



## POLICY

Title: EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION	Code: F0104
Authority: Board Minutes: 10/22/13, 08/25/20	Original Adoption: 10/22/13 Revised/Reviewed: 08/17/20 Effective: 08/25/20

Milwaukee Area Technical College (MATC) affirms its commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. All concerns arising under this policy are subject to resolution using the college's Equity Grievance Process. The Equity Grievance Process is applicable regardless of the status of the parties involved, who may be members or non-members of the campus community, students, student organizations, faculty, administrators and/or staff. The college reserves the right to act on incidents occurring on-campus. The college also reserves the right to act on incidents occurring off-campus, when the off-campus conduct could have an on-campus impact or impact on the educational mission of the college.

This policy applies to behaviors that take place on the campus, at college-sponsored events and may also apply off-campus and to actions online when the Title IX Coordinator or Vice President of Human Resources determines that the off-campus conduct affects a substantial college interest. A substantial college interest is defined to include, but is not limited to:

- a) Any action that constitutes criminal offense as defined by federal, state or local law. This includes, but is not limited to, single or repeat violations of any local, state or federal law committed in any municipality where MATC is located;
- b) Any situation where it appears that the accused individual may present a danger or threat to the health or safety of self or others;
- c) Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
- d) Any situation that is detrimental to the educational interests of the college.
- e) Any online postings or other electronic communication, including cyber-bullying, cyberstalking, cyber-harassment, etc. occurring completely outside of MATC's control (e.g. not on college networks, websites or between college email accounts) will only be subject to this policy when those online behaviors can be shown to cause a substantial on-campus disruption. Otherwise, such communications are considered speech protected by the 1<sup>st</sup> Amendment.



Title: EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION	Code: F0104
---------------------------------------------------------------	-------------

Inquiries about this policy may be made internally to:

Vice President, Human Resources  
Milwaukee Area Technical College  
700 West State Street, Room M254  
Milwaukee, WI 53233-1443  
414-297-6221

Vice President of Retention and Completion  
Milwaukee Area Technical College  
700 West State Street, Room M278  
414-297-6279

Inquiries may be made externally to:

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

Equal Employment Opportunity Commission (EEOC)  
Contact: <http://www.eeoc.gov/contact/>

## 1. College Policy on Nondiscrimination

MATC adheres to all federal and state civil rights laws banning discrimination in public institutions of higher education. MATC will not discriminate against any employee, applicant for employment, student or applicant for admission on the basis of race, color, sex, pregnancy, political affiliation, source of income, place of business, residence, religion, creed, ethnicity, national origin (including ancestry), citizenship status, physical or mental disability, age, marital status, family responsibilities, sexual orientation, gender, gender identity, veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), predisposing genetic characteristics, domestic violence victim status or any other protected category under applicable local, state or federal law, including protections for those opposing discrimination or participating in any complaint process on campus or within the Equal Employment Opportunity Commission or other human rights agencies.



Title: EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION	Code: F0104
------------------------------------------------------------	-------------

This policy covers nondiscrimination in employment and in access to educational opportunities. Therefore, any member of the campus community, guest or visitor who acts to deny, deprive or limit the educational, employment, and/or social access, benefits and/or opportunities of any member of the campus community on the basis of their actual or perceived membership in the protected classes listed above is in violation of the college's policy on nondiscrimination. When brought to the attention of the college, any such discrimination will be appropriately remedied by the college according to the procedures below.

## **2. College Policy on Discriminatory Harassment**

Students, staff, administrators, and faculty are entitled to a working environment and educational environment free of discriminatory harassment. MATC's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters. The sections below describe the specific forms of legally prohibited harassment that are also prohibited under college policy.

### **a. Discriminatory and Bias-Related Harassment**

Harassment constitutes a form of discrimination that is prohibited by law. MATC's harassment policy explicitly prohibits any form of harassment on the basis of actual or perceived membership in a protected class, by any member or group of the community, which creates a hostile environment, both objectively and subjectively.

A hostile environment may be created by oral, written, graphic, or physical conduct that is sufficiently severe, persistent or pervasive so as to interfere with, limit or deny the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits or opportunities. Merely offensive conduct and/or harassment of a generic nature not on the basis of a protected status may not result in the imposition of discipline under college policy, but may be addressed through remedial actions, education and/or effective conflict resolution mechanisms.

MATC condemns and will not tolerate discriminatory harassment against any employee, student, visitor or guest on the basis of any status protected by college policy or law.



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Title: EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION	Code: F0104
------------------------------------------------------------	-------------

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**b. Sexual Harassment<sup>1</sup>**

Both the Equal Employment Opportunity Commission (EEOC) and the State of Wisconsin regard sexual harassment as a form of sex/gender discrimination and, therefore, as an unlawful discriminatory practice. MATC has adopted an amended version of the EEOC definition of sexual harassment, in order to address the special environment of an academic community, which consists not only of employer and employees, but of students as well.

Sexual harassment is:

- unwelcome, sexual or gender-based verbal, written or physical conduct that is,
- sufficiently severe, persistent or pervasive that it,
- has the effect of unreasonably interfering with, denying or limiting employment opportunities or the ability to participate in or benefit from the college's educational, social and/or residential program, and is
- based on power differentials (quid pro quo), the creation of a hostile environment or retaliation.

**POLICY EXPECTATIONS WITH RESPECT TO CONSENSUAL RELATIONSHIPS**

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of this policy. The college does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the college. For the personal protection of members of this community, relationships in

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<sup>1</sup> CC0200, Interim Process for Resolving Complaints of Harassment, Sexual Misconduct and Other Forms of Discrimination, includes a definition of sexual harassment that is consistent with the 2020 Title IX regulations issued by the Office for Civil Rights of the U.S. Department of Education and includes a grievance process that applies when the allegations fall under that definition, which includes forms of sexual harassment, sexual assault, dating violence, domestic violence, and stalking when such conduct is sexual in nature or is alleged to have occurred on the basis of sex.



Title: EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION	Code: F0104
------------------------------------------------------------	-------------

which power differentials are inherent (faculty-student, staff-student, administrator-student) are generally discouraged.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor, and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or shift a party out of being supervised or evaluated by someone with whom they have established a consensual relationship. While no relationships are prohibited by this policy, failure to self-report such relationships to a supervisor as required can result in disciplinary action for an employee.

**c. Sexual Misconduct**

State law defines various violent and/or non-consensual sexual acts as crimes. Additionally, MATC has defined categories of sexual misconduct, as stated below, for which action under this policy may be imposed. Generally speaking, MATC considers Non-Consensual Sexual Intercourse violations to be the most serious, and therefore typically imposes the most severe sanctions, including suspension or expulsion for students and termination for employees. However, MATC reserves the right to impose any level of sanction, up to and including suspension or expulsion/termination, for any act of sexual misconduct or other gender-based offenses based on the facts and circumstances of the particular complaint. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, gender, sexual orientation and/or gender identity of those involved. Violations include:

**i. Sexual Harassment<sup>2</sup>**

Defined as:

- unwelcome, sexual or gender-based verbal, written or physical conduct that is,
- sufficiently severe, persistent or pervasive that it,
- has the effect of unreasonably interfering with, denying or limiting

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<sup>2</sup> CC0200, Interim Process for Resolving Complaints of Harassment, Sexual Misconduct and Other Forms of Discrimination, includes a definition of sexual harassment that is consistent with the 2020 Title IX regulations issued by the Office for Civil Rights of the U.S. Department of Education and includes a grievance process that applies when the allegations fall under that definition, which includes forms of sexual harassment, sexual assault, dating violence, domestic violence, and stalking when such conduct is sexual in nature or is alleged to have occurred on the basis of sex.



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Title: EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION	Code: F0104
------------------------------------------------------------	-------------

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- employment opportunities or the ability to participate in or benefit from the university's educational, social and/or residential program, and is
- based on power differentials (quid pro quo), the creation of a hostile environment or retaliation.

**ii. Non-Consensual Sexual Intercourse**

Defined as:

- any sexual penetration or intercourse (anal, oral or vaginal)
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force

Sexual penetration includes vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation by mouth to genital contact or genital to mouth contact.

**iii. Non-Consensual Sexual Contact**

Defined as:

- any intentional sexual touching
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force

Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

**iv. Sexual Exploitation**

Sexual Exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and situations in which the conduct does not fall within the definitions of sexual harassment, non-consensual sexual intercourse or non-consensual sexual contact. Examples of sexual exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed)



Title: EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION	Code: F0104
------------------------------------------------------------	-------------

- Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent)
- Prostitution
- Sexual exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) and without informing the other person of the infection, and further includes administering alcohol or drugs (such as "date rape" drugs) to another person without his or her knowledge or consent.

#### **v. Consent**

Consent is knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct.

A person cannot consent if he or she is unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.

It is not an excuse that the individual respondent of sexual misconduct was intoxicated and, therefore, did not realize the incapacity of the other. Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the "who, what, when, where, why or how" of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint and/or from the taking of incapacitating drugs.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the



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Title: EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION	Code: F0104
------------------------------------------------------------	-------------

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context in which the alleged incident occurred and any similar previous patterns that may be evidenced. Silence or the absence of resistance alone is not consent. A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue, and, if that happens, the other person must stop immediately.

In Wisconsin, a minor (meaning a person under the age of 18 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 18 years old is a crime, as well as a violation of this policy, even if the minor wanted to engage in the act.

**vi. Statutory Compliance**

MATC shall comply with Section 38.12 Wis. Stats., by incorporating in its orientation program for newly entering student's oral and written information on sexual assault and sexual harassment. Furthermore, MATC shall provide written information to every student annually. Coordination of compliance with this legislation is the responsibility of the Vice President of Retention and Completion.

The MATC District Board shall annually submit a report to the Chief Clerk of each house of the legislature for distribution to the appropriate standing committees. This report shall indicate the methods the district board has used to comply with the requirements for both newly entering students and all students as required by the law.

The Wisconsin Technical College System District Board prohibits and will not tolerate the harassment of any employee or student by supervisory personnel, co-workers, students, or visitors.

**3. Other Civil Rights Offenses, When the Act is Based Upon the Status of a Protected Class**

- Threatening or causing physical harm, extreme verbal abuse or other conduct which threatens or endangers the health or safety of any person on the basis of their actual or perceived membership in a protected class
- Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of their actual or perceived membership in a protected class
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another on the basis of actual or perceived membership in a protected class
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the college community, when related to





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Title: EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION	Code: F0104
------------------------------------------------------------	-------------

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the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the hazing policy) on the basis of actual or perceived membership in a protected class; hazing is also illegal under Wisconsin Statute 948.51 and prohibited by college policy

- Bullying, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally on the basis of actual or perceived membership in a protected class
- Violence between those in an intimate relationship to each other on the basis of actual or perceived membership in a protected class (this includes romantic relationships, domestic and/or relationship violence)
- Stalking, defined as a course of conduct directed at a specific person on the basis of actual or perceived membership in a protected class that is unwelcome and would cause a reasonable person to feel fear
- Any other College rules, when a violation is motivated by the actual or perceived membership of the victim in a protected class, may be pursued using this policy and process

#### **4. Retaliation**

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Retaliation against an individual for alleging harassment, supporting a complainant or for assisting in providing information relevant to a claim of harassment, is a serious violation of MATC policy and will be treated as another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Vice President of Human Resources, the Title IX Coordinator, or designee and will be promptly investigated. MATC is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

#### **5. Remedial Action**

MATC will implement initial remedial and responsive actions upon notice of alleged harassment, retaliation and/or discrimination, and will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest or visitor who has been found to engage in harassing or discriminatory behavior or retaliation. Procedures for handling reported incidents are fully described in Procedure CC0200. Deliberately false and/or malicious accusations of harassment, as opposed to complaints which, even if erroneous, are made in good faith, are just as serious an offense as harassment and will be subject to appropriate disciplinary action.

#### **6. Confidentiality and Reporting of Offenses Under This Policy**



Title: EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION	Code: F0104
---------------------------------------------------------------	-------------

MATC officials, depending on their roles at the college, have varying reporting responsibilities and abilities to maintain confidentiality. In order to make informed choices, one should be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, trained counselors acting in a crisis counseling role and EAP resources may maintain confidentiality, offering options and advice without any obligation to inform an outside agency or individual unless the reporting individual requested information to be shared.

All other campus resources will take action when you report victimization to them, while making efforts to afford as much privacy to the reporter as possible under the circumstances and sharing information on a need to know basis.

### **a. Reporting Options**

Complainants are encouraged to speak to College officials, such as the Title IX Coordinator, Director of Student Life, director of Athletics, Human Resources staff, Campus Police, etc. to make formal reports of incidents of sexual misconduct. Complainants have the right, and can expect, to have complaints taken seriously by the college when formally reported, and to have those incidents investigated and properly resolved through these procedures. Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told. Information will be shared as necessary with investigators, witnesses and the accused student/respondent. The circle of people with this knowledge will be kept as tight as possible to preserve a complainant's rights and privacy.

## **7. Federal Timely Warning Obligations**

Victims of sexual misconduct should be aware that college administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. The college will make every effort to ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.