

# **New Mexico State University**



## **2016 Annual Security Report**

**Covering:**

**NMSU Las Cruces Campus and DACC Central Campus**

**With Statistics for 2013-2015**

**Release Date: September 30, 2016**

# **INTRODUCTION**

This report contains information regarding safety and security programs, policies, and procedures in place at New Mexico State University's Las Cruces campus and the Doña Ana Community College's main campus. It also includes statistics related to the Santa Fe location where select classes are taught in two classrooms on the Santa Fe Community College campus (6401 Richards Avenue). It complies with the requirements established by 20 USC 1092, also known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, as well as the requirements imposed by the amendments to the Violence Against Women Act (VAWA). Crime statistics from 2013 through 2015 required by this Act are included, but a more comprehensive listing of crime and traffic crash statistics from 1989 through 2015 is available on-line at [www.nmsupolice.com](http://www.nmsupolice.com). The NMSU Police Department is the agency with primary responsibility for the collection of data for this report, though it relies on many other departments and agencies for assistance.

For ease in locating information, this report has been separated into sections. If you have any difficulty locating information in this report, or if you need this report in a different format, please contact the NMSU Police Department at (575) 646-3311 for assistance.

*NOTE: There are several sections of Administrative Rules and Procedures, as well as several programs, that are currently under development, revision, or implementation. As these change during the course of the 2016-2017 academic year, updated information will be provided to the university community, and this report will be replaced as necessary. When this takes place, a revision date will be added below the initial release date on the cover page.*

# **2016 Annual Safety Report for the NMSU Las Cruces and Doña Ana Central Campuses**

INTRODUCTION .....	1
Section 1 – OVERVIEW .....	3
About the NMSU Las Cruces and Doña Ana Central Campuses .....	3
Public Safety Agencies at NMSU .....	3
Safety – Everyone’s Business.....	4
Security of Buildings and Facilities .....	4
Section 2 – EMERGENCIES AND INCIDENTS.....	6
Timely Warnings and Alerts .....	6
Emergency Actions .....	7
Fire Statistics and Fire Safety Report.....	7
Missing Persons Reports .....	8
If you are the Victim of a Crime.....	8
Sexual Assault, Harassment, and Stalking .....	10
Measures taken by NMSU .....	12
NMSU Policies and Procedures .....	14
Sex Offenders .....	23
Section 3 – PROGRAMS.....	24
Safety Classes and Workshops .....	24
New Student Orientation Program .....	24
Wellness, Alcohol, and Violence Education Program .....	25
Facilities Staff & Key Control Program .....	25
Residence Hall Safety and Security Program.....	26
Bystander Intervention Program.....	27
Counseling Center .....	28
Other Safety and Security Programs .....	28
Tips to Prevent Crime.....	29
Drugs and Alcohol .....	29
Other Services Available.....	30
Section 4 – CRIME STATISTICS .....	31
Last 3 Years of Crime Statistics.....	31
Definitions of Clery Act Locations (General) .....	32
Clery Geography .....	33
Chart of Crime Statistics .....	35
Crime Log/Blotter .....	36
Tracking Crime Incidents and Reports.....	37
Off Campus Crime .....	37
We Need Your Help – Report Crime! .....	37
Responsibility for Policy Monitoring and Enforcement.....	37
Legal Definitions of Crimes in New Mexico .....	38
Other Definitions.....	45
Section 5 – PHONE NUMBER REFERENCE GUIDE .....	47
APPENDIX – Maps of Campus Locations .....	48

# **SECTION 1 - OVERVIEW**

## **ABOUT THE UNIVERSITY**

The NMSU Las Cruces campus is the home of over 21,000 students, faculty, staff, and residents during the school year. The Doña Ana Community College's Espina Campus is located on the Las Cruces campus and contains 7,000 additional students, faculty, and staff in its system, including those enrolled in the Arrowhead Early College High School operated by Las Cruces Public Schools.

Actually located outside the city limits of Las Cruces, NMSU is the largest land-grant university in the nation in terms of geographic size, thanks in part to the Chihuahuan Desert Rangeland Research Facility (better known as the College Ranch) and a host of other facilities and campuses throughout the state. These include the Leyendecker Research Facility, the Fabian Garcia Horticulture Center, and the Horse Farm, as well as DACC's East Mesa Campus, Gadsden Campus, Sunland Park Campus, and Workforce Development Center. All totaled, there are over 105 square miles of "campus" in Doña Ana County alone.

## **PUBLIC SAFETY AGENCIES AT NMSU**

In 1957, the university determined there was a need for its own police department. Since its inception over half a century ago, the **NMSU Police Department** has grown to become a highly trained and capable department that provides patrol, criminal investigation, and emergency dispatching services for the university. While most efforts are focused at the Las Cruces campus, the department also assists the other facilities around the state in preparedness activities, crime prevention programs, and special criminal investigations. The department has enforcement authority on all property controlled by the Board of Regents throughout the state, as well as concurrent jurisdiction in some neighboring areas under mutual aid agreements.

All police officers are highly trained, certified, and have full arrest powers. All officers must complete a basic police officer academy and be certified by the New Mexico Law Enforcement Academy Board. In addition, a number have specialized training and work with other agencies in the region. Some are nationally certified handlers of explosives detection dogs, while others participate on regional response teams that investigate special crimes, as well as statewide task forces with a variety of state and federal agencies. All of this means the officers working on campus bring back a wealth of information and experience that are used to help ensure the university is on the cutting edge of safety and preparedness.

All dispatchers working in the university's **Emergency Dispatch Center** are also fully trained and certified by the state. They answer the 911 calls coming into the center from campus, and dispatch police, fire, and emergency medical services. In addition, the dispatchers assist the greater community by helping the other public safety dispatch centers during times of crisis. From working on-scene in Hatch, NM during floods in 2006 to providing communications at Spaceport America for the fly-in of Spaceship One during the Keys to Excellence event in 2011, and a variety of other events in between and since, the NMSU dispatchers have demonstrated their ability to handle both disaster and large event emergency communications in Southern New Mexico.

In addition to its own police department, the university also has its own **Fire and Emergency Services Department** to provide fire protection and emergency medical response on the Las Cruces campus. A team of full-time, experienced fire professionals lead the department, but a large amount of the work is performed by student firefighters who are trained and certified as firefighters, emergency medical

technicians, and even hazardous materials technicians. This department is unique to NMSU, and it provides not only a rapid response to emergencies on campus, but also a great way for students to get experience and work their way through school. The Department also provides mutual aid support to the nearby fire departments when they need assistance.

While not a traditional public safety agency, the **Environmental Health & Safety Department** also works to ensure a safe environment at university facilities throughout the state. The staff provides safety training, assists with development of safety procedures, oversees laboratory safety and hazardous waste management, assists with emergency planning and response, and a host of other functions intended to help keep the campus safe.

NMSU also maintains its own **Campus Health Center** to provide for the non-emergency medical needs of the community. The center has full-time medical providers, and offer X-ray, laboratory, and pharmacy services for students. They also provide travel shot services for those preparing for trips abroad, and are a partner in emergency preparedness with the New Mexico Department of Health and the Centers for Disease Control and Prevention (CDC).

### **SAFETY – EVERYONE’S BUSINESS**

A campus community relies on a peaceful, safe, and secure environment. Preserving this environment is a responsibility everyone on campus shares. Members of the community are expected to be aware of policies and procedures of the university and to promptly report any crime or suspicious activity. Everyone needs to also be conscious of personal safety. While the NMSU Police Department and other campus safety entities work to keep the campus safe, they cannot do so when people intentionally choose to engage in risky activity. Everyone is encouraged to be aware of their surroundings and avoid suspicious or dangerous situations whenever possible. Campus community members are also encouraged to follow common safety practices that include locking doors and windows, using seatbelts, and avoiding the over-consumption of alcohol.

### **SECURITY OF BUILDINGS AND FACILITIES**

The Las Cruces campus is relatively safe compared to other universities and cities its size. However, that does not mean it is crime free. Burglary and thefts occur more frequently than other crimes on campus, and students and employees are encouraged to always lock up valuables and not leave them unattended, as this contributes to a large portion of the thefts.

The majority of academic facilities are opened and closed by Facilities and Services Custodial staff. This applies to securing exterior doors of academic and non-academic buildings Monday through Friday. Buildings hours are typically from 7am to 6pm, while some facilities are open later due to classes. With minor exceptions, all facilities are secured by 12am daily. Facilities open on weekends are based on scheduled classes or events, and are typically secured by 6pm. Centrally scheduled classrooms are opened before 8am with the end of the day user securing the room. All other departmental rooms are opened and secured by their respective departments. Offices and laboratories are controlled by the facility user.

Twenty-one (21) facilities are under electronic access control. Most of these buildings are open from 7am to 5:30pm. A valid NMSU ID is required to enter the building after closing, with traffic directed to the designated ADA entrance. The electronic access system controls the time and location of the doors

that are open/closed. Reports record successful and denied access. Facility access requires an access form signed by the building authority granting access to the specific building, doors, and schedule. An access change form is also required when entry is terminated.

Some residence halls (Garcia Hall, Rhodes-Garrett-Hamiel Hall, and Piñon Hall) and campus apartments (Chamisa Village) have exterior common doors that are kept locked to help limit access for residents. Other residential facilities, such as Cervantes Village, Cole Village, Vista Del Monte, and Student Family Housing units are designed so the individual apartment or house doors open directly to public areas.

For those residential units opening directly to public areas, peepholes are provided in the doors. Guests at enclosed facilities should enter through the main lobby of those facilities. However, students living in any housing units are responsible for keeping doors to their individual rooms locked, and all residents share responsibility for helping keep exterior doors from common/public areas closed and locked. In addition, residents should never allow someone to follow them through a door, nor should they prop doors open to allow others to enter, even if just for a minute or two. Residential Life staff members are located within each of the facilities, 24 hours a day, 7 days a week, to assist residents, as well as to help enforce housing regulations and university policy.

#### **HOUSING POLICIES**

For more information about housing policies related to safety and security, please visit [\*\*housing.nmsu.edu/guide\*\*](https://housing.nmsu.edu/guide).

## **SECTION 2 – EMERGENCIES AND INCIDENTS**

### **TIMELY WARNINGS AND ALERTS**

When there are major incidents or emergencies that affect a large number of people and that present an immediate threat to health or safety, NMSU will issue advisories, alerts, or warnings as appropriate and as long as doing so will not impede the public safety response or further endanger lives. An emergency alert is used when there is immediate danger, while a timely warning is used when there is an ongoing situation or crime trend that may pose a danger, but is not immediately dangerous. Advisories that are not involving an immediate danger may be sent out via e-mail or news media, while those involving immediate danger are usually sent out using the NMSU Emergency Notification System (ENS). Participation in the ENS is mandatory for all students and employees at NMSU, with e-mail being the default notification. In order to receive text messages and phone calls, the student or employee must register the appropriate contact information at <http://emergency.nmsu.edu>. An emergency message will generally contain the following information:

**WHAT:** This is a brief description of what is taking place. For example, it may indicate there is a tornado warning, a fire, a bomb threat, or a person shooting. If the message is not an emergency (e.g., a test message), it will be indicated here.

**WHERE:** This provides information about where the emergency is taking place. It will be as specific as the particular situation allows, but should always include which campus(es) is being affected.

**ACTION:** This is where recipients will find specific guidance on what to do as a result of the emergency (e.g., be on the lookout, shelter in place, evacuate, etc.). In order to make the system work as fast as possible, these messages are necessarily kept very brief, and additional information will usually be made available on the NMSU website homepage. (NOTE: On-scene direction from public safety personnel, media releases, update e-mails, and other forms of communication may also be used as appropriate. Follow the most current and specific guidance provided.)

**MORE INFO:** This section will explain where to go to get more detailed information regarding the emergency. This will usually include the university's website ([www.nmsu.edu](http://www.nmsu.edu)), but depending on the nature of the incident, other sources may also be provided.

**Sirens:** As part of the ENS, NMSU has installed two outdoor sirens in order to provide an additional tool for notifying the public of severe weather emergencies. The sirens will only be used in those circumstances where there is extreme, immediate danger to the entire community, such as a tornado warning or large hail likely to cause injuries. Upon hearing a siren, students and employees should immediately seek shelter and then seek additional information via news media or by logging onto the university's website ([www.nmsu.edu](http://www.nmsu.edu)).

More information is also available at <http://nmsu.edu/emergencyplanning/>. The final decision on whether to issue one of the above notices, and the information contained therein, rests with the NMSU Chief of Police. The Chief (or his designee) may make the decision not to issue a notice if the situation is deemed not to warrant one, or if doing so might hamper the ability of public safety personnel to respond to and contain the incident.

The NMSU Emergency Dispatch Center works with the Mesilla Valley Regional Dispatch Authority to monitor significant off-campus incidents. The Police Department has also asked outside law enforcement agencies to notify NMSU authorities of incidents that may warrant warnings to the NMSU

community. However, this is not a guarantee these outside agencies will do so in every incident, nor in a timely manner. As a result, anyone believing an alert or warning is needed in a particular instance should contact the NMSU Police Department.

### **EMERGENCY ACTIONS**

If you are involved in a dangerous or life-threatening emergency, take the following steps immediately:

- Get to a safe place as quickly as possible. Generally, the further you can get away from the scene, the safer you will likely be.
- Report the emergency by calling 911. Say, “This is an **EMERGENCY**”, give your **LOCATION**, and briefly tell **WHAT** is happening.
- Notify others of the danger so they can also stay away.
- Monitor the situation to see if it gets worse or if circumstances (like wind direction) change. Notify the emergency services dispatcher (911 operators) of the changes.

All students and employees are also encouraged to prepare in advance for emergencies, whether from natural disasters (such as floods, tornados, earthquakes, extreme heat, lightning, disease outbreak, etc.) or manmade incidents (including traffic crashes, hazardous chemical releases, downed electrical lines, criminal activity, terrorism, arson, etc.). The NMSU Police Department has prepared a “Quick Flip Guide to Emergencies” that can be downloaded from the internet ([www.nmsupolice.com](http://www.nmsupolice.com)) and assembled. It is a good starting point for both incident specific guidelines, as well as general guidelines. Additional information is also available through Environmental Health and Safety’s website at <https://safety.nmsu.edu>. Under the “Emergency Information” tab on the top is a wealth of information, including the NMSU emergency numbers, the Quick Flip Guide to Emergencies, the All Hazards Emergency Operations Plan, hazardous spill procedures, and assistance in developing emergency plans. Safety news and initiatives are in recent news posted on the safety home page.

NMSU conducts fire and evacuation drills in all residence halls and randomly selected buildings each fall semester. However, students and employees should not rely on these being the only times they think about emergency evacuations. Anytime a person enters a building, they should also look to see what other avenues of emergency escape exist, whether through additional doors, designated fire exits, or even windows. Students and employees should also know where the designated escape routes and exits are in those buildings they live and/or work in, as well as any potential specific challenges (such as stairs might present for a person in a wheelchair). Newer buildings on campus also have designated “safe haven” areas where a person may call for assistance and wait for fire personnel. However, these areas are not a guarantee, and the person should continually evaluate the conditions and decide whether or not it is still safe to remain in that area.

### **FIRE STATISTICS AND FIRE SAFETY REPORT**

Statistics on fires and fire responses (other than arson), as well as the Fire Log, are managed by the NMSU Fire and Emergency Services Department. This Department also publishes the Annual Fire Safety Report, which is available online at <https://www.nmsupolice.com/files/2016/10/Fire-Safety-Report-2016-Final-003.pdf>.



### **MISSING PERSON REPORTS**

Any report of a missing person is immediately investigated by the NMSU Police Department. There is no 24-hour waiting period, and attempts to locate the person will include contacting surrounding law enforcement agencies, notifying the missing person's designated contact(s), notifying parents or guardians if the missing person is less than 18 years of age, contacting known family members and friends, and posting of bulletins and news releases. In addition, the Police Department will notify appropriate university officials that a person is missing.

When students enroll at NMSU, they are asked to provide Emergency Contact Information, and this confidential information is used by the Police Department in contacting family and/or friends. One or more of these people may be designated as a person to contact solely for purposes of trying to find a student should they be missing. The same person, or others, may also be designated for contact in other emergencies involving the student. All students are strongly encouraged to designate and provide the names and contact information of the people they would like contacted under these circumstances. This may be done at the website <http://emergency.nmsu.edu>. For any student who is a minor (under the age of 18) and has not been emancipated by a court, police officials are required to notify his/her parent(s) or guardian(s), in addition to any emergency contacts listed by the student.

Any university employee who, through the course of their employment, is informed that a person is missing from campus is required to immediately notify the NMSU Police Department. If there is information an abduction has just taken place, the employee should call 911. Otherwise, the person should call 646-3311 and provide the information to the emergency services dispatcher. A police officer will then be dispatched to meet and gather additional information.

If a person is reported missing to Housing and Residence Life officials, the staff will conduct a preliminary welfare check to attempt to locate the person, in accordance with Housing policies and procedures. If the person cannot be quickly located, the staff will notify the NMSU Police Department and report the resident as missing. Police and Housing officials may enter the missing student's residence in an attempt to locate him/her. For more information, visit [housing.nmsu.edu/guide](http://housing.nmsu.edu/guide).

### **IF YOU ARE THE VICTIM OF A CRIME**

If you are the victim of a crime, whether while on campus or off campus, or experience a fire or medical emergency, you are encouraged to report it immediately by calling 911. For non-emergencies taking place on campus, call (575) 646-3311. When you call, give your name, the location you are calling from, a brief description of what occurred, and whether there is still a danger present (e.g., the person who committed the crime is still present). Prompt reporting and specific information will increase the chances of solving your case. A police officer will be dispatched to meet with you and obtain all of the necessary information. Here are some guidelines regarding preserving evidence while you wait for an officer:

- If evidence from the crime is still intact, try not to move or destroy it. This includes avoiding trying to clean up the area, moving or throwing away items, or wiping down surfaces.
- If there are text messages, e-mails, voice mails, or other electronic evidence, preserve the original (if possible) or make a copy (if the original might be deleted, such as with Snapchat and similar programs) and provide this evidence to the police officer who responds;

- If you are being harassed or stalked, keep a log of any contact or sightings you have of the suspect, to include any third-party contacts where the suspect uses someone else to contact you or monitor your activities;
- If you are the victim of a sexual assault, avoid showering, changing clothes, or grooming, as these can destroy evidence. Protect any bedding or towels, clothes you were wearing, or other items where evidence may have been left. If possible, avoid the use of the bathroom, and consider getting a SANE Exam (described below) as soon as possible to identify and collect evidence that may be on your body. The first few hours are the most critical, but useful evidence can still be obtained 24 hours or more after some sexual assaults.
- If you chose to not report the crime immediately to police, you are still encouraged to write down as much as you can remember (when you are able to) so that if you decide to report at a later time, you will have something to remind you of critical details. Try to include as many details about what happened, as well as everything you can remember about the suspect. Include things you saw, heard, and even smelled, tasted, or felt. Also try to write down things like other people who were around and might be witnesses, locations where different things happened, and

Even if you do not wish to file a police report right away, you may wish to preserve evidence using the above steps in case you later decide to contact police. This can help protect evidence that might assist later in the identification and/or prosecution of the person responsible for the crime. This can also preserve evidence you might want to use during an administrative hearing or civil lawsuit, should you choose either of those options.

Many students worry about reporting crimes to the police because they do not want to testify in a trial. Victims are nevertheless encouraged to at least contact the NMSU Police Department so they can be made aware of other services (counseling services, medical treatment, etc.) that might lessen the trauma of the incident. If the victim does not wish to pursue criminal charges, their wishes will be respected. Some of the most frequently accessed services include:

- **SANE Exam:** This is available through the La Piñon Rape Crisis Center, and is a medical exam that is designed to identify damage to your body as a result of a sexual assault so it can be treated. In addition, evidence of sexual assault can be identified and collected during this exam. These exams are confidential, and are conducted by specially trained medical practitioners. You also have a right to have someone of your choosing with you during these exams. If you would like, a victim services advocate can accompany you and help with any questions you might have.
- **Counseling:** This service is available for students through the NMSU Counseling Center, as well as a number of off-campus entities. The NMSU Counseling Center does not charge students for services, and services are confidential.
- **Medical:** In addition to the SANE exam, medical services are available on campus through the Campus Health Center. In addition, there are two medical centers in Las Cruces, and a large number of urgent care centers and clinics in the area. The medical centers have 24-hour emergency departments, and many of the urgent care centers and clinics have hours that extend into the evenings and on weekends.
- **Protection Orders:** While certain offices at the university can issue a “no contact” order against students or employees, such orders only apply on campus, and may only be helpful if the perpetrator of the crime is a student or employee. The NMSU Police Department’s Victim Services staff can assist victims of violence in obtaining temporary and permanent restraining

orders from the state courts that will apply no matter where you might be, and no matter who the offender is. Victim services units with other police departments offer similar assistance.

- **Victim Services:** This is a unit that operates out of the NMSU Police Department, and is staffed with a coordinator and advocates who can assist with connecting to any of the above resources, making academic or housing changes, getting protective orders through the courts, obtaining emergency food and shelter, applying for special VISA authorizations for citizens of other countries, etc. As mentioned above, victims do not need to file a police report in order to receive assistance from the Victim Services unit.

Students who are victims of crimes may also pursue recourse through either the Office of Institutional Equity or the NMSU Student Judicial System. While these are not a substitute for the criminal justice system, it affords students the opportunity to have their side heard in a less formal environment. If an accused student is found to have violated the Student Code of Conduct by engaging in forcible or non-forcible sex offenses, he or she may be subject to disciplinary action. The level of disciplinary action administered depends on the specific circumstances of the case, but can range from warnings and attendance at mandatory programs up to and including expulsion from NMSU. Both the victim and accused are afforded the same opportunities within the student judicial process, including the ability to have others present during disciplinary proceedings, and both shall be informed of the outcome of any campus disciplinary proceedings alleging sexual assault. Students interested in this course of action may call the Student Judicial Services Office at 646-1722, the office responsible for upholding the Student Code of Conduct. As always, students may also contact the Police Department for assistance and guidance.

Any NMSU officials who are approached by a person who has been the victim of a sexual assault or other crime on the NMSU campus are required to assist the person in notifying the police department.

### **SEXUAL ASSAULT, HARASSMENT, AND STALKING**

The issue of sexual assault and other sexual misconduct is at the forefront of universities nationwide. NMSU specifically prohibits sexual misconduct and will assist victims in seeking counseling (available through the Counseling Center or several off-campus organizations), obtaining medical treatment (available through the Campus Health Center and local hospitals), changing room assignments, making academic changes, and in any other way possible, including criminal prosecution through the District Attorney's Office (if the victim so desires). Students, faculty and staff, and visitors are reminded that they can contact the NMSU Police Department for assistance at any time, and do not have to file an official police report in order to be helped. If a report is filed with the NMSU Police Department, it will be fully investigated with the findings being referred to the District Attorney's Office for prosecutorial decisions. (NOTE: The state statutes related to sexual assault, harassment, stalking, and other crimes can be found in Section 4 of this publication.)

NMSU prohibits sexual misconduct by students and employees. This includes **forced sexual contact** (including harmful, insulting, or non-consensual verbal or physical contact of a sexual nature with another person, such as touching, fondling, exposure, disrobing, etc.) and **forced sexual penetration** (including intercourse, sodomy, oral copulation, or penetration with any object by the use of force, threats, coercion, or by taking advantage of a victim's helplessness). Also prohibited is any sexual harassment, such as requiring a person to engage in sexual conduct or activities in exchange for a grade, payment, or similar benefits.

NMSU requires all employees to complete training on an annual basis regarding sexual misconduct, and all incoming students must complete similar training prior to being allowed to enroll for classes. Additional information and training programs beyond this initial training are available through the Office of Institutional Equity, the Dean of Students, the WAVE Program, the Counseling Center, the Campus Health Center, and the NMSU Police Department. Contact information for each of these can be found near the end of this publication.

NMSU investigates reported sexual misconduct (including dating violence, domestic violence, sexual assault, and stalking) through the Office of Institutional Equity/Title IX Coordinator (the disciplinary investigation), as well as through the appropriate law enforcement agencies (the criminal investigation). During the NMSU disciplinary investigations, a preponderance of the evidence standard is used. During disciplinary proceedings, both the victim and the accused have the right to have another person present, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of the person's choice. The findings of Title IX disciplinary investigations will be sent to the Provost's Office to determine if violations have taken place, and if so, then referred to Student Judicial Services (for students) or Human Resources (for employees) for appropriate action to be taken based on the circumstances of the individual incident. For students, this can result in any of the following sanctions based on the severity of the offense: expulsion from university housing; mandatory completion of an education program; completion of mandatory counseling; suspension; expulsion; ban from the university. For employees, the possible sanctions are: documented counseling (for minor offenses); written reprimand (for minor offenses); suspension without pay; or termination.

More information regarding student discipline hearings can be found at: <http://studenthandbook.nmsu.edu/student-social-code-of-conduct/part-v-students-rights-and-responsibilities-student-discipline-and-appeal-hearing-processes/>

Sexual misconduct often overlaps with crimes of sexual assault, sexual harassment, stalking, dating violence and domestic violence. As a result, sexual misconduct cases may be handled both by NMSU for policy violations, as well as by law enforcement for criminal violations. Each system has its own processes and standards. In addition, there are differences between federal definitions used to report violations of university policies, and state statutes used to prosecute offenders in the criminal justice system.

In an effort to reduce the risk of sexual misconduct as well as the crimes of rape, sexual assault, sexual harassment, stalking, dating violence and domestic violence occurring among its students, the University utilizes a range of campaigns, strategies and initiatives to provide awareness, educational, risk reduction and prevention programming. Educational programs are offered to raise awareness for all incoming students and employees, and are conducted during new student and new employee orientation and throughout an incoming student's first semester. These programs and others offered throughout the year include strong messages regarding not just awareness, but also primary prevention (including normative messaging, environmental management and bystander intervention), and discuss institutional policies on sexual misconduct as well as the State of New Mexico definitions of domestic violence, sexual assault, stalking and consent in reference to sexual activity. Bystander engagement is encouraged through safe and positive intervention techniques and by empowering third-party intervention and prevention such as calling for help, identifying allies, and/or creating distractions.

Programs also offer information on risk reduction that strives to empower victims, teaches them how to recognize warning signals and how to avoid potential attacks, and to do so without victim-blaming

approaches. Throughout the year, ongoing awareness and prevention campaigns are directed to students and employees, including faculty, often taking the form of presentations in University 150 classes, information booths at community events, emails, regularly scheduled crime prevention and personal protection classes, and a variety of programs offered through WAVE.

### **MEASURES TAKEN BY NMSU**

In the event that sexual misconduct, gender-based violence or the crimes of sexual assault, stalking, dating violence or domestic violence occur, the University takes the matter very seriously. The NMSU Police Department investigates all crimes reported to have taken place on the Las Cruces and DACC Espina campuses, including crimes involving these categories. However, students can also file (or file in lieu of a criminal report) an administrative report/complaint with the university for incidents involving dating violence, domestic violence, sexual assault, or stalking by contacting the Title IX Coordinator, Lauri Millott in the Office of Institutional Equity at (575) 646-3635. When a report comes in regarding dating violence, domestic violence, sexual assault or stalking, it is reviewed to determine if the incident recorded is or could be a violation of Title IX. If a violation of Title IX is possible, the case is assigned to a Deputy Title IX Coordinator to conduct a full investigation. At the conclusion of the investigation, a Finding of Facts is written and submitted to the Office of the Provost to determine if a violation of NMSU Rule 3.25 Equal Opportunity and Prohibition of Unlawful Discrimination occurred.

If it is determined that a violation occurred and the respondent is a student, the Finding of Facts is sent to the Office of the Dean of Students to conduct a hearing. Both the accuser and accused are allowed to have someone present with them at any meeting, investigation, or hearing related to the incident. This information is stated in the Student Social Code of Conduct Part V Sections 2 and 3. The accused and accuser receive a copy of these rights when they attend a meeting (separately) to discuss how the conduct process works.

Once the accused student is notified of the formal charges, an Educational Conference is set. This is a meeting where the rights of the students are reviewed, and both due process and charges are explained to the student. The student has the right to accept or deny responsibility at the Educational Conference. If the student accepts responsibility, the student and the victim are notified within five days of the acceptance of responsibility and what sanctions are given as a result of the action. If the student denies responsibility, the case goes to a hearing before a Hearing Officer. The Hearing Officer hears the case presented by the university, the student's statement regarding the incident, and witnesses. Within five days, the Hearing Officer notifies the student and victim (at essentially the same time and using the same method) of the decision of the case and what sanctions are given if the accused student is found responsible. The appeal process is included in the letter. If there is a change in the outcome of a case based on the appeal, both the accuser and the accused are again notified of the outcome. This is done in the same manner they were notified of the initial outcome, using the Maxient system to send the notices.

The University employs interim protection measures such as interim suspension and/or no contact orders in any case where a student's or employee's behavior represents a risk of violence, threat, pattern or predation. A student wishing to officially report such an incident to the university may do so by contacting the Title IX Coordinator, Lauri Millott at (575) 646-3635. The student may also report to NMSU Police or other law enforcement if they wish to pursue criminal charges. NMSU employees with knowledge about sexual misconduct or gender-based violence or the crimes of rape, sexual assault, sexual harassment, stalking, dating violence or domestic violence are encouraged to report it immediately.

For offenses including sexual misconduct or other gender based violence, which typically include the crimes of domestic violence, dating violence, sexual harassment, sexual misconduct and stalking, sanctions against student offenders range from warnings through expulsion. Serious and violent incidents and acts of sexual offenses by employees usually result in suspension, expulsion or termination of employment.

Procedurally, when New Mexico State University receives a report of sexual misconduct, gender-based violence, or other sex or gender discrimination the campus Title IX Coordinator is notified. If the victim wishes to access local community agencies and/or law enforcement for support, the University will assist the victim in making these contacts. The Title IX Coordinator will offer assistance to victims in the form of interim or long-term measures such as opportunities for academic accommodations, changes in housing for the victim or the responding student, visa and immigration assistance, changes in working situations and other assistance as may be appropriate and available on campus or in the community (such as no contact orders, campus escorts, transportation assistance, targeted interventions, etc). If the victim so desires, they will be connected with a counselor on- or off-campus, as well as an on-or off-campus victim's advocate. No victim is required to take advantage of these services and resources, but the University provides them in the hopes of offering help and support without condition or qualification. A summary of rights, options, supports and procedures is provided to all victims, whether they are a student, employee, guest or visitor by the Title IX Coordinator (or designee).

When appropriate upon receipt of notice, the Title IX Coordinator will cause a prompt, fair and impartial process to be initiated, commencing with an investigation which may lead to the imposition of sanctions upon an individual found responsible, based upon a preponderance of evidence. (Preponderance of evidence means that the hearing officer believes it is more likely than not that the incident occurred. The preponderance of the evidence standard is first applied during the investigative process when the Office of Institutional Equity investigates the complaint.) Procedures detailing the investigation and resolution processes of the University can be found in the NMSU Administrative Rules and Procedures manual at Rule 3.25 (contained below). The Coordinator is ultimately responsible to assure in all cases that the behavior is brought to an end, the University acts to reasonably prevent its recurrence and the effects on the victim and the community are remedied. The Coordinator is also responsible to assure that training is conducted annually for all investigators, hearing officers, and appeals officers that encompasses a hearing process that protects the safety of victims and promotes accountability. Training will focus on sexual misconduct, domestic violence, dating violence, sexual assault, stalking, sexual harassment, retaliation and other behaviors that can be forms of sex or gender discrimination covered by Title IX and Clery Act. Training will help those decision-makers in the process to protect the safety of victims and to promote accountability for those who commit offenses.

In any complaint of sexual misconduct, sexual assault, stalking, dating violence, domestic violence or other sex or gender-based discrimination covered under the federal law, Title IX, the person bringing the accusation and the responding party are entitled to the same opportunities for a support person or advisor of their choice throughout the process, including any meeting, conference, hearing or other procedural action. Once complete, the parties will be informed, in writing, of the outcome, including the finding, the sanctions (if any). Delivery of this outcome will be issued to the parties, and will occur at the same time and utilizing the same method of delivery. All parties will be informed of the University's appeal processes, and their rights to exercise a request for appeal. Should any change in outcome occur prior to finalization, all parties will be timely informed in writing, and will be notified when the results of the resolution process become final.

## **NMSU POLICIES AND PROCEDURES**

Below are summaries or excerpts of the NMSU Administrative Rules and Procedures related to discrimination, sexual misconduct, harassment, alcohol, drugs, and related topics. Some of these are in the process of being re-written, with new rules and procedures expected to be issued during the 2016-2017 school year. When the new rules and procedures are implemented, notification will be sent to the campus community. The complete and current NMSU Policies and Procedures and the Administrative Rules and Procedures can be found at <http://manual.nmsu.edu/policies-and-procedures/>.

### **NMSU Rule 3.05 Alcohol at NMSU Including Sanctioned Events (also addresses illegal drugs)**

This rule specifies when and where alcohol is allowed, and what events may involve the serving or consumption of alcohol. Alcohol is only allowed if its possession and use are consistent with local, state, and federal laws, and only if it does not interfere with the academic atmosphere of the university. Sales of alcohol are prohibited unless specifically approved by the university and conducted in accordance with state law, to include requirements for a dispenser license. NMSU explicitly prohibits the unlawful use, possession, sale, or distribution of alcohol, controlled substances (drugs), or drug paraphernalia by all students and employees. Violations of applicable local, state, or federal laws is considered a violation of the institution's policies. Underage possession or consumption of alcohol is also specifically prohibited. Students who violate the rules and procedures are referred for violation of the Student Code of Conduct, and frequently also face criminal charges (see arrests and disciplinary referrals later in this report). These also link to the Student Social Code of Conduct Part II, Section 5.a (Alcohol Use), Section 5.b (drugs), Section 5.c (prescription medications), and Section 5.h (Violations of Law). Employees found in violation are also subject to criminal charges, as well as being referred for human resources action. The full Rule can be found in the Administrative Rules and Procedures at <http://manual.nmsu.edu/policies-and-procedures/>. (See also **Drugs and Alcohol** in **Section 3**, below)

### **Abuse Programs required under the Drug-Free Schools and Communities Act (DFSCA)**

Students with a concern about their level of abuse can see professional staff to objectively assess the impact that their use has on their lives. This assessment is accomplished using inventories, online tools such as e-Chug, and/or through the clinical interview. Motivational interviewing is utilized when working with students who are not ready to address or change their use of substances. One specific strategy for assessment and intervention is the BASICS (Brief Alcohol Screening in College Students) program. This two-session intervention accepts referrals from Student Judicial Services, Housing and Residential Life, Student Health Center, and Counseling Center.

The first time a student is found in violation of the alcohol rule, without other mitigating circumstances, the student is required to complete e-Chug, \$25 administrative fee and receives a written warning. The second time a student is found responsible for violating the alcohol rule, the student is required to complete BASICS, assessed a \$100 administrative fee and receives a 16 week period of time on probation.

Once an assessment is completed, staff assists the student to set appropriate goals with strategies to attain those goals. Other resources utilized are community Alcoholics Anonymous groups. If the assessment determines that the student needs additional services beyond what the Counseling Center can provide, the student is referred to community outpatient or inpatient treatment programs.

The Counseling Center provides students with support for their efforts to maintain sobriety. Many students have had treatment or have ended their use of harmful substances independently. Through group interventions, crisis services, and individual counseling, the Center helps students avoid relapse by assisting with stress management, self-regulation, and relationship or other issues (i.e., depression, anxiety) that may be contributing to relapse.

On the first offense the student receives one semester programs, educational element of EToke and a \$25 administrative fee. On the second offense (or more serious first offense) the student receives one year probation, education element of BASICS and a \$100 administrative fee. Serious offenses could result in suspension.

### **NMSU Rule 3.25 Discrimination, Harassment and Sexual Misconduct on Campus**

A. New Mexico State University (NMSU) is dedicated to providing equal opportunities in areas of employment and academics without regard to age, ancestry, color, disability, gender identity, genetic information, national origin, race, religion, serious medical condition, sex, sexual orientation, spousal affiliation or protected veteran status as outlined in federal and state anti-discrimination statutes. As a federal contractor, NMSU's affirmative action program also supports this effort. The following is a listing of applicable federal and state laws:

1. Age Discrimination in Employment Act of 1967
2. Americans with Disabilities Act of 1990, as amended
3. Civil Rights Act of 1991
4. Title IX of the Education Amendments of 1972
5. Executive Order 11141
6. Executive Order 11246
7. Equal Pay Act of 1963
8. Pregnancy Discrimination Act
9. Section 504 of the Rehabilitation Act of 1973, as amended
10. Title VI & VII of the Civil Rights Act of 1964
11. Vietnam Era Veterans Readjustment Act
12. Genetic Information Non-discrimination Act of 2008
13. NM Human Rights Act, 1969
14. Campus SaVE Act, 2013

B. The Office of Institutional Equity (OIE) is designated as the office that receives and processes internal discrimination complaints within the NMSU system. The NMSU OIE website will include office address, location and contact information: <http://eeo.nmsu.edu/>

C. Title IX Notice:

1. NMSU does not discriminate on the basis of sex in education programs and activities; Title IX of the Education Amendments Act of 1972 is a federal law that states:

*"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."*

2. Title IX prohibits:

- a. Sexual misconduct (including sexual violence)
- b. Sex discrimination (gender bias)



- c. Sexual harassment
- d. Retaliation

3. Title IX applies to students, staff and faculty. Title IX requires reporting from “responsible employees” for which purposes of policy can be defined to include:
  - a. Those with authority to address and remedy sex-based discrimination and harassment; and/or
  - b. Those with responsibility to report sexual misconduct to a supervisor and OIE; and/or
  - c. Those who a student would responsibly believe have such authority or obligation.
4. In cases involving harassing speech, assessing Title IX applicability to off-campus behavior will require a two-prong test:
  - a. Does NMSU have control over the harasser (subject to our rules) and
  - b. Does NMSU have control over the context of the harassment (on our property, in our programs, on land we lease or control, or at events we sponsor)
5. NMSU will reserve the option to take off-campus jurisdiction in cases involving sexual violence, sexual assault, or rape that involve students or employees.
6. The President will designate an administrator to serve as the NMSU Title IX Coordinator, whose duties will include overseeing all Title IX complaints and identifying and addressing systemic problems that arise during the review of such complaints.
7. Inquiries concerning the application of Title IX may be referred to the NMSU Title IX Coordinator or the Office of Civil Rights of the United States Department of Education. The NMSU OIE website will include the NMSU Title IX Coordinator's name, office address, telephone number, and e-mail address as well as the link to the Office for Civil Rights.

D. Campus Violence Elimination Act (Campus SaVE Act) Notice:

NMSU does not tolerate any sexual violence to include intimate partner violence which can be defined as any physical, sexual, or psychological harm against an individual by a current or former partner or spouse of the individual. Such sexual violence covers domestic violence, dating violence and stalking. The Campus SaVE Act complements and is a companion to Title IX and assists with the response to and prevention of sexual violence in higher education. The Act provides a framework for educational institutions to address incidents of sexual violence occurring on-campus, on public property within and adjacent to campus, and at non-campus properties like off-campus student organization housing, campus sponsored events and remote classrooms.

Specifically, the Campus SaVE Act outlines provisions for the following:

- a. Transparency: Students or employees reporting victimization will be assisted by campus authorities in reporting a crime to law enforcement and with obtaining or enforcement of no contact directives or restraining orders. Employees and students should be aware of bystander intervention which includes taking action to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, or stalking against another person. Individuals who make reports will be provided options and assistance in changing academic, living, transportation and working situations if requested and reasonably available. Further, a resource guide will be provided which includes information on counseling, health, local advocacy and legal service agencies. The range of any possible disciplinary actions or

sanctions and procedures may be found in the *NMSU Student Code of Conduct* and/or the *NMSU Policy Manual*.

- b. Accountability: Provide a fair investigation and resolution of complaints. Additionally, both accuser and accused may be accompanied during proceedings by an advisor of their choice and both parties will receive written outcomes of disciplinary hearings at the same time.
- c. Education: Conduct initial and ongoing awareness programming for students and employees that addresses issues of primary prevention, definition of consent, reporting, bystander intervention and risk reduction.
- d. Inquiries concerning the application of the Campus SaVE Act may contact any of the following: Office of Institutional Equity (OIE) Executive Director; the NMSU Police Department Victim's Assistance Coordinator or the Dean of Students. The NMSU OIE website will include the most current names, office address, telephone number and e-mail address as well as the link to the Office for Civil Rights.

E. Discrimination Policy:

1. NMSU is committed to providing a place of work and learning free of discrimination and harassment on the basis of a person's age, ancestry, color, disability, gender identity, genetic information, national origin, race, religion, serious medical condition, sex, protected veteran status, sexual orientation, or spousal affiliation. Where a violation of policy is found to have occurred, NMSU will act to stop the conduct, to prevent its recurrence, to remedy its effects, and to discipline those responsible in accordance with the *NMSU Policy Manual* and/or *NMSU Student Code of Conduct*.
2. No employee or student, either in the workplace or in the academic environment, should be subjected to discrimination which includes inappropriate conduct. Even one incident may constitute a violation of policy. It is expected that students, faculty and staff will treat one another and campus visitors with respect.
3. It is against NMSU policy to discriminate in any aspect of employment or education, which includes, but is not limited to:
  - a. hiring actions and terminations;
  - b. compensation, assignment, or classification of employees;
  - c. transfer, promotion, layoff, or recall of employees;
  - d. job advertisements;
  - e. recruitment actions;
  - f. testing;
  - g. grading;
  - h. acceptance or participation in an academic program or activity;
  - i. use of university facilities;
  - j. training programs;
  - k. benefits;
  - l. retirement plans, and paid and unpaid leave programs;
  - m. housing;
  - n. academic accommodation;
  - o. employment accommodation;

- p. financial aid;
- q. other terms and conditions of employment

4. Determining what constitutes discrimination under this policy will be accomplished on a case by case basis and depends upon the specific facts and the context in which the conduct occurs. Some conduct may be inappropriate, unprofessional, and/or subject to disciplinary action, but would not fall under the definition of discrimination. The specific action taken, if any, relating to a particular instance depends on the nature and the seriousness of the conduct that is reported.
5. Discriminatory practices include, but are not limited to:
  - a. discrimination on the basis of a person's age, ancestry, color, disability, gender identity, genetic information, national origin, race, religion, sex, protected veteran status, sexual orientation, serious medical condition or spousal affiliation;
  - b. retaliation against an individual for engaging in a protected activity such as filing a charge of discrimination, participating in an investigation, or opposing discriminatory practices;
  - c. Use of electronic mail or computer dissemination of offensive material relating to protected categories;
  - d. Denying or interfering with an employee's or student's authorized reasonable accommodation based on disability or religion;
  - e. employment or education decisions based on stereotypes or assumptions about the abilities, traits or performance of individuals based on age, ancestry, color, disability, gender identity, genetic information, national origin, protected veteran status, race, religion, serious medical condition, sex, sexual orientation, or spousal affiliation; and
  - f. conduct that has the purpose or effect of substantially interfering with an individual's academic or work performance, or of creating an intimidating, hostile or offensive environment in which to work or learn.

#### F. Sex Discrimination/Sexual Harassment Policy:

1. NMSU is committed to providing a place of work and learning free of sexual misconduct which includes sexual harassment and sexual violence. Engaging in sexual behavior that is inappropriate, unwanted and unsolicited is a violation of NMSU policy. Where sexual harassment is found to have occurred, NMSU will act to address the reported conduct, to prevent its recurrence, to remedy its effects, and to discipline those responsible in accordance with the *NMSU Policy Manual* and/or *NMSU Student Code of Conduct*.
2. No employee or student, either in the workplace or in the academic environment, should be subjected to unwelcome non-verbal, verbal or physical conduct that is of a sexual nature. Even one incident may constitute a violation of NMSU policy.
3. Determining what constitutes sexual harassment under this policy is dependent upon the specific facts and the context in which the conduct occurs. Some conduct may be unprofessional and/or subject to disciplinary action, but would not fall under the definition of sexual harassment. The specific action taken, if any, depends on the nature and the seriousness of the reported conduct and may include disciplinary processes.
4. Under this policy, unwelcome sexual advances, requests for sexual favors, and other non-verbal, verbal or physical conduct of a sexual or gender bias nature, constitute a violation of policy when:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic status;
- b. Submission to or rejection of the conduct is used as a basis for academic or employment decisions or evaluations, or permission to participate in an activity;
- c. The conduct has the purpose or effect of substantially interfering with an individual's academic or work performance, or of creating an intimidating, hostile or offensive environment in which to work or learn.

5. Sexual harassment may take many forms, subtle and indirect, or blatant and overt.

6. Examples of unwelcome conduct of a sexual or sex related nature that may constitute a violation of policy may include, but are not limited to:

- a. Rape, sexual assault, sexual battery, sexual coercion, sexual exploitation, stalking, or other sexual violence;
- b. Sexual violence is a physical act perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. Additionally, a person may be unable to give consent due to an intellectual or other disability;
- c. Sexually explicit or gender related statements, comments, questions, jokes, innuendoes, anecdotes, or gestures;
- d. Uninvited touching, patting, hugging, or purposeful brushing against a person's body or other inappropriate touching of an individual's body;
- e. Remarks of a sexual nature about a person's clothing or body;
- f. Use of technology, electronic mail or computer dissemination of sexually oriented, sex-based communications or sexually explicit images;
- g. Sexual advances, whether or not they involve physical touching;
- h. Requests for sexual favors in exchange for actual or promised job or educational benefits, such as favorable reviews, salary increases, promotions, increased benefits, continued employment, grades, favorable assignments, letters of recommendation;
- i. Displaying sexually suggestive objects, pictures, magazines, cartoons, or screen savers; or
- j. Inquiries, remarks, or discussions about an individual's sexual experiences or activities and other written or verbal references to sexual conduct.

#### G. Retaliation:

1. Retaliation against an individual who in good faith complains of alleged discrimination or sexual harassment or provides information in an investigation about behavior that may violate this policy is prohibited and may be grounds for discipline. Retaliation in violation of this policy may result in discipline up to and including termination and/or expulsion. Any employee or student bringing a discrimination or sexual harassment complaint in good faith or assisting in the investigation of such a complaint will not be adversely affected in terms and conditions of employment and/or academic standing, nor discriminated against, terminated, or expelled because of the complaint.
2. "Retaliation" may include, but is not limited to such conduct or adverse actions as:
  - a. Adverse action taken to keep someone from opposing a discriminatory practice, or from participating in a discrimination proceeding;
  - b. Employment actions such as termination, refusal to hire, and denial of promotion;
  - c. Threats, unjustified negative evaluations, unjustified negative references, or increased surveillance;

- d. Action such as an assault or unfounded civil or criminal charges that are likely to deter reasonable people from pursuing their rights; or
- e. An unfair or unjustified grade.

Note that petty slights and annoyances, such as stray negative comments in an otherwise positive or neutral evaluation, snubbing a colleague, or negative comments that are justified by an employee's or student's poor work/academic performance or history are not considered adverse actions.

#### H. Applicability and Sanctions:

All students and employees are subject to this policy. Any student or employee who violates this policy is subject to discipline up to and including termination and/or expulsion in accordance with the *NMSU Policy Manual* or in the case of students, the *NMSU Student Code of Conduct*. Complaints may also be filed against visitors, consultants, independent contractors and outside vendors whose conduct violates these policies, with the possible sanctions of limiting access to campus facilities and other measures to protect the campus community.

#### I. Policy Statement Distribution:

The President's policy statement references the University's position as contained in this policy.

All employees will be provided the President's policy statement on an annual basis. Human Resource Services (HRS) and the Office of Institutional Equity (OIE) will maintain documentation (written or electronic) that each employee received the President's policy statement. New employees will be provided a copy of the President's policy statement at the time of hire, generally at New Employee Orientation (NEO) and documentation will be maintained by HRS. Additionally, the President's policy statement will be provided to students at least annually. The distribution and receipt documentation may be accomplished electronically for either employees or students. The complete text of this policy will be maintained on the OIE website: <http://eeo.nmsu.edu/>

#### J. Complaints and Investigation:

1. Employees and students may file an internal discrimination complaint with OIE within fifteen (15) working days from the date of the incident(s). Individuals may use the NMSU Internal Discrimination Complaint Form to submit their complaint. The use of this form facilitates the gathering of information that is necessary to assess the complaint. The OIE Executive Director (or designee) may extend the filing date of a complaint beyond the fifteen (15) working days if there are extenuating circumstances.
2. OIE will provide the option to the complainant of pursuing their complaint through an informal (which may include mediation) or formal process (submittal of the complaint). The formal internal discrimination complaint will be subject to an initial review to determine if the complaint will proceed to the investigation. If the initial review finds that the complaint will not be accepted for investigation, the OIE Executive Director (or designee) will inform the complainant in writing of the decision. The complainant may appeal the decision in writing to the Executive Vice President and Provost (or designee) within five (5) working days of receipt of the notification letter.
3. If the internal discrimination complaint is accepted, the accused individual(s) will be provided a copy of the complaint and will be extended five (5) working days to provide a written response to OIE. OIE shall initiate the process to investigate the complaint. This process includes interviewing

the complainant, respondent, potential witnesses and the gathering of any related documents.

4. All individuals are required to cooperate with any investigation in response to allegations of discrimination. Refusal to cooperate in an investigation may result in disciplinary action in accordance with university policy or student code of conduct. The completion of the investigation will be within sixty (60) days of initiation unless there are extenuating circumstances. A report of inquiry will be generated by the investigator and forwarded to the Executive Vice President and Provost. Within fifteen (15) days of receipt, the Executive Vice President and Provost (or designee) will review the report and render a decision in writing to the OIE Executive Director. The standard of evidence used for internal discrimination investigations is the “preponderance of the evidence”. Preponderance of the evidence means the greater weight of the evidence. The OIE Executive Director (or designee) will transmit the Executive Vice President and Provost’s (or designee) decision in writing to the complainant, the accused and appropriate administrators. The completion of the decision transmittal exhausts the internal process available under this policy for employees, students and others or may file complaints.
5. Penalties: Cases for students who are found to have violated the *NMSU Student Code of Conduct* and/or *NMSU Policy Manual* will be referred to Assistant Dean of Students. Cases for employees who are found to have violated *NMSU Policy Manual* will be referred to Human Resource Services/Employee and Management Services. Sanctions for students may include action up to and including expulsion. Sanctions for employees may include employment action up to an including termination in accordance with provisions of the *NMSU Policy Manual*.

#### K. General Information

1. Supervisors: If anyone in a supervisory, managerial, administrative or executive role or position, such as a supervisor, department chair, or director of a unit, receives a complaint of alleged discrimination or sexual harassment, or observes or becomes aware of conduct that may constitute discrimination or sexual harassment, that person must immediately contact OIE.
2. Employees: An employee who believes that he or she has been subjected to discrimination or sexual harassment by anyone is encouraged, but it is not required, particularly if it may be confrontational, to promptly tell the person that the conduct is unwelcome and ask the person to stop the conduct. An employee is not required to do this before filing a complaint. A person who receives such a request must immediately comply with it and must not retaliate against the employee. If the employee feels uncomfortable about discussing the incident with the immediate supervisor, the employee should feel free to bypass the supervisor and file a complaint with OIE.
3. Students: A student who believes that he or she has been subjected to discrimination or sexual harassment by anyone is encouraged, but it is not required particularly if it may be confrontational, to promptly tell the person that the conduct is unwelcome and ask the person to stop the conduct. A student is not required to do this before filing a complaint. A person who receives such a request must immediately comply with it and must not retaliate against the student. If the student feels uncomfortable about discussing the incident with the faculty member, department head, dean or director of an administrative unit, the student should feel free to bypass the person and file a complaint with OIE.
4. When discriminatory conduct involves a crime of violence or a non-forcible sex offense, FERPA permits NMSU to disclose to the alleged victim the name of the alleged perpetrator, any violation

found to have been committed and any sanction imposed). In the event a student is found to have engaged in sexual harassment of another student, NMSU will disclose to the student who was harassed, information about the sanction imposed on the student when the sanction directly relates to the harassed student.

5. Internal NMSU Units: Internal units such as the Dean of Students Office, Housing and Campus Life, Athletics and community colleges will promptly contact and consult with OIE when knowledge is obtained relating to potential discrimination or sexual harassment.

6. Non-employees and non-students: Individuals who are neither NMSU employees nor NMSU students and who believe they have been subjected to discrimination or sexual harassment by an NMSU employee during the employee's work hours or by a NMSU student on campus or at a NMSU-sponsored event may utilize the complaint process set forth above.

**L. Prompt Attention:**

Complaints of discrimination or sexual harassment are taken seriously and will be dealt with promptly, impartially, and equitably. Where discrimination is found to have occurred, NMSU will act to stop the reported conduct, to prevent its recurrence, to remedy its effects, if any, and to discipline those responsible.

**M. Confidentiality:**

NMSU recognizes that confidentiality is important. However, confidentiality cannot be guaranteed. The administrators, faculty or staff responsible for implementing this policy will respect the privacy of individuals reporting or accused of discrimination or sexual harassment to the extent reasonably possible and will maintain confidentiality to the extent possible. Examples of situations where confidentiality cannot be maintained include, but are not limited to, necessary disclosures during an investigation, circumstances where the NMSU is required by law to disclose information (such as in response to legal process), or when an individual is in harm's way.

To the extent provided by law and university policy, documents concerning a discrimination investigation and investigative results are not subject to public disclosure. Investigative materials and documents contain matters of opinion related to the working relationship between NMSU and its employees. Documents protected by the Family Educational Rights and Privacy Act (FERPA), Privacy Act of 1974, the New Mexico Inspection of Public Records Act, etc. are not subject to disclosure.

**N. Supervisor Responsibilities:**

1. Every supervisor (includes faculty in academic setting) has responsibility to take reasonable steps to prevent acts of discrimination or sexual harassment, which include, but are not limited to:
  - a. Monitoring the work and school environment for signs that discrimination or harassment may be occurring;
  - b. Refraining from participation in, or encouragement of actions that could be perceived as discrimination or harassment (verbal or otherwise);
  - c. Stopping any observed acts that may be considered discrimination or harassment, and taking appropriate steps to intervene, whether or not the involved individuals are within their line of supervision; and
  - d. Taking immediate action to minimize or eliminate the work and/or school contact among individuals where there has been a complaint of sexual harassment, pending the completion of the investigation.

If a supervisor (or faculty in academic setting) receives a complaint of alleged discrimination or sexual harassment, or observes or becomes aware of conduct that may constitute discrimination or sexual harassment, the supervisor (or faculty in academic setting) must immediately contact OIE. Failure to take the above action to prevent the occurrence of or stop known discrimination or harassment may be grounds for disciplinary action in accordance with provisions of the *NMSU Policy Manual*.

O. Relationship to Freedom of Expression:

NMSU is committed to the principles of free inquiry and free expression. Vigorous discussion and debate are fundamental rights and this policy is not intended to stifle teaching methods or freedom of expression. Discrimination or sexual harassment, however, is neither legally protected expression nor the proper exercise of academic freedom; it compromises the integrity of this institution, the tradition of intellectual freedom and the trust placed in the institution by its members.

**Additional Information On Sexual Assaults, Sexual Violence, and Sexual Misconduct**

The Office of Institutional Equity has compiled a package of all resources, including for community college locations, along with a tri-fold publication that is provided to students. A copy of these is available through the OIE. In addition, the OIE has implemented a 90-day follow up procedure of following up with victims of sexual violence and sexual misconduct for those victims who initially elected not to file internal complaints.

**SEX OFFENDERS**

In accordance to the Campus Sex Crimes Prevention Act of 2000, the University is providing a link to the State of New Mexico Sex Offender Registry. All sex offenders are required to register in the state of New Mexico and to provide notice of each institution of higher education in New Mexico at which the person is employed, carries a vocation or is a student. The registry, maintained by the State of New Mexico can be found at <http://www.nmsexoffender.dps.state.nm.us>. In addition to other legal requirements, any convicted sex offender who is a student or employee of NMSU is required to register with the NMSU Police Department, as well as make notification to either the Registrar's Office (if a student) or the department head of their employing department (if an employee), or both (if both a student and an employee). As of September 30, 2016, no known sex offenders lived on the NMSU campus based on a search of this database.

In addition to the above notice to the State of New Mexico, all sex offenders are required to deliver written notice of their status as a sex offender to the NMSU Police Department no later than three (3) business days **prior to** their enrollment in, employment with, volunteering at or residence in the University. Such notification may be disseminated by the University to, and for the safety and well-being of, the University community, and may be considered by the University for enrollment and discipline purposes.



## **SECTION 3 – SAFETY AND SECURITY PROGRAMS**

### **SAFETY CLASSES AND WORKSHOPS**

The primary functions of the NMSU Police Department are law enforcement, criminal investigation, and emergency response. Integral to these are the crime prevention and public education classes and workshops the officers and crime prevention specialists teach on campus each year to help reduce the likelihood of crimes. These classes include:

- **Personal Self Defense and Fight Like A Girl:** learn and practice techniques that can help stop an attack in these programs
- **Pepper Spray:** learn to use pepper sprays for self defense
- **Active Shooter Response:** learn what to do if caught in an active shooter/killer incident
- **Operation Identification:** check out an engraver and learn how to mark and log down your valuable property
- **Traffic Safety Issues:** refresh on the rules of the road and how to avoid problems
- **Rape Awareness & Prevention:** learn about stranger, date, and acquaintance rape, and some ways to avoid situations common to rapes
- **Alcohol & Drug Awareness:** learn the effects of alcohol and drugs on the body, and the dangers they can pose
- **Dealing with Difficult People and Violence in the Workplace:** learn about the causes of workplace violence and how to reduce its likelihood
- **Emergency Preparedness and Community Emergency Response Team (CERT):** learn how to prepare for emergencies, help yourself, and help others
- **First Aid & CPR:** learn how to treat medical emergencies until help arrives
- **RAD Kids:** a safety program for young children

Classes are scheduled at the request of any on-campus (and some off-campus) groups or organizations. In addition, the Police Department works with others on campus, such as Housing and Residence Life, to design specific public education workshops for the needs of each area. The NMSU Police Department also teaches segments of academic courses at the request of instructors and faculty. Courses are tailored for each audience, and range in length from 15 minutes to 8 hours. Further information, including a list of currently scheduled courses, how to request a course, descriptions of the courses, or discussion of specific needs is available by contacting the NMSU Police Department at 646-3311. Additional information regarding safety can also be found at [www.nmsupolice.com](http://www.nmsupolice.com) and [safety.nmsu.edu](http://safety.nmsu.edu), as well as by following the NMSU Police Department Facebook and Twitter accounts (<http://facebook.com/nmsupolice> and <http://twitter.com/nmsupolice>).

### **NEW STUDENT PROGRAMS**

The Dean of Students presents to each orientation (first-year and transfers) regarding the Student Social Code of Conduct; definitions of dating violence, domestic violence, sexual assault, stalking and consent; rights of the victim; where a victim can report on campus providing an explanation of reporting offices and offices which hold confidentiality; steps to take in case of a crime of violence; and bystander behavior.

For students who do not attend a face-to-face orientation, they must complete an on-line orientation. A component of the on-line orientation is information related to defining dating violence, domestic violence, sexual assault, stalking and consent; rights of the victim; where a victim can report on campus

providing an explanation of reporting offices and offices which hold confidentiality; steps to take in case of a crime of violence; and bystander behavior.

Wellness, Alcohol, Violence, Education (W.A.V.E.) sets up display tables and does presentations throughout the year. They provide information on alcohol, violence, and wellness during new student orientation, to residents on move-in day, and in classes. Their total student contact was 10,838 for the 2015-2016 school year.

#### **WELLNESS, ALCOHOL, VIOLENCE, EDUCATION (WAVE) PROGRAM**

WAVE is a harm-reduction program that has run at NMSU for a number of years. It involves peer educators in outreach efforts targeting students. At each presentation, WAVE provides materials regarding on and off-campus resources to participants. Last year, WAVE had 1405 student contacts regarding information on violence. In addition to the efforts aimed at first-year students listed above, WAVE educators also present the following annual programs:

- 1) **RAINN Day** - an annual day of action to raise awareness and educate students about sexual violence on college campuses. It is a grassroots program designed to empower college students to educate their peers about risk reduction and recovery resources on their campus. This year it was held on September 21st and 22nd. Students are encourage to paint a t-shirt about sexual assault prevention; the t-shirts are put up on a clothesline, and the following day students are encouraged to vote for their favorite t-shirt, thus enabling students to read each and every message that other students created on their t-shirts the day before. The creators of the top two t-shirts win a prize and we typically take pictures to be featured in the Roundup along with an article about sexual assault. This year 253 students participated in RAINN Day.
- 2) **Aggies Against Violence Week** - As you are aware we started this last year and intend to make it an annual event. Last year 326 students participated in the week long series of events.
- 3) **Take Back The Night** – NMSU has been participating in the annual TBTN for over 10 years and last year 75 students participated.

This year (2016-2017) W.A.V.E. coordinated the **RED Zone Campaign** where the Peer Educators wear RED Zone t-shirts and hand out materials which explain that the period between “move in day” and Thanksgiving break was the time frame in which most sexual assaults on college campus take place.

#### **FACILITIES STAFF AND KEY CONTROL PROGRAMS**

Employees of Facilities and Services are responsible for a variety of services performed on and around the Las Cruces campus, including facility cleaning, maintenance, and access control. Upon employment, these employees submit to a background check, receive a uniform distinguishing them as Facilities and Service employees, and are issued keys granting limited access to the exterior door, equipment rooms, and custodial closets. Custodians may access master keys through a lockbox sign-in and sign-out process. An employee entering a requester-controlled area obtains access through the work requestor, with both parties verifying security upon completion. When work needs to be performed in a residence, it requires key check-out and check-in from the appropriate office.

All new keys for university buildings outside of Housing are issued directly through the Access Control shop to insure key records are controlled by a central location. Keys authorized by the responsible department head or other authorized person are only issued to a valid NMSU student or staff member. Use and security of keys are the responsibility of the recipient. Upon severing ties with the university,

keys must return to Facilities and Services. Distribution of master keys require the approval of the Facilities and Services Associate Vice President prior to release.

Keys for use by residents in residential facilities are controlled by and issued through Housing and Residential Life. Residents are responsible for keeping their individual keys secure at all times, and for reporting loss or theft of the key immediately. In the event a resident locks their keys inside their room, they may seek assistance from Housing staff.

## **RESIDENCE HALL SAFETY AND SECURITY PROGRAMS**

### **Residence Life On-Call System**

Housing and Residential Life have a comprehensive on-call duty rotation at both the student staff member (Resident Assistant) and professional staff member (Resident Director) level. These staff are “on-call” to respond to personal crisis, major facilities issues, or medical emergencies. After business hours (5pm-8am the following morning), a student staff member is on duty for each residential facility via a university-owned cellular phone. In Garcia Hall, these staff members are also supported by an Operations Center that is open until midnight – Sunday-Wednesday and 24/7 on Thursday, Friday, and Saturday nights.

The professional Resident Director on duty is responsible for all housing complexes and available 24/7, not just during the after-hours time period. This professional staff member is supported by a member of the Housing Leadership Team (Director or Associate Directors) who is available 24/7 to consult with the professional staff member that is available on campus. Professional staff members are on-call every day of the year, even when the university is closed and/or on recognized holidays.

As a part of the Resident Assistant duty protocol, staff complete a nightly inspection of all exterior doors to each building to insure that they are securing and functioning properly, and then Housing has administrative staff do a weekly double check of these doors to insure all exterior gates and doors are latching and closing appropriately.

In addition to exterior door inspections, each evening we do a visual walk through of all housing spaces and we have created a process to report all exterior lights that are not functioning that is documented on duty rounds. This includes frequent rounds each month at Student Family Housing for reporting yard and street lights not working.

### **Public Safety Aides (PSAs)**

In collaboration with the NMSU Police department, student Public Safety Aides (trained security officers) patrol all housing areas, Corbett Center Student Union (CCSU), and adjacent parking lots on Wednesdays, Thursdays, Fridays, and Saturdays from 10 pm to 3 am. Housing and Residential Life and CCSU initiated this safety program in late 2015, and are paying for it to reduce the number of issues, including false fire alarm pulls, which were happening late at night and in the early parts of the morning. This has helped to significantly reduce problems, and has helped assist students who had health emergencies during this time period. Overall, the program has been a terrific initiative to benefit student health, safety, and security.

### **Housing Health & Safety Checks**

Housing staff conduct health and safety checks at all facilities in the Housing inventory five times each year: late September (pre-Homecoming); November; winter Break (December); February; and,

April. While this is an ideal time to connect with residents, assist with work order issues and check on our condition of the space, Housing staff also specifically look at areas that relate to safety:

- check and insure all window locks are in place and functioning
- check and insure all exterior door locks to space are functioning
- check and insure all smoke detectors are in place and operating correctly

In September 2016, Housing staff used these checks as in-person meetings with each resident in the hall or apartment. Staff also discussed on how to sign up for the emergency notification system, and will do that each Fall to help get as many students, especially first year students, to enter additional contact information into the system.

### **Additional Housing Safety and Security Measures**

All exterior gates and doors contain signage about the seriousness of not propping doors, and that community safety is something where all residents/community members bear responsibility. Housing and Residential Life also conducts a monthly check of all exterior gates and doors to ensure this educational signs is in place.

Additionally, Residential Life staff at each of the Operations Centers complete daily checks of all spare key cabinets, and twice per week a complete inventory of all key cabinets is conducted to identify and address any spare keys that have been checked out more than 24 hours and get those returned by residents. Housing and Residential Life also complies with the NMSU Fire Chief Compliance Statement and schedule for testing and inspection of Fire Alarm and Fire Suppression equipment across the NMSU System. This testing currently includes biannual testing of fire alarm systems in large residential buildings. This is supplemented with practice fire drills each Fall in all residential areas. The following chart shows the dates of fire drills conducted in the residence areas over the past three years:

<b>Evacuation Tests</b>	<b>2013</b>		<b>2014</b>		<b>2015</b>	
Chi Omega House	9/5/2013		1/24/2014	9/11/2014	1/27/2015	9/8/2015
Delta Zeta House	1/24/2013	9/5/2013	1/24/2014	9/11/2014	1/27/2015	9/8/2015
Zeta Tau Alpha	1/24/2013	9/5/2013	1/24/2014	9/11/2014	1/27/2015	9/8/2015
Garcia Hall	9/3/2013		1/22/2014	9/9/2014	1/29/2015	9/16/2015
Pinon Hall	9/4/2013		1/22/2014	9/9/2014	1/29/2015	9/9/2015
Rhodes-Garrett-Hamiel (RGH)	9/5/2013		1/22/2014	9/9/2014		9/8/2015
Cervantes Village I	9/3/2013		1/23/2014	9/10/2014		
Cervantes Village II	9/5/2013		1/23/2014	9/10/2014		
Greek & ROTC West (Buildings 100-400)	9/3/2013		1/24/2014	9/11/2014	1/27/2015	
Greek Complex East (Buildings 500-800)	9/4/2013		1/24/2014	9/11/2014	1/27/2015	
Chamisa A					1/26/2015	9/9/2015
Chamisa B					1/26/2015	9/9/2015
Chamisa C					1/26/2015	9/9/2015
Chamisa E					1/26/2015	9/10/2015
Chamisa F					1/26/2015	9/10/2015
Chamisa G					1/26/2015	9/10/2015

Chamisa Village Patio H						9/10/2015
Dove Hall						9/16/2015
Football Coaches Offices						9/15/2015
Business Complex Center						9/8/2015
Institute for Public Policy						9/8/2015
Kent Hall						9/8/2015

### **BYSTANDER INTERVENTION EDUCATION & TRAINING**

The rollout of a campus bystander intervention education and training program called “Green Dot” is underway through a collaboration between the Dean of Students Office, Housing and Residential Life, NMSU Police department, and Office of Institutional Equity (OIE), and will be initiated campus wide in the Spring 2017 semester. The program will utilize nationally recognized facilitators to train a core group of students, faculty, and staff as trainers. These campus trainers will provide campus trainings directly to the rest of the campus community. This train-the-trainer model is a cost effective way to encourage NMSU community members to get involved in preventing crimes from happening to their fellow community members.

The Office of Institutional Equity and the Associated Students of NMSU (student government) are also working with the La Piñon Rape Crisis Center to implement the program “It’s On Us”. This program aims to reduce sexual assault by recognizing that non-consensual sex is sexual assault, identifying situations where sexual assault may occur, intervening in situations where consent has not or cannot be given, and creating an environment where sexual assault is unacceptable and survivors are supported. Invitations to participate and help with education and activities have been extended to the Greek Organizations leadership and the Athletic Advisory leadership. This program will continue to develop throughout the 2016-2017 school year.

### **COUNSELING CENTER**

New Mexico State University offers counseling services free of charge to students at the NMSU Counseling Center. The NMSU Counseling Center staff is comprised of well-trained professionals and can help students with a wide range of problems. Students interested should call the NMSU Counseling Center at 646-2731. When a victim of sexual assault, harassment, dating violence or domestic violence come to the Counseling Center, the student receives materials to take away with them after the visit. The materials include contact information to both campus and community resources. On campus resources include: Campus Health Center, Office of the Dean of Students, ASNMSU Student Legal Aid, Office of Institutional Equity/EEO Director, Housing & Residential Life; Pete’s Pick Up’, NMSU Student Judicial Services, NMSU Police, and Wellness, Alcohol Violence and Education (W.A.V.E.). Community resources include: La Casa Domestic Violence Shelter, La Piñon Rape Crisis Center, Las Cruces Police Department, Memorial Medical Center and the Doña Ana County Sheriff’s Office’s Victim Assistance Unit. The victim is given phone numbers and addresses of these services and offered assistance with reaching these serves.

### **OTHER SAFETY AND SECURITY PROGRAMS**

Facilities and Services also works to help maintain safety of the campus by, among other efforts, replacing burned out lights, trimming vegetation that blocks lights, and conducting annual tours of the

campus to develop a prioritized list of projects for improvements. The employees who work for Facilities and Services also serve as additional observers and reporters of problems around the campus, as do the facilities workers at the DACC Central Campus.

The Associated Students of NMSU also operates a ride service called Pete's Pickup on Wednesdays – Saturdays in the evenings. A simple call for a ride will result in a student employee being dispatched in a golf cart to give you a ride anywhere on the campus, including to/from vehicles, residence halls, the libraries, etc. In addition, Pete's Pass is an ID card available to students that provides free rides on city transit and taxis in order to provide for safe rides around the community.

### **TIPS TO PREVENT CRIME**

The following are some things each person can do to reduce chances of becoming a victim of a crime:

- Mark or engrave all valuables (including textbooks), and keep a record of these in a safe place. Include their make, model, and serial numbers whenever possible.
- If there are problems with your room that may affect security (such as doors that don't lock well or windows that open easily), let your RA or property manager know immediately.
- Register your bicycle with the NMSU Police Department and always secure it to a bike rack on campus with a quality lock.
- Lock the doors and windows to your room and your vehicle every time you leave. Do not leave valuables where they can be easily seen by someone passing by, even if it is just for a few minutes.
- Always be aware of your surroundings and of any strangers near you. If you are going to be involved in activities where you are unable to focus on your environment and what is going on around you (e.g., when playing games on a smart phone), do so with friends so you can help each other watch for dangerous situations. If someone is acting suspiciously near you, move away toward large groups and well lit areas. If the person follows you and/or continues to act in a suspicious manner, consider challenging them or call 911 for assistance.
- Don't leave valuables unattended in unlocked lockers, study areas, or classrooms.
- Alcohol and drug use can reduce your ability to recognize a dangerous situation and your ability to defend yourself. If you are going to drink alcohol, do it legally, responsibly, in a safe place, and with people you can trust.

In addition to the tips above, additional information can be found on the NMSU Police Department website ([www.nmsupolice.com](http://www.nmsupolice.com)), or by contacting the Crime Prevention Office at 646-3311.

### **DRUGS AND ALCOHOL**

*(See also the **Policies and Procedures** in **Section 2**, above)*

Use of alcohol is a concern with many high school and college students. While the average age of students attending NMSU - Las Cruces is 26 years old, there are still a large percentage of students and visitors below the age of 21 (the minimum age for consumption of alcohol in New Mexico). Alcohol is strictly prohibited for those below 21, and abuse of alcohol by anyone (to include use in unauthorized areas) is prohibited. The NMSU Police Department does arrest and/or cite for these offenses. Anyone selling or giving alcohol to a minor is guilty of a 4<sup>th</sup> degree felony in New Mexico. The Student Judicial Affairs Office and Housing and Residential Life will also charge students who violate university policies

and state laws, with penalties ranging from mandatory education programs, up to and including expulsion from NMSU.

In addition to alcohol, illegal drug abuse (to include prescription drug abuse) is a concern on college campuses. Possession, sale, or use of any prohibited substance may result in criminal charges and administrative sanctions, up to and including expulsion from NMSU. Violations of federal and state controlled substance laws are investigated by the NMSU Police Department and referred for prosecution.

For those wanting to know more about the effects of alcohol and drugs, as well as issues like sexual assault, the WAVE (Wellness, Alcohol, and Violence Education) peer educator program is available to offer assistance. Counseling services are also available for those with substance abuse problems, and there are flyers and other information regarding drug and alcohol abuse available through a variety of locations on campus. Also, there are several academic courses related to drugs and alcohol offered each semester for those wanting to gain in-depth knowledge while also earning college credits. These courses can also be a great start for those wanting to pursue careers helping others with substance abuse problems.

#### **OTHER SERVICES AVAILABLE**

Students seeking counseling services off campus may obtain a list of the services available and their phone numbers by calling the NMSU Police Department. The NMSU Police Department can put students in touch with the La Piñon Rape Crisis Center, La Casa Shelter, Doña Ana Victims' Assistance, and numerous other public and private counseling services. Many of these are free of charge or are offered on a sliding fee scale.

For education about sexual assault and misconduct, policy development, and victims' assistance issues, NMSU has given responsibilities to several departments and offices. Students with concerns or needing specific information are encouraged to contact the Dean of Students, the Office of Institutional Equity, or the NMSU Police Department. NMSU works specifically toward the goal of reducing the incidence of sexual crimes and providing better services for those victimized. Special assistance for victims in changing academic and living arrangements is available through the Dean of Students.

Additional services exist throughout the community to deal with special problems. Students may contact the NMSU Police Department with their needs for referral to the appropriate people or organizations.

## **SECTION 4 – CRIME STATISTICS**

### **LAST 3 YEARS OF CRIME STATISTICS**

The NMSU Board of Regents, the NMSU administration, and the NMSU Police Department strongly discourage any conduct that is illegal or that violates the rights of another individual. This specifically includes laws concerning possession, use, and sale of alcohol and illegal drugs. NMSU may take both administrative (student judicial and/or personnel) and criminal action against individuals and organizations found to be violating federal, state or university laws or policies regarding alcohol or drugs. Various drug or alcohol abuse education programs are sponsored by NMSU's Police Department, the Vice President for Student Affairs Office, the WAVE program, and the Human Resources Office. The NMSU Police Department makes every effort to assist victims of crimes through the Police Department's Victim Services Office and to prosecute those responsible. The complete NMSU policies on alcohol use, drug use, prohibited activities, restrictive access, and crime can also be found at <http://manual.nmsu.edu/policies-and-procedures/>.

The NMSU Police Department is responsible for the investigation of all crimes that take place on university premises, which includes the filing of appropriate police reports and filing of annual reports and statistics. However, other agencies have concurrent jurisdiction in many cases. The NMSU Police Department takes efforts to encourage any other agency taking a report to notify the university so the incident can be reflected in the annual crime reports. While there has been a history of excellent cooperation and data sharing among local law enforcement agencies in Doña Ana County, the cooperation from federal agencies in sharing this type of data is not as strong, due in large part to secrecy requirements by those agencies. However, as these agencies generally do not investigate crimes reported herein, this data is believed to be complete.

NMSU Police will only consider removing a report as "unfounded" if the person who filed the report makes a written statement acknowledging that the initial report was fictitious, or if a court convicts the person for filing a false report. In all other circumstances, a report will still be included on crime statistics regardless of the result of hearings or trials.

Statistics on the following crimes and offenses are reported in the annual security report:

**Criminal Homicide:** Murder, non-negligent, and negligent manslaughter. Murder/non-negligent manslaughter is the willful (non-negligent) killing of one human being by another. Negligent manslaughter is the killing of another person through gross negligence.

**Sex Offenses, Forcible or Non-forcible:** A forcible sex offense is any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against that person's will where the victim is incapable of giving consent. Non-forcible sex offenses are acts of unlawful, non-forcible sexual intercourse. While the crimes of rape, incest, and statutory rape have been included in this area for many years, changes in the definitions used in the Clery Act now that went into effect on March 1, 2014 now also include fondling.

**Domestic Violence and Dating Violence:** Starting with statistics for 2013, these categories have been added to this report. However, they were already tracked for many years prior pursuant to state law. It is important to note that "dating violence" is considered domestic violence under state law, and is prosecuted as such. However, for purposes of this report, effort has



been made to distinguish between these two categories in accordance with the federal definitions.

**Stalking:** Engaging in a pattern of conduct directed at a specific person and that would cause a reasonable person to be in fear of their own or another's safety, or that would create substantial emotional distress. Harassment that continues to occur might become stalking.

**Robbery:** The taking, or attempting to take anything of value from the care, custody or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

**Aggravated Assault:** The unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This offense is usually accompanied by the use of a weapon or by means likely to produce death or great bodily harm.

**Burglary:** The unlawful entry of a structure with the intent to commit a felony or theft.

**Arson:** Willful or malicious burning or attempt to burn with or without intent to defraud a dwelling house, public building, motor vehicle or aircraft, or personal property of another, etc.

**Motor Vehicle Theft:** The theft or attempted theft of a motor vehicle. There are three classes of motor vehicles: (1) autos, (2) trucks and buses, (3) and other vehicles.

**On-campus Arrests for Alcohol, Drug and Illegal Weapon Violations:** These represent arrests or formal charges by police related to either alcohol, illicit drugs, or illegal weapons on campus.

**Referrals for Campus Disciplinary Actions for alcohol, drug or illegal weapon violations:** These statistics are individuals referred for disciplinary proceedings in the Dean of Students Office or Residence Life & Student Housing. These individuals may also be counted in the On-campus Arrests category, as individuals are often both prosecuted criminally as well as referred for disciplinary proceedings.

**Hate Crimes:** Hate crimes are reported by category of prejudice: race, religion, gender, gender identity, sexual orientation, ethnicity, national origin or disability. The hate crimes include the following offenses: murder, rape, larceny/theft, assault, intimidation, property destruction, damage or vandalism.

#### **DEFINITIONS OF CLERY ACT LOCATIONS (General)**

**"On-Campus"** is defined as any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls. This also includes any building or property that is within or reasonably contiguous to the geographic area that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

**"Dorms/Residential Facilities"** for students on campus is a **subset** of the **"On-Campus"** category.

**\*\* Crimes reported in the Residential Facilities column are also included in the On-Campus Category.**

**“Non-Campus”** is defined as any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution’s educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution. This also includes any building or property owned or controlled by a student organization that is officially recognized by the institution. The Santa Fe facility is considered in this category.

**“Public Property”** is defined as all public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

### **CLERY GEOGRAPHY**

As noted at the beginning, NMSU is one of the largest land grant universities in the nation. This means that there is a lot of property controlled by the university. This report does not cover all campuses, nor all property controlled by the Board of Regents. Instead, it only contains crimes reported at the following locations. (NOTE: Diagrams showing these areas is contained in an appendix at the end of this report. However, due to the vast size of many of these areas, it may be difficult to identify these areas from the diagrams. If you have any questions about where these areas are located, please contact the NMSU Police Department.)

**Las Cruces Campus:** The land located south of University Avenue, between Interstate 10 and Interstate 25, forming a triangle between the three (as the Interstates join on the southern boundary), excluding the Las Cruces Convention Center. Also included is the land owned by NMSU that extends west from Interstate 25 and south of University Avenue/Dripping Springs Road, reaching up the western face of “A” Mountain, and extending south for a little over a mile just past the intersection of Tellbrook Road and Sonoma Ranch Boulevard.

**Doña Ana Community College – Espina Campus:** Originally called the DACC “central campus”, this is located on the Las Cruces Campus, on the southwest side of the intersection of Gregg Street (which forms the north border) and Espina Street (forming the east border). It is bordered on the south by Wells Street, and on the west by Sam Steel Way.

**Fabian Garcia Horticulture Center:** This land is located immediately west of Interstate 10, straddling University Avenue. Most of this area is not fenced, but only crimes taking place within the university property are included in this report.

**Horse Farm:** Located on Union Avenue, this land consists of completely fenced pastures and paddocks, as well as some equipment barns, a horse barn, and a landscaped approach immediately adjacent to the street. Only crimes located south of Union Avenue and within the described area are included in this report.

**Leyendecker Research Facility:** This research property is located on the east side of the Rio Grande River, south of the Town of Mesilla.

**Chihuahuan Desert Rangeland Research Center (CDRRC):** This is a large, working research ranch located north of Las Cruces, and partially straddling the Doña Ana Mountains on the southern side, and extending to the Rio Grande River on the west and Jornada Experimental Station operated by the USDA on the east. Interstate 25, a rest area, and a US Border Patrol Checkpoint are located in a corridor

running north/south through the CDRRC, but are not part of the NMSU land nor are they included in this report.

The previous 3 years of crime statistics:

Offense		Year	On-Campus Property	**Residential Facilities	On-Campus Total	Non-Campus Property	Public Property
MURDER	Murder/Non-Negligent Manslaughter	2015	0	0	0	0	0
		2014	0	0	0	0	0
		2013	0	0	0	0	0
	Negligent Manslaughter	2015	0	0	0	0	0
		2014	0	0	0	0	0
		2013	0	0	0	0	0
SEXUAL ASSAULTS/CRIMES	Sex Offenses, Forcible	2015	2	1	2	0	0
		2014	4	4	4	0	0
		2013	2	2	2	0	0
	Sex Offenses, Non-Forcible (statutory rape)	2015	0	0	0	0	0
		2014	0	0	0	0	0
		2013	2	2	2	0	0
	Fondling	2015	0	0	0	0	0
		2014	0	0	0	0	0
		2013	0	0	0	0	0
	Incest	2015	0	0	0	0	0
		2014	0	0	0	0	0
		2013	0	0	0	0	0
OTHER TITLE IX CRIMES	Domestic Violence	2015	24	19	24	0	1
		2014	23	20	23	0	0
		2013	23	16	23	0	0
	* Dating Violence	2015	*	*	*	*	*
		2014	*	*	*	*	*
		2013	*	*	*	*	*
	Stalking	2015	5	1	5	0	0
		2014	1	0	1	0	0
		2013	4	1	4	0	0
OTHER CLERY-REPORTED CRIMES	Robbery	2015	2	0	2	0	0
		2014	2	0	2	0	0
		2013	0	0	0	0	0
	Aggravated Assault	2015	11	5	11	0	0
		2014	6	0	6	0	0
		2013	4	1	4	1	0
	Burglary	2015	51	30	51	2***	0
		2014	37	19	37	0	0
		2013	63	17	63	0	0
	Motor Vehicle Theft	2015	13	0	13	0	0
		2014	12	0	12	0	0
		2013	14	1	14	0	0
	Arson	2015	5	1	5	0	0
		2014	3	2	3	0	0
		2013	2	0	2	0	0

\* Pursuant to the 34 CFR 668.46(a) Definitions, and the Federal Register, Volume 79, No. 202, page 62757, Column 3, NMSU includes all cases of 'dating violence' in the statistics for 'domestic violence', as New Mexico State Statutes already include dating violence in domestic violence violations and prosecutions. As a result, there are no cases of 'dating violence' listed individually.

\*\* The NMSU controlled residential facilities are all located on campus, so the incidents taking place therein are also included in the "On-Campus Property" column.

\*\*\* One of these incidents is a burglary that took place at a property owned/operated by a registered student organization.

Hate Crimes 2015: 4 (Prejudice Category **Race**: 2 Graffiti, 1 Aggravated Battery. Prejudice Category **Gender Identity**: 1 Battery )

Hate Crimes 2014: 0

Hate Crimes 2013: 1 (Prejudice Category: Race. Incident Type: Graffiti)

There were no crimes and no referrals reported at the NMSU Santa Fe facility during 2014 and 2015.

ARRESTS	TYPE	Year	On-Campus Property	**Residential Facilities	On-Campus Total	Non-Campus Property	Public Property
	<i>Weapons: Carrying, Possession, Etc.</i>	2015	3	1	3	1	2
		2014	0	0	0	0	0
		2013	3	1	3	0	0
	<i>Drug Abuse Violations</i>	2015	57	25	57	0	23
		2014	60	42	60	0	12
		2013	103	55	103	0	9
	<i>Liquor Law Violations</i>	2015	109	63	109	0	3
		2014	95	76	95	0	4
		2013	101	80	101	0	9

REFERRALS	TYPE	Year	On-Campus Property	**Residential Facilities	On-Campus Total	Non-Campus Property	Public Property
	<i>Weapons: Carrying, Possession, Etc.</i>	2015	1	1	1	0	0
		2014	0	0	0	0	0
		2013	1	1	1	0	0
	<i>Drug Abuse Violations</i>	2015	15	9	15	0	0
		2014	28	23	28	0	0
		2013	94	94	94	0	0
	<i>Liquor Law Violations</i>	2015	38	35	38	0	0
		2014	84	69	84	0	0
		2013	128	128	128	0	0

### **CRIME LOG/BLOTTER AND INCIDENT REPORTS**

The NMSU Police Department has always believed in openness in its records. The records can be viewed during normal business hours (Monday through Friday, 8 am – 5 pm, excluding holidays or posted closures) at the Police Department Records Office. They are available in the form of a log/listing, as well as individual reports. These should not be considered official police reports for purposes of insurance or prosecution. Anyone needing stamped, official police reports must purchase them from the Records and Evidence Office.

### **TRACKING CRIME INCIDENTS AND REPORTS**

People interested in the activities of the NMSU Police Department can find regular news reports on local radio and television stations, as well as articles in the local newspapers. The Round Up student newspaper also publishes stories on recent police reports taken by the NMSU Police Department. The NMSU Police Department experiences a high degree of cooperation from the local news media and issues press releases on cases believed to be of public interest. As noted above, the crime log and individual police reports may be viewed at the NMSU Police Department Records Office. The Police Department also submits its crime statistics to the U.S. Department of Justice's Uniform Crime Reports.

### **OFF-CAMPUS CRIME**

Crime occurring off campus involving students or chartered NMSU organizations is reported to and handled by a variety of agencies, including the Las Cruces Police Department, the Doña Ana County Sheriff's Department, or other local, state, or federal law enforcement agencies having jurisdiction. While the NMSU Police Department assists other agencies when asked pursuant to mutual aid agreements, the reporting and tracking of crime is done by the agency of primary jurisdiction. The university does not routinely monitor nor track incidents that are on private property nor public property not owned by NMSU. Anyone wanting specific information on off-campus crime should contact the appropriate agency(s). See the Phone Number Reference Guide on the last page of this report for contact information.

### **WE NEED YOUR HELP – REPORT CRIME!**

Please help us in deterring crime on our campus by promptly calling the Police Department at 646-3311 or 911 (in case of emergencies) to report suspicious activity, safety problems, or crimes. In accordance with state law, the NMSU Police Department cannot accept anonymous reports, and must disclose certain information to prosecutors and defense counsel. However, it will take steps in sensitive cases to keep personal information confidential to the extent possible. This includes cases of sexual assault, as well as cases where there is a concern of possible retaliation. The NMSU Police Department also encourages 3<sup>rd</sup> party reports from non-NMSU counselors, pastors, and other mental health practitioners. Victims or witnesses of a crime desiring to remain anonymous but who want to ensure the crime is included in the annual crime statistics may submit an e-mail to [police@nmsu.edu](mailto:police@nmsu.edu) and may use an anonymous e-mail address (such as an account on Hotmail), or he/she may submit it through Ethicspoint (<https://secure.ethicspoint.com/>). In such cases, the reporting person should include the date, time, and location of the incident, a detailed description of what took place, and any identification information on the suspect that might be known. The person at NMSU who receives the report may need to ask the reporter for additional information in order to properly classify the crime or help protect others from a similar occurrence. Thus, the reporter is asked to check the anonymous e-mail account or Ethicspoint account for at least a couple of weeks to check for correspondence.

### **RESPONSIBILITY FOR POLICY MONITORING AND ENFORCEMENT**

The university has assigned responsibility for monitoring the above policies to the Police Department. If violations of policy are found to have occurred, the violations are referred to the President's Office for enforcement.

## **LEGAL DEFINITIONS**

Rape is defined by the FBI as 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 a victim. It includes situations where the victim is incapable of giving consent due to incapacitation by means of disability or alcohol or other drugs. In New Mexico, the term “rape” is not used in statute. Instead, the term is “criminal sexual penetration”. New Mexico also does not specifically define consent during a sexual assault, but clearly indicates through the statutory language that it does not involve any amount of force or coercion, and that a person who is incapacitated by alcohol or drugs or who is too young cannot give consent. Many rapes are committed by someone the victim knows, such as a date or friend. Under New Mexico State Law, Criminal sexual penetration is defined as follows:

### **30-9-11 . Criminal sexual penetration.**

- A. Criminal sexual penetration is the unlawful and intentional causing of a person to engage in sexual intercourse, cunnilingus, fellatio or anal intercourse or the causing of penetration, to any extent and with any object, of the genital or anal openings of another, whether or not there is any emission.
- B. Criminal sexual penetration does not include medically indicated procedures.
- C. Aggravated criminal sexual penetration consists of all criminal sexual penetration perpetrated on a child under thirteen years of age with an intent to kill or with a depraved mind regardless of human life. Whoever commits aggravated criminal sexual penetration is guilty of a first degree felony for aggravated criminal sexual penetration.
- D. Criminal sexual penetration in the first degree consists of all criminal sexual penetration perpetrated:
  - (1) on a child under thirteen years of age; or
  - (2) by the use of force or coercion that results in great bodily harm or great mental anguish to the victim.

Whoever commits criminal sexual penetration in the first degree is guilty of a first degree felony.

- E. Criminal sexual penetration in the second degree consists of all criminal sexual penetration perpetrated:
  - (1) by the use of force or coercion on a child thirteen to eighteen years of age;
  - (2) on an inmate confined in a correctional facility or jail when the perpetrator is in a position of authority over the inmate;
  - (3) by the use of force or coercion that results in personal injury to the victim;
  - (4) by the use of force or coercion when the perpetrator is aided or abetted by one or more persons;
  - (5) in the commission of any other felony; or
  - (6) when the perpetrator is armed with a deadly weapon.

Whoever commits criminal sexual penetration in the second degree is guilty of a second degree felony. Whoever commits criminal sexual penetration in the second degree when the victim is a child who is thirteen to eighteen years of age is guilty of a second degree felony for a sexual offense against a child and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a minimum term of imprisonment of three years, which shall not be suspended or deferred. The imposition of a minimum, mandatory term of imprisonment pursuant to the provisions of this subsection shall not be interpreted to preclude the imposition of sentencing enhancements pursuant to the provisions of the Criminal Sentencing Act [31-18-12 NMSA 1978].

- F. Criminal sexual penetration in the third degree consists of all criminal sexual penetration perpetrated through the use of force or coercion not otherwise specified in this section. Whoever commits criminal sexual penetration in the third degree is guilty of a third degree felony.
- G. Criminal sexual penetration in the fourth degree consists of all criminal sexual penetration:

- (1) not defined in Subsections D through F of this section perpetrated on a child thirteen to sixteen years of age when the perpetrator is at least eighteen years of age and is at least four years older than the child and not the spouse of that child; or
- (2) perpetrated on a child thirteen to eighteen years of age when the perpetrator, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school health service provider or a school volunteer, and who is at least eighteen years of age and is at least four years older than the child and not the spouse of that child, learns while performing services in or for a school that the child is a student in a school.

Whoever commits criminal sexual penetration in the fourth degree is guilty of a fourth degree felony.

### ***Other Sexual Offenses***

Besides Criminal sexual penetration, other sexual offenses include the following:

#### **30-9-12 . Criminal sexual contact.**

- A. Criminal sexual contact is the unlawful and intentional touching of or application of force, without consent, to the unclothed intimate parts of another who has reached his eighteenth birthday, or intentionally causing another who has reached his eighteenth birthday to touch one's intimate parts.
- B. Criminal sexual contact does not include touching by a psychotherapist on his patient that is:
  - (1) inadvertent;
  - (2) casual social contact not intended to be sexual in nature; or
  - (3) generally recognized by mental health professionals as being a legitimate element of psychotherapy.
- C. Criminal sexual contact in the fourth degree consists of all criminal sexual contact perpetrated:
  - (1) by the use of force or coercion that results in personal injury to the victim;
  - (2) by the use of force or coercion when the perpetrator is aided or abetted by one or more persons; or
  - (3) when the perpetrator is armed with a deadly weapon.

Whoever commits criminal sexual contact in the fourth degree is guilty of a fourth degree felony.

- D. Criminal sexual contact is a misdemeanor when perpetrated with the use of force or coercion.
- E. For the purposes of this section, "intimate parts" means the primary genital area, groin, buttocks, anus or breast.

#### **30-9-13 . Criminal sexual contact of a minor.**

- A. Criminal sexual contact of a minor is the unlawful and intentional touching of or applying force to the intimate parts of a minor or the unlawful and intentional causing of a minor to touch one's intimate parts. For the purposes of this section, "intimate parts" means the primary genital area, groin, buttocks, anus or breast.
- B. Criminal sexual contact of a minor in the second degree consists of all criminal sexual contact of the unclothed intimate parts of a minor perpetrated:
  - (1) on a child under thirteen years of age; or
  - (2) on a child thirteen to eighteen years of age when:
    - (a) the perpetrator is in a position of authority over the child and uses that authority to coerce the child to submit;
    - (b) the perpetrator uses force or coercion that results in personal injury to the child;
    - (c) the perpetrator uses force or coercion and is aided or abetted by one or more persons; or
    - (d) the perpetrator is armed with a deadly weapon.



Whoever commits criminal sexual contact of a minor in the second degree is guilty of a second degree felony for a sexual offense against a child and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a minimum term of imprisonment of three years, which shall not be suspended or deferred. The imposition of a minimum, mandatory term of imprisonment pursuant to the provisions of this subsection shall not be interpreted to preclude the imposition of sentencing enhancements pursuant to the provisions of Sections 31-18-17, 31-18-25 and 31-18-26 NMSA 1978.

C. Criminal sexual contact of a minor in the third degree consists of all criminal sexual contact of a minor perpetrated:

- (1) on a child under thirteen years of age; or
- (2) on a child thirteen to eighteen years of age when:
  - (a) the perpetrator is in a position of authority over the child and uses this authority to coerce the child to submit;
  - (b) the perpetrator uses force or coercion which results in personal injury to the child;
  - (c) the perpetrator uses force or coercion and is aided or abetted by one or more persons; or
  - (d) the perpetrator is armed with a deadly weapon.

Whoever commits criminal sexual contact of a minor in the third degree is guilty of a third degree felony for a sexual offense against a child.

D. Criminal sexual contact of a minor in the fourth degree consists of all criminal sexual contact:

- (1) not defined in Subsection C of this section, of a child thirteen to eighteen years of age perpetrated with force or coercion; or
- (2) of a minor perpetrated on a child thirteen to eighteen years of age when the perpetrator, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school health service provider or a school volunteer, and who is at least eighteen years of age and is at least four years older than the child and not the spouse of that child, learns while performing services in or for a school that the child is a student in a school.

Whoever commits criminal sexual contact in the fourth degree is guilty of a fourth degree felony.

### **30-9-14 . Indecent exposure.**

- A. Indecent exposure consists of a person knowingly and intentionally exposing his primary genital area to public view.
- B. As used in this section, "primary genital area" means the mons pubis, penis, testicles, mons veneris, vulva or vagina.
- C. Whoever commits indecent exposure is guilty of a misdemeanor.
- D. In addition to any punishment provided pursuant to the provisions of this section, the court shall order a person convicted for committing indecent exposure to participate in and complete a program of professional counseling at his own expense.

### **30-9-14.3 . Aggravated indecent exposure.**

- A. Aggravated indecent exposure consists of a person knowingly and intentionally exposing his primary genital area to public view in a lewd and lascivious manner, with the intent to threaten or intimidate another person, while committing one or more of the following acts or criminal offenses:
  - (1) exposure to a child less than eighteen years of age;
  - (2) assault, as provided in Section 30-3-1 NMSA 1978;
  - (3) aggravated assault, as provided in Section 30-3-2 NMSA 1978;
  - (4) assault with intent to commit a violent felony, as provided in Section 30-3-3 NMSA 1978;
  - (5) battery, as provided in Section 30-3-4 NMSA 1978;
  - (6) aggravated battery, as provided in Section 30-3-5 NMSA 1978;

- (7) criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978; or
- (8) abuse of a child, as provided in Section 30-6-1 NMSA 1978.
- B. As used in this section, "primary genital area" means the mons pubis, penis, testicles, mons veneris, vulva or vagina.
- C. Whoever commits aggravated indecent exposure is guilty of a fourth degree felony.
- D. In addition to any punishment provided pursuant to the provisions of this section, the court shall order a person convicted for committing aggravated indecent exposure to participate in and complete a program of professional counseling at his own expense.

**30-9-20 . Voyeurism prohibited; penalties.**

- A. Voyeurism consists of intentionally using the unaided eye to view or intentionally using an instrumentality to view, photograph, videotape, film, webcast or record the intimate areas of another person without the knowledge and consent of that person:
  - (1) while the person is in the interior of a bedroom, bathroom, changing room, fitting room, dressing room or tanning booth or the interior of any other area in which the person has a reasonable expectation of privacy; or
  - (2) under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place.
- B. Whoever commits voyeurism is guilty of a misdemeanor, except if the victim is less than eighteen years of age, the offender is guilty of a fourth degree felony.
- C. As used in this section:
  - (1) "intimate areas" means the primary genital area, groin, buttocks, anus or breasts or the undergarments that cover those areas; and
  - (2) "instrumentality" means a periscope, telescope, binoculars, camcorder, computer, motion picture camera, digital camera, telephone camera, photographic camera or electronic device of any type.

**30-37-2 . Offenses; books; pictures.**

It is unlawful for a person to knowingly sell, deliver, distribute, display for sale or provide to a minor, or knowingly to possess with intent to sell, deliver, distribute, display for sale or provide to a minor:

- A. any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body, or any replica, article or device having the appearance of either male or female genitals which depicts nudity, sexual conduct, sexual excitement or sado-masochistic abuse and which is harmful to minors; or
- B. any book, pamphlet, magazine, printed matter however produced or sound recording which contains any matter enumerated in Subsection A of this section or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sado-masochistic abuse and which, taken as a whole, is harmful to minors.

**30-37-3.2 . Child solicitation by electronic communication device.**

- A. Child solicitation by electronic communication device consists of a person knowingly and intentionally soliciting a child under sixteen years of age, by means of an electronic communication device, to engage in sexual intercourse, sexual contact or in a sexual or obscene performance, or to engage in any other sexual conduct when the perpetrator is at least four years older than the child.
- B. Whoever commits child solicitation by electronic communication device is guilty of a:
  - (1) fourth degree felony if the child is at least thirteen but under sixteen years of age; or
  - (2) third degree felony if the child is under thirteen years of age.

- C. Whoever commits child solicitation by electronic communication device and also appears for, attends or is present at a meeting that the person arranged pursuant to the solicitation is guilty of a:
  - (1) third degree felony if the child is at least thirteen but under sixteen years of age; or
  - (2) second degree felony if the child is under thirteen years of age.
- D. In a prosecution for child solicitation by electronic communication device, it is not a defense that the intended victim of the defendant was a peace officer posing as a child under sixteen years of age.
- E. For purposes of determining jurisdiction, child solicitation by electronic communication device is committed in this state if an electronic communication device transmission either originates or is received in this state.
- F. As used in this section, "electronic communication device" means a computer, video recorder, digital camera, fax machine, telephone, cellular telephone, pager, audio equipment or any other device that can produce an electronically generated image, message or signal.

### **30-37-1 . Definitions.**

As used in this act:

- A. "minor" means any unmarried person who has not reached his eighteenth birthday;
- B. "nudity" means the showing of the male or female genitals, pubic area or buttocks with less than a full opaque covering, or the depiction of covered male genitals in a discernibly turgid state;
- C. "sexual conduct" means act of masturbation, homosexuality, sodomy, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person be female, breast;
- D. "sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal;
- E. "sado-masochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained;
- F. "harmful to minors" means that quality of any description of representation, in whatever form, of nudity, sexual conduct, sexual excitement or sado-masochistic abuse, when it:
  - (1) predominantly appeals to the prurient, shameful or morbid interest of minors; and
  - (2) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and
  - (3) is utterly without redeeming social importance for minors; and
- G. "knowingly" means having general knowledge of, or reason to know, or a belief or reasonable ground for belief which warrants further inspection or inquiry or both, of:
  - (1) the character and content of any material described herein, which is reasonably susceptible of examination by the defendant;
  - (2) the age of the minor.

The complete State of New Mexico rape and sexual assault offenses, definitions and penalties can be found in New Mexico State Statutes 30-9-1 through 20. Additionally, New Mexico State Statute 30-6A-1 through 4 provides definitions of the crime of Sexual Exploitation of Children.

### **Domestic Violence, Dating Violence and stalking**

The New Mexico State Statutes relating to domestic violence, dating violence and stalking are as follows;

**30-3-11 . Definitions.**

As used in the Crimes Against Household Members Act:

- A. "household member" means a spouse, former spouse, parent, present or former stepparent, present or former parent in-law, grandparent, grandparent-in-law, a co-parent of a child or a person with whom a person has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member for the purposes of the Crimes Against Household Members Act; and
- B. "continuing personal relationship" means a dating or intimate relationship.

**30-3-12 . Assault against a household member.**

- A. Assault against a household member consists of:
  - (1) an attempt to commit a battery against a household member; or
  - (2) any unlawful act, threat or menacing conduct that causes a household member to reasonably believe that he is in danger of receiving an immediate battery.
- B. Whoever commits assault against a household member is guilty of a petty misdemeanor.

**30-3-13 . Aggravated assault against a household member.**

- A. Aggravated assault against a household member consists of:
  - (1) unlawfully assaulting or striking at a household member with a deadly weapon; or
  - (2) willfully and intentionally assaulting a household member with intent to commit any felony.
- B. Whoever commits aggravated assault against a household member is guilty of a fourth degree felony.

**30-3-14 . Assault against a household member with intent to commit a violent felony.**

- A. Assault against a household member with intent to commit a violent felony consists of any person assaulting a household member with intent to kill or commit any murder, mayhem, criminal sexual penetration in the first, second or third degree, robbery, kidnapping, false imprisonment or burglary.
- B. Whoever commits assault against a household member with intent to commit a violent felony is guilty of a third degree felony.

**30-3-15 . Battery against a household member.**

- A. Battery against a household member consists of the unlawful, intentional touching or application of force to the person of a household member, when done in a rude, insolent or angry manner.
- B. Whoever commits battery against a household member is guilty of a misdemeanor.
- C. Upon conviction pursuant to this section, an offender shall be required to participate in and complete a domestic violence offender treatment or intervention program approved by the children, youth and families department pursuant to rules promulgated by the department that define the criteria for such programs.
- D. Notwithstanding any provision of law to the contrary, if a sentence imposed pursuant to this section is suspended or deferred in whole or in part, the period of probation may extend beyond three hundred sixty-four days but may not exceed two years. If an offender violates a condition of probation, the court may impose any sentence that the court could originally have imposed and credit shall not be given for time served by the offender on probation; provided that the total period of incarceration shall not exceed three hundred sixty-four days and the combined period of incarceration and probation shall not exceed two years.

**30-3-16 . Aggravated battery against a household member.**

- A. Aggravated battery against a household member consists of the unlawful touching or application of force to the person of a household member with intent to injure that person or another.
- B. Whoever commits aggravated battery against a household member by inflicting an injury to that person that is not likely to cause death or great bodily harm, but that does cause painful temporary disfigurement or temporary loss or impairment of the functions of any member or organ of the body, is guilty of a misdemeanor.
- C. Whoever commits aggravated battery against a household member by inflicting great bodily harm or doing so with a deadly weapon or doing so in any manner whereby great bodily harm or death can be inflicted is guilty of a third degree felony.
- D. Upon conviction pursuant to Subsection B of this section, an offender shall be required to participate in and complete a domestic violence offender treatment or intervention program approved by the children, youth and families department pursuant to rules promulgated by the department that define the criteria for such programs.
- E. Notwithstanding any provision of law to the contrary, if a sentence imposed pursuant to the provisions of Subsection B of this section is suspended or deferred in whole or in part, the period of probation may extend beyond three hundred sixty-four days but may not exceed two years. If an offender violates a condition of probation, the court may impose any sentence that the court could originally have imposed and credit shall not be given for time served by the offender on probation; provided that the total period of incarceration shall not exceed three hundred sixty-four days and the combined period of incarceration and probation shall not exceed two years.

**30-3-17 . Multiple convictions of battery or aggravated battery.**

- A. Whoever commits three offenses of battery against a household member as provided in Section 30-3-15 NMSA 1978 or aggravated battery against a household member as provided in Subsection B of Section 30-3-16 NMSA 1978, or any combination thereof, when the household member is a spouse, a former spouse, a co-parent of a child or a person with whom the offender has had a continuing personal relationship is guilty of a fourth degree felony.
- B. Whoever commits four or more offenses of battery against a household member as provided in Section 30-3-15 NMSA 1978 or aggravated battery against a household member as provided in Subsection B of Section 30-3-16 NMSA 1978, or any combination thereof, when the household member is a spouse, a former spouse, a co-parent of a child or a person with whom the offender has had a continuing personal relationship is guilty of a third degree felony.
- C. For the purpose of determining the number of offenses committed, each offense must have been committed after conviction for the preceding offense.

**30-3-18 . Criminal damage to property of household member; deprivation of property of household member.**

- A. Criminal damage to the property of a household member consists of intentionally damaging real, personal, community or jointly owned property of a household member with the intent to intimidate, threaten or harass that household member.
- B. Whoever commits criminal damage to the property of a household member is guilty of a misdemeanor, except that when the damage to the household member's interest in the property amounts to more than one thousand dollars (\$1,000), the offender is guilty of a fourth degree felony.
- C. Deprivation of the property of a household member consists of intentionally depriving a household member of the use of separate, community or jointly owned personal property of the household member with the intent to intimidate or threaten that household member.
- D. Whoever commits deprivation of the property of a household member is guilty of a misdemeanor.

### **30-3A-2 . Harassment; penalties.**

- A. Harassment consists of knowingly pursuing a pattern of conduct that is intended to annoy, seriously alarm or terrorize another person and that serves no lawful purpose. The conduct must be such that it would cause a reasonable person to suffer substantial emotional distress.
- B. Whoever commits harassment is guilty of a misdemeanor.

### **30-3A-3 . Stalking; penalties.**

- A. Stalking consists of knowingly pursuing a pattern of conduct, without lawful authority, directed at a specific individual when the person intends that the pattern of conduct would place the individual in reasonable apprehension of death, bodily harm, sexual assault, confinement or restraint of the individual or another individual.
- B. As used in this section:
  - (1) "lawful authority" means within the scope of lawful employment or constitutionally protected activity; and
  - (2) "pattern of conduct" means two or more acts, on more than one occasion, in which the alleged stalker by any action, method, device or means, directly, indirectly or through third parties, follows, monitors, surveils, threatens or communicates to or about a person.
- C. Whoever commits stalking is guilty of a misdemeanor. Upon a second or subsequent conviction, the offender is guilty of a fourth degree felony.
- D. In addition to any punishment provided pursuant to the provisions of this section, the court shall order a person convicted of stalking to participate in and complete a program of professional counseling at the person's own expense or a domestic violence offender treatment or intervention program.

### **30-3A-3.1 . Aggravated stalking; penalties.**

- A. Aggravated stalking consists of stalking perpetrated by a person:
  - (1) who knowingly violates a permanent or temporary order of protection issued by a court, except that mutual violations of such orders may constitute a defense to aggravated stalking;
  - (2) in violation of a court order setting conditions of release and bond;
  - (3) when the person is in possession of a deadly weapon; or
  - (4) when the victim is less than sixteen years of age.
- B. Whoever commits aggravated stalking is guilty of a fourth degree felony. Upon a second or subsequent conviction, the offender is guilty of a third degree felony.
- C. In addition to any punishment provided pursuant to the provisions of this section, the court shall order a person convicted of aggravated stalking to participate in and complete a program of professional counseling at his own expense.

### **30-3A-4 . Exceptions.**

The provisions of the [Harassment and] Stalking Act [30-3A-1 NMSA 1978] do not apply to:

- A. picketing or public demonstrations that are lawful or that arise out of a bona fide labor dispute; or
- B. a peace officer in the performance of his duties.

### **OTHER DEFINITIONS**

The following are additional terms that are used in various places in this Report, and the definitions of what they mean at NMSU:

**Awareness Program:** An educational program delivered either in person or online that makes a person familiar with material surrounding a particular topic (in this case, sexual assault, domestic violence, dating violence, and stalking); should be culturally relevant and inclusive of all individuals and groups.

**Bystander Intervention:** Measures that can be taken by someone (other than the victim) to interrupt or discourage the actions of another that might be leading toward sexual assault, domestic violence, dating violence, or stalking; the measures may, but do not necessarily need to, include calling 911.

**Consent:** Knowingly and willingly agreeing to something; affirmative consent where a person specifically communicates that they agree is ideal; lack of an objection by a person does not mean they are consenting, as they might not be objecting due to fear, threat, or lack of comprehension.

**Ongoing Prevention and Awareness Campaign:** A regular program that includes both the information provided during initial awareness training, as well as additional or expanded information to further understanding; intended to assist people in avoiding or preventing an incident from taking place.

**Primary Prevention Program:** One designed to keep something (e.g., injury or assault) from ever occurring in the first place; often includes education and a prohibition on undesirable conduct.

**Proceeding:** As used herein, refers to the NMSU administrative disciplinary process, to include hearings and appeals, unless otherwise indicated.

**Result:** As used herein, the findings, and any resulting sanctions issued, as a result of NMSU administrative disciplinary process, to include hearings and appeals, unless otherwise indicated.

**Risk Reduction:** Precautionary measures that may be taken by an individual or a group in order to lessen the chance of an incident, injury, or violence.

## **SECTION 5 - PHONE NUMBER REFERENCE GUIDE**

NMSU Police Department	<b>EMERGENCY.....911</b>
	Non-emergency .....646-3311
NMSU Fire Department	Non-emergency .....646-2519
ASNMSU Pete’s Pickup (Safe Walk Service).....	646-1111
NMSU Dean of Students .....	646-1722
NMSU Campus Health Center.....	646-1512
NMSU Employee Assistance Program .....	646-6603
NMSU Employee and Labor Relations .....	646-2449
NMSU Department of Housing and Residence Life .....	646-3202
NMSU Counseling Center .....	646-2731
NMSU Office of Inst. Equity/Title IX Coordinator.....	646-3635
WAVE Program.....	646-2813
Crimson Cab .....	526-TAXI
La Piñon Rape Crisis Center.....	526-3427
La Casa Domestic Violence Shelter .....	526-2819
Domestic Violence Hotline.....	800-376-2272

### **Off-Campus Law Enforcement Agencies:**

Las Cruces Police Department.....	575-528-4200
Doña Ana County Sheriff’s Office.....	575-526-0795
Mesilla Marshal’s Office.....	575-525-8220
Sunland Park Police Department.....	575-589-6600
New Mexico State Police.....	575-382-2500
Federal Bureau of Investigation.....	575-526-2351
Drug Enforcement Administration.....	575-526-0700
US Marshals Service.....	575-527-6850
US Customs and Border Protection.....	575-528-6600



## **APPENDIX – MAPS OF CAMPUS LOCATIONS**

### ***Las Cruces Campus – Main “Triangle” and DACC Espina Campus***





## ***Las Cruces Campus – “East Campus”***





## ***Fabian Garcia Horticulture Center***

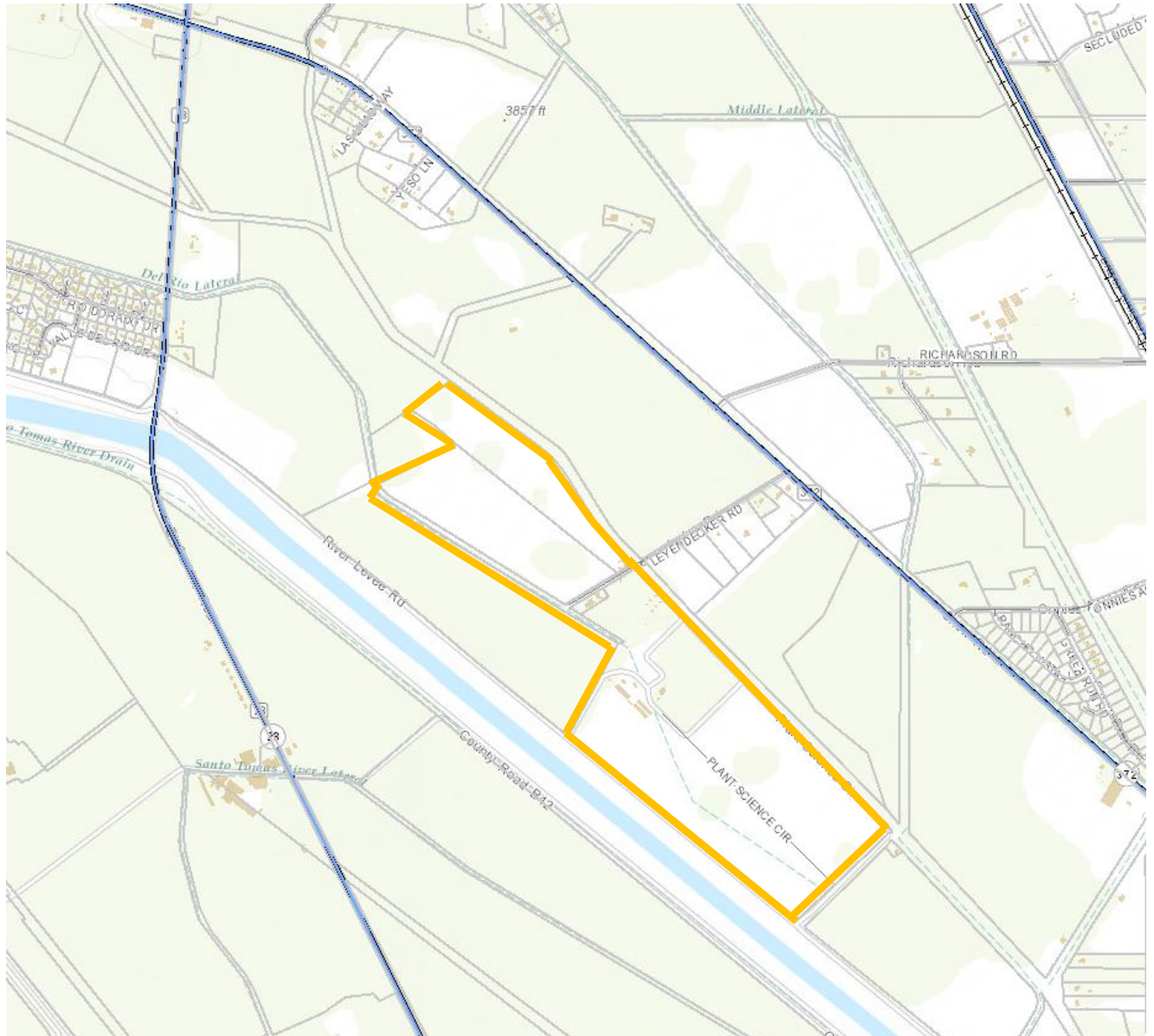


## *Horse Farm*





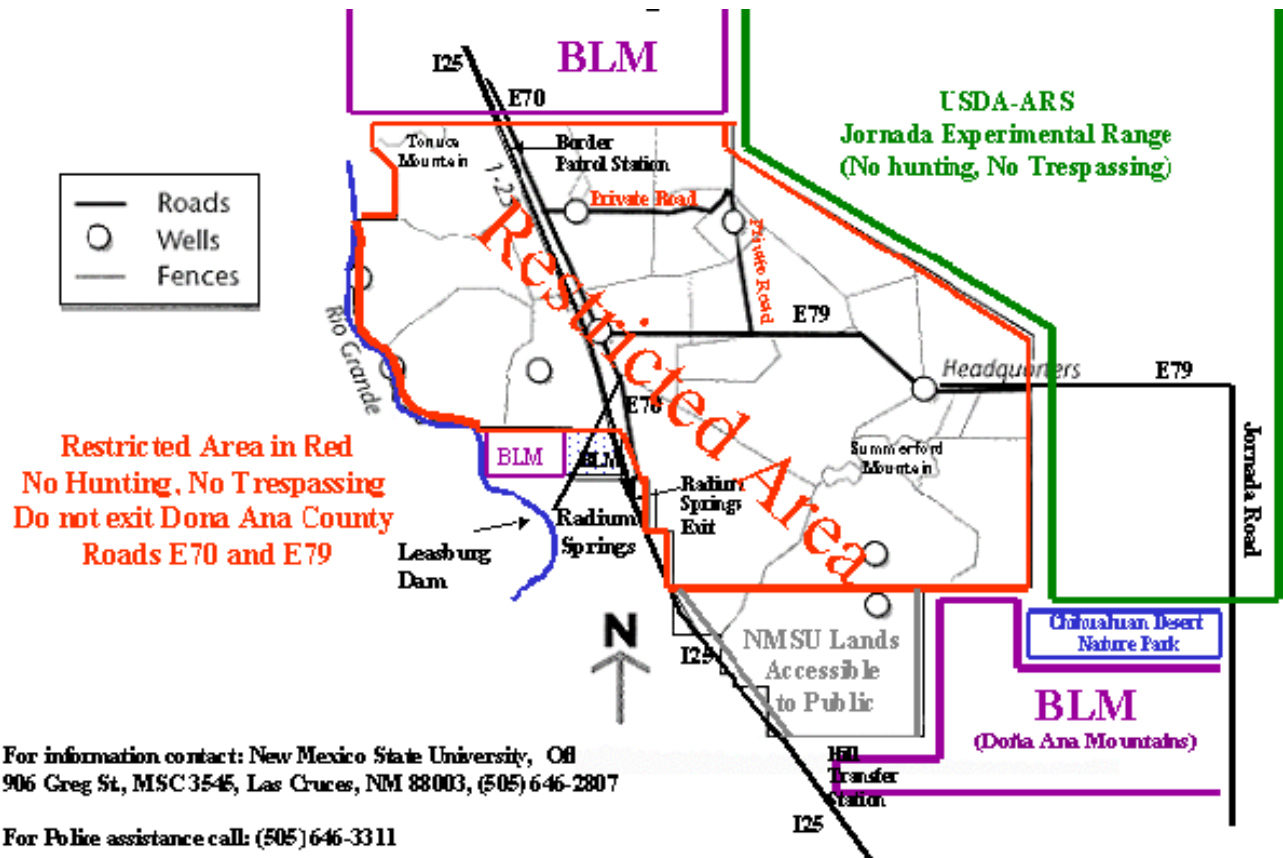
## ***Leyendecker Research Facility***



## ***CDRRC – Sections and Boundaries***



## CDRRC – Neighboring Parcels





## *CDRRC – Orthophoto with Pasture Lines and Boundaries*

