

<b>PROCEDURE TITLE:</b>	Title IX and Sexual Harassment and Discrimination Grievance
<b>PROCEDURE NUMBER:</b>	PR 401.02
<b>RESPONSIBLE UNIT:</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
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## Overview:

### Applicability

This Sexual Harassment and Discrimination Grievance Procedure applies to complaints of Harassment or Discrimination on the basis of sex. Complaints of Harassment or Discrimination on the basis of other classifications protected by law are subject to MPTC's Harassment and Discrimination Reporting Procedure.

### General

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 that 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 complaint or participates in the investigation of a complaint relating to discrimination or harassment by an employee, student, customer, or vendor.

Employees discriminating against employees, students, or 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 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 or discrimination to appropriate College officials. Student and temporary workers are not mandatory reporters. Failure of a mandatory reporter to report an incident of discrimination or harassment of which they become aware is a violation of this Procedure and may be subject to corrective action.

The College's professional counselors are not mandatory reporters of harassment and discrimination disclosed to them while engaging in professional counseling, except in cases of immediate threat or danger, or when required to disclose by law or court order. If a person would like the details of an incident to be kept confidential, they may speak with a professional counselor about the incident.

Use of this procedure 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.

### **Accessible Reporting**

Employees designated by the MPTC President who have the responsibility of oversight of Title IX activities, training and investigations are:

Kim Schwamn  
Director of Student Development  
235 N National Ave  
Fond du Lac, WI 54935  
[kschwamn@morainepark.edu](mailto:kschwamn@morainepark.edu)  
(262)335-5881

Beth Mendoza  
Director of Talent  
235 N National Ave.

Fond du Lac, WI 54935  
[bmendoza@morainepark.edu](mailto:bmendoza@morainepark.edu)  
(920)929-2139

MPTC allows 24/7 reporting. Specifically, any person may report Discrimination or Harassment (whether or not the person reporting is the person alleged to be the victim of the alleged Discrimination or Harassment), in person, by mail, by telephone, or by e-mail, using the contact information listed above, or by any other means that results in the individuals described above (or their successors) receiving the person's report.

## Process:

### Complaint Procedure

**Step 1: Complaint.** If a person believes they were subject to an act of Discrimination or Harassment as defined in this Procedure, they may make a complaint to one of the Title IX Coordinators identified above. If the person believes that one of the Title IX Coordinators described above is responsible for or has permitted Discrimination or Harassment to occur, they should make their complaint to the other Title IX Coordinator.

Upon receipt of a complaint, a Title IX Coordinator will promptly and confidentially contact the complainant to discuss the availability of supportive measures, the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a Formal Complaint, and explain to the complainant the process for filing a Formal Complaint.

A complainant's wishes with respect to whether MPTC investigates their complaint will be respected unless the Title IX Coordinator determines that signing a Formal Complaint to initiate an investigation despite the wishes of the complainant is necessary under the circumstances.

**Step 2: Notification of Rights.** Upon receiving a complaint, the Title IX Coordinator will inform the complainant 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 Title IX Coordinator will review the complaint to determine if it is "valid" under this Procedure. "Validity" does not concern whether an act of Harassment or Discrimination has occurred but whether the complaint pertains to conduct that is governed by this Procedure. If the complaint is determined not to be "valid," the matter will be closed, and the Title IX Coordinator will refer those involved to any appropriate MPTC resources, which may include other applicable MPTC procedures. If the complaint is determined to be valid, MPTC will proceed to Step 4.

Step 4a: Informal Resolution. MPTC may, in its discretion, offer and facilitate informal resolution options for individuals who do not wish to pursue the formal investigation and hearing process described below. Informal resolutions may be achieved through methods such as negotiated resolutions, so long as both parties give voluntary, informed, written consent to attempt informal resolution. Informal resolutions may avoid the need for a formal investigation. However, MPTC will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to a formal investigation and adjudication of formal complaints of Discrimination or Harassment.

At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the formal complaint process with respect to their complaint. However, MPTC will not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student but may, in its discretion, offer informal resolution processes in any other circumstances.

Step 4b: Investigation. MPTC will investigate Discrimination or Harassment allegations in any Formal Complaint that is found to be “valid” and not resolved through the informal resolution process.

MPTC will send written notice to both parties (complainants and respondents) of the allegations upon receipt of a Formal Complaint. The investigator(s) assigned to the complaint, who may be MPTC employees or outside investigators, will conduct a prompt, fair, and impartial investigation of the complaint that will include, but will not necessarily be limited to (1) interviews with the complainant, respondent, and appropriate witnesses, (2) fact and information gathering, and (3) review of documentary evidence.

While conducting the investigation, the investigator(s) and MPTC will do the following:

- Bear the burden of gathering evidence during the investigation and the burden of proof are on MPTC, not on the parties.
- Provide equal opportunity for the parties to present fact and expert witnesses and other inculpatory and exculpatory evidence.
- Not restrict the ability of the parties to discuss the allegations or gather evidence (e.g., no “gag orders”).
- Allow the parties to select an advisor of the party’s choice who may be, but need not be, an attorney.
- Send written notice of any investigative interviews, meetings, or hearings.

- Send the parties and their advisors all evidence directly related to the allegations, in electronic format or hard copy, with at least 10 days for the parties to inspect, review, and respond to the evidence.
- Send the parties and their advisors an investigative report that fairly summarizes relevant evidence, in electronic format or hard copy, with at least 10 days for the parties to respond.
- The investigator(s) may, in their discretion, dismiss the complaint or allegations therein if the complainant informs the Title IX Coordinators in writing that the complainant desires to withdraw the complaint or allegations therein, if the respondent is no longer enrolled or employed by MPTC, or if specific circumstances prevent MPTC from gathering sufficient evidence to reach a determination.
- The Title IX Coordinators will give the parties written notice of a dismissal and the reasons for the dismissal.
- MPTC may, in its discretion, consolidate complaints where the allegations arise out of the same facts.
- The privacy of a party's medical, psychological, and similar treatment records will be protected. MPTC and its investigator(s) cannot access or use such records unless MPTC and its investigator(s) obtain the party's voluntary, written consent to do so.

The investigator(s) will attempt to complete their investigation within 60 calendar days from receipt of the complaint. 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.

Upon completion of the investigation, the investigator(s) will issue a written investigative report.

Step 4: Hearing. After issuance of the investigative report, and at least 10 business days after the parties have received and been able to respond to the report, MPTC will hold a live hearing. The hearing will meet the following requirements:

- A live hearing will be conducted by an independent hearing officer that is not otherwise affiliated with MPTC.
- At the live hearing, independent hearing officer will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.

- Cross-examination at the live hearing will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. If a party does not have an advisor present at the live hearing, MPTC will provide, without fee or charge to that party, an advisor of MPTC's choice who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party.
- Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the independent hearing officer must first determine whether the question is relevant and explain to the party's advisor any decision to exclude a question as not relevant.
- If a party or witness does not submit to cross-examination at the live hearing, the independent hearing officer may not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the independent hearing officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
- Live hearings will be conducted with all parties, witnesses, and other participants appearing virtually.
- MPTC will create an audio or audiovisual recording, or transcript, of the live hearing.

MPTC provides rape shield protections for complainants that gives the independent hearing officer and investigators the discretion to deem irrelevant questions and evidence about a complainant's prior sexual behavior unless offered to prove that someone other than the respondent committed the alleged misconduct or offered to prove consent.

Step 5: Written Determination. The standard of evidence to determine responsibility is the "preponderance of the evidence" standard. The preponderance of evidence standard concerns whether an act of Discrimination or Harassment is more likely than not to have occurred. This standard applies to all complaints whether the respondent is a student or an employee.

Within 10 business days of completion of the live hearing, the independent hearing officer will issue a written determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, any disciplinary sanctions imposed on the respondent (which will be determined in consultation with the Title IX Coordinators), and whether remedies will be provided to the complainant. This deadline may be extended by the independent hearing officer if the independent hearing officer determines that an extension is necessary in order to prepare the written

determination. If the deadline is extended, the independent hearing officer must provide written notice to the parties.

The written determination must be sent simultaneously to the parties along with information about how to file an appeal.

Step 5: Appeals. Within 5 business days of receiving the independent hearing officer's written determination or an investigator(s) notice of dismissal, both parties have the right to an appeal from the determination or dismissal on the following bases:

- 1) Procedural irregularity that affected the outcome of the matter;
- 2) Newly discovered evidence that could affect the outcome of the matter;
- 3) There was a conflict of interest or bias that affected the outcome of the matter;
- 4) The individual does not contest the determination as to whether an act of Discrimination or Harassment occurred but does wish to appeal the specific sanction imposed.

Appeals will be reviewed by the Vice President – Student Services if the appealing party is a student or the Vice President - Finance and Administration if the appealing party is an employee.

Decisions on appeals will be issued within 10 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.

### **Online Conduct**

This procedure is intended to be interpreted broadly to include online and cyber manifestations of Discrimination and Harassment, provided those behaviors occur in or have an effect on MPTC's education or employment programs or use MPTC's networks, technology, or equipment.

### **Non-Retaliation**

Retaliating directly or indirectly against a person who has in good faith submitted a formal complaint, made a formal complaint, or participated in an investigation is strictly prohibited. Specifically, MPTC prohibits retaliation, which can include, but is not limited to:

- Charging an individual with code of conduct violations that arise out of the same facts or circumstances as a report or formal complaint, for the purpose of interfering with any right or privilege secured by law or this Procedure constitutes retaliation.
- Pressuring the person to drop or not support their complaint 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.
- Charging an individual with a code of conduct violation for making a materially false statement in bad faith during a complaint proceeding does not constitute retaliation; however, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith materially false statement.

MPTC will keep confidential the identity of complainants, respondents, and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out proceedings under this Procedure. The exercise of rights protected under the First Amendment does not constitute retaliation.

## **Sanctions**

### Student Sanctions

- **Warning:** A formal statement that the conduct was unacceptable and a warning that further violation of any MPTC policy, procedure, or directive will result in more severe sanctions or responsive actions.
- **Probation:** A written reprimand for violation of policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, or other measures deemed appropriate.
- **Suspension:** Termination of student status for a definite period of time or until specific criteria are met.
- **Expulsion:** Permanent termination of student status and revocation of rights to be on campus for any reason or to attend MPTC-sponsored events.



- **Withholding Diploma:** MPTC may withhold a student's diploma for a specified period of time or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.
- **Revocation of Degree:** MPTC reserves the right to revoke a degree previously awarded from the College for fraud, misrepresentation, or other violation of MPTC policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- **Organizational Sanctions:** Deactivation, loss of recognition, loss of some or all privileges (including registration) for a specified period of time.
- **Other Actions:** In addition to or in place of the above sanctions, MPTC may assign any other sanctions as deemed appropriate.

### Employee Sanctions

- Warning – Verbal or Written
- On Demand Evaluation and Performance Improvement Plan
- Required Counseling
- Required Training or Education
- Loss of Pay Increase
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Suspension with pay
- Suspension without pay
- Termination
- Any other sanctions as deemed appropriate.

### **General Requirements**

Throughout implementing the provisions of this procedure, MPTC, its employees, investigator(s) and decision-makers will do the following:

- Treat complainants equitably by providing remedies any time a respondent is found responsible and treat respondents equitably by not imposing disciplinary sanctions without following the complaint process prescribed.
- Ensure that remedies, which are required to be provided to a complainant when a respondent is found responsible, will be designed to maintain the complainant's equal access to education and may include the same individualized services as supportive

measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.

- Require objective evaluation of all relevant evidence, inculpatory and exculpatory, and avoid credibility determinations based on a person’s status as a complainant, respondent, or witness.
- Train MPTC personnel, which will include training on the definition of “sexual harassment,” the scope of the MPTC’s education programs or activities, how to investigate and complaint process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.
- Ensure that independent hearing officers are trained on any technology to be used at a live hearing.
- Ensure that independent hearing officers and investigators are trained on issues of relevance, including how to apply the rape shield protections provided only for complainants.
- Post all relevant materials used to train Title IX personnel on the MPTC website and make materials available for members of the public to inspect.
- Ensure that this complaint process will not use, rely on, or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

## 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. This Procedure only applies to Discrimination on the basis of sex.

**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.

**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. This Procedure applies only to Harassment on the basis of sex.

Sexual Harassment: Sexual harassment is a type of Harassment defined broadly to include any of three types of misconduct on the basis of sex, all of which jeopardize equal access to education.

- Any instance of quid pro quo harassment;
- Any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access; and
- Any instance of sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

Quid Pro Quo Harassment: Conditioning an educational or employment benefit or service upon a person’s participation in unwelcome sexual conduct.

Complainant: Any individual who is alleged to be the victim of Discrimination or Harassment.

Respondent: Any individual who is reported to be the perpetrator of Discrimination or Harassment.

Advisor: An Advisor is any one (1) person who a complainant and/or respondent would like to have present with them throughout any part of the grievance process. While this person may be an attorney, an Advisor need not be an attorney. The College trains employees to act as Advisors and can help any person who seeks an Advisor to find one. Advisors are the only people in the hearing process who can ask questions during cross-examination.

Formal Complaint: A document that initiates MPTC’s complaint process. Specifically, a formal complaint is a document filed by a complainant or signed by a Designee alleging Discrimination or Harassment against a respondent, requesting that MPTC investigate the allegation, and stating that at the time of filing the formal complaint, the complainant is participating in or attempting to participate in an education or employment program or activity of MPTC. Where a Designee signs a formal complaint, the Designee is not a complainant or a party during a complaint process and must remain free from conflicts and bias.

Supportive Measures: Individualized services reasonably available that are nonpunitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment. These services may include, but are not limited to:

- Referral to counseling, medical, or healthcare services.
- Referral to the Employee Assistance Program.
- Referral to community-based service providers.
- Visa and immigration assistance.
- Student financial aid counseling.
- Education to the community or community subgroups.
- Altering work arrangements for employees or student-employees.
- Safety planning.
- Providing campus safety escorts.
- Providing transportation accommodations.
- Implementing contact limitations between the parties.
- Academic support.
- Timely warnings.
- Class schedule modifications, withdrawals, or leaves of absence.
- Increased security and monitoring of certain areas of campus.
- Any other actions deemed appropriate.

Actual Knowledge: Notice of sexual harassment or allegations of sexual harassment to a recipient's Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient.

Consent: In the implementation of this Procedure, "sexual consent" shall be defined as words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact. Minors, persons suffering from mental illness or defect that impairs capacity to appraise personal conduct, and persons who are unconscious or for any other reason are physically unable to communicate unwillingness to act are presumed unable to give consent. Failure to resist does not indicate consent.

Day: In the implementation of this Procedure, "business day" refers to a day that the College is open for business.

Student: A person engaged in an educational program or activity that occurs in a location, at an event or under circumstances that MPTC has control over, either through physical location or funding. This includes computer and internet networks, digital platforms and computer hardware and software owned or operated by MPTC.

## **Sexual Misconduct Information**

Moraine Park Technical College (MPTC) prohibits sexually violent acts, termed “Sexual Misconduct” by the College. 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, domestic violence, and technological abuse. While the College uses different enforcement standards than criminal courts, its definition of Sexual Misconduct often overlaps with the legal definitions of rape, sexual assault, sexual harassment, stalking, dating violence and domestic violence.

### LEGAL DEFINITIONS

“Rape” is forced sexual intercourse. It may also include situations in which sexual intercourse occurs when the victim is incapable of giving consent due to incapacitation by means of disability, alcohol, or other drugs. Many rapes are committed by someone the victim knows, such as a date or friend.

In the State of Wisconsin, both the terminology and substance of the laws relating to rape have been extensively modified over time. Major alterations include revisions to the criminal code instituted by Chapter 696, Laws of 1955, the change from the term “rape” to “sexual assault” in Chapter 184, Laws of 1975, and 1983 Wisconsin Act 17, which decriminalized most types of private (that which is not conducted “in public”) sexual activity between consenting adults, including homosexual activity. Current categories of sexual assault follow:

First-Degree Sexual Assault. Section 940.225 (1) of the Wisconsin Statutes prohibits sexual contact or sexual intercourse without consent in any of the following situations:

- The assault causes pregnancy or great bodily harm.
- The assault involves the use or threat of use of a dangerous weapon, or what appears to be one.
- The perpetrator is aided or abetted by one or more other persons and the assault involves the use or threat of use of force or violence.

Second-Degree Sexual Assault. Section 940.225 (2) of the Wisconsin Statutes prohibits sexual contact or sexual intercourse without consent in situations involving:

- The use of or threat of force or violence.
- Injury, illness, disease or impairment of a sexual or reproductive organ, or mental anguish requiring psychiatric care for the victim.

- Assault upon a person who suffers from a mental illness or deficiency that renders the person temporarily or permanently incapable of appraising the assault and the defendant knows of such condition.
- Assault upon a person who the defendant knows is unconscious.
- Assault is abetted by one or more other persons.
- Assault upon a patient or resident of a health or treatment facility or program by an employee of that facility or program.
- Assault upon a person that the perpetrator knows is under the influence of an intoxicant to a degree that renders the victim incapable of appraising his or her conduct, an act popularly known as a “date rape.”

Third-Degree Sexual Assault. Section 940.225 (3) of the Wisconsin Statutes prohibits sexual intercourse without consent. It also prohibits nonconsensual sexual contact involving intentional ejaculation or emission of urine or feces if such conduct is either for the purposes of sexual degradation or humiliation or sexual arousal or gratification (Class D felony).

Fourth-Degree Sexual Assault. Section 940.225 (3m) of the Wisconsin Statutes prohibits nonconsensual sexual contact involving the intentional touching of clothed or unclothed intimate body parts (Class A misdemeanor).

The complete State of Wisconsin sexual assault definitions and categories are found in Section 940.225 of the Wisconsin Statutes. The Federal Bureau of Investigation’s definition of rape is penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. Other sexual offenses include sodomy (forced anal intercourse), oral copulation (forced oral genital contact), rape by a foreign object (forced penetration by a foreign object, including a finger), and sexual battery (the unwanted touching of an intimate part of another person for the purpose of sexual arousal).

In Wisconsin, “sexual consent” is defined as words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact. Minors, persons suffering from mental illness or defect that impairs capacity to appraise personal conduct, and persons who are unconscious or for any other reason are physically unable to communicate unwillingness to act are presumed unable to give consent. Failure to resist does not indicate consent. – Section 940.225 (4) of the Wisconsin Statutes.

#### OTHER RELATED STATE OF WISCONSIN DEFINITIONS

“Dating violence” is controlling, abusive, and aggressive behavior in an intimate relationship. It can include verbal, emotional, physical, or sexual abuse, or a combination of these.

“Domestic abuse” means any of the following engaged in by an adult person against his or her spouse or former spouse, against an adult with whom the person resides or formerly resided or against an adult with whom the person has a child in common:

- Intentional infliction of physical pain, physical injury or illness.
- Intentional impairment of physical condition.
- First, Second or Third Degree Sexual Assault (a violation of Section 940.225 (1), (2) or (3)) of the Wisconsin Statutes.
- A physical act that may cause the other person reasonably to fear imminent engagement in the conduct described under the above.

“Stalking” means two or more acts carried out over time, however short or long, that show a continuity of purpose, including any of the following:

- 1) Maintaining a visual or physical proximity to the victim.
- 2) Approaching or confronting the victim.
- 3) Appearing at the victim’s workplace or contacting the victim’s employer or coworkers.
- 4) Appearing at the victim’s home or contacting the victim’s neighbors.
- 5) Entering property owned, leased, or occupied by the victim.
- 6) Contacting the victim by telephone or causing the victim’s telephone or any other person’s telephone to ring repeatedly or continuously, regardless of whether a conversation ensues. Photographing, videotaping, audiotaping, or, through any other electronic means, monitoring or recording the activities of the victim, regardless of where the act occurs.
- 7) Sending material by any means to the victim or, for the purpose of obtaining information about, disseminating information about, or communicating with the victim, to a member of the victim’s family or household or an employer, coworker, or friend of the victim.

- 8) Placing an object on or delivering an object to property owned, leased, or occupied by the victim.
- 9) Delivering an object to a member of the victim's family or household or an employer, coworker, or friend of the victim or placing an object on, or delivering an object to, property owned, leased, or occupied by such a person with the intent that the object be delivered to the victim.
- 10) Causing a person to engage in any of the acts described in 1. to 9.

#### VIOLENCE AGAINST WOMEN ACT (VAWA) DEFINITION – TECHNOLOGICAL ABUSE

Additionally, technological abuse, as defined in the Violence Against Women Act (VAWA) Reauthorization means an act or pattern of behavior that occurs within domestic violence, sexual assault, dating violence or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to: internet enabled device, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies or any other emerging technologies.

#### SEXUAL MISCONDUCT – PREVENTION

In an effort to reduce the risk of Sexual Misconduct, the College uses a range of campaigns, strategies, and initiatives to provide awareness, education, risk reduction, and prevention.

It is the College's practice to offer programming to prevent Sexual Misconduct. Educational programs are offered to raise awareness for all incoming students and employees. These programs and others offered throughout the year include strong messages regarding awareness as well as primary prevention (including normative messaging, environment management and bystander intervention), and they discuss institutional policies and procedures on Sexual Misconduct as well as the Wisconsin definitions of "domestic violence," "dating violence," "sexual assault," "stalking," and "consent" in reference to sexual activity. Bystander engagement is encouraged through safe and positive intervention techniques and by empowering third-party intervention and prevention such as calling for help, using intervention-based apps, identifying allies, and creating distractions.

College programs also offer information on risk reduction that strives to empower victims by teaching them how to recognize warning signals and how to avoid potential attacks, and it does so without victim-blaming approaches. Throughout the year, ongoing awareness and prevention campaigns are directed to students and employees, including faculty, often taking the form of e-mails, guest speakers, training, lunch and learns, videos, and other campaigns.



## SEXUAL MISCONDUCT – SERVICES AND RESOURCES

The College takes Sexual Misconduct very seriously. The College employs interim protection measures such as interim or temporary suspensions and no-contact orders in any case where a person's behavior creates a risk or threat of violence or predation. If a person is accused of Sexual Misconduct, the person is subject to action in accordance with the Student Handbook or Employee Handbook, as applicable. Anyone with knowledge about Sexual Misconduct is encouraged to report it immediately.

If you are the victim of Sexual Misconduct, some or all of these safety suggestions may guide you after an incident has occurred:

- 1) Go to a safe place and speak with someone you trust. Tell this person what happened. If there is any immediate danger call 911.
- 2) Consider securing immediate professional support (e.g.: counseling, victim advocacy, medical services) to assist you in the crisis. Community Resources are listed at the end of this policy.
- 3) For your safety and well-being, immediate responsive attention is encouraged:
  - Being examined as soon as possible, ideally within 120 hours (about 5 days), is important in the case of rape or sexual assault. The hospital will arrange for a specific medical examination at no charge.
  - To preserve evidence, it is recommended that you do not bathe, shower, douche, eat, drink, smoke, brush your teeth, urinate, defecate, or change clothes before receiving medical attention. Even if you have already taken any of these actions, you are still encouraged to seek prompt medical care, and evidence may still be recoverable.
  - Typically, if police are involved or will be involved, they will obtain evidence from the scene, and it is best to leave things undisturbed until their arrival. They will gather bedding, linens, or unlaundered clothing and any other pertinent articles that may be used for evidence. It is best to allow police to secure items in evidence containers, but if you are involved in transmission of items of evidence, such as to the hospital, secure them in a clean paper bag or clean sheet, to avoid contamination.
  - If you have physical injuries, photograph them or have them photographed, with a date stamp on the photo.

- Record the names of any witnesses and their contact information. This information may be helpful to the proof of a crime, to obtain an order of protection, or to offer proof of a campus policy violation.
  - Try to memorize details (physical description, names, license plate number, car description), or even better, write notes to remind you of details, if you have time and the ability to do so.
  - If you obtain external orders of protection (e.g., restraining orders, injunctions, protection from abuse), please notify Security or the College Title IX Coordinators so that those orders can be observed on campus.
- 4) Even after the immediate crisis has passed, consider seeking support from local Community Resources (outlined at the end of this procedure).
  - 5) Contact the Director of Student Development or the Director of Talent, as applicable, if you need assistance with College-related concerns, such as no-contact orders or other protective measures. The Director of Student Development will also assist in any needed advocacy for students who wish to obtain protective or restraining orders from local authorities. The College is able to offer reasonable academic assistance, transportation assistance, escorts, no-contact orders, counseling services, access and other supports and resources as needed by a victim.

## COLLEGE PROCESSES

College sanctions for Sexual Misconduct range from warnings through expulsion or termination of employment, as applicable. Sexual Misconduct is a type of discrimination that is subject to the College's Harassment and Discrimination Reporting Procedure. If a person believes they were subject to an act of discrimination or harassment, including Sexual Misconduct, they may report the discrimination or harassment to the College pursuant to that Procedure.

## SEX OFFENDERS

In accordance with the Campus Sex Crimes Prevention Act of 2000, which amends the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, the Jeanne Clery Act, the Family Educational Rights and Privacy Act (FERPA) of 1974 and State law, the College is to provide a link to the Wisconsin State Sex Offender Registry. All sex offenders are required to register in the state of Wisconsin and to provide notice of each institution of higher education in Wisconsin at which the person is employed, carries a vocation or is a student.

Wisconsin State Sex Offender Registry: <https://offender.doc.state.wi.us/public/>

In addition to the above notice to the State of Wisconsin, all sex offenders are required to deliver written notice of their status as a sex offender to the College's Director of Student Development (in the case of students) or to the College's Director of Talent (in the case of employees) no later than three (3) business days prior to their enrollment in, employment with or volunteering at the College. Such notification may be disseminated by the College to, and for the safety and well-being of, the College community, and may be considered by the College for enrollment and corrective action purposes.

### Campus Resources

Resource	Contact	Phone
All Emergencies		911
Security Manager	John Faeh	262-335-5705
Title IX Coordinators	Kim Schwamn Beth Mendoza	262-335-5881 920-929-2139
Equal Opportunity Officers	Leslie Laster Karli Resch	920-924-6355 920-924-3445
Aurora Employee Assistance Program (Employees only)		800-236-3231
*MPTC Counseling Services (Students only)		920-924-3207

Counseling is available Monday through Friday, 8:00 a.m. to 4:30 p.m., virtually, by phone or in person.

\* If you are in crisis when MPTC Counseling Services are closed, please use the resources listed below. MPTC Counseling Services provide short-term personal counseling, and career and academic counseling to help you reach your goals and stay mentally healthy while attending college.

### Community Resources

All Emergencies	911
National Suicide Prevention Hotline	800-273-8255
<u>Fond du Lac:</u>	
FDL County Mental Health Care Center	920-929-3535
Solutions Center - Shelter and Domestic Violence Services	920-923-1700
ASTOP Sexual Assault Hotline	920-926-5395
St. Agnes Hospital ER - 430 East Division	920- 929-2300

West Bend:

Mental Health Services Crisis Intervention 262-365-6565 or  
866-906-6565

Friends of Abused Families Domestic and Sexual Violence Shelter 262-334-7298  
St. Joseph's Hospital ER - 3200 Pleasant Valley Rd. 262-334-5533

Beaver Dam:

Dodge County Mental Health/Crisis Services 920-386-3500  
PAVE Domestic Abuse and Sexual Assault Services 800-775-3785  
Beaver Dam Community Hospital ER - 707 S. University Ave 920-887-7181

## Procedure History:

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

Revision Date	Author	Description
02-17-2021	Student Services/Talent/Stettbacher	Creation
03-22-2022	Schwamn/Faeh/Mendoza	Update reporting contact, add advisor, and VAWA definition

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The official version of this information will only be maintained in an on-line web format. Any and all printed copies of this material are dated as of the print date. Please make certain to review the material on-line prior to placing reliance on a dated printed version.

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