

Mohawk Valley Community College

3015 Sexual Harassment, Sexual Assault and Sexual Misconduct Policy

Policy Name:	3015 Sexual Harassment, Sexual Assault and Sexual Misconduct Policy (formerly Title IX Grievance Policy)
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Responsible Office:	Student Affairs

INTRODUCTION

Mohawk Valley Community College (“MVCC” or “the College”) is committed to fostering a safe, inclusive, and nondiscriminatory educational and working environment. The College prohibits all forms of sexual harassment, sexual assault, dating violence, domestic violence, and stalking. (referred to collectively, “sexual misconduct”)

This Policy establishes:

- Behavioral expectations for members of the College community;
- Definitions of prohibited conduct; and
- A framework for classifying and responding to reports of sexual misconduct.

Any member of the MVCC community found in violation of these policies may be subject to disciplinary action. The disciplinary actions the College may take will differ depending on the level of control the College has over the accused. Regardless of the level of disciplinary action that can be taken, MVCC is committed to remedying the effects of any sexual harassment or sexual misconduct and preventing its recurrence.

Title IX of the Educational Amendments of 1972 prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance. The U.S. Department of Education, which enforces Title IX, has long defined the meaning of Title IX’s prohibition on sex discrimination broadly to include various forms of sexual harassment and sexual violence that interfere with a student’s ability to equally access our educational programs and opportunities. The Title IX Regulation provides for a narrow geographic scope and specific definition of “sexual harassment” to matters that fall within the Title IX jurisdiction. Mohawk Valley Community College remains committed to addressing any violations of its policies, even those not meeting the narrow standards defined under the Title IX Regulation. In addition to this Policy, including its appendices, MVCC has:

- A [Code of Conduct](#) that defines certain behavior as a violation of campus policy, and a separate **Sexual Harassment Prevention Policy** that addresses prohibited sexual harassment for employees.

SCOPE OF POLICY

This policy applies to all students, faculty and employees of Mohawk Valley Community College. This policy applies to conduct on campus and in connection with any MVCC-sponsored program or activity; regardless of where it occurs. Additionally, off-campus conduct may violate this policy if the conduct creates a threatening or hostile environment on MVCC's campus or within a MVCC program, or if the incident causes concern for the safety or security of MVCC's campus community. Non-community members (e.g., family or friends of students, vendors, visiting athletes, etc.) visiting campus, participating in a MVCC program or activity or interacting with MVCC community members are expected to abide by the behavioral expectations in this policy. In compliance with New York State law, this policy protects employees, interns (whether paid or unpaid), and non-employees (including independent contractors) who are (or who are employed by) contractors, companies or organizations contracting to provide services to the College, regardless of immigration status.

General Rules of Application

Effective Date

This Title IX Grievance Policy will become effective on August 14, 2020, and will only apply to formal complaints of sexual harassment brought on or after August 14, 2020.

Non-Discrimination in Application

The requirements and protections of this policy apply equally to all individuals without regard to an individual's race, color, national origin, sex, religion, age, disability, gender, pregnancy, gender identity, sexual orientation, predisposing genetic characteristics, marital status, familial status, veteran status, military status, domestic violence victim status, or ex-offender status.

DEFINITIONS-CONDUCT VIOLATIONS

This policy sets forth conduct expectations for our community and provides a process for the reporting, investigation and adjudication of alleged violations. This policy applies to alleged conduct violative of Title IX of the Education Amendments of 1972 (i.e., "Title IX Category" violations) and also applies to a broader range of contexts and behaviors inconsistent with the College's commitment to equal opportunity (i.e., "College Category" violations). The designation of conduct or allegations as either "Title IX Category" or "College Category" is not necessarily a function of the seriousness of the alleged conduct but rather a function of the scope and coverage of Title IX versus the College's broader jurisdiction to prohibit and discipline a larger scope of inappropriate behavior.

Title IX Category Violations

Title IX of the Education Amendments of 1972 provides: "No person in the United States shall, on the basis of sex, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." In accordance with Title IX as interpreted by the Department of Education, the College recognizes the following as conduct violations within the meaning of Title IX, provided the context and

circumstances of the conduct fall within the scope of Title IX, including, but not limited to, that the Complainant was in the United States at the time of the alleged conduct, that the Complainant be participating in or seeking to participate in the College's education program or activity at the time of the complaint, and that the conduct has occurred in the context of the College's education program or activity.

1. Sexual harassment

- An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct (i.e., quid pro quo);
- Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the educational institution's education program or activity (i.e., a hostile environment)

2. Sexual assault

(as defined in the Clery Act). "Sexual assault" includes any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving affirmative consent. Sexual assault consists of the following specific acts:

1. Rape. The 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.
2. Criminal Sexual Conduct. The intentional touching of the clothed or unclothed genitals, buttocks, groin, breasts, or other body parts of the Complainant by the Respondent, without the consent of the Complainant, for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This definition also includes instances where the Respondent caused or directed the Complainant's intentional touching of the Respondent's clothed or unclothed genitals, buttocks, groin, breasts, or other body parts, without the consent of the Complainant, for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
3. Incest. Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
4. Statutory Rape. Non-forcible sexual intercourse with a person who is under the statutory age of consent.

3. Dating violence

(as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act), which includes any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on the Complainant's statement with consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; (iii) The frequency of interaction between the persons involved in the relationship. Dating violence does not include acts covered under the definition of domestic violence.

4. Domestic violence

(as defined in the VAWA amendments to the Clery Act), meaning felony or misdemeanor crimes of violence committed by a person who: (A) is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the applicable jurisdiction, or a person similarly situated to a spouse of the victim; (B) is cohabitating, or has cohabitated, with the victim

as a spouse or intimate partner; (C) shares a child in common with the victim; or (D) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

5. Stalking

(as defined in the VAWA amendments to the Clery Act), meaning engaging in a course of conduct directed at a specific person on the basis of sex that would cause a reasonable person to-- (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress. For purposes of this definition:

- “Course of conduct” means two or more acts, including but not limited to, acts in which the stalker directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens or communicates to or about a person, or interferes with a person’s property.
- “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- “Reasonable person” means a reasonable person under similar circumstances and with similar identities to the person against whom the stalking was committed.

College Category Violations

The College prohibits the following behavior. For purpose of College Category violations, the below conduct is prohibited even if the conduct occurs off-campus, outside the United States, the Complainant is not participating or seeking to participate in the college’s education program or activity, or otherwise in circumstances over which the College does not have influence or control, including but not limited to during college academic breaks. The College retains discretion, however, to not respond to, investigate or adjudicate circumstances in which no College interest is implicated.

1. Sexual harassment.

“Sexual harassment” means unwelcome, offensive conduct that occurs on the basis of sex, sexual orientation, self-identified or perceived sex, gender, gender expression, gender identity, gender-stereotyping or the status of being transgender, but that does not constitute sexual harassment as a Title IX Category Violation as defined above. Sexual harassment can be verbal, written, visual, electronic or physical. The fact that a person was personally offended by a statement or incident does not alone constitute a violation. Instead, the determination is based on a “reasonable person” standard and takes into account the totality of the circumstances. The College considers the context of a communication or incident, the relationship of the individuals involved in the communication or incident, whether an incident was an isolated incident or part of a broader pattern or course of offensive conduct, the seriousness of the incident, the intent of the individual who engaged in the allegedly offensive conduct, and its effect or impact on the individual and the learning community.

2. Sexual Assault.

“Sexual assault” includes any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent, but that does not constitute sexual assault as a Title IX Category Violation as defined above because of the broader definitional scope and/or the context in which it occurs (for example because the complainant was not in the United States at the time of the alleged conduct, because the complainant was not participating in or seeking to participate in the College’s education program or activity at the time of

the complaint, or because the conduct did not occur in the context of the College's education program or activity). Sexual assault consists of the following specific acts:

- **Rape.** The 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.
- **Criminal Sexual Conduct.** The intentional touching of the clothed or unclothed genitals, buttocks, groin, breasts, or other body parts of the Complainant by the Respondent, without the consent of the Complainant, for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This definition also includes instances where the Respondent caused or directed the Complainant's intentional touching of the Respondent's clothed or unclothed genitals, buttocks, groin, breasts, or other body parts, without the consent of the Complainant, for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
- **Incest.** Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape.** Non-forcible sexual intercourse with a person who is under the statutory age of consent.

3. **Dating Violence**

"Dating violence" means violence committed by a person: (1) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (2) where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship; but that does not constitute dating violence as a Title IX Category Violation as defined above because of the context in which it occurs (for example, because the complainant was not in the United States at the time of the alleged conduct, because the complainant was not participating in or seeking to participate in the College's education program or activity at the time of the complaint, or because the conduct did not occur in the context of the College's education program or activity).

4. **Domestic Violence**

"Domestic violence" means violence committed by a former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the College is located, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction, if the conduct does not constitute domestic violence as a Title IX Category Violation as defined above because of the context in which it occurs (for example because the complainant was not in the United States at the time of the alleged conduct, because the complainant was not participating in or seeking to participate in the College's education program or activity at the time of the complaint, or because the conduct did not occur in the context of the College's education program or activity).

5. **Stalking**

"Stalking" is engaging in a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to: (1) fear for his or her safety or the safety of others; or (2) suffer substantial emotional distress, but that does not constitute stalking as a Title IX Category Violation as defined above because of basis on which it occurs or the context in which it occurs (for example

because the complainant was not in the United States at the time of the alleged conduct, because the complainant was not participating in or seeking to participate in the College's education program or activity at the time of the complaint, or because the conduct did not occur in the context of the College's education program or activity).

6. Sexual Exploitation

Sexual exploitation occurs when, without affirmative consent, a person takes sexual advantage of another in a manner that does not constitute another violation under this Policy. Examples of sexual exploitation include, but are not limited to: prostitution, acts of incest, observing or recording (whether by video, still photo or audio tape) of a sexual or other private activity (such as consensual sexual activity, undressing or showering) without the affirmative consent of all involved; taking intimate pictures of another, but then distributing the pictures to others without the photographed person's affirmative consent; engaging in voyeurism, engaging in consensual sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) without informing the other person of such infection; or exposing one's genitals in non-consensual circumstances; exposing one's genitals in non-consensual circumstances or nonconsensual disrobing of another person so as to expose the other person's private body parts; misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections; or forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity.

7. Retaliation

MVCC will keep the identity of any individual who has made a report or complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a Formal Complaint of sexual harassment under this Policy, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, including as necessary for the conduct of any investigation, hearing, or judicial proceeding under this Policy.

Retaliation is an adverse act perpetrated to "get back" at a person because the person reported sexual misconduct, filed a complaint, or participated in an investigation or proceeding conducted pursuant to this policy by the College or by an external agency. An act of retaliation may be anything that would tend to discourage an individual from reporting sexual misconduct, pursuing an informal or formal complaint, or from participating in an investigation or adjudication as a party or a witness. A person who acts in good faith is protected from retaliation. The fact that a statement is not determined to be proven or established following investigation and adjudication does not mean that the statement lacked good-faith; a person may provide inaccurate information believing it is accurate, which is still good-faith. If a person who makes a statement knowing that it is false, the person has acted without good faith.

Note: To the extent that alleged conduct does not meet the above definition and/or criteria for either a Title IX Category violation or a College Category violation, the conduct may still be prohibited under the Student Code of Conduct for students or the Sexual Harassment Prevention Policy for employees.

GENERAL POLICY DEFINITIONS

Advisor of Choice

An advisor of choice is a person selected by the Complainant or Respondent to advise and accompany the Complainant or Respondent throughout the investigation and adjudication process. An advisor of choice may be any person, including an attorney. The College does not appoint or pay for an advisor of choice. An advisor of choice's role is limited to the functions further described in this policy.

Consent

For the purposes of this Policy, the term "consent" means "affirmative consent," which is a knowing, and voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, gender expression, or transgender status.

All references to "consent" in this policy will mean affirmative consent as defined in this policy. As stated above, silence, lack of physical resistance, and/or the absence of a verbal "no" should not be construed as consent to any sexual activity. A person can withdraw consent at any time during sexual activity and when consent is withdrawn or can no longer be given the other person must stop all sexual activity immediately. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. In other words, it is not an excuse that the person initiating the act was intoxicated or incapacitated due to alcohol or other drugs.

A prior relationship, existing relationship, prior sexual contact, or prior consent does not, alone, constitute affirmative consent to any continued or future sexual activity. Consent to engage in one sexual act (such as kissing or fondling) does not indicate consent to other sexual acts (such as intercourse). Certain conditions prevent a person from being able to consent.

Affirmative consent cannot be given if a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation can be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if the individual otherwise cannot consent. An individual's mental disability may cause him/her to be unable to give affirmative consent to sexual activity. In New York, the statutory age of consent is 17 years old. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs or other intoxicants (whether consumption was voluntary or otherwise) may be incapacitated and therefore unable to consent. A person initiating sexual activity is still responsible to obtain affirmative consent even if they are under the influence of drugs or alcohol. Affirmative consent cannot be given under coercion, force, or threat of physical harm or injury.

Coercion

Coercion is the use of pressure to compel someone to initiate or continue sexual activity against their will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. A person's words or conduct are sufficient to constitute coercion if they deprive another individual of the ability to choose whether or not to engage in sexual activity. Examples of coercion include threatening to "out" someone based on sexual orientation, gender identity or gender expression, and threatening to harm oneself if the other party does not engage in

the sexual activity. Coercing an individual into engaging in sexual activity violates this Policy in the same way as physically forcing someone into engaging in sexual activity.

Education Program or Activity

MVCC's "education program or activity" includes locations, events, or circumstances where the College exercises substantial control over both the Respondent and the context in which the conduct at issue is alleged to have occurred, including:

- Any on-campus premises
- Any off-campus premises that the College has substantial control over. This includes buildings or property owned or controlled by a recognized student organization that is officially recognized by the College.
- Activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of MVCC's programs and activities over which the College has substantial control.

Formal Complaint

A formal complaint refers to a written, signed complaint filed in accordance with the grievance process below and requesting initiation of the formal investigation and adjudication process. A formal complaint is necessary to initiate the investigation and adjudication process. Once an individual has made a report of an alleged violation of this Policy to any Responsible Employee; the Title IX Coordinator will be informed and then contact the person who allegedly experienced the sexual misconduct to explain options, including the option to file a formal complaint.

Complainant

The term Complainant refers to the person who allegedly experienced the sexual misconduct in violation of the policy whether or not a formal complaint is filed. In some cases, the Title IX Coordinator may file a formal complaint and thereby initiate an investigation and adjudication process pursuant to this policy. In that instance, the Title IX Coordinator is not the "Complainant"; the complainant remains the person who allegedly experienced the sexual misconduct.

Relevant evidence and questions

"Relevant" evidence and questions, as used herein, refer to any questions and evidence that tend to make an allegation of sexual harassment more or less likely to be true.

"Relevant" evidence and questions **do not** include the following types of evidence and questions, which are deemed "irrelevant" at all stages of the College's Grievance Process:

- Evidence and questions about the complainant's sexual predisposition or prior sexual behavior unless:
 - They are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or
 - They concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
- Evidence and questions that constitute, or seek disclosure of, information protected under any legally-recognized privilege, such as attorney-client privilege, physician/

psychologist/social worker privilege, clergy privilege, etc., unless the person holding such privilege has waived the privilege.

- Any party's medical, psychological, and similar records unless the party has given a knowing and voluntary consent in writing.

Respondent

The term Respondent refers to the person alleged to have committed harassment, sexual misconduct or other violation of this policy.

PRIVACY VS. CONFIDENTIALITY

References made to *confidentiality* refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or college officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References made to *privacy* mean Mohawk Valley Community College offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. Mohawk Valley Community College will limit the disclosure as much as practicable, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

DISABILITY ACCOMMODATIONS

This Policy does not alter any institutional obligations under federal disability laws including the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the grievance process that do not fundamentally alter the process. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

REPORTING TO LAW ENFORCEMENT

Any person may call 911 or the Department of Public Safety for immediate safety assistance. The College's Department of Public Safety can also assist the individual in making a report of a crime to local law enforcement. A victim of a crime is encouraged to, but not required to, report the incident to local law enforcement and pursue criminal charges. The criminal process and the College's disciplinary processes are not mutually exclusive, meaning that an individual can either bring a report through the College or law enforcement, or both.

Any internal investigation and/or hearing process conducted by the College will be conducted concurrently with any criminal justice investigation and proceeding. Decisions rendered in a court of law have no impact on the College's obligation to respond to allegations of sexual harassment or sexual violence within our community. However, in some cases the College may temporarily delay its investigation to enable law enforcement to gather evidence and to engage in a preliminary investigation. Such delays will not last more than 10 days except when law enforcement authorities specifically request and justify a longer delay.

The following local law enforcement offices can be of assistance in filing a criminal complaint:

- Utica Police Department, 413 Oriskany Street W, Utica, NY 315.735.3301
- Rome Police Department, 301 N. James St., Rome, NY 315.339.7780
- State Police 24-hour hotline to report sexual assault 1-844-845-7269

Orders of protection and other forms of legal protection may be available to individuals who have experienced or are threatened with violence by a College community member or other person. In appropriate circumstances, an order of protection may be available that restricts the offender's right to enter the College's property, and MVCC will abide by a lawfully issued order of protection. The Department of Public Safety, or other College officials, will, upon request, provide reasonable assistance to any member of the campus community in obtaining an order of protection or, if outside of New York State, an equivalent protective or restraining order, including providing that person with:

- A copy of an order of protection or equivalent when received by the College and providing that person with an opportunity to meet or speak with a College representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the other person's responsibility to stay away from the protected person or persons;
- An explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension; and
- Assistance in contacting local law enforcement to effect an arrest for violating such an order of protection.

INFORMATION UPON FIRST DISCLOSURE AND STUDENTS' BILL OF RIGHTS

College representatives shall, upon an individual's disclosure that they may have been subjected to a sexual assault, dating violence, domestic violence or stalking, provide reporting individuals with the following information: "You have the right to make a report to the Department of Public Safety, local law enforcement, and/or state police or choose not to report; to report the incident to MVCC; to be protected by the College from retaliation for reporting an incident; and to receive assistance and resources from Mohawk Valley Community College."

A [Students' Bill of Rights](#) for cases involving sexual assault, domestic violence, dating violence, or stalking is available on the College's website at [Students' Bill of Rights](#)

Pursuant to Article 129-B, Section 6444 of the New York State Education Law, a Statement of Rights in Cases Involving Sexual Assault, Domestic/Dating Violence and Stalking is attached at the end of this Policy.

REPORTING TO CONFIDENTIAL RESOURCES

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. The College offers a number of confidential and non-confidential resources and reporting options for violations of this Policy, which include but are not limited to violations of Sexual Assault, Dating or Domestic Violence, and

Stalking. Certain College employees are considered “confidential” resources. As described below, confidential resources generally will not share information about an individual without the individual’s express written permission. Other employees at the College are non-confidential resources. Some of these employees are required to share information you report with other officials at the institution so the College may take steps to offer resources and supportive measures, and/or prevent the recurrence of sexual misconduct. If you are unsure of an individual’s reporting obligations, please ask before disclosing any information you wish to remain confidential.

Even College offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution, or for the College to report statistical information about Clery reportable crimes.

On-Campus Confidential Resources

Confidential disclosure is defined as seeking resources and/or assistance without personally identifiable information about the disclosure being shared with anyone else. A victim is encouraged to seek support for their emotional and physical needs. A person seeking confidential emotional or medical care may contact the following on-campus resources who will provide confidentiality:

- Licensed Mental Health Practitioners
 - Counseling Office, Utica Campus, Student Services Center 315.792.5326
 - Counseling Office, Rome Campus, Plumley Complex A30, 315.334.77009
- MVCC Health Center, Utica Campus, Alumni College Center, Room 104, 315.792.5452

These counseling and health services are confidential and free for all MVCC students.

Off-Campus Confidential Resources

In addition, there are numerous off-campus resources available. These confidential off-campus resources, which may or may not charge services fees, include:

- NYS Domestic Violence Hotline – 1-800-942-6906
- NYS Police Sexual Assault Hotline – 1-844-845-7269
- YWCA Mohawk Valley Domestic and Sexual Violence 24-Hour Hotline 315.797.7740
- Pandora’s Project

Additional Sexual Assault & Violence Response (SUNY SAVR) Resources can be found online at <https://www.suny.edu/violence-response/>. This website can provide you with information you can use to seek resources and support, and to report the crime to law enforcement.

Individuals who have been the victims of sexual assault are encouraged to seek medical attention immediately. Whether or not you report the assault to the College or the police, you should have a medical examination immediately. The exam is confidential. Medical personnel will test for sexually transmitted infections, look for physical injuries, and collect physical evidence.

If you report the assault, the Department of Public Safety or the police can provide transportation to the hospital and arrange for a Crisis Services Sexual Assault Advocate to meet you there. If you choose to go to the hospital without notifying Campus Safety or the police, the hospital can still collect physical evidence and contact a Crisis Services Advocate to meet you there, while protecting your anonymity, in case you later decide to prosecute. Individuals can get a Sexual Assault Forensic Examination (commonly referred to as a rape kit) at a hospital. Typically, there is no charge for a rape kit.

Preservation of Evidence

In criminal cases, the preservation of evidence is critical and must be done properly and promptly. Preserve all physical evidence of the assault. Do not shower, bathe, douche, or brush your teeth. Save all of the clothing you were wearing at the time of the rape or assault. Place each item of clothing in a separate paper bag. Do not disturb anything in the area where the assault occurred.

Contacting any of the confidential resources listed above does not constitute notifying Mohawk Valley Community College. In order to make informed decisions, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources and officials. While certain College employees are considered “confidential” (see above), most other College employees are not “confidential” and may be required to share information you share with them with the Title IX Coordinator so that the College may take steps to offer resources, supportive measures, and share information regarding options to pursue the College’s internal grievance process. MVCC’s on-campus confidential resources generally will not share information about an individual’s report of sexual harassment without the individual’s express written permission. If you are unsure of an individual’s reporting obligations, please ask before disclosing any information you wish to remain confidential.

If an individual discloses a situation through a public awareness event, such as “Take Back the Night” or a candlelight vigil or other public event, the College is not obligated to begin an investigation and that disclosure will not be construed as a report to the College.

MAKING A REPORT TO THE COLLEGE

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report.

Contact Information for the Title IX Coordinator:

Name: Jennifer DeWeerth
Title: Title IX Coordinator, Dean of the Rome Campus & Community Outreach
Office Addresses: 1101 Floyd Ave, Rome, NY 13440, PC 130
1101 Sherman Dr, Utica, NY 13501, PH 347
Email Address: jdeweerth@mvcc.edu
Phone Number: (315) 334-7701

Such a report may be made at any time (including during non-business hours) by using the electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

Non-confidential reports can also be made to:

Deputy Title IX Coordinator

Dennis Gibbons, Dean of Student Life
(315) 792-5394
Alumni College Center, Room 208A

Department of Public Safety

Utica Campus

(315) 731-5777

Academic Building room 106

1101 Sherman Drive

Utica, N.Y. 13501

Rome Campus

(315) 334-7718

Plumley Complex room 118

1101 Floyd Ave.

Rome, N.Y. 13440

Reports may be made by completing the (insert link to the **MVCC Sexual Harassment, Sexual Assault and Sexual Misconduct Report Form**) The information provided to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution.

Mandated Reporting Authority

All MVCC employees, with the exception of the College's Confidential Resources noted above, are designated as Responsible Employees and are therefore obligated to report any allegation of sexual harassment or sexual assault to the Title IX Coordinator.

If a report is made to anyone other than the non-confidential resources listed above, the Reporting Party risks the possibility that it will not come to the attention of the proper College officials and may, therefore, not be acted upon.

SUPPORTIVE MEASURES

It is not necessary for a Formal Complaint or report to be made to receive resources or supportive measures. Once a report is made, the complainant will be contacted by the Title IX Coordinator and offered individualized support as more fully described below. As noted above, a report that triggers supportive measures need not be a formal complaint, and it may be made by a third party (i.e., someone other than the complainant himself/herself). Once the respondent is informed of a report or a formal complaint, the respondent will be contacted by the Title IX Coordinator and offered individualized support. Supportive measures are intended to restore or preserve, to the extent practicable, equal access to the College's educational programs and activities and protect the safety of all parties without unreasonably burdening the other party or parties. As required by applicable regulations, these supportive measures must be non-disciplinary and non-punitive to the parties.

As appropriate, supportive measures may include, but are not limited to:

- Counseling
- Extensions of deadlines or other course-related adjustments or allowing a withdrawal from a course without penalty;
- Modifications of work or class schedules

- Mutual “No Contact” orders and, in limited circumstances, such as when legal restraining orders or orders of protection have been issued, one-way no contact orders.
- Changes in work or housing locations
- Leaves of absence
- Access to campus escorts or other reasonable security or monitoring measures

The Title IX Coordinator is responsible for coordinating the implementation of supportive measures, including coordinating with the various College departments and offices that may be involved. Supportive measures will be offered free of charge. If a party’s request for a supportive measure is denied, the party will be afforded an opportunity to have the denial promptly reviewed to assess whether the supportive measure is reasonable under the circumstances. In addition, each party will, upon request, be afforded the opportunity for a prompt review of the need for supportive measures that have been implemented, including the potential modification of these measures, to the extent that the party is affected by the measure(s) being reviewed. The request for review of the denial of, or the need for or details of, supportive measures should be made to the Title IX Coordinator and may be made at any time. The College’s determination is not subject to further review absent changed circumstances.

EMERGENCY REMOVAL OF STUDENT RESPONDENTS

In some cases, the College may undertake an emergency removal of a student respondent in order to protect the safety of the College community, which may include contacting local law enforcement to address imminent safety concerns. Emergency removal is not a substitute for reaching a determination as to a respondent’s responsibility for a violation of this policy; rather, emergency removal is for the purpose of addressing imminent threats posed to any person’s physical health or safety, which may arise out of the sexual harassment allegations.

The College retains the authority to remove a student respondent MVCC’s program or activity on an emergency basis, where the College (1) undertakes an individualized safety and risk analysis and (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of covered sexual harassment justifies a removal. This is the case regardless of the severity of the allegations and regardless of whether a formal complaint was filed.

After determining that a student respondent is an immediate threat to the physical health or safety of an individual, the Title IX Coordinator will provide written notice of the emergency removal to both the complainant and respondent. This notice will contain: (1) the date the removal is set to begin, (2) the reason for the emergency removal, (3) the consequences of non-compliance, and (4) how to appeal the decision. If a student respondent disagrees with the decision to be removed from campus, the respondent may appeal the decision. The burden of proof is on the student respondent to show that the removal decision was incorrect. The student would send their appeal to the Title IX Coordinator via email within seven days of the notice of removal.

This section applies only to student respondents. Employee respondents are not subject to this section and may be placed on administrative leave pursuant to the College’s policies during the pendency of the College’s grievance process.

Rights in Cases Involving Sexual Assault, Domestic/Dating Violence and Stalking

Pursuant to Article 129-B, Section 6444 of the New York State Education Law, anyone reporting an incident of sexual assault, domestic or dating violence or stalking shall be advised of their rights to:

1. Notify the Department of Public Safety, local law enforcement, and/or New York State Police;
2. Emergency access to a Title IX Coordinator or other appropriately trained official who shall be available upon the first instance of disclosure by a reporting individual and who can provide information, including:
 - a. options to proceed, including the right to make a report to the Department of Public Safety (reports to this Department are reported to the Title IX Coordinator), Local Law Enforcement, and/or the New York State Police or choose not to report; to report the incident to the College; to be protected by the College from retaliation for reporting an incident; and to receive assistance and resources from the College, as set out in this Policy;
 - b. where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible;
 - c. that the criminal justice process utilizes different standards of proof and evidence than the College's judicial procedures and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney;
 - d. whether the person they are reporting to is authorized to offer confidentiality or privacy; and
 - e. any other reporting options.
3. If they are a student, to contact the MVCC Health Center, (Utica Campus, Alumni College Center, Room 104, 315.792.5452) where they may be offered confidential resources pursuant to applicable laws/policies and can be assisted in obtaining services for reporting individuals; if they are not a student but are otherwise a member of the College, or if they are a student but prefer to seek off-campus assistance, to contact non-College confidential resources, including, but not limited to:
 - a. NYS Domestic Violence Hotline – 1-800-942-6906
 - b. NYS Police Sexual Assault Hotline – 1-844-845-7269
 - c. YWCA Mohawk Valley Domestic and Sexual Violence 24-Hour Hotline 315.797.7740
4. Disclose confidentially the incident and obtain services from the state or local government;
5. Disclose the incident to an official of the College who can offer privacy or, in appropriate cases determined by the Title IX Coordinator, confidentiality, subject to the limitations set forth in this Policy, and can assist in obtaining resources for reporting individuals;
6. File a report of sexual assault, domestic violence, dating violence, and/or stalking and consult the Title IX Coordinator and other appropriate College personnel for information and assistance. Reports shall be investigated in accordance with College. A reporting individual's identity shall remain private if that is what the reporting individual wishes, however privacy is not the same as confidentiality;

private information can be shared to implement and fulfill the College's obligations under the law and its Sexual Misconduct Policy;

7. Disclose, if the Respondent is a College employee, the incident to Human Resources or to request that a private employee assist in reporting to Human Resources;
8. Receive reasonable assistance from appropriate College representatives if interested in initiating legal proceedings in family court or civil court; and
9. Withdraw a complaint or involvement from the College processes at any time, with the understanding that in appropriate cases, the College may nonetheless be required to proceed even if the reporting individual does not wish to do so.

Revision History

Date	Revision Description	Revision Made by:
5.18.15	Created	
9.21.20	Policy Revised	
10.19.20	Title Revised	
9.16.24	Title and Policy Revised	
1.22.25	Title and Policy Reversed	Jen DeWeerth, Title IX Coordinator
6.22.26	Title and Policy Combined. Title IX and 129-B Compliance	Christa Cook, Member, Bond, Schoeneck and King, ; Karey Pine, Vice President of Student Affairs; Suada Ikeljic, Director of Compliance