

<b>PROCEDURE TITLE:</b>	Harassment and Discrimination Reporting
<b>PROCEDURE NUMBER:</b>	PR 401.01
<b>RESPONSIBLE SYSTEM:</b>	Talent
<b>ACCOUNTABLE MANAGER:</b>	Director of Student Development and Director of Talent
<b>OWNER:</b>	Vice President – Student Services and Vice President – Finance and Administration
<b>POLICY REFERENCE:</b>	<a href="#">AP 401 Affirmative Action, Equal Opportunity, Non-Discrimination, and Title IX</a>
<b>ADOPTED:</b>	03-16-2021
<b>REVIEWED:</b>	
<b>REVISED:</b>	

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## Overview:

Moraine Park Technical College (MPTC) is committed to providing an educational and work environment that is respectful of our students, employees, and community. The College believes all students and employees are entitled to learn and work in an environment free from discrimination and harassment. The College will not tolerate unlawful discrimination, harassment of any kind, or retaliation against a person who files a report or participates in the investigation of a report relating to discrimination or harassment by an employee, student, customer, or vendor.

Employees discriminating against employees, students and non-employees will be subject to corrective action under appropriate MPTC employment procedures. Students discriminating against other students, employees or non-employees will be subject to discipline under the applicable student code of conduct. The College will take necessary corrective action to remedy any instances where discrimination or harassment is determined to have occurred. All Faculty, Adjunct Faculty, Management and Support Professional employees of the College are mandatory reporters of harassment and discrimination and are obligated to report harassment to appropriate College officials.

Use of this Procedures does not preclude the right of a person to also file a complaint with the Equal Rights Division of the Department of Workforce Development, the Department of Education's Office for Civil Rights, the U.S. Equal Employment Opportunity Commission or the U.S. Wage and Hour Division in the Department of Labor or any other administrative or law enforcement agency with jurisdiction over the complaint. Most anti-discrimination laws have a time limit of 180 to 300 days during which an individual may file a complaint.

## Procedure:

### Reporting Procedure

**Step 1: File a Report.** If a person believes they were subject to an act of discrimination or harassment as defined in this Procedure, they may report the discrimination or harassment to one of MPTC's Equal Opportunity Officers within 300 days of the date of the alleged discrimination or harassment. If the person believes that one of MPTC's Equal Opportunity Officers is responsible for or has permitted discrimination or harassment to occur, they should submit their report to the other Equal Opportunity Officer. If the person believes that both Equal Opportunity Officers are responsible for or have permitted discrimination or harassment to occur, they should submit their report to one of MPTC's Title IX Coordinators. In that event, the Title IX Coordinator will perform all functions of the Equal Opportunity Officer as set forth in this Procedure, and the Vice President – Student Services or the Vice President – Finance and Administration will perform all functions that would have been performed by the Title IX Coordinator. The report may be oral or written; however, MPTC encourages written reports.

**Step 2: Notification of Rights.** Upon receiving the report, the Equal Opportunity Officer will inform the reporting party of their rights under state and federal law. This will include outlining external resources that are available through the Wisconsin Department of Workforce Development and the Equal Employment Opportunity Commission, if applicable.

**Step 3: Determination of Validity.** The Equal Opportunity Officer will review the report to determine if it is "valid" under this Procedure. "Validity" does not concern whether an unfair act has occurred but whether the report pertains to conduct that is governed by this Procedure. MPTC's Title IX Coordinator will provide consult in the determination of "validity." If the report is determined not to be "valid," the matter will be closed, and the Equal Opportunity Officer will refer those involved to any appropriate MPTC resources. If the report is determined to be valid, MPTC will appoint an investigator or team of investigator(s) to investigate the merits of the report.

**Step 4: Investigation.** The investigator(s) assigned to the report will conduct a prompt, fair, and impartial investigation of the report that will include, but will not necessarily be limited to (1) interviews with the reporting party, responding party, and appropriate witnesses, (2) fact and

information gathering, and (3) review of documentary evidence. The investigator(s) will attempt to complete their investigation within 60 calendar days from receipt of the report. However, the investigation period may be extended by the investigator(s) if they determine an extension is necessary in order to complete a proper investigation. The investigator(s) will inform the parties of any extension.

Step 5: Determination of Responsibility. Within ten days of completion of the investigation, the investigator(s) will issue a written determination to both parties regarding whether an act of discrimination or harassment has occurred. This deadline may be extended by the investigator(s) if they determine that an extension is necessary in order to prepare the written determination. The investigator(s) will make their determination using the “preponderance of evidence standard,” which means that the investigator(s) will base their decision on whether they find that it is more likely than not that an act of discrimination or harassment occurred. If the investigator(s) find it is more likely than not that an act of discrimination or harassment occurred, their written determination will also impose appropriate corrective action, up to and including termination of employment or expulsion, as applicable.

Step 6: Appeals. There are two options for a party who wishes to appeal the determination of the investigator(s): “investigation appeals” and “disciplinary action appeals.”

a. Investigation Appeals. Either the reporting party or the responding party may request an investigation appeal of the investigator’s decision by submitting a written request for an investigation appeal to the Equal Opportunity Officer within five business days of receiving the investigator’s decision. An investigation appeal may be filed on either of the following grounds: (1) that the appealing party believes the investigator(s) failed to comply with this Procedure and that the failure materially affected the outcome of the investigation, or (2) that there is new evidence, unknown or unavailable during the original investigation, that materially affects the investigator’s original determination. All investigation appeals will be reviewed by an MPTC investigator who was not involved in the original investigation or determination. Decisions on investigation appeals will be issued within ten business days of receipt of the appeal request. However, this deadline may be extended by the investigator if they determine an extension is necessary in order to make a proper decision on the appeal.

b. Disciplinary Action Appeals. Either the reporting party or the responding party may request a disciplinary action appeal. A disciplinary action appeal is to be used when the requesting party does not contest the investigator’s determination whether an act of discrimination or harassment occurred but does wish to appeal the specific sanction imposed. Investigation appeals will be reviewed by the Vice President - Student Services if the requesting party is a student or the Vice President – Finance and Administration if the requesting party is an employee. Decisions on investigation appeals will be issued within ten business days of receipt of the appeal request. However, this deadline may be extended by the Vice President if they determine an extension is necessary in order

to make a proper decision on the appeal. The sanction being appealed will remain in effect during the appeal.

### **Reporting Party Rights**

Reporting parties of discrimination or harassment have the right to:

- Be notified of existing resources for counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available within the College and in the community.
- Be notified about options for, available assistance in, and how to request changes to academic, transportation, and working situations or protective measures regardless of whether the reporting party chooses to report to local law enforcement.
- Report to law enforcement authorities and be assisted by MPTC in so doing.
- Decline to report to law enforcement.
- File a complaint with the U.S. Department of Justice and/or U.S. Department of Education Office for Civil Rights.
- Exercise rights as detailed in Chapter 950 of the Wisconsin Statutes when reporting to a Wisconsin law enforcement agency.
- Apply for crime victim compensation, which can help pay for unreimbursed expenses that are the result of crimes causing personal injury or death, including lost wages, counseling, medical costs, and replacement of property held as evidence.  
(<https://www.doj.state.wi.us/ocvs/compensation/crime-victim-compensation-program-compensation-your-financial-losses>.)

### **Reporting Party and Responding Party Rights**

MPTC shall provide assistance to the reporting party and responding party, including access to copies of anti-discrimination laws and regulations, related guidelines, memoranda and other relevant material supplied to MPTC by the federal government. In addition, the Equal Opportunity Officer or designated representative shall provide consultation in the use of this reporting procedure.

No person shall be subjected to discharge, suspension, discipline, harassment or any form of discrimination for having utilized or having assisted others in the utilization of the reporting procedure.

Nothing in this procedure shall preclude a reporting party's right to seek other avenues of redress outside of MPTC.

Neither the reporting party nor the responding party shall arbitrarily delay action of the reporting procedure.

### **Non-Retaliation**

Retaliating directly or indirectly against a person who has in good faith submitted a report, made a report, or participated in an investigation is strictly prohibited. Retaliation includes, but is not limited to, pressuring the person to drop or not support their report or to provide false or misleading information; engaging in conduct that may reasonably be perceived to adversely affect that person's educational, living, or work environment; threatening, intimidating, or coercing the person; or otherwise discriminating against any person for exercising any rights or responsibilities under this Procedure. Retaliation may exist regardless of whether the report is ultimately found to have merit. Any retaliation will be treated as a violation of this Procedure.

### **Administration of Procedure**

Maintenance of Records:

- 1) Records shall be kept of each report in the office of the appropriate Equal Opportunity Officer. Such records shall be maintained on a confidential basis.
- 2) All written reporting records shall be maintained for a minimum of three years after the resolution.

Role of the Equal Opportunity Officers:

It is the primary responsibility of the Equal Opportunity Officers to ensure the effective implementation, maintenance, processing, recordkeeping and notification required by this Procedure.

Section 504 and Title II Coordinators:

The employees designated by the MPTC President who have the responsibility of oversight of Section 504 and Title II activities and investigations. The President has appointed the following Section 504 and Title II Coordinators: Bonnie Bauer, Student Support Services Manager and Beth Mendoza, Director of Talent.

### **Definitions**

Discrimination: A difference in treatment in any service, program, course or facility provided by MPTC that is based on a person's membership in a Protected Class.

Equal Opportunity Officers: Employees designated by MPTC's President who have the responsibility of coordinating this Procedure. MPTC's Equal Opportunity Officers are Leslie Laster, Associate Director for Diversity and Inclusion, and Karli Resch, Human Resources Generalist.

Harassment: Unwelcome conduct based on a person's membership in a Protected Class where (1) enduring the conduct becomes a condition of continued employment/enrollment or (2) the conduct is sufficiently severe or pervasive to create a work/learning environment that a reasonable person would consider intimidating, hostile, or abusive. The conduct may include, but is not limited to, offensive jokes, bullying, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with performance. The term "harassment," as used in this Procedure, shall at all times be interpreted consistent with applicable law. "Sexual Misconduct" is another form of harassment that is prohibited by this Procedure. "Sexual Misconduct" includes non-consensual sexual intercourse, non-consensual sexual contact, sexual exploitation, interpersonal relationship violence, sex-or gender-based stalking, sexual harassment, rape, acquaintance rape, sexual assault, dating violence, and domestic violence.

Protected Class: Protected classes include race, color, religion, national origin, ancestry, creed, sex, disability, arrest record, conviction record, age, veteran status, membership in the National Guard, State Defense Force, or other reserve component of the military forces of Wisconsin or the United States, marital status, pregnancy, sexual orientation, political affiliation, parental status, genetic testing, the use or nonuse of lawful products off the employer's premises during nonworking hours, and any other protected class established by applicable state, federal, or local law.

Report: A complaint alleging the occurrence of an act of Discrimination or Harassment as those terms are defined under this Procedure.

Reporting Party: A person who files a report. A reporting party can be, but is not necessarily limited to, an applicant for employment with MPTC, an MPTC employee, an applicant for admission to any program or course at MPTC, or an MPTC student.

Responding Party: The person who the Reporting Party has alleged to have violated this Procedure.

Title IX Coordinators: Employees designated by the MPTC President who have the responsibility of oversight of Title IX activities, training and investigations. MPTC's Title IX Coordinators are Kim Schwamn, Interim Dean of Students, and Beth Mendoza, Director of Talent.

## Procedure History:

Enter Procedure History Here - Brief description of any revision to the procedure.

Revision Date	System/Author	Description
02-17-2021	Student Services/Talent/Stettbacher	Creation

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