

Mohawk College Sexual Assault and Sexualized Violence Policy

Frequently Asked Questions

1. What is the process to be followed by persons who wish to report an incident of, or make a complaint about, sexual violence?

As per Mohawk College Sexual Assault and Sexualized Violence Policy

Disclosing and Reporting:

Members of the College Community who experience sexual assault or sexualized violence may choose none, one or all of the following reporting options:

Disclosure is the act of sharing information in order to receive support and services and/or to learn about options for reporting an incident of sexual assault or sexualized violence. An individual who has been affected may disclose information about the incident(s) to a trusted member of the College Community who can help them access supports and services.

College employees who receive disclosures are **obligated to report** the incident to Mohawk College Security Services, but will not identify the survivor without consent. This reporting is required to enable the College to comply with Section 7.3 of Ontario Regulation 131/16, Sexual Violence at Colleges and Universities, under the Ministry of Training, Colleges and Universities Act, which requires reporting to the Minister *“The number of incidents and complaints of sexual violence reported by students, and information about such incidents and complaints.”* Names and personal information are not included in these reports.

Informal Report is an allegation of a violation of this policy made by a survivor to Mohawk College Security Services; this type of report may not result in a formal investigation by the College. The survivor may choose to make a Formal College Report at a later time to initiate a formal investigation by the college. An Informal Report results in a Risk Assessment to ensure the survivor receives supports and services and helps the College ensure a safer environment for everyone. If a risk to the safety of the survivor and/or the College Community is identified, Security Services will conduct an investigation and may inform the police of the need for a criminal investigation. The survivor has the right to choose not to participate in any investigation arising from an Informal Report.

Formal College Report is an allegation of a violation of this policy made by a survivor to Security Services in order to initiate an investigation. This type of report may not be made anonymously, and the College is obligated to inform respondents of allegations made against them. Making a Formal College Report does not prevent the survivor from also reporting the incident to police.

Formal Police Report refers to the process of reporting a crime (e.g. sexual assault, criminal harassment) to the police who will conduct an investigation that may result in criminal charges. This type of report cannot be made anonymously. Security cannot report to police on behalf of the survivor, but will offer to assist the individual in doing so.

Third Party Report is the act of sharing information with Mohawk College Security Services by any member of the College Community who has witnessed, has knowledge of, or has received a Disclosure of an incident of sexualized violence. Those making Third Party reports will not identify the survivor without consent. Members of the College Community can make these reports in person, by phone, or by using a Mohawk College webpage for anonymous reporting. Security Services will manage Third Party Reports as Informal Reports.

2. What are some examples of the measures that may be implemented for the purpose of protecting a person reporting an incident of, or making a complaint about, sexual violence from retaliation and the threat of retaliation at Mohawk College?

As per Mohawk College Sexual Assault and Sexualized Violence Policy - Section 6.5

Protection from Reprisals, Retaliation or Threats - It is a violation of this Policy for anyone to retaliate, engage in reprisals or threaten to retaliate against a survivor or other individual for:

- having pursued rights under this Policy or the Ontario Human Rights Code;
- having participated or cooperated in an investigation under this Policy or the Ontario Human Rights Code; or
- having been associated with someone who has pursued rights under this Policy or the Ontario Human Rights Code.

The College will take reasonable steps to protect persons from reprisal, retaliation and threat; examples of such steps include advising individuals in writing of their duty to refrain from committing a reprisal, restricting an individual's access to areas of the campus, and restricting their communication.

3. What is the process at Mohawk College for deciding whether an incident or complaint of sexual violence will be investigated by the college?

The college will investigate all Formal College Reports or an Informal Report where results of the risk assessment identify a risk to the safety of the survivor and/or the College Community. The survivor has the right to choose not to participate in any investigation arising from an Informal Report.

For further clarity, these reporting options are further defined in the Sexual Assault Sexualized Violence Policy under Section 3 “Definitions”

“Formal College Report” is an allegation of a violation of this policy made by a survivor to Security Services in order to initiate an investigation. This type of report may not be made anonymously, and the College is obligated to inform respondents of allegations made against them. Making a Formal College Report does not prevent the survivor from also reporting the incident to police.

“Informal Report” is an allegation of a violation of this policy made by a survivor to Security Services; this type of report may not result in a formal investigation by the College but can help ensure the safety of the College community. The survivor may choose to make a Formal College Report at a later time to initiate a formal investigation by the College.

4. Does the victim/survivor have choice in requesting an investigation or the right not to participate in any investigation that may occur at Mohawk College?

As per Mohawk College Sexual Assault and Sexualized Violence Policy

Disclosures and Reporting Members of the College Community who experience sexualized violence may choose none, one or all of the following reporting options:

- Informal Report
 - The survivor has the right to choose not to participate in any investigation arising from an Informal Report.
- Formal College Report

Right to Withdraw a Report (Section 6.4): A survivor has the right to withdraw a report at any stage of the subsequent investigation process. Where a report has been withdrawn, the survivor may choose at any time to reactivate the report to continue with the investigation process. If the College determines that an incident about which a report has been withdrawn puts the safety of other members of the College Community at risk, it will conduct an internal investigation and/or may inform police. In these circumstances, the College will make every effort to protect the confidentiality and anonymity of person(s) affected.

5. What is the investigation and decision-making processes at Mohawk College that will take place if an incident or complaint of sexual violence is investigated?

As per the Mohawk College Sexual Assault and Sexualized Violence Policy Section 6.8

Investigation and Adjudication - Both the survivor and the respondent have the right to procedural fairness, which must prevail in all investigations. In order to adhere to College policies, standards and applicable collective agreements, specific investigation and adjudication procedures will apply when the respondent is a college employee, and another set of procedures will apply when the respondent is a student. These procedures will include appeal procedures.

As per Mohawk College Sexual Assault and Sexualized Violence Procedure for Students – Section 5.4

Investigation and Decision Making Procedures

- a. **Multiple Proceedings:** Survivors who file a report with Security Services may also choose to file a Formal Police Report or report through the civil courts or the Human Rights Tribunal of Ontario. When a report of sexualized violence results in civil or criminal proceedings, the College will conduct an independent investigation and make its own determination in accordance with its policies and procedures. The College will cooperate with any external investigations.
- b. **Procedural Fairness:** The College is committed to procedural fairness.
- c. **Support and Representation:** The College’s investigation and decision-making processes include individual meetings with the survivor and respondent. Each may attend these meetings accompanied by support persons of their own choosing whose role is providing support rather than participating.
- d. **Informal Resolution:** The College will support a process of informal resolution if both survivor and respondent agree to participate. If an attempt at informal resolution breaks down, the survivor has the right to choose to continue with a formal investigation.
- e. **Investigation:** In situations where police are not the primary investigators, Mohawk College Security Services will lead the investigation by collecting evidence and statements from the survivor, respondent, witnesses, and others as necessary. This may require more than one interview with each person. At no point during the investigation will the survivor be expected to meet face-to-face

with the respondent. Survivors have the right to choose not to participate in the investigation after their initial disclosure or report. The respondent may also choose not to participate. The College reserves the right to hire a third-party investigator to lead an investigation as required.

- f. **Investigation Timelines:** The survivor and respondent will each be informed about the progress of the investigation at least once every seven working days. The College will aim to complete its investigation within 10 working days.
- g. **Investigation Findings:** The standard of proof used by the College to conclude that a violation of this Policy has occurred is the Balance of Probabilities, which means the information and evidence gathered in the investigation indicates that the allegation is more likely to be true than not to be true.

If the investigator finds that there has been no violation of the Policy, the survivor and respondent will each be informed in writing that the investigation has been closed.

If the investigator finds that there has been a violation of this or another College policy, Mohawk College Security Services will provide the appropriate decision maker with a summary of the investigative report that includes any statements, evidence and relevant supporting documentation.

- h. **Formal Decisions and Sanctions:** The identity of the decision maker is determined by the respondent's role in the College, as outlined below.

The decision maker will review the summary investigative report and any relevant supporting documentation to determine whether a violation of the Policy has occurred, and will determine appropriate outcomes in consultation with others as required.

- **Where the Respondent is a Student** – If findings of the investigation substantiate a report of sexualized violence, the Dean of Students (or designate) will determine the appropriate disciplinary action. In keeping with the Student Behavior Policy (Appendix C), this may include measures up to and including expulsion.
- **Where the Respondent is a College Employee** – If findings of the College's investigation substantiate a report of sexualized violence, the Chief Human Resources Officer (or designate) will determine the appropriate disciplinary action consistent with any applicable laws College policies and their specific Terms and Conditions of Employment. Discipline could include measures up to and including termination.

- **Where the Respondent is not a Student or a College Employee –** Contractors, suppliers, volunteers or visitors to College property who engage in prohibited conduct will be subject to this policy. If a report of sexualized violence against the respondent is substantiated, the Vice President, Corporate Services (or designate) will determine appropriate College action, including imposition of penalties, cancellation of contracts, and other sanctions.
- i. **Written Decision:** The decision maker will inform the survivor and respondent of the results of the College’s investigation within seven (7) days of its conclusion in a written communication that includes a brief description of any corrective action that the College has taken or will take as a result of its investigation.
- j. **Appeals:** Procedures for appeals differ based on the respondent’s role in the College:
 - **Where the Respondent is a Student:** Students have the right to appeal. Appeals of violations of the Policy is governed by an amendment to the appeal procedure outlined in the Student Behaviour Policy (Appendix D). The amendment will specify that the College will appoint an independent third-party expert in appeal proceedings who is not a College employee as Chair of the appeal committee.
 - **Where the Respondent is a College Employee:** College employees who are members of a union may file a grievance as permitted by the applicable collective agreement. Administrative employees may appeal under the Terms and Conditions of Employment for Administrative Staff.
 - **Where the Respondent is not a Student or a College Employee:** There is no formal appeal process for violations by suppliers, volunteers or visitors.

6. What are the specific officials, offices or departments that will be involved in each stage of the investigation and decision-making processes at Mohawk College?

As per the Mohawk Sexual Assault and Sexualized Violence Procedure for Students – Section 5.4

Investigation: In situations where police are not the primary investigators, Mohawk College Security Services will lead the investigation by collecting evidence and statements from the survivor, respondent, witnesses, and others as necessary. This may require more than one interview with each person. At no point during the investigation will the survivor be expected to meet face-to-face with the respondent. Survivors have the right to choose not to participate in the investigation after their initial disclosure or report. The respondent may also choose not to participate. The College reserves the right to hire a third-party investigator to lead an investigation as required.

- **Where the Respondent is a Student** – If findings of the investigation substantiate a report of sexualized violence, the Dean of Students (or designate) will determine the appropriate disciplinary action. In keeping with the Student Behavior Policy (Appendix C), this may include measures up to and including expulsion.
- **Where the Respondent is a College Employee** – If findings of the College’s investigation substantiate a report of sexualized violence, the Chief Human Resources Officer (or designate) will determine the appropriate disciplinary action consistent with any applicable laws College policies and their specific Terms and Conditions of Employment. Discipline could include measures up to and including termination.
- **Where the Respondent is not a Student or a College Employee** – Contractors, suppliers, volunteers or visitors to College property who engage in prohibited conduct will be subject to this policy. If a report of sexualized violence against the respondent is substantiated, the Vice President, Corporate Services (or designate) will determine appropriate College action, including imposition of penalties, cancellation of contracts, and other sanctions.

7. What are the elements of procedural fairness that will be part of the investigation and decision-making processes at Mohawk College?

As per the Mohawk Sexual Assault and Sexualized Violence Policy Section 3 –

“Procedural Fairness” is achieved by informing respondents of all allegations and evidence against them, and by giving them reasonable notice of the time, place and nature of the meeting where they can respond to the allegations. It also involves providing survivors and respondents with information about the College’s investigation and decision-making processes, and ensuring that outcomes are determined by an impartial decision maker.

8. What are the rights that participants may have to legal or other representation, or to be accompanied by another person, during the investigation and decision-making processes at Mohawk College?

As per the Mohawk Sexual Assault and Sexualized Violence Procedure for Students – Section 5.4

Support and Representation: The College’s investigation and decision-making processes include individual meetings with the survivor and respondent. Each may attend these meetings accompanied by support persons of their own choosing whose role is providing support rather than participating.

9. What interim measures may be implemented while an incident or complaint is being investigated or a decision is being made regarding the incident or complaint at Mohawk College?

As defined in the Mohawk Sexual Assault and Sexualized Violence Policy

“Interim Measures” are restrictions placed on an individual’s rights and privileges in order to ensure the safety of the College Community and provide time for the College to determine its response and conduct an investigation. Examples of such measures include restricting access to certain parts of campus and/or attending class. The College may impose interim measures immediately, prior to a full investigation.

As per the Mohawk Sexual Assault and Sexualized Violence Procedure for Students – Section 5.3

Interim Measures - Interim measures will be imposed only as necessary. Imposing these measures does not represent a finding of misconduct and is not intended as a punitive measure. The College will take steps to minimize any academic impact.

10. What are some examples of the decisions that may be made and measures that may be imposed after an incident or complaint is investigated at Mohawk College?

As per the Mohawk Sexual Assault and Sexualized Violence Procedure for Students – Section 5.4

Formal Decisions and Sanctions: The identity of the decision maker is determined by the respondent's role in the College, as outlined below.

The decision maker will review the summary investigative report and any relevant supporting documentation to determine whether a violation of the Policy has occurred, and will determine appropriate outcomes in consultation with others as required.

Where the Respondent is a Student – If findings of the investigation substantiate a report of sexualized violence, the Dean of Students (or designate) will determine the appropriate disciplinary action. In keeping with the Student Behavior Policy (Appendix C), this may include measures up to and including expulsion.

Where the Respondent is a College Employee – If findings of the College's investigation substantiate a report of sexualized violence, the Chief Human Resources Officer (or designate) will determine the appropriate disciplinary action consistent with any applicable laws College policies and their specific Terms and Conditions of Employment. Discipline could include measures up to and including termination.

Where the Respondent is not a Student or a College Employee – Contractors, suppliers, volunteers or visitors to College property who engage in prohibited conduct will be subject to this policy. If a report of sexualized violence against the respondent is substantiated, the Vice President, Corporate Services (or designate) will determine appropriate College action, including imposition of penalties, cancellation of contracts, and other sanctions.

Written Decision: The decision maker will inform the survivor and respondent of the results of the College's investigation within seven (7) days of its conclusion in a written communication that includes a brief description of any corrective action that the College has taken or will take as a result of its investigation.

11. What measures will be implemented to protect and keep confidential the personal information of the persons involved in the investigation of an incident or complaint at Mohawk College?

As per the Mohawk Sexual Assault and Sexualized Violence Policy

Section 3 – “Confidentiality” is the term used in this policy to refer to the College’s responsibility and obligation to ensure that any private and personal information provided in a disclosure, report and/or investigation of sexualized violence is collected, used, maintained and secured appropriately (see section 7.3 of this policy). Circumstances in which limits to confidentiality apply are outlined in Section 6.7 of this policy. The College will make every effort to maintain confidentiality of all persons involved in a disclosure or report of sexualized violence including the survivor, respondent and witnesses. All persons participating in the process are required to maintain confidentiality with respect to information provided in the course of the disclosure, reporting, assessment and/or investigation of an incident of sexualized violence.

Section 7.3 - Information Storage and Security - Security Services will collect, maintain and secure all pertinent information gathered through Informal, Formal and Third Party Reports and subsequent investigations. Information will remain confidential. Aggregate data about the numbers of reports received annually will be shared as per section 7.4 of this policy.

12. What is the appeal processes that may be available related to decisions resulting from the investigation process?

As per the Mohawk Sexual Assault and Sexualized Violence Procedure for Students – Section 5.4

Appeals: Procedures for appeals differ based on the respondent’s role in the College:

Where the Respondent is a Student: Students have the right to appeal. Appeals of violations of the Policy is governed by an amendment to the appeal procedure outlined in the Student Behaviour Policy (Appendix D). The amendment will specify that the College will appoint an independent third-party expert in appeal proceedings who is not a College employee as Chair of the appeal committee.

Where the Respondent is a College Employee: College employees who are members of a union may file a grievance as permitted by the applicable collective agreement. Administrative employees may appeal under the Terms and Conditions of Employment for Administrative Staff.

Where the Respondent is not a Student or a College Employee: There is no formal appeal process for violations by suppliers, volunteers or visitors.

13. The roles and responsibilities of senior administrators, students, faculty, other employees, contractors and witnesses upon becoming aware of incidents or complaints of sexual violence.

As per the Mohawk Sexual Assault and Sexualized Violence Policy

6.3 - Obligation to Report

College employees, governors, volunteers, appointees, suppliers, contractors, etc. who witness or have knowledge of sexualized violence have an obligation to make a Third Party Report immediately to Security Services. All other members of the College Community are strongly encouraged to make a Third Party Report to Security Services.