Section 1- Purpose

The purpose of this process is to comply with Wisconsin Statute, Section 66.0509, and to provide for the exclusive internal method of resolving all nonrepresented employee appeals concerning discipline, discharge and workplace safety.

Section 2- Definitions

Appeal- Any appeal regarding discipline or workplace safety as defined in this policy. Employees eligible to bring appeals as set forth under this process are any full-time, part-time, temporary or limited term employee on the payroll of the District not covered by a collective bargaining agreement with either a complaint, appeal or grievance procedure, and who has a personal appeal as defined in this policy.

Days- All days listed in this procedure are regular business days when the District is open for business, unless otherwise defined. Weekends, holidays and days when the District is closed for business are excluded.

Discipline- Employment action that includes oral or written discipline submitted to an employee’s personnel file, suspension without pay, disciplinary demotion, or disciplinary discharge.

Discipline under this procedure shall not include: voluntary termination, non-renewal (covered by District Policy C0505), retirement, layoff, failure to be recalled from layoff, discharge due to lack of work or position elimination, reorganization, expiration of a limited term or temporary assignment, expiration or non-disciplinary termination of a non-certified employee contract with thirty (30) calendar days notice; any action taken due to lack of qualifications or lack of license/certification for the position or medical inability to perform the functions of the position, non-disciplinary demotion, transfer, change of assignment, actions taken to address work performance including providing guidance or counseling, a performance improvement plan, adverse performance evaluation, non-disciplinary wage or benefit changes. Suspension pending investigation may be appealed if discipline as defined herein is issued following the investigation.

Workplace Safety- Conditions of employment relating to safety of the individual employee’s physical work environment, tools and equipment, protective equipment,
training and warning requirements. However, no determination relating to workplace safety involving an employee by any state or federal agency or regulatory body may be the subject of an appeal. Safety appeals may only be filed by an employee who is presently affected by the issue.

Section 3- Covered Employees and Discipline and Workplace Safety Appeals

Full-Time Employees - employees who are regularly scheduled to work 30 hours or more per week may be disciplined or discharged for good cause during the term of their contract. "Good cause" for discharge may include, but is not limited to: failure to satisfactorily perform assigned duties; disregard for college policies and procedures; excessive absenteeism; misconduct; conduct which endangers the health, safety, or property of others or of MATC; theft; dishonesty; unlawful conduct; other causes.

Limited Term and Part-Time Employees – employees who are employed for a defined period of time or who are regularly scheduled to work less than 30 hours per week may be disciplined or discharged at any time provided the reason for said action is not arbitrary and capricious.

Probationary Employees - may be disciplined or discharged at any time during the probationary period. The review and appeal process is limited to that contained below in Section 4. See Policy CO505.

A. Types of Discipline:

Discipline may include verbal warning (which will be confirmed in writing) written warning, suspension, demotion, discharge, or other action. The level of discipline to be taken will be determined by the supervisor in consultation with the associate vice president of Human Resources and Labor Relations or designee. Discipline, including written warning, suspension, demotion, or discharge may be imposed without prior warning or progressive discipline when deemed the appropriate level of discipline by the district.

B. Suspension/Demotion:

1. Suspension Pending Investigation

An employee may be immediately suspended with or without pay during the pendency of an investigation to determine the appropriate level of final discipline or in other circumstances the
associate vice president of Human Resources and Labor Relations or the president determines is appropriate.

2. Disciplinary Suspension/Demotion, Verbal and Written Warnings

Where the discipline involves a verbal or written warning or a disciplinary suspension or demotion, the employee may request a meeting with the division head prior to the levying of the suspension or demotion. Said meeting shall consist of a presentation by the employee's supervisor of a summary of the reasons for the discipline. The employee will be given an opportunity to present facts and reasons contesting the discipline. The division head shall consider the information presented by both sides and decide whether to uphold the recommended discipline. If the discipline is upheld it shall become effective when designated by the supervisor. If the division head is the immediate supervisor, the associate vice president of Human Resources and Labor Relations shall designate another individual to consider the information presented and render a decision. With respect to verbal or written warnings the decision at this level shall be final.

C. Discharge:

The immediate supervisor of an employee may initiate discharge procedures. A summary of the reasons for the recommended discharge will be presented by the immediate supervisor to the employee. The employee will be given an opportunity to present facts and reasons contesting the discharge before the division head. The division head shall consider the information presented by both sides and decide whether to uphold the recommended discharge. If the division head is the immediate supervisor, the associate vice president of Human Resources and Labor Relations will designate another individual to review the discharge decision. The associate vice president of Human Resources and Labor Relations will review the record with the appropriate vice president and the president. The president then will issue a decision to uphold/deny or modify the decision or action taken. If upheld, the employee will be notified in writing of the effective date of discharge.
D. Workplace Safety:

The employee may request a meeting with the division head on an issue involving workplace safety. The employee shall first present facts and information relating to the issue. The supervisor shall also present facts and information relating to the issue. The division head shall consider the information presented by both parties and make a decision. If the division head is the immediate supervisor, the associate vice president of Human Resources and Labor Relations shall designate another individual to consider the information presented and render a decision.

Section 4- Appeal Process

Appeals shall be processed in accordance with the following procedure and timelines established. All interested parties shall accurately maintain and preserve relevant information and documents.

Step 1- Review by Impartial Hearing Officer

If the appeal involves a disciplinary suspension, a disciplinary discharge, a disciplinary demotion or a workplace safety issue, as defined herein, the employee may appeal the decision to an Impartial Hearing Officer (IHO). The appeal must be in writing to the associate vice president, Human Resources and Labor Relations within five (5) working days of the issuance of the final decision set forth in Section 3. The appeal must include: a) the name and signature of the employee; b) a clear and concise statement of the action or decision being appealed; c) the date of the event or issue giving rise to the appeal; d) reason(s) why the aggrieved employee disagrees with the action or decision; e) any documentary evidence that the employee believes supports their appeal; f) if applicable, names of relevant witnesses; and g) the relief or remedy requested.

The IHO shall be appointed by the District and shall be a disinterested person, external to the College. The cost of the IHO shall be paid by the District. The District has the authority to hire a court reporter if they deem necessary. Charges for this service will be paid by the District. The employee may request a copy of the deposition transcript at their own cost.

The hearing will be held as soon as practical according to the following procedures. The employee and the District will be allowed a maximum of three (3) hours to present necessary information at the hearing. Evidence may be presented, witnesses may be sworn in and give testimony, and subpoenas may
be issued. The IHO shall provide a written decision to the parties within fifteen (15) work days of the hearing.

With respect to issues involving suspension and discharge for non-probationary full-time employees, the IHO’s decision shall be based on whether the decision of the College was for good cause.

With respect to discharge issues involving probationary employees, the IHO will review whether or not the District’s action was taken within the probationary period.

With respect to issues involving suspension or discharge of part-time or limited term (prior to the expiration of assignment) employees, the IHO will review whether or not the District’s action was arbitrary and capricious.

With respect to issues involving workplace safety, the IHO’s decision shall be based on whether the decision of the College resulted in an unsafe workplace.

The decision of the IHO shall be limited to denial of the appeal or granting the appeal. The decision of the IHO shall be limited to the precise issue raised in the appeal at the time of the appeal to the IHO. The IHO shall have no authority to add, modify or delete from the policies, procedures, rules and guidelines of the District.

### Step 2- Review by the District Board

If the appeal is not resolved at Step 1, either party may appeal the IHO’s decision to the District Board. The appeal must be filed within five (5) working days of the IHO’s decision to the associate vice president, Human Resources and Labor Relations. The appealing party must state why they disagree with the decision at Step 1 and include the information specified in items “a”) through “g”) as described in Step 1 above. If requested by the appealing party, the Board shall schedule a meeting to review the decision of the IHO.

The meeting before the Board will consist of oral presentation by both sides. The review of the Board will be limited to the oral presentations and a paper review of the evidence from the IHO hearing and a review of the IHO’s decision. Parties will not be allowed to call witnesses to testify. The employee and the District will be allowed a maximum of twenty (20) minutes each to state their respective positions. The meeting will be presided over by Board Counsel. Board Counsel will ask questions on behalf of the Board. If a meeting is not requested, the
Board shall review evidence from the hearing before the IHO and the decision of the IHO.
With respect to issues involving suspension and discharge for non-probationary full-time employees, the Board's decision shall be based on whether the decision of the College was for good cause.

With respect to discharge issues involving probationary employees, the Board will review whether or not the District's action was taken within the probationary period.

With respect to issues involving suspension or discharge of part-time or limited term (prior to the expiration of assignment) employees, the Board will review whether or not the District's action was arbitrary and capricious.

With respect to issues involving workplace safety, the Board's decision shall be based on whether the decision of the College resulted in an unsafe workplace.

Within fifteen (15) days of the meeting, if one is held, or within thirty (30) days of receipt of the appeal, the Board shall issue a written decision to uphold or reverse the decision of the IHO. If the disciplinary suspension, demotion, or discharge is overturned, the employee may be compensated for any lost wages in earnings, in whole or in part. Furthermore, at the board's discretion, all documents relating to the action may be modified or removed from all pertinent files and records, to the extent permitted by law. The decision of the Board shall be final and binding.

Section 5 – Discipline, Discharge Workplace Safety Issues of the District President

A decision to discipline, suspend or terminate the President by the Board shall be subject to review in a hearing before an IHO. In accord with the procedures set forth in Section 4, said Officer shall hear the appeal and determine whether the discipline, suspension or discharge of the President is consistent with the terms of the President’s employment agreement and nothing contained in the policy shall modify the terms of the President’s employment agreement and/or the bases upon which the President’s employment agreement may be terminated.

The IHO shall issue a determination regarding the discipline, suspension or discharge of the President. This determination shall be forwarded to the Board which shall affirm, reverse or modify the IHO’s determination at its discretion. The decision of the Board shall be final.
Any workplace safety concern raised by the President shall be reviewed by the Chair of the Board who may at his or her discretion resolve the issue raised by the President. The President may then appeal the Chair’s decision to an IHO. In accord with the procedures set forth in Section 4, the IHO shall hear the appeal and determine if the Chair’s decision is arbitrary and capricious. If so, the Chair’s decision shall be reversed by the IHO. Either party may appeal the decision of the IHO to the full Board. The full Board shall determine at its sole discretion whether to sustain, reverse or modify the IHO decision. The decision of the Board shall be final.

Section 6- Role of Human Resources

A representative from human resources may attend any of the meetings authorized by this procedure. All documents filed in accordance with this policy shall be copied to Human Resources.

Section 7- Compensation for Non-Exempt Employees

A non-exempt employee will not be compensated for time spent pursuing an appeal during non-scheduled hours.

Section 8- Time Limits Substantive

Failure of an employee to file and process the appeal within the time limits set forth in this policy shall be deemed a waiver of the appeal. The time limits in this policy may, however, be extended by the mutual consent of the College and the employee. Further, the College may extend deadlines for its performance, as it deems necessary, and provide the employee notice of such extensions.

Section 9- Non-Renewal

This policy does not apply to employees whose contracts are non-renewed pursuant to Wis. Stat., § 118.22. (See Policy C0505)

Section 10- Effective Date, Modifications and Interpretation

This policy is effective immediately upon its adoption and supersedes all prior policies on this matter. This policy is subject to modifications or rescission at any time by the District Board.