or proceeding by the Advisor of their choosing;
   • This Advisor serves as a support person and offers direct assistance to the Complainant or Respondent. Madison College may assist in locating an Advisor upon request. During the interview process, the Advisor may not speak for the Complainant or Respondent, ask questions of the Investigators, make legal arguments, objections, or otherwise interfere with or disrupt the investigation.
   • The Advisor will be permitted to conduct cross-examination during the formal hearing. If a party does not select an Advisor, the College will provide an Advisor for the formal hearing.
   • In those instances where the party is under the age of eighteen (18), the parent and/or guardian can observe the investigation process and provide the student counsel. The parent and/or guardian does NOT need to serve as the Advisor unless the party so chooses.
   • If the Advisor is an attorney or a law student, Madison College reserves the right to reschedule the interviews and/or meetings so that College legal counsel may be present.
5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and the purpose of all hearings, investigative interviews, or other meetings, with reasonable time for the party to prepare to participate and to make arrangements to attend.
6. Provide both parties an opportunity to inspect and review any collected evidence that is directly related to the allegations raised in a formal complaint.
   • This includes the evidence upon which the College does NOT intend to rely in reaching a determination regarding inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
7. Create an investigative report that accurately summarizes relevant evidence and, at least ten (10) working days prior to a hearing (if a hearing is required under this section or otherwise provided) or other time of determination regarding responsibility, send to each party and the party’s Advisor, if any, the investigative report in an electronic format for their review and written response.

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

**Evidentiary Consideration in the Investigation**

The investigation will NOT consider:

1. Incidents not directly related to the possible policy violation, unless it shows evidence of a pattern;
2. The character of the parties; or
3. Questions and evidence related to the Complainant’s sexual predisposition or prior sexual behavior, unless such questions and evidence are offered to prove that someone other than the Respondent committed the alleged conduct by the complainant, or if the questions and evidence concern specific incidents of the Complainants prior sexual behavior with respect to the Respondent and are offered to demonstrate consent.
STEP 6: NOTICE OF FORMAL HEARING

The Title IX Coordinator identifies, from the pool of trained panelists, the individuals who will serve on the Hearing Panel. The selected Hearing Panel Members receive a list of the names of all parties, witnesses, and their Advisors, twenty (20) working days in advance of the hearing. Any Hearing Panel Member who is unable to make an objective determination must recuse themselves from the proceedings, immediately upon receipt of the list of names. When necessary, the Title IX Coordinator will identify an alternate Panelist to serve on the Hearing Panel. The Hearing Panel will be comprised of three (3) members, with one (1) panelist serving as the Hearing Panel Chair.

Once the Hearing Panel is identified, the Title IX Coordinator will send the notice of the hearing to parties by electronic mail to the Madison College e-mail address(es) of the parties and/or by certified mail to the local or permanent address(es) of the parties as indicated in the College’s official records. Parties whose participation is invited or expected will receive written notice of the date, time, location, participants, and purpose of the formal hearing no less than ten (10) working days in advance of the scheduled hearing. The notice will include the list of names of members of the Hearing Panel. Any objection to a member of the Hearing Panel by a party or their Advisor must be submitted in writing no fewer than five (5) working days in advance of the hearing, to the Title IX Coordinator. The notice will include an invitation to each party to submit to the Hearing Panel Chair an impact statement. The impact statement will be held by the Hearing Panel Chair until after deliberations occur and a decision regarding responsibility is determined. The impact statement will help to inform sanctioning and remedies.

The hearing will occur with the parties located in separate locations which can include separate rooms on campus* or through virtual means. In either case, technology will enable the Hearing Panel and the parties to simultaneously see and hear the party or the witness answering questions. A recording of the hearing will be made by Madison College only and available to the parties for inspection and review.

The formal hearing may be held via electronic means at the discretion of the Hearing Panel where safety, public health or other legitimate concerns are present.

*NOTE: In instances that the College is unable to secure separate rooms on campus for the hearing proceedings, parties may be asked to join remotely, using technological means. Such options may also be requested if a party is unable or prefers not to attend in person. The request should be made to the Title IX Coordinator no fewer than five (5) working days in advance of the date of the hearing. Remote participation will require:

- Confirmation of privacy in the remote location.
- Access to a high-speed internet connection.
- Ability to utilize Microsoft Teams, or other virtual technology.
- Ability for parties and their Advisor to consult during hearing without being heard (e.g. text messaging, hearing room, parties break out room, etc.).
STEP 7: THE FORMAL HEARING

A formal hearing provides the parties an opportunity to ask questions of the other party, witnesses, or investigators related to the evidence presented in the final investigation report or collected during the investigation. The party’s Advisor completes cross-examination. If a party appears at the live hearing without an Advisor of their choice, the College will provide one for the purposes of cross-examination. (The College is NOT required to provide an Advisor to a party for any purpose other than for cross-examination during the live hearing. Providing an Advisor to a party who does not have an advisor for the purpose of cross-examination during a hearing supports the rule that the parties will NOT be permitted an opportunity to directly cross-examine each other.)

NOTE: If a party or witness chooses NOT to appear or to be cross-examined at the hearing, the Hearing Panel cannot rely on that party’s or witness’ statement in making a determination of responsibility. Additionally, the Hearing Panel cannot draw any inference about the determination regarding responsibility based on the refusal of a party or witness to appear or be cross-examined.

The Hearing Panel has the authority to hear and make determinations on the allegations of sexual harassment and/or alleged policy violations of the College’s Equal Opportunity, Harassment and Nondiscrimination Policy. Participants at the hearing will include the Hearing Panel Chair, two additional Hearing Panel Members, the Hearing Facilitator, the Investigators who conducted the investigation, the Parties and their Advisors, and any called Witnesses.

Overview of the Hearing

The following statements outline the process the College will follow when conducting a formal hearing as part of the Title IX / Sexual Harassment Grievance Process.

1. Written notice of the date, time, location, participants, and purpose of the hearing is delivered to participants no fewer than ten (10) working days in advance of the scheduled hearing. (Additional considerations are described in STEP 6: Notice of Hearing.) The ten (10) working day notice requirement may be waived if all parties agree.

2. The Hearing Panel Chair holds a pre-hearing meeting with the parties and/or their Advisors.
   - Written notice of the date, time, and location of the pre-hearing meeting is delivered by electronic mail to the Madison College e-mail address(es) of the parties. The preferred e-mail address of the Advisors will be identified and used as the primary communication mechanism with the Advisors.
   - The parties bring to the pre-hearing meeting, the questions they wish to ask or discuss at the hearing. Questions are based on topics or relevant evidence included in the final investigation report.
   - The Chair determines the relevance of the questions and documents any exclusion or inclusion of information prior to the hearing. The Chair shall make rulings on all procedural requests during the hearing including questions relating to the sequestration of witnesses which may be ordered in response to, or independent of, the request of the parties.
   - The Chair responds with their determination of relevance to the respective parties no fewer than two (2) working days in advance of the hearing.
3. Technology is enabled by the Hearing Facilitator no less than five (5) minutes in advance of the scheduled start time of the hearing. Individuals will be “admitted” into the virtual room by this time.
4. The Hearing begins with the Hearing Panel Chair explaining the Hearing Procedures, introducing the participants, and answering any general questions related to the hearing process.
5. The Hearing Panel Chair facilitates the Hearing:
   - The Investigators present a summary of the final investigation report. The Hearing Panel Chair invites questioning by the Hearing Panel then the party’s Advisors (starting with the Complainant’s Advisor). When a question is asked, the Hearing Panel Chair approves or disapproves the question, and approved questions are answered. The Investigators are present throughout the entire hearing process, except for the deliberations.
   - The parties and any witnesses will share relevant information, beginning with the Complainant and then in the order determined by the Chair. The parties and any witnesses will be subject to questioning by the Hearing Panel, and through cross-examination, by the party’s Advisors (never by the party personally). The cross-examination is conducted directly, verbally, and in real time. When a question is asked, the Hearing Panel Chair approves or disapproves the question, and approved questions are answered.
   - During the cross-examination, the party’s Advisor must always remain seated. Anyone appearing at the hearing must respond to questions on their own behalf.
   - Except as otherwise permitted by the Hearing Panel Chair, the hearing will be closed to all persons except the parties, their advisors, the investigators, the Hearing Panel, the Title IX Coordinator and other necessary College personnel.
   - While a party has the right to attend and participate in the Hearing with an advisor, a party or an advisor who materially and repeatedly violates the rules of a Hearing in such a way as to be materially disruptive, may be barred from further participation or have their participation limited as the case may be in the discretion of the Hearing Panel Chair.
   - The Hearing is not a formal judicial proceeding and strict rules of evidence do not apply. The Chair of the Hearing Panel has the discretion to modify hearing procedures as appropriate provided that minimal requirements provided in the next section are met.

**General Requirements of the Hearing**

The following statements outline the obligations, per 34 CFR Part 106, of the College when conducting a hearing as part of the Grievance Process related to a formal complaint of sexual harassment:

1. The right to pose written questions and follow-up questions to the other party and witnesses prior to a determination regarding responsibility being reached.
2. Any witnesses scheduled to participate in the hearing process are required to have first been interviewed by the Investigators unless all parties and the Hearing Panel Chair agree to the witness’ participation. No new evidence may be offered at the Hearing unless all parties and the Hearing Panel Chair agree. If the parties and/or the Chair do not agree to the admission of the new evidence, the Chair will delay the hearing and require that the investigation be reopened to consider the new evidence.
3. The Chair has the final say regarding all questions and determinations of relevance and admissibility of evidence, subject to any appeal. The Chair may limit or restrict questions if they are not relevant, or if they are repetitive, or abusive. The Chair may consult with legal counsel regarding any questions of admissibility.

4. The Hearing Proceedings will only be recorded by Madison College, so this may be referenced in the event of an Appeal. No other recording will be permitted.

5. The Chair will determine whether evidence is relevant and credible. The evidentiary consideration in the hearing will follow the same rules as the evidentiary consideration in the investigation. (Refer to “Evidentiary Consideration in the Investigation” section in STEP 5: Investigation above for additional detail and explanation.)

6. Any assertion of bias or conflict of interest of an Investigator or Hearing Panel Members will be addressed with the Title IX Coordinator, and/or addressed during an Appeal. Concerns regarding bias or conflict of interest of the Title IX Coordinator should be directed to Madison College President:

Dr. Jack Daniels, III
JDanielsIII@madisoncollege.edu
1701 Wright St., AB148
Madison, WI 53704

Deliberation, Decision-Making, and Standard of Proof

At the conclusion of the Hearing, all persons except the members of the Hearing Panel will be asked to leave the hearing room. The Hearing Panel will determine, in closed session, 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. The Hearing Panel will determine the finding based on a majority vote.

The Hearing Panel will review any submitted impact statements from the parties and any relevant conduct history provided by the Dean of Students Office or Human Resources to recommend appropriate sanction(s), in consultation with the Title IX Coordinator. The Hearing Panel may consult with legal counsel at any time during their deliberations. The Hearing Panel may also consult with the Title IX Coordinator or other relevant college officials concerning the availability of sanctions and/or supportive measures or other remedies related to the matter before the panel.

The Hearing Panel Chair will prepare the written notice of outcome, which will include the determination, rationale, evidence used in support of the determination, evidence disregarded, credibility assessments and any sanctions. The written deliberation statement will be delivered to the Title IX Coordinator within two (2) working days of the end of deliberations.
STEP 8: NOTICE OF OUTCOME

Madison College will provide written notice regarding the outcome of the resolution process, including if the resolution is a result of a dismissal of the formal complaint, informal resolution, or a hearing determination decision. The written notice of outcome will be provided to involved parties and, where applicable, to their advisors simultaneously.

1. Dismissal of the formal complaint

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

**NOTE:** Dismissal of a complaint under Title IX does not limit Madison College’s authority to continue to address the complaint with an appropriate process and remedies. In instances that the complaint is referred to another College process, a separate notification will be provided to involved parties.

2. Informal Resolution Action

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

3. Hearing Determination Decision

The determination regarding responsibility will be provided in writing and delivered by electronic mail to the Madison College e-mail address(es) of the parties and/or by certified mail to the local or permanent address(es) of the parties as indicated in the College’s official records. The written determination will include:

   a) identification of the allegations potentially constituting sexual harassment;

   b) a description of the procedural steps taken by the College of the formal complaint through the determination (including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held);

   c) findings of fact supporting the determination;

   d) conclusions regarding the application of College Policies including the College’s Student Code of Conduct to the facts;

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e) a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the College’s education program or activity will be provided by the College to the Complainant; and

f) the College’s procedures and permissible bases for the Complainant and Respondent to appeal.

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

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**APPEALS**

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

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

**NOTE:** Deliberate omission of information by the appealing party in the original investigation is not grounds for appeal.

Appeals for other reasons are NOT permitted.

**NOTE:** Employees have the right to appeal disciplinary action resulting from the Title IX / Sexual Harassment 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 Title IX Coordinator within five (5) working days of the date of the decision letter. It is preferred that Appeals be submitted online, using the Request for An Appeal Form located on the College’s website. The Request for An Appeal Form will be referred to an Appeal Officer no greater than two (2) working days from the time the Title IX Coordinator receives the form.

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.

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9 The dismissal decision is appealable by any party. The decision NOT to dismiss is also appealable by any party claiming that a dismissal is warranted.

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

No further review beyond the appeal is permitted.

SANCTIONS

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

DEADLINES, TIME, NOTICES AND METHOD OF TRANSMITTAL

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

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

All deadlines and other time periods specified in this policy are subject to modification by the College where, in the College’s sole discretion, good cause exists. Good cause may include, but is not limited to, the unavailability of parties or witnesses; the complexities of a given case; extended holidays or closures; sickness of the investigator, adjudicator, or the parties; the need to consult with the College’s legal counsel; unforeseen weather events; and the like.
Any party who wishes to seek an extension of any deadline or other time period may do so by filing a request with the investigator, hearing officer, administrative officer, appeal officer, or Title IX Coordinator, as the case may be, depending on the phase of the process. Such request must state the extension sought and explain what good cause exists for the requested extension. The College officer resolving the request for extension may, but is not required to, give the other party an opportunity to object. Whether to grant such a requested extension will be in the sole discretion of the College.

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

Where this policy refers to notice being given to parties “simultaneously,” notice will be deemed simultaneous if it is provided in relative proximity on the same day. It is not necessary that notice be provided at exactly the same hour and minute.

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

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

Any notice inviting or requiring a party or witness to attend a meeting, interview, or hearing will be provided with sufficient time for the party to prepare for the meeting, interview, or hearing as the case may be, and will include relevant details such as the date, time, location, purpose, and participants. Unless a specific number of days is specified elsewhere in this policy, the sufficient time to be provided will be determined in the sole discretion of the College, considering all the facts and circumstances, including, but not limited to, the nature of the meeting, 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.

**RECORDINGS**

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. The surreptitious recording of any meeting, interview, hearing, 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 hearing officer.
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, Harassment and Non-Discrimination Policy, the College retains its right to limit any vendor, contractor, or third-party’s access to campus for any reason. And the College retains all rights it enjoys by contract or law to terminate its relationship with any vendor, contractor, or third-party irrespective of any process or outcome under the policy.
APPENDIX A: DEFINITIONS OF RELEVANT TERMS

Actual Knowledge. 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)

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.

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

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

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

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

- Engaging in sexual activity with an unconscious or semi-conscious person;
- Engaging in sexual activity with someone who is asleep or passed out;
- Engaging in sexual activity with someone who has said “no”;
- Engaging in sexual activity with someone who is not reciprocating by body movement;
- Engaging in sexual activity with someone who is vomiting, unable to stand without assistance, or must be carried to bed;
- Allowing another person to engage in sexual activity with your partner without his or her consent;
- Requiring any person to perform any sexual activity as a condition of acceptance into a student club, athletic, or any other organization affiliated with the College;

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Telling someone you will “out” him/her if he/she does not engage in sexual activity (e.g., threatening to disclose the person’s sexual orientation without his/her consent);

Telling someone you will fail him/her or give him/her a grade different from what is deserved if he/she do not agree to engage in sexual activity; or

Facilitating or assisting in a sexual assault including purchasing or providing alcohol or drugs to further a sexual assault.

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

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

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

Course of Conduct. As pertains to the definition of stalking, two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person’s property.

Dating Violence. As defined in 34 U.S.C. 12291(a)(10), Violence committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- Forcible Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
- Forcible Sodomy: Oral or anal sexual intercourse with another person, without the consent of the Complainant.
- Sexual Assault with An Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the Complainant.
- Forcible Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person’s will (non-consensually) or not forcibly or against the person’s will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- Incest: Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

For the State of Wisconsin’s definition of sexual assault, go to Wis. Stat. § 940.225 at [http://www.legis.state.wi.us/rsb/stats.html](http://www.legis.state.wi.us/rsb/stats.html).

**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

*August 2020*
• Allowing others to have sex with an incapacitated person.

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

1) An employee of the College conditioning the provision of an aid, benefit, or service of the College, on an individual’s participation in unwelcome sexual conduct (Quid Pro Quo); and/or

2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College’s education program or activity (Hostile Environment); and/or

3) Sexual assault.

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

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

A. Fear for their safety or the safety of others; or

B. Suffer substantial emotional distress.

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

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

**Supportive Measures.** Non disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or Respondent before or after filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College’s educational environment, or deter sexual harassment. These may include:

- Counseling
- Extension of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services
- Mutual restrictions on contact between the parties
- Changes in work locations
- Leaves of absence
- Increased security and monitoring of certain areas of the campus
- No contact orders (Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.)
- Or similar measures
**Working Days.** Weekdays, Monday through Friday, in which Madison College is open and conducting regular business. Working days does NOT include Saturdays, Sundays, legal holidays recognized by the federal government, or time periods where the College is closed for extended periods such as winter break.
APPENDIX B: SUPPORT RESOURCES FOR THOSE AFFECTED BY SEXUAL HARASSMENT

WHAT TO DO IF YOU HAVE BEEN ASSAULTED

After a sexual assault, victims often sense a loss of control. This is normal. Know that there are people on and off campus who will offer support and can help you make the decisions that are right for you to take care of yourself. It is important to remember that:

- You have choices.
- There is no one right way to take care of yourself.

Here are some things that are important for you to consider:

1. **Get to a safe place and talk to someone you trust** like a friend, family member, counselor, or victim advocate. The College encourages victims of sexual violence to talk to somebody about what happened—so victims can get needed support, and so the College can respond appropriately. Different groups on- and off-campus have different abilities to maintain a victim’s confidentiality.

**Community Resources for Victims of Sexual Assault**

2. **Seek medical assistance** as soon as possible.

   Sexual assault can result in injury or illness that you may not immediately see or feel. It is important that you seek appropriate medical care promptly.

   **What is a Forensic Nurse Examiner?**

   The [Forensic Nurse Examiner](#) program provides direct patient care to victims of sexual violence who present to emergency departments and urgent care centers. This program delivers coordinated, expert forensic and medical care necessary to increase successful prosecution of sex offenders and to assure essential medical intervention to victims of violence. The program can coordinate with local sexual assault victim service providers to make an advocate available at the time of the exam.

3. **Preserve physical evidence.**

   Resist the urge to change clothes, bathe, douche, eat, drink, or brush your teeth. Do not go to the bathroom if possible. This is so that physical evidence can be collected and preserved. You do not need to decide at this time whether you want to pursue legal action but if you save the evidence, it offers you more options in the future when you are better able to decide.

4. **Discuss your options confidentially** without prompting a report to the College by contacting:
   - [Madison College Counseling Services](#)

   Mondays-Thursdays, 8:00am to 5:00pm, and Fridays, 9:30am to 4:30pm.
   Telephone: (608) 246-6076
A local community-based victim service provider (Wisconsin Coalition Against Sexual Assault).

5. File a report for action with the College:
   - Public Safety Services Department at (608) 245-2222
   - Submit the [Harassment / Discrimination Report Form](#)

Madison College’s Public Safety Services Department is available to take your report any time, day or night. The department provides trained responders who can offer information about the criminal justice system and the College’s process for reporting sexual assault.

Public Safety Services is required by law to report the incident to the local Police Department and to the College’s Title IX Coordinator. Public Safety Services has established procedures with the local police department to report incidents directly when appropriate. A Police officer, typically from the sensitive crimes unit, will contact you.

The decision to make a report or participate in an investigation with Law Enforcement is yours. However, by contacting Public Safety, you are pursuing action for your own protection and that of the whole campus community. Reports can be filed with the law enforcement agency in which the incident occurred directly. Below is a list of local police departments that serve Madison College campus locations.

- Title IX Coordinator(s) / Deputy Title IX Coordinator assist with reports of sexual misconduct.
- Local Police Department

**City of Madison Police Department:**
- Non-Emergency Dispatch: (608) 255-2345
- Central: (608) 261-9694
- East: (608) 266-4887
- North: (608) 243-5258
- South: (608) 266-5938
- West: (608) 243-0500

**UW-Madison Police Department:** (608)-264-2677

**Portage Police Department:** Non-Emergency: (608)-742-2174

**Watertown Police Department:** Non-Emergency: (920)-261-6660

**Fort Atkinson Police Department:** Non-Emergency Line: (920)-563-7777

**Reedsburg Police Department:** (608)-524-2376
APPENDIX C: COMMUNITY AND OTHER RESOURCES FOR THOSE AFFECTED BY SEXUAL HARASSMENT

The Wisconsin Coalition Against Sexual Assault (WCASA) identifies local community-based service providers that offer support, advocacy and information to victims of sexual harassment and their families. A victim advocate can provide information about community resources and support you through each step of a criminal investigation and a college Title IX investigation. Services are free and confidential to the extent allowed by law. Below is a short list of providers near Madison College campus locations. Refer to the WCASa website for additional service provider contact information.

Madison Campuses

Rape Crisis Center
Crisis Line: (608) 251-7273
En Espanol / La Linea de Ayuda: 608-25VALOR (608-258-2567)
County Served: Dane

Fort Atkinson Campus

People Against Domestic and Sexual Abuse (PADA)
Crisis Line: 920-674-6768
County Served: Jefferson

Watertown Campus

Advocate, Validate, Educate
Crisis Line: (800) 775-3785
Counties Served: Dodge, Jefferson

Portage & Reedsburg Campuses

Hope House of South Central Wisconsin
Crisis Line: (800) 584-6790
Counties Served: Adams, Columbia, Juneau, Marquette, Sauk

Confidential Campus Support

- Employee Assistance Program is a voluntary and confidential program designed to promote the well-being of Madison College employees and their immediate family members. This program provides up to five free counseling sessions and referrals. Free 24-hours Assistance: 1-866-968-7327 (leave a message or press zero to schedule an appointment).

- Madison College Counseling Services provides confidential on-campus counseling for students and can be reached at 608-246-6076. Experienced staff members are available from 8:00am to 4:30pm Monday through Thursday, and 9:30am to 4:30pm on Fridays. Same day appointment services are also available during these hours for urgent concerns, including issues related to sexual violence.
• Madison College has collaborated with the Rape Crisis Center (RCC) to support individuals in healing from, and understanding, the complexities of trauma and sexual violence. A sexual assault counselor from the Rape Crisis Center will hold part-time hours on campus to provide services to survivors seeking support. To access this service, stop by the Student Success Center at the Truax campus or call the RCC Helpline at (608) 251-7273.

**Other Services / Programs**

The following services and programs can offer support to a victim of sexual misconduct without reporting an incident to campus authorities or law enforcement:

- Your local [sexual assault service provider](#)
- Madison College Counseling Services
- Free Clinic at Madison College
- Madison College Health Clinic
- Clergy or faith-based leaders
APPENDIX D: 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 the 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 NOT to have any personally identifiable information released to the public without consent 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 NOT to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
• The right NOT to be discouraged by Madison College officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities.
• The right to be informed 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. This also includes the right NOT to be pressured to report, as well.
• 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.
• 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:
  o Changing an employee’s work environment (e.g., reporting structure, office/workspace relocation)
  o Transportation accommodations
  o Visa/immigration assistance
  o Exam, paper, and/or assignment rescheduling or adjustment
  o Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
• 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)/Chair, may be asked of any party or witness.
• The right NOT to have irrelevant prior sexual history or character admitted as evidence.
• 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 ten (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, and Decision-maker(s) who have received at least eight hours of relevant annual training.
• The right to a Hearing Panel that is NOT single-sex in its composition.
• 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 on the basis of 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.
• The right to have an impact statement considered by the Decision-maker(s) following a determination of responsibility for any allegation, 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 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 and are typically conducted by counselors, public safety officers, human resources staff, case managers, student conduct officers, and/or other Behavioral Intervention Team (BIT) members.

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

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

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

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

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

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

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

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

10 The NaBITA Risk Assessment Rubric, @National Behavioral Intervention Team Association, 2019
APPENDIX G: ROLES WITHIN THE TITLE IX / SEXUAL HARASSMENT GRIEVANCE PROCESS

Table 1. Delineation of Roles in the Title IX Process outlines some of the main roles within the Title IX / Sexual Harassment Grievance Process. The individuals identified to serve in the various roles have received training regarding Title IX and on the College’s Title IX Policy and Process. Appendix H identifies the names of the individuals trained to serve in the various roles.

<table>
<thead>
<tr>
<th>ROLE</th>
<th>DESCRIPTION OF ROLE</th>
<th>SELECTION REQUIREMENTS</th>
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</table>
| Title IX Coordinator(s)     | • Coordinates Madison College’s efforts to carry out the requirements under Title IX and all associated regulations including the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.  
                                 | • Ensures a fair and equitable process exists to address allegations of sexual harassment / alleged policy violations.                                                                                               
                                 | • Balances interests of parties while ensuring compliance with College Policy and Title IX.                                                                                                                        
                                 | • Helps create and maintain a welcoming, supportive, equitable and safe environment for every member of the Madison College community.                                                                           | • Assigned by Madison College.                                                                                   |
| Informal Resolution Facilitator | • Assists in the resolution of Title IX complaints when the Complainant(s) and Respondent(s) agree to pursue an informal resolution.                                                                                 | • Identified by Title IX Coordinator.                                                                             |
| Advisor                     | • The Complainant(s) and Respondent(s) are each entitled to have an Advisor of their choice to advise, support, and/or consult with them throughout the resolution process.                                               
                                 | • The Advisor can be present with the party for all meetings and interviews within the resolution process if the party chooses. At minimum, an Advisor must be identified for the limited purpose of conducting any cross-examination in the Hearing Proceedings following the Formal Investigation. | Selected by party and/or assigned by Title IX Coordinator. The Advisor:  
                                 |                                                                                                           | • Can be a friend, mentor, family member, attorney, or any other individual a party chooses. Selected individual must have time, availability, and inclination to participate.  
                                 |                                                                                                           | • Can be assigned by Title IX Coordinator from pool of trained Madison College Title IX Advisors.                                                              
<pre><code>                             |                                                                                                           | • Cannot have institutionally conflicting roles (such as the Title IX Coordinator).                                                                              |
</code></pre>
<table>
<thead>
<tr>
<th><strong>Title IX / Sexual Harassment Grievance Process</strong></th>
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<tbody>
<tr>
<td>• An Advisor will be assigned by the Title IX Coordinator for the Hearing Proceedings if a party does not otherwise have an identified Advisor.</td>
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<tr>
<td>• Advisors are expected to advise their advisees without disrupting proceedings.</td>
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<tr>
<td>• The party will be asked to sign a consent form when the Advisor in not affiliated with Madison College. The consent form authorizes Madison College to share investigation and other related documentation directly with the party’s advisor.</td>
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<tr>
<td>• Advisors are expected to maintain the privacy of the records shared with them.</td>
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<td>• Madison College does not comply with requests for all communication to be made through a party’s attorney.</td>
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<td>(NOTE: Witnesses are NOT entitled to Advisors within the process.)</td>
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<tr>
<td><strong>Investigator(s)</strong></td>
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<td>• Completes the formal investigation process once written notice of complaint is issued through the preparation of final investigation report.</td>
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<tr>
<td>• Conducts a prompt and thorough investigation.</td>
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<tr>
<td>• Acts as a neutral party in the investigation.</td>
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<tr>
<td>• Prepares a detailed, unbiased report regarding the findings of the investigation.</td>
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<tr>
<td>• The Investigator is NOT responsible for determining whether the policy was violated or recommended sanctions / actions.</td>
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<tr>
<td>• Available to answer clarifying questions about the investigation during the Hearing.</td>
</tr>
<tr>
<td>• Assigned by Title IX Coordinator.</td>
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<tr>
<td>• Two Investigators assigned to investigate any formal complaint.</td>
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<tr>
<td>• For sexual harassment complaints in which the Respondent is an employee, the lead Investigator will be assigned from a pool of Human Resources Investigators.</td>
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<tr>
<td>• For sexual harassment complaints involving students or other person(s), the lead Investigator will be assigned from a pool of Student Affairs Investigators.</td>
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**August 2020**
<table>
<thead>
<tr>
<th>Hearing Panel Chair</th>
<th>Hearing Panel Member(s)</th>
<th>Appeal Officer</th>
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</table>
| • Facilitates the Hearing Process.  
• Provides introduction and overview to the Hearing Process.  
• Provides order to the Hearing Process by inviting individuals to participate in the Hearing.  
• Approves / denies questions asked by the Hearing Panel and Party Advisors.  
• Signs determination decision notification to the Parties. | • Analyzes the investigation, ask clarifying questions, and make a finding of responsibility of policy violation.  
• If a finding of responsibility is made that the policy was violated, the Hearing Panel will also determine sanction / remedies in consultation with the Title IX Coordinator.  
• Decisions made on a majority vote.  
• Provides results of the Hearing Panel deliberations to the Title IX Coordinator.  
• Assists in reviewing the written determination letter to Parties. | • Assigned by Madison College.  
• Assigned by Title IX Coordinator.  
• Identified in consultation with Hearing Panel Chair.  
• Pool of 5 Hearing Panel Members (including Hearing Panel Chair) is reviewed to identify and select two (2) individuals to serve on Hearing Panel, as well as one (1) alternate.  
• Alternate Hearing Panel Member will be used in instances that the identified panelists become unavailable to serve on the Hearing Panel.  
• Assigned by Title IX Coordinator.  
• Identified in consultation with Hearing Panel Chair.  
• After assignment of Hearing Panel and alternate, remaining members of pool are reviewed to identify and select an Appeal Officer. |
# APPENDIX H: THE POOL OF EMPLOYEES SERVING TO RESOLVE CIVIL RIGHTS COMPLAINTS

<table>
<thead>
<tr>
<th>Role</th>
<th>Assignment</th>
</tr>
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<tbody>
<tr>
<td>Title IX Coordinator – Students &amp; Guests</td>
<td>Geraldo VilaCruz</td>
</tr>
<tr>
<td>Title IX Coordinator - Employees</td>
<td>Lisa Muchka</td>
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<tr>
<td>Informal Resolution Facilitator Pool</td>
<td>John Boyne</td>
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<td></td>
<td>Charles Cunningham</td>
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<td></td>
<td>Blanca De Leon</td>
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<td></td>
<td>Barbara DuCharme</td>
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<td></td>
<td>Deb Olsen</td>
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<td></td>
<td>Joshua Schiffman</td>
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<td></td>
<td>Gerard Xavier</td>
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<tr>
<td>Title IX / Civil Rights Investigators &amp; Title IX Advisors Pool</td>
<td>Lisa Muchka (Student Affairs &amp; Human Resources)</td>
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<td></td>
<td>Luke Adler (Student Affairs)</td>
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<td></td>
<td>Jenni McKay (Student Affairs)</td>
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<td></td>
<td>Scott Ritter (Student Affairs)</td>
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<td>Gretchen Rixie (Student Affairs)</td>
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<td></td>
<td>Aunton Terry (Student Affairs)</td>
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<td>Taylor Weckerly (Student Affairs)</td>
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<td>Lara Baehr (Human Resources)</td>
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<td>Eric Barber (Human Resources)</td>
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<td>Kate Jochimsen (Human Resources)</td>
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<td>Katie Rikli (Human Resources)</td>
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<tr>
<td>Hearing Panel Members / Decision-makers</td>
<td>Rosemary Buschhaus (Hearing Panel Chair)</td>
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<tr>
<td>• 1 Hearing Panel Chair</td>
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<tr>
<td>• 2 Hearing Panel Members</td>
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<tr>
<td>• 2 alternates for Hearing Panel</td>
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<tr>
<td>• 1 of the alternates serves as Appeal decision-maker</td>
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<tr>
<td>NOTE: Hearing Panel Members serve a 2-year term.</td>
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<td>Role</td>
<td>Name</td>
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<td>Appeal of Dismissal Decision-Maker</td>
<td>Lucia Nunez</td>
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<td>Alternate decision-maker / hearing officer</td>
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<td>Hearing Facilitators</td>
<td>Michelle Abreu</td>
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<td>Jenni McKay</td>
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<td>Lisa Muchka</td>
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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
15. Other Sanctions

Possible Employee Sanctions

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

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