



**NMSU**



**Doña Ana Community College**

# **2018 Annual Security Report**

## **With statistics for 2015-2017**

**Covering:**  
**DACC East Mesa, Workforce Center, Chaparral,**  
**Gadsden, and Sunland Park Campuses.**

**NOTE: The DACC Espina Campus is included in the separate NMSU Las Cruces and DACC Espina Campus Annual Security Report.**

**Release Date: September 28, 2018**

# **INTRODUCTION**

This report contains information regarding safety and security programs, policies, and procedures in place at Doña Ana Community College's East Mesa, Workforce Center, Hatch, Chaparral, Gadsden, and Sunland Park campuses. 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 Violence Against Women Act (VAWA). Select crime statistics from 2015 through 2017 required by this Act are included. Dona Ana Community College Facilities Support/Security is the entity with primary responsibility for the collection of data for this report, though it relies on other departments and agencies for assistance. Those individuals and departments identified as Campus Security Authorities are expected to immediately report crimes brought to their attention to either the DACC Facilities Support/Security office or the NMSU Police Department to ensure they are included herein.

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 DACC Facilities Support at 575-527-7050.

*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 2018-2019 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.*

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## **SECTION 1 - OVERVIEW**

### **ABOUT DONA ANA COMMUNITY COLLEGE**

The Doña Ana Community College (part of the New Mexico State University system) owns six teaching locations\* in Dona Ana County, as listed below. Over 15,000 students (traditional and nontraditional), faculty, and staff attend or work at the college.

East Mesa Campus	2800 N. Sonoma Ranch Blvd., Las Cruces NM
Workforce Development Center	2345 E. Nevada Ave., Las Cruces NM 88001
Gadsden Center	1700 E. O'Hara Rd, Anthony NM 88021
Sunland Park Center	3365 McNutt Road, Sunland Park NM 88063
Chaparral Learning Center	755 Prescott Anthony Dr., Chaparral NM 88081
Espina Campus	3400 South Espina St., Las Cruces NM 88003

\* The Mesquite Learning Center was permanently closed in May 2015 and is no longer in use. The Hatch Center closed in July 2017 and is no longer in use. The DACC Central Campus has been renamed the Espina Campus to avoid confusion with the East Mesa Campus.

### **PUBLIC SAFETY AGENCIES AT DONA ANA COMMUNITY COLLEGE**

Dona Ana Community College relies on a combination of support from the NMSU Police Department and local law enforcement agencies for response to our campuses. A Police Sergeant is assigned from the NMSU Police Department to work fulltime at the DACC campuses, overseeing a team of trained DACC security officers. This sergeant is fully trained and certified, has arrest powers, and takes many of the crime reports at the DACC campuses. However, 911 response may be provided by the local law enforcement agency listed below. Individuals should immediately report alleged criminal actions or emergencies that occur by dialing 911. The appropriate law enforcement agency will be dispatched. The law enforcement agency responsible for 911 responses to each campus are:

<b><u>CAMPUS</u></b>	<b><u>AGENCY</u></b>
Espina Campus	NMSU Police Department
Workforce Center	Las Cruces Police Department
East Mesa Campus	Las Cruces Police Department
Gadsden Center	Doña Ana County Sheriff's Office
Sunland Park Center	Sunland Park Police Department
Chaparral Center	Doña Ana County Sheriff's Office

**DACC Security Officers** work at each location during varying hours based on the needs of each campus. The security officers provide initial response to emergencies on campus along with incident reporting and safety/security escorts to vehicles etc. They are trained by the NMSU Police Department. Several are equipped with force options up to, and including, firearms, while others are equipped with nonlethal force options. DACC Security Officers can be reached by calling (575) 527-7777 (x7777 from a campus phone). They also have direct radio communication with the NMSU Emergency Dispatch Center so they can immediately request and coordinate additional resources as needed.

All dispatchers working in the **NMSU Emergency Dispatch Center** are fully trained and certified by the State of New Mexico. They handle radio calls for the DACC Security Officers, answer 911 calls coming into the center from some campuses (or transferred from other dispatch agencies), and dispatch police, fire, and emergency medical services. In addition, the dispatchers handle activation of the Emergency Notification System (see below).

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

### **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 DACC Security 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**

Dona Ana Community College (DACC) campuses are relatively safe compared to other colleges and cities. However, that does not mean they are crime free. 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.

Most academic buildings at DACC are open to the public during normal business hours (some as late as 10 pm for certain evening classes), including some on weekends. Administrative buildings are open Monday through Friday from 8 am to 5 pm. The libraries and certain buildings with computer labs post their hours of operation, with schedules that change throughout the school year to meet the needs of students and staff. Many of the DACC facilities have some form of electronic access control on certain doors, but most doors are manually unlocked in the mornings by either security personnel or custodians, and then re-locked in the evenings.

An evaluation of safety and security needs is currently underway for all DACC campuses in order to develop a comprehensive plan for safety and security improvements. Information on the resulting plan will be distributed to DACC students and employees during the Fall 2018 semester.

### **HOUSING AND RESIDENTIAL FACILITIES**

Dona Ana Community College (DACC) does not own nor operate any housing for students. However, students of DACC are allowed to utilize housing at the NMSU Las Cruces campus. Because that housing is owned and controlled by the NMSU Las Cruces campus, the safety programs and information related to that housing is addressed in the NMSU Las Cruces and DACC Espina Campus Annual Security Report, and the NMSU Las Cruces Annual Fire Safety Report. For this reason, **the following items are not contained in this report** because of the lack of DACC owned/controlled housing:

- Missing person policy for residential students
- Designation of a contact person for missing residential students
- Safety measures for residential facilities
- Statistics of crimes taking place inside residential facilities
- Statistics for arrests and referrals taking place inside residential facilities
- Annual Fire Safety report for student residential facilities

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

### **EMERGENCY NOTIFICATIONS, TIMELY WARNINGS, AND ADVISORIES**

When there are major incidents or emergencies that affect a large number of people and that present an immediate threat to health or safety, DACC (through the Emergency Dispatch Center) 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 Notification** is used when there is an immediate threat or danger to either a segment of, or the entire, university campus. Examples include both manmade and natural disasters, such as structure fires, hazardous materials spills, violent crimes in progress, tornados, or similar emergency situations. The Incident Commander (usually the NMSU Police if they are responding, but possibly DACC security in radio contact with the Emergency Dispatch center) will, without delay and taking into account the safety of the community, determine the content of an Emergency Notification and have it sent. The exception to this is if, in the professional judgement of the Incident Commander, doing so would compromise efforts to assist victims or contain, respond to, or otherwise mitigate the emergency.

The Incident Commander (or the DACC President (or designee) or the NMSU Chief of Police (or designee) in the absence of an established Incident Command) evaluates the immediately available information when confirming whether an emergency or dangerous situation exists that may necessitate sending an Emergency Notification. This may include calls for help, personal observations, reports from other public safety personnel, sights, sounds, and crowd behavior, along with his/her prior knowledge and training. The Incident Commander (when established), DACC President (or designee), or the Chief of Police (or designee) are responsible for making the determination that an emergency situation is “confirmed”. The number of people responsible for making this determination is kept very small in order to ensure rapid decision making and action, and to avoid delay that could be caused by the prior to issuing an emergency alert. Any single individual of the above can issue the Emergency Notification, and no consultation with others is required.

When multiple public safety agencies respond, they will form Unified Command in order to provide for a coordinated response. In the event Unified Command is established, the decisions coming out have the same authority as if a single Incident Commander is in place. Other entities (e.g., utilities, outside agencies, and representatives of public schools) might be brought into Unified Command as needed and appropriate under the circumstances.

If an incident overwhelms the available DACC resources, the university Police Department has mutual aid agreements in place in order to obtain rapid assistance from other agencies in the area. If the emergency still overwhelms available resources, requests for assistance are directed through the Office of Emergency Management, and then to the New Mexico Department of Homeland Security and Emergency Management. The Incident Commander (or Unified Command) is responsible for assessing the need for these additional, off-campus resources and obtaining them through the established channels (e.g., through the Emergency Dispatch Center or through activation of the regional Emergency Operations Center).

**Emergency Notifications** 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 be also be provided.

Emergency alerts are sent using the NMSU Emergency Notification System (ENS). Participation in the ENS is mandatory for all students and employees at NMSU, with the official NMSU 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 <https://emergency.nmsu.edu>. In addition to the ENS, an announcement may be made in some cases using the telephone system installed at a particular DACC building or campus.

In addition to, or in lieu of, the ENS activation, the Incident Commander may utilize other means of notifying people in the immediate vicinity of a localized emergency. These may include establishing a perimeter to keep people away, making announcements on a public address system, and activating a building alarm. This type of localized notification may be made if the Incident Commander determines there is no danger to others outside the scene of the emergency, someone cannot inadvertently become exposed to the emergency, and those inside the emergency can be properly notified and directed with the alternate means of communication.

A **timely warning** is used when there is a serious crime or an ongoing situation or crime trend that may pose a danger to people or property, but is not immediately dangerous. These are limited to the Clery-reportable crimes, and are usually sent out via official NMSU e-mail. Some may also be posted on the NMSU Police Department social media pages (e.g., <https://facebook.com/nmsupolice>) or shared with local news media.

An **advisory** may be issued for crime or traffic situations that do not involve an immediate danger or are not Clery-reportable crimes (e.g., murder, rape, may be sent out via official NMSU e-mail. These are usually sent in order to make the university community aware of a situation so it can be avoided. Planned road closures, heavy traffic, and ongoing crimes involving theft are examples of



common advisories.

### **EMERGENCY PLANS, TESTS, AND EVACUATIONS**

NMSU has a multi-disciplinary committee called the Emergency Planning Committee that is responsible for developing the All Hazards Emergency Operations Plan, and includes representation from DACC. This plan guides the institutional response to emergencies, including the interaction between the public safety response (crisis management) and administrative response (consequence management). Information on this plan is also available at <http://nmsu.edu/emergencyplanning/>.

Various aspects of the plan are tested each year, and the plan is continually reviewed and updated as necessary. This ranges from function tests, such as the scheduled activation of the Emergency Notification System each semester, to tabletop exercises, drills, functional exercises, and full-scale exercises. Fire evacuation drills (an example of a functional drill) of individual buildings/facilities are conducted near the beginning of each Fall semester for select buildings. DACC also participates in at least one tabletop, functional, or full-scale exercise each year for key administrators who might be involved in a particular disaster/emergency response. Below are the details related to some of the tests and exercises recently conducted:

Date/Time: September 9, 2018, 12:00 noon  
Description: System-wide test of the NMSU Emergency Notification System  
Conducted by: NMSU Emergency Dispatch Center  
Type: Scheduled (announced) test  
Focus: Evaluate reach and speed of system-wide test (52,899 contacts), to include assessment of delivery methods (text, voice, e-mail, website)

Date/Time: September 18, 2018, 8:45 am  
Description: Tabletop exercise for active shooter, incl. evacuation of campus  
Conducted by: DAC/CLC Exercise Planning Committee (at Office of Emergency Man.)  
Type: Scheduled (announced) exercise involving public safety, public schools  
Focus: Evaluate integration of public safety and public school response to an active shooter/killer incident taking place on the NMSU Las Cruces campus at Arrowhead Park Early College High School and Medical Academy

Evacuation of individual campuses has taken place several times in the past as a result of threats. Evacuation notices are sent via the ENS and/or phone system, and are usually directed or facilitated by public safety, security, and facility personnel. In some cases, face-to-face notifications have been made when the affected area in danger is limited, or to supplement ENS notifications.

The final decision on whether to issue one of the above notices, and the information contained therein, rests with the President of DACC (or designee) and/or the NMSU Chief of Police. The President or Chief (or their designees) 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.

DACC does not routinely monitor law enforcement or public safety activities outside of the DACC

campuses. In some cases, DACC personnel may become aware of an incident that may impact one or more campuses, either due to safety issues or access issues. Anyone with information regarding off campus activity that might impact one or more DACC campuses, and who believes an alert or warning is warranted, is asked to contact the DACC President's Office or 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. If you cannot escape the danger, look for ways to shelter yourself from the danger.
- 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.). Additional information is 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 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.

While DACC conducts evacuation drills each year, 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 may 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.

### **MISSING PERSON REPORTS**

Any report of a missing person that is received by the NMSU Police Department is immediately investigated. There is no 24-hour waiting period, and attempts to locate the person will include contacting surrounding law enforcement agencies, 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.

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 or DACC Security. If there is information an abduction has just taken place, the employee should call 911. Otherwise, the person should call (575) 646-3311 and provide the information to the emergency services dispatcher. A police or security officer will then be dispatched to gather additional information and initiate the investigation.

### **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, you can also contact DACC Security Officers by calling (575) 527-7777. 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 nearby). Prompt reporting and specific information will increase the chances of solving your case. A police officer or security 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/screenshot (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, as well as any contacts you receive off campus;
- 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) so that if you decide to report at a later time, you will have something to remind you of critical information. 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 any items that you have saved (such as text messages, e-mails, photos, phone messages, etc.) that might be relevant.

- If you are immediately contacting police, let officers gather the evidence. If you are not immediately notifying police, secure any possible evidence in separate clean paper bags or sheets to reduce the chances of contamination, loss, or destruction.

Even if you do not wish to file a police report, 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 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 or security 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, and medical treatment can be provided (including prophylaxis to prevent disease). 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 DACC Center for Career and Student Success, as well as a number of off-campus entities.
- **Medical:** In addition to the SANE Unit, 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 not apply to people not affiliated to the university. The NMSU Police Department’s Victim Services staff can assist victims of violence in obtaining “no contact” orders, as well as 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. 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 DACC Vice President for Student Services Office. 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 (including engaging in forcible or non-forcible sex offenses or other violations), 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 DACC. 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 DACC Vice President for Student Service Office at 527-7530, the office responsible for upholding the Student Code of Conduct. As always, students may also contact the NMSU Police Department or DACC Security Office for assistance and guidance.

Any DACC official who becomes aware that a person has been the victim of a sexual assault or other crime on a DACC campus is encouraged to assist the person in notifying the police department if the victim so desires, or if the victim is unable to do so (e.g., due to physical or mental incapacitation). In no case shall any DACC official discourage reporting of a crime to police when the victim wants to file a report.

In addition to police reports, victims of crimes identified under the Violence Against Women Act (VAWA), may file a complaint with the NMSU Title IX Coordinator in the Office of Institutional Equity (OIE). These crimes include sexual assault, domestic violence, dating violence, and stalking.

Here are steps victims of crimes should consider:

1. Get to a safe place as soon as you can. If you are willing and able, you might want to speak with someone you trust and tell them what happened so they can assist you.
2. If you are still in danger, call 911 to notify police and get help (whether on or off campus).
3. Consider getting immediate professional support (e.g.: counseling, victim advocacy, medical services, etc.) to assist you in the crisis. If you are unsure of how to obtain assistance, you can contact the NMSU Police Department's Victim Services Office at (575) 646-3311 at any time day or night, and you do not have to make a police report in order to be provided services.
4. If you are on the East Mesa Campus during regular business hours, you may go to the DACC Vice President for Student Services Office for support and guidance. This is a confidential resource located at the Student Resources Building, Room 106.
5. If you are the victim of a sexual assault, domestic violence, dating violence, or stalking, you may file a complaint with the Title IX Coordinator in the NMSU Office of Institutional Equity (575-646-3635).
6. If you have been injured, or are the victim of a sexual assault, immediate medical attention is encouraged.

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

The issue of sexual assault and other sexual misconduct is at the forefront of universities

nationwide. NMSU/DACC specifically prohibits sexual misconduct and will assist victims in seeking counseling (available through DACC Vice President for Student Services Office 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.)

DACC 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.

When a student or employee report to the Office of Institutional Equity, the DACC Vice President for Student Services Office, or the Police Department that they have been a victim of dating violence, domestic violence, sexual assault, or stalking (whether taking place on campus or off campus), they are provided with a written explanation of their rights and options. They are also given written notification regarding available counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available to victims, both within the university and in the surrounding community.

DACC 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 DACC Vice President for Student Services Office, and the NMSU Police Department. Contact information for each of these can be found on Page 61.

DACC 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 DACC 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: [Students' Rights and Responsibilities; Student Discipline and Appeal Hearing Processes 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 DACC 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.

DACC students can also take advantage of programs at DACC and NMSU that 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 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 DACC**

In the event that sexual misconduct, gender-based violence or the crimes of sexual assault, stalking, dating violence or domestic violence occurs, the College takes the matter very seriously. The NMSU Police Department investigates (or assists with investigating) all crimes reported to have taken place on the DACC 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 college for incidents involving dating violence, domestic violence, sexual assault, or stalking by contacting the Title IX Coordinator 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 Vice President of Student Services 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.

The College 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 at (575) 646-3635.

The student may also report to NMSU Police or other law enforcement if they wish to pursue criminal charges. DACC 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 DACC receives a report of sexual misconduct, gender-based violence, or other sex or gender discrimination the Title IX Coordinator is notified. If the victim wishes to access local community agencies and/or law enforcement for support, the College will assist the victim in



making these contacts. The Title IX Coordinator may offer assistance to victims in the form of interim or long- terms 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 in writing 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.

### **DACC 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

2017- 2018 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 <https://manual.nmsu.edu/policies-and-procedures/>.

### **Reporting of crimes and emergencies**

If a person wishes to report a crime for inclusion in this report, or to report an emergency on any campus, should do so by contacting the NMSU Police Department as soon as possible by dialing 911 or calling (575) 646-3311, or contact DACC Security Officers by calling (575) 527-7777. As noted above, VAWA Crimes may also be reported to the Title IX Coordinator, and they will also be included in this report. NMSU has also identified a number of other individuals by position who are considered “campus security authorities” because of their roles and the tendency someone might have to report a crime to them, even though that is not what is encouraged. Because of the delay that may be caused when contacting someone who cannot issue a timely warning or emergency alert, if there is a life-threatening incident, please contact the Emergency Dispatch Center by calling 911 whenever possible.

The campus security authorities within DACC are:

- President
- Vice President of Academic Affairs
- Vice President of Business and Finance
- Vice President of Student Services
- Human Resources
- Faculty/Staff advisors to chartered student organizations
- Student Judicial Affairs staff
- Off-site trip coordinators
- Custodians
- Access control personnel
- Security officers

Training is offered in person and online for personnel filling the above positions to help ensure they understand their role and responsibilities in reporting crimes. Personnel in the above roles cannot offer nor guarantee confidentiality as it relates to reporting of crimes, though efforts are often made to protect the safety and privacy of crime victims to the extent allowed by law.

The CSAs are encouraged to promptly and accurately report all crimes, even if they do not appear to be Clery-reportable crimes. This ensures that all crimes known and taking place on campus are reported. When a report is received from a campus security authority, the NMSU Police Department will generate a police report in order to ensure accurate tracking, and will evaluate whether an Emergency Alert or Timely Warning is appropriate for the incident. The resulting police report will likewise be entered into the Daily Crime Log. If the crime reported might also fall under the jurisdiction of the Title IX Coordinator, the Police Department will provide notice to that person, as well.

**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. DACC 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 <https://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) (see also, Section IV – Crime Statistics, Drug Free Schools and Communities Act)**

NMSU offers DACC students who are concerned 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 an education program, pay any relevant administrative fees 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, pay any relevant administrative fees, and receives a 16 week period of time on probation.

**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 is designated as the office that receives and processes internal discrimination complaints within the NMSU system. The Office of Institutional Equity 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 the Office of Institutional Equity; 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 Office of Institutional Equity website contains 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 report victimization 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 Social 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 be directed to any of the following: Office of Institutional Equity's Executive Director; the NMSU Police

Department Victim's Assistance Coordinator or the Dean of Students. The Office of Institutional Equity 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. The university 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, the university will act to stop the conduct, to prevent its recurrence, to remedy its effects, and to discipline those responsible in accordance with *NMSU's Policy Manual* and/or *Student Social 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 university 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; and
  - 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. The university 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 university policy. Where sexual harassment is found to have occurred, the university will act to address the reported conduct, to prevent its recurrence, to remedy its effects, and to discipline those responsible in accordance with the *university Policy Manual* and/or *Student Social 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 university 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 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; and
  - 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, or 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 or academic performance/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 university *Policy Manual* or in the case of students, the university *Student Social 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 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 is maintained on the Office of Institutional Equity website: <http://eeo.nmsu.edu/>

#### J. Complaints and Investigation:

1. Employees and students may file an internal discrimination complaint with the Office of Institutional Equity within fifteen (15) working days from the date of the incident(s). Individuals may use the university 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 Executive Director of the Office of Institutional Equity (or designee) may extend the filing date of a complaint beyond the fifteen (15) working days if there are extenuating circumstances.
2. The Office of Institutional Equity 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 Executive Director of the Office of Institutional Equity (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 the Office of Institutional Equity. The Office of Institutional Equity 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 Social 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 Executive Director of the Office of Institutional Equity. 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 Executive Director of the Office of Institutional Equity (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 university *Student Social Code of Conduct* and/or the university *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 and including termination in accordance with provisions of the university *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 Office of Institutional Equity.
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 Office of Institutional Equity.
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 Office of Institutional Equity.

4. When discriminatory conduct involves a crime of violence or a non-forcible sex offense, the Family Educational Rights and Privacy Act (FERPA) permits the university 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, the university 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 University Units: Internal units such as the Dean of Students Office, Housing and Campus Life, Athletics and community colleges will promptly contact and consult with Office of Institutional Equity when knowledge is obtained relating to potential discrimination or sexual harassment.
6. Non-employees and non-students: Individuals who are neither university employees nor students and who believe they have been subjected to discrimination or sexual harassment by a university employee during the employee's work hours or by a university student on campus or at a university-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, the university will act to stop the reported conduct, to prevent its recurrence, to remedy its effects, if any, and to discipline those responsible.

M. Confidentiality:

The university 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 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 Office of Institutional Equity. 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 university *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.

**Notification of Final Results**

When a complaint has been filed with the university, the university will, upon written request, disclose to the alleged victim of a crime of violence or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by the institution against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

**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 Office of Institutional Equity. In addition, the Office of Institutional Equity 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 with the Campus Sex Crimes Prevention Act of 2000 and the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16921), 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, even if the student is taking classes online and is not physically present in the state. The registry is 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). They also must report any changes in their status, such as changing from student to employee, employee to student, or termination of employment. Because of the lack of student housing owned or controlled by DACC on any of the campuses covered in this report, there are no sex offenders living on these campuses.

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**

There are numerous programs available to DACC addressing crime prevention and public education programs. The following programs are offered through the NMSU Police Department to DACC students and employees:

- **Personal Self Defense and Jane Jitsu:** learn and practice prevention, awareness, and escape techniques in these programs (*FREQUENCY:* Offered at least once each year.)
- **Pepper Spray:** learn to use pepper sprays for self defense (*FREQUENCY:* Offered at least once each semester.)
- **Active Shooter/Killer Response:** learn what to do if caught in an active shooter/killer incident (*FREQUENCY:* Offered at least one time each year at a DACC campus.)
- **Rape Awareness & Prevention:** learn about stranger, date, and acquaintance rape, and some ways to avoid situations common to rapes (*FREQUENCY:* Offered at least four times each semester.)
- **Alcohol & Drug Awareness:** learn the effects of alcohol and drugs on the body, and the dangers they can pose (*FREQUENCY:* Offered at least once each semester.)
- **Dealing with Difficult People and Violence in the Workplace:** learn about the causes of workplace violence and how to reduce its likelihood (*FREQUENCY:* Offered at least once each year at a DACC campus.)
- **Emergency Preparedness and Community Emergency Response Team (CERT):** learn how to prepare for emergencies, help yourself, and help others (*FREQUENCY:* Offered at least once each year.)
- **First Aid & CPR:** learn how to treat medical emergencies until help arrives (*FREQUENCY:* Offered at least once each semester.)
- **Green Dot:** learn ways a bystander can intervene to help prevent or stop an act of violence (*FREQUENCY:* Offered at least once each semester at a DACC campus.)

Programs are scheduled at the request of any DACC-affiliated student groups or organizations, as well as any DACC departments or units. 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 either the DACC Security Officer at your campus, or by calling the NMSU Police Department at (575) 646- 3311. Additional information regarding safety can also be found at [www.nmsupolice.com](http://www.nmsupolice.com) and <https://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**

DACC 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.

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

Employees of Facilities and Services are responsible for a variety of services performed on and around the DACC campuses, 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. An employee entering a requester-controlled area obtains access from the on-duty security officer, with both parties verifying security upon completion.

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

DACC encourages students and employees to be responsible for their own safety and security, as well as the safety and security of others. One way they may be able to help others is through what is called “bystander intervention”. The program utilizes nationally recognized facilitators to train a core group of students, faculty, and staff as trainers. These campus trainers then provide campus trainings directly to the rest of the campus community. This train-the-trainer model is a cost effective way to encourage DACC community members to get involved in preventing crimes from happening to their fellow community members. (See also, “It’s On Us” above) Because of the large scale of this program, there are training opportunities spread throughout the semester. To find out the schedule of upcoming sessions, contact the NMSU Dean of Students Office at (575) 646-1722.

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

The DACC Facilities Support works to help maintain security of the campuses by, among other efforts, locking up academic buildings at the end of the night, 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 campuses.

There are also video surveillance cameras in select areas of some campuses, with more being installed throughout the year. These cameras are not monitored live, but they are recorded and available for review by security and law enforcement if there is a crime.

### **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. A good way to do this is by taking photographs of the items and the serial numbers and storing them both on your cell phone and in the cloud so they can be easily retrieved if needed.
- Always secure bikes to a bike rack using a high-quality lock.
- Lock the doors and windows to your office 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 (<https://www.nmsupolice.com/>), or by contacting the Crime Prevention Office at 646-3311.

### **DRUGS AND ALCOHOL**

Use of alcohol is a concern with many high school and college students. While the average age of students attending DACC is over 21 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. Anyone selling or giving alcohol to a minor is guilty of a 4th degree felony in New Mexico. The DACC Vice President for Student Services Office will also charge students who violate university policies and state laws, with penalties ranging from mandatory education programs up to and including expulsion from DACC. 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 DACC. Violations of federal and state controlled substance and liquor laws are investigated by the NMSU Police Department and referred for prosecution.

### **OTHER SERVICES AVAILABLE**

DACC offers counseling services free of charge to students at the Student Accessibility Services Office. The DACC Student Accessibility Services staff is comprised of well-trained professionals and can help students with a wide range of problems. Students interested should call the DACC Student Accessibility Services Office at 527-7548.



Students seeking counseling services off campus may obtain a list of the services available and their phone numbers by calling the DACC Security or the Student Accessibility Services Office. They 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, DACC has given responsibilities to several departments and offices. Students with concerns or needing specific information are encouraged to contact the Vice President for Student Services, DACC Security or the NMSU Police Department. DACC 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 Vice President for Student Services or through Victim Services.

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

## **SECTION 4 – CRIME STATISTICS**

### **DRUG FREE SCHOOLS AND COMMUNITIES**

The NMSU Board of Regents, the DACC 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. DACC 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 Services, 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. Detailed information related to alcohol and drugs, including compliance with the Drug Free Schools and Communities Act, can be found at the following sites:

**Annual Notice/Drug and Alcohol Free University and Workplace:**

<https://hr.nmsu.edu/wp-content/uploads/2017/11/2017-Annual-Drug-and-Alcohol-Free-University-and-Workplace-Notice.pdf>

**Biennial Review of Drug Prevention Efforts:**

<https://deanofstudents.nmsu.edu/files/2015/08/Biennial-Review-2014-2016.pdf>

**Additional information:** <https://benefits.nmsu.edu/other/drug-free/>

### **MONITORING OF CRIMINAL ACTIVITY AT STUDENT ORGANIZATION LOCATIONS**

DACC does not currently have any chartered student organizations who own or control property off campus.

### **ABOUT THE CRIME STATISTICS**

The NMSU Police Department is responsible for the investigation of all crimes that take place on university premises (including all DACC campuses), 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. The definitions are from the indicated sources, and may differ from the actual charges filed under state law due to differences between the federal definitions and state statutes. Commonly used state statutes relating to some of these areas are contained later in this publication.

**From the Summary Reporting System (Uniform Crime Reports, or UCR) User Manual – 2013:**

**MURDER AND NONNEGLIGENT MANSLAUGHTER:** The willful (nonnegligent) killing of one human being by another.

**MANSLAUGHTER BY NEGLIGENCE:** The killing of another person through gross negligence.

**RAPE:** Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

**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:** An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. (NOTE: This type of assault usually is 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 to commit a felony or a theft.

**MOTOR VEHICLE THEFT:** The theft or attempted theft of a motor vehicle.

**ARSON:** Any 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.

**DRUG ABUSE VIOLATIONS:** The violation of laws prohibiting the production, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation, or importation of any controlled drug or narcotic substance. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs.

**LIQUOR LAW VIOLATIONS:** The violation of state or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or use of alcoholic beverages, not including driving under the influence and drunkenness.

**WEAPONS-CARRYING, POSSESSING, ETC. LAW VIOLATIONS:** The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons.

Another commonly used term is Sexual Assault, which means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's UCR program. Sex offenses involve "any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent." While the term rape is already defined above, the remaining terms are defined in the FBI National Incident Based Reporting System (NIBRS) manual.

**From the NIBRS 2019 User Manual:**

**FONDLING:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

**INCEST:** Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. (NOTE: If force is used in these cases, it is counted as rape.)

**STATUTORY RAPE:** Non-Forcible sexual intercourse with a person who is under the statutory age of consent. (NOTE: If force is used in these cases, it is counted as rape.)

A **hate crime** is "a criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim." For purposes of this report, a bias is "a preformed negative opinion or attitude based on a person's:

- Race;
- Religion;
- Gender;
- Gender identity;
- Sexual orientation;
- Ethnicity;
- National origin; or
- Disability

It is important to understand that while the motivation of the hate crime must fit the above, the person perpetrating the crime may not be correct. As a result, the victim may or may not actually be what the perpetrator believes. Hate crimes are counted in this report if they involve any of the following offenses:

- Murder and non-negligent manslaughter;

- Manslaughter by negligence;
- Rape;
- Fondling;
- Incest;
- Statutory Rape;
- Robbery;
- Aggravated assault;
- Simple assault;
- Burglary;
- Motor vehicle theft;
- Arson;
- Larceny/theft;
- Intimidation; or
- Destruction/Damage/Vandalism of Property.

The definitions of the additional terms are below:

**Larceny-Theft:** The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another.

**Simple Assault:** An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration or loss of consciousness.

**Intimidation:** To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

**Destruction/Damage/Vandalism of Property:** To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

#### **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. If there were any chartered student organizations who owned or controlled off campus property, crimes taking place there would be reported 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**

The crime statistics contained in this report are based on the locations described at the beginning of this report. Each campus is located at the designated address, and crime data is only collected from the street entrance to the parking lots and around and inside the buildings at each location. Security officers do not patrol outside of this area. Below are special notes for each campus.

- **Chaparral Learning Center:** This property is fenced in and only crimes occurring within this fence line are included.
- **Gadsden Center:** This property is fenced in and only crimes occurring within this fence line and on the driveway leading to and from Highway 404 are included.
- **Sunland Park Center:** This property is fenced in and only crimes occurring within this fence line and on the driveway leading to and from McNutt Street are included.
- **East Mesa Campus:** Crime at this campus is for that area south of Calle Jitas and within and including Loop Drive. In addition, there is a desert area south of Loop Drive that belongs to DACC and is unimproved. While security staff do not regularly patrol this area, if a crime does occur in this area it will be included.
- **Workforce Development Center:** This property is bordered on the north by Entrada del Sol Avenue and on the south by Nevada Avenue. Only crimes occurring between these and on the DACC property are included.

Copies of maps of the above properties are included in the Appendix of this report.

## CHART OF CRIME STATISTICS

The previous 3 years of crime statistics - EAST MESA CAMPUS

Offense		Year	On-Campus Property	**Residential Facilities	Non-Campus Property	Public Property
MURDER	Murder & Non-Negligent Manslaughter	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Manslaughter by Negligence	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
SEXUAL ASSAULT / SEX OFFENSES	Rape	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Statutory Rape	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Fondling	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Incest	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
VAWA CRIMES	Domestic Violence	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	1	n/a	0	0
	* Dating Violence	2017	*	n/a	*	*
		2016	*	n/a	*	*
		2015	*	n/a	*	*
	Stalking	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	1	n/a	0	0
OTHER CLERY-REPORTED CRIMES	Robbery	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Aggravated Assault	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	2	n/a	0	0
	Burglary	2017	1	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Motor Vehicle Theft	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Arson	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	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.

\*\* There are no DACC owned or controlled residential facilities, so this column does not apply.

**Hate Crimes 2017:** 1 - Graffiti (Prejudice Category: **Race**)

**Hate Crimes 2016:** 0

**Hate Crimes 2015:** 0

ARRESTS	TYPE	Year	On-Campus Property	**Residential Facilities	Non-Campus Property	Public Property
	<i>Weapons: Carrying, Possession, Etc.</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	<i>Drug Abuse Violations</i>	2017	1	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	<i>Liquor Law Violations</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
REFERRALS	TYPE	Year	On-Campus Property	**Residential Facilities	Non-Campus Property	Public Property
	<i>Weapons: Carrying, Possession, Etc.</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	<i>Drug Abuse Violations</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	<i>Liquor Law Violations</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0



## The previous 3 years of crime statistics - **GADSDEN CENTER CAMPUS**

Offense		Year	On-Campus Property	**Residential Facilities	Non-Campus Property	Public Property
MURDER	Murder & Non-Negligent Manslaughter	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Manslaughter by Negligence	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
SEXUAL ASSAULT / SEX OFFENSES	Rape	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Statutory Rape	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Fondling	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Incest	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
VAWA CRIMES	Domestic Violence	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	* Dating Violence	2017	*	n/a	*	*
		2016	*	n/a	*	*
		2015	*	n/a	*	*
	Stalking	2017	1	n/a	0	0
		2016	0	n/a	0	0
		2015	1	n/a	0	0
OTHER CLERY-REPORTED CRIMES	Robbery	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Aggravated Assault	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Burglary	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	1	n/a	0	0
	Motor Vehicle Theft	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Arson	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	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.

\*\* There are no DACC owned or controlled residential facilities, so this column does not apply.

**Hate Crimes 2017:** 0

**Hate Crimes 2016:** 0

**Hate Crimes 2015:** 0

ARRESTS	TYPE	Year	On-Campus Property	**Residential Facilities	Non-Campus Property	Public Property
	<i>Weapons: Carrying, Possession, Etc.</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	<i>Drug Abuse Violations</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	2	n/a	0	0
	<i>Liquor Law Violations</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0

REFERRALS	TYPE	Year	On-Campus Property	**Residential Facilities	Non-Campus Property	Public Property
	<i>Weapons: Carrying, Possession, Etc.</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	<i>Drug Abuse Violations</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	<i>Liquor Law Violations</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0

## The previous 3 years of crime statistics - SUNLAND PARK CAMPUS

Offense		Year	On-Campus Property	**Residential Facilities	Non-Campus Property	Public Property
MURDER	Murder & Non-Negligent Manslaughter	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Manslaughter by Negligence	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
SEXUAL ASSAULT / SEX OFFENSES	Rape	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Statutory Rape	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Fondling	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Incest	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
VAWA CRIMES	Domestic Violence	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	* Dating Violence	2017	*	n/a	*	*
		2016	*	n/a	*	*
		2015	*	n/a	*	*
	Stalking	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
OTHER CLERY-REPORTED CRIMES	Robbery	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Aggravated Assault	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	1	n/a	0	0
	Burglary	2017	0	n/a	0	0
		2016	1	n/a	0	0
		2015	0	n/a	0	0
	Motor Vehicle Theft	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Arson	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	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.

\*\* There are no DACC owned or controlled residential facilities, so this column does not apply.

**Hate Crimes 2017:** 0

**Hate Crimes 2016:** 0

**Hate Crimes 2015:** 0

ARRESTS	TYPE	Year	On-Campus Property	**Residential Facilities	Non-Campus Property	Public Property
	<i>Weapons: Carrying, Possession, Etc.</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	<i>Drug Abuse Violations</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	<i>Liquor Law Violations</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0

REFERRALS	TYPE	Year	On-Campus Property	**Residential Facilities	Non-Campus Property	Public Property
	<i>Weapons: Carrying, Possession, Etc.</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	<i>Drug Abuse Violations</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	<i>Liquor Law Violations</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0

## The previous 3 years of crime statistics - WORKFORCE CENTER CAMPUS

Offense		Year	On-Campus Property	**Residential Facilities	Non-Campus Property	Public Property
MURDER	Murder & Non-Negligent Manslaughter	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Manslaughter by Negligence	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
SEXUAL ASSAULT / SEX OFFENSES	Rape	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Statutory Rape	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Fondling	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Incest	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
VAWA CRIMES	Domestic Violence	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	* Dating Violence	2017	*	n/a	*	*
		2016	*	n/a	*	*
		2015	*	n/a	*	*
	Stalking	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
OTHER CLERY-REPORTED CRIMES	Robbery	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Aggravated Assault	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Burglary	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Motor Vehicle Theft	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Arson	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	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.

\*\* There are no DACC owned or controlled residential facilities, so this column does not apply.

**Hate Crimes 2017:** 0

**Hate Crimes 2016:** 0

**Hate Crimes 2015:** 0

ARRESTS	TYPE	Year	On-Campus Property	**Residential Facilities	Non-Campus Property	Public Property
	<i>Weapons: Carrying, Possession, Etc.</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	<i>Drug Abuse Violations</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	<i>Liquor Law Violations</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0

REFERRALS	TYPE	Year	On-Campus Property	**Residential Facilities	Non-Campus Property	Public Property
	<i>Weapons: Carrying, Possession, Etc.</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	<i>Drug Abuse Violations</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	<i>Liquor Law Violations</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0

The previous 3 years of crime statistics - **CHAPARRAL LEARNING CENTER CAMPUS**

Offense		Year	On-Campus Property	**Residential Facilities	Non-Campus Property	Public Property
MURDER	Murder & Non-Negligent Manslaughter	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Manslaughter by Negligence	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
SEXUAL ASSAULT / SEX OFFENSES	Rape	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Statutory Rape	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Fondling	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Incest	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
VAWA CRIMES	Domestic Violence	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	* Dating Violence	2017	*	n/a	*	*
		2016	*	n/a	*	*
		2015	*	n/a	*	*
	Stalking	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
OTHER CLERY-REPORTED CRIMES	Robbery	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Aggravated Assault	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Burglary	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Motor Vehicle Theft	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	Arson	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	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.

\*\* There are no DACC owned or controlled residential facilities, so this column does not apply.

**Hate Crimes 2017:** 0

**Hate Crimes 2016:** 0

**Hate Crimes 2015:** 0

ARRESTS	TYPE	Year	On-Campus Property	**Residential Facilities	Non-Campus Property	Public Property
	<i>Weapons: Carrying, Possession, Etc.</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	<i>Drug Abuse Violations</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	1	n/a	0	0
	<i>Liquor Law Violations</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
REFERRALS	TYPE	Year	On-Campus Property	**Residential Facilities	Non-Campus Property	Public Property
	<i>Weapons: Carrying, Possession, Etc.</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	<i>Drug Abuse Violations</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0
	<i>Liquor Law Violations</i>	2017	0	n/a	0	0
		2016	0	n/a	0	0
		2015	0	n/a	0	0



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

The DACC Security Department maintains the Daily Crime Log/Blotter. The records can be viewed during normal business hours (Monday – Friday, 8:00 am – 5:00 pm, excluding holidays and scheduled closures) at the Technical Studies Building, Room 153. These should not be considered official police reports for purposes of insurance or prosecution. DACC Security Officer reports may be inspected pursuant to the rules of the New Mexico Inspection of Public Records Act.

Crimes reported to the NMSU Police Department will be entered into a Daily Crime Log that is maintained in the Police Department Records and Evidence Office. A hard copy of the log can be viewed during normal business hours (Monday - Friday, 8:00 am - 5:00 pm, excluding holidays or posted closures). In addition, historical Daily Crime Logs are available online at <https://www.nmsupolice.com/crime-statistics/>. The NMSU Police Department also submits crime statistics to the FBI Uniform Crime Reports.

The Daily Crime Log entries are made within 2 business days of being received by the Police Department, and they are listed in chronological order. The Daily Crime Log includes the Case Number, the Date and Time the report was filed, the Date and Time the crime occurred, the Location, the Nature of the crime, and the Status/Disposition of the report (e.g., open, closed, closed by arrest). If a report of a crime is received from another source (i.e., a campus security authority or another law enforcement agency), the NMSU Police Department will generate a NMSU police report in order to track the crime, and it will be entered into the Daily Crime Log. NOTE: The NMSU Police Department may temporarily withhold information from the crime log if there is clear and convincing evidence that the release would jeopardize an ongoing investigation, jeopardize the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence. In those cases, a notation may be made in the appropriate fields when the entry is initially made, and then updated when the risk has been reduced or eliminated.

Crimes reported to Pastoral or Professional Counselors are exempt from being required to report crimes to the NMSU Police Department while they are acting in such capacity, unless otherwise required by state law (e.g., statutorily-required reporting for child abuse). However, these individuals are asked to provide confidential reports to the NMSU Police Department that do not identify the victim so that the crime may be tracked and protective measures put in place when feasible. There is currently no formal university policy regarding this, but it is the working practice within the institution.

In addition to the Daily Crime Log, individual police reports are available for inspection and/or purchase pursuant to the requirements of the New Mexico Inspection of Public Records Act. Reports that are inspected 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.

## **VICTIM CONFIDENTIALITY**

Victim information is not contained in the Daily Crime Log (there is no space for it), and the locations in the Daily Crime Log are limited to facility names to help ensure an individual victim

cannot be easily identified (e.g., the address does not include office numbers). There is never any victim information contained in the Annual Security Report.

Within individual police reports, victim information is recorded. Under the New Mexico Inspection of Public Records Act, police reports are considered public records subject to inspection and copying. However, the university Police Department will withhold a victim's personally identifying information from the public for the following crimes:

- Murder
- Voluntary Manslaughter
- Involuntary Manslaughter
- Homicide by Vehicle
- Kidnapping
- Criminal Sexual Penetration
- Criminal Sexual Contact of a Minor
- Abandonment or Abuse of a Child
- Arson Resulting in Bodily Injury
- Aggravated Arson
- Aggravated Assault
- Aggravated Battery
- Great Bodily Injury by Vehicle
- Dangerous Use of Explosives
- Negligent Use of a Deadly Weapon

If a question arises as to whether victim information should be disclosed pursuant to an Inspection of Public Records request, the determination of whether or not to release it will be made by the Chief of Police in consultation with the Office of the General Counsel. (NOTE: Victim information may be released to non-public entities, to include other law enforcement agencies, victim services, prosecutors, the courts, and university officials. In such cases, if the Chief of Police (or designee) indicates the information is confidential, the receiving is asked to not provide it to others without specific authorization.)

When assisting a victim with accommodations or protective measures, the university does not share personally identifying information with anyone who does not have a "need to know". Those who are identified as having a need to know are those who are responsible for instituting the accommodations or measures, such as changing a class schedule or room assignment. The Victim Services personnel from the Police Department who assist in these accommodations keep the victim informed at all stages, and obtain affirmative consent from the victim before taking action to see or implement accommodations or protective measures. The Police Department believes it is crucial to allow the victim to decide what happens to avoid causing further trauma.

### **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 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**

As previously noted, DACC does not have any chartered student organizations who own or control property off campus. Off campus incidents involving DACC students is reported to and handled by a variety of agencies, including the Las Cruces Police Department, the Doña Ana County Sheriff's Department, the Sunland Park Police 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 the off-campus crime is done by the agency of primary jurisdiction. DACC does not routinely monitor nor track incidents that are on private property nor public property not owned by DACC. Anyone wanting specific information on off-campus crime should contact the appropriate agency(s). See the Phone Number Reference Guide on Page 61 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, DACC Security at 527-7777, 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 pastoral and professional counselors. Third party reports are not accepted from other sources due to the impossibility of ensuring crimes are accurately classified and are not duplicated. Changes have been made recently to the 3<sup>rd</sup> party vendor Ethicspoint (<https://secure.ethicspoint.com/>) to specifically discourage people from trying to use that system for Clery-reportable offenses. It is intended for reporting violations of policy or laws that are not Clery-reportable. Examples of such non-Clery laws are fraud, embezzlement, and misuse of university property.

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

DACC has assigned responsibility for monitoring the above policies to the NMSU 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 that any amount of force or coercion means it was not consensual, 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 includes when a person specifically communicates that they agree; 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:** The NMSU administrative disciplinary process, to include hearings and appeals, unless otherwise indicated.

**Result:** 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.

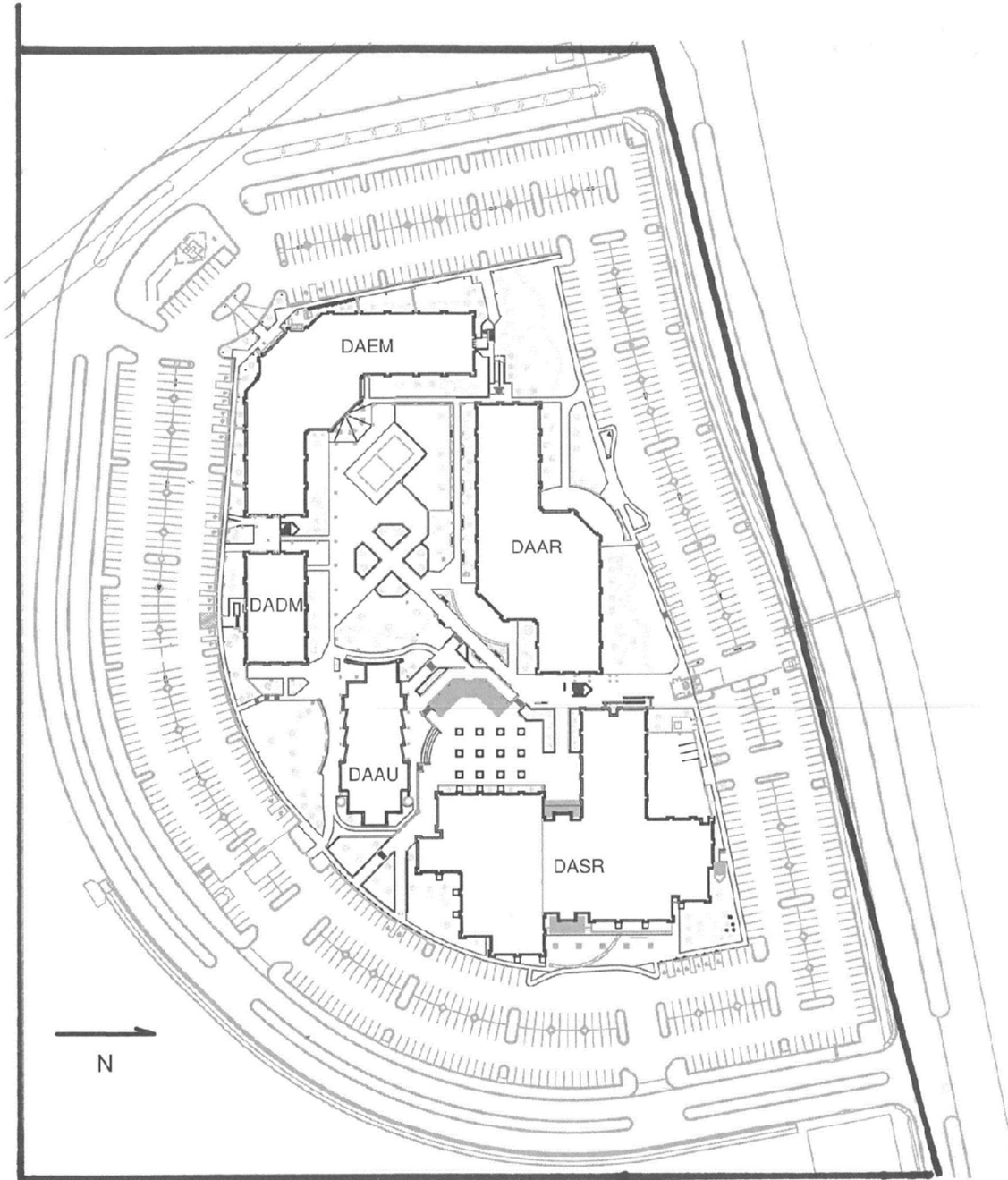
## **SECTION 5 - PHONE NUMBER REFERENCE GUIDE**

NMSU Police Department	<b>EMERGENCY .....911</b>
	Non-emergency .....646-3311
DACC VP for Student Services .....	527-7531
NMSU Campus Health Center.....	646-1512
NMSU Employee Assistance Program .....	646-6603
DACC Human Resources Office .....	646-2420
NMSU Title IX Coordinator and Office of Inst. Equity .....	646-3635
La Piñon Rape Crisis Center .....	526-3427

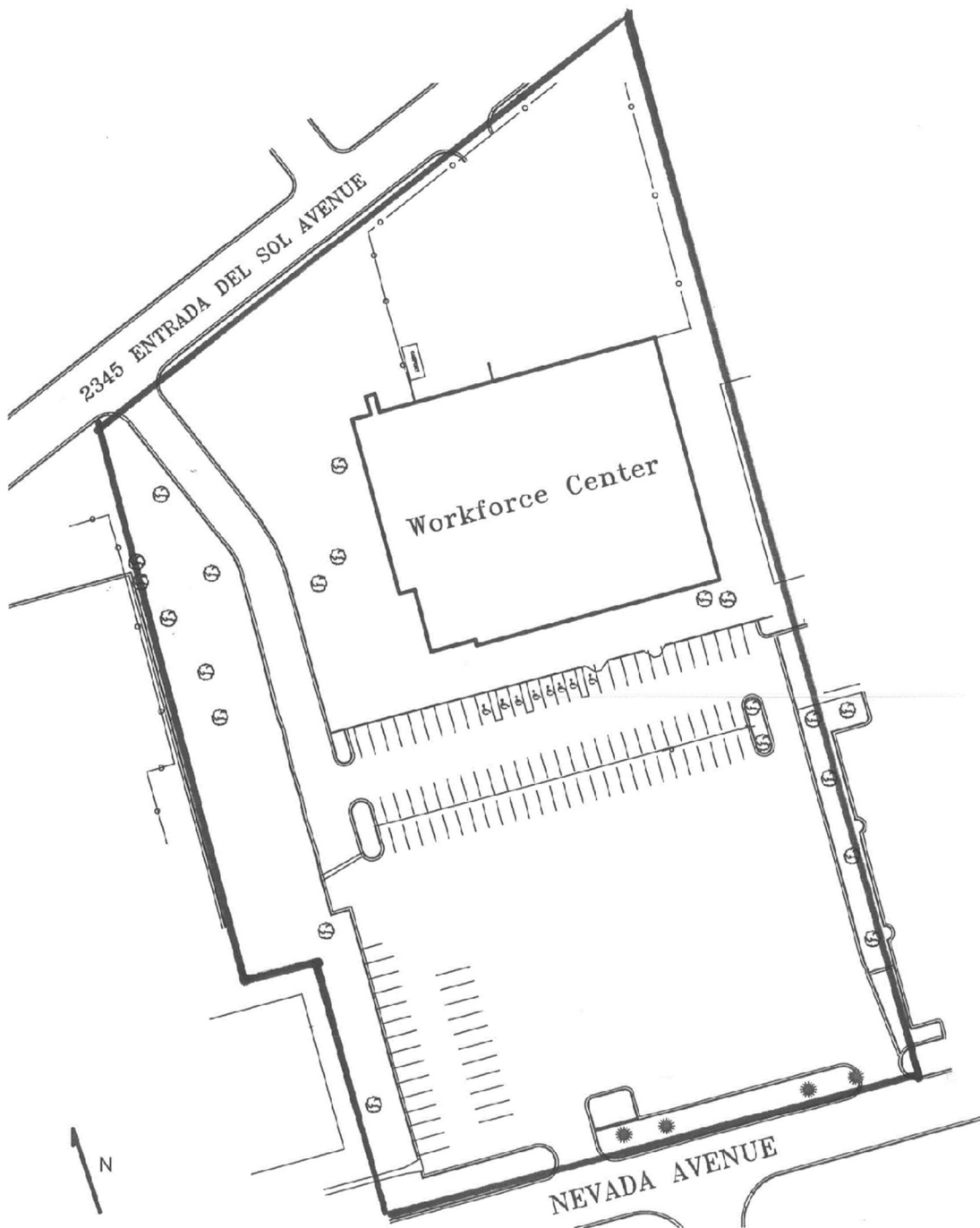
### **Off-Campus Law Enforcement Agencies:**

Las Cruces Police Department .....	575-526-0795
Doña Ana County Sheriff's Office.....	575-526-0795
Mesilla Marshal's Office.....	575-526-0795
Sunland Park Police Department.....	575-526-0795
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 – CAMPUS MAPS

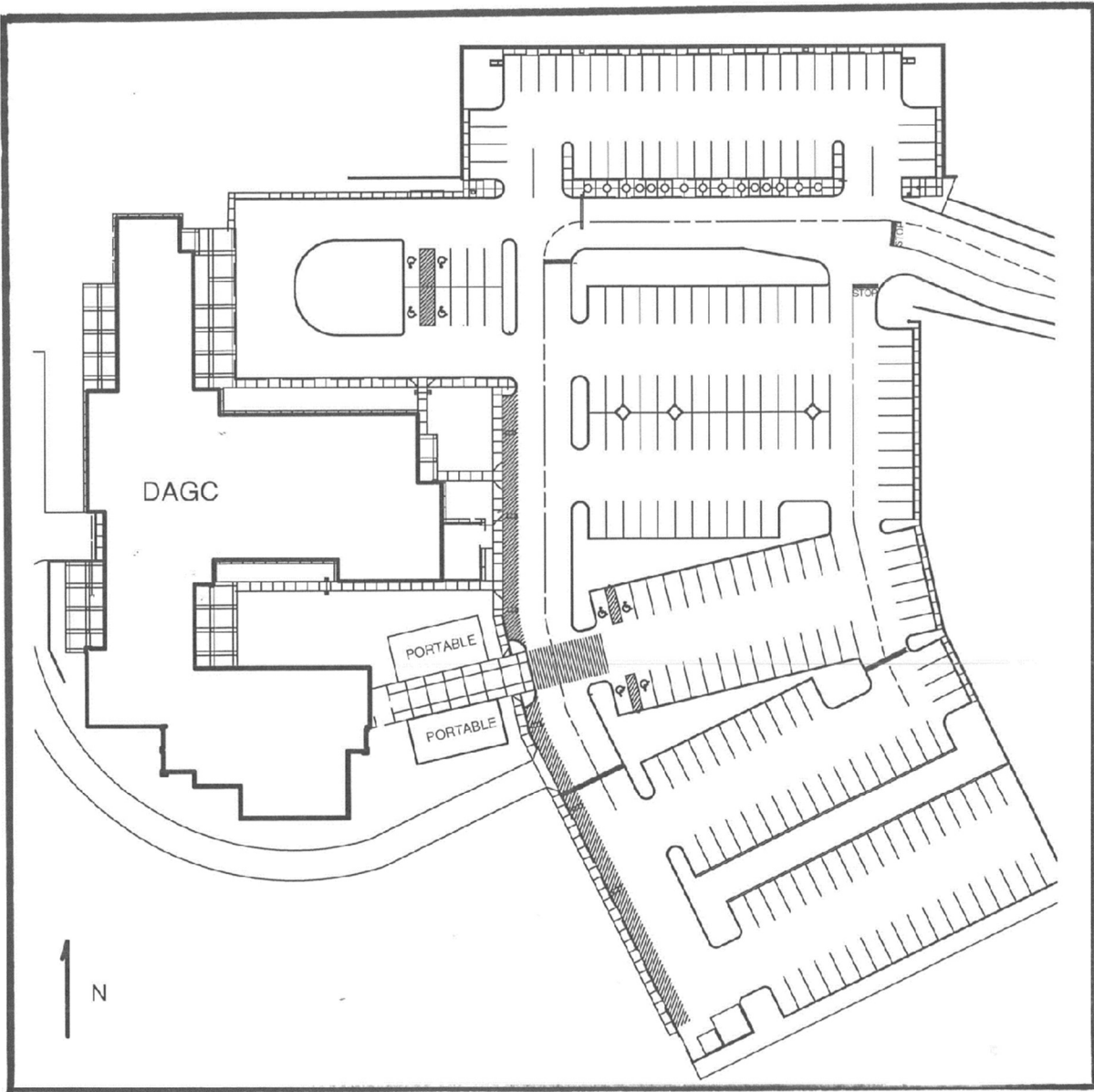


East Mesa Campus					2800 N. Sonoma Ranch Rd Las Cruces NM 88011	
Bldg #	Floor	Year Built	Building GSF	Floor GSF	60 Acres	13

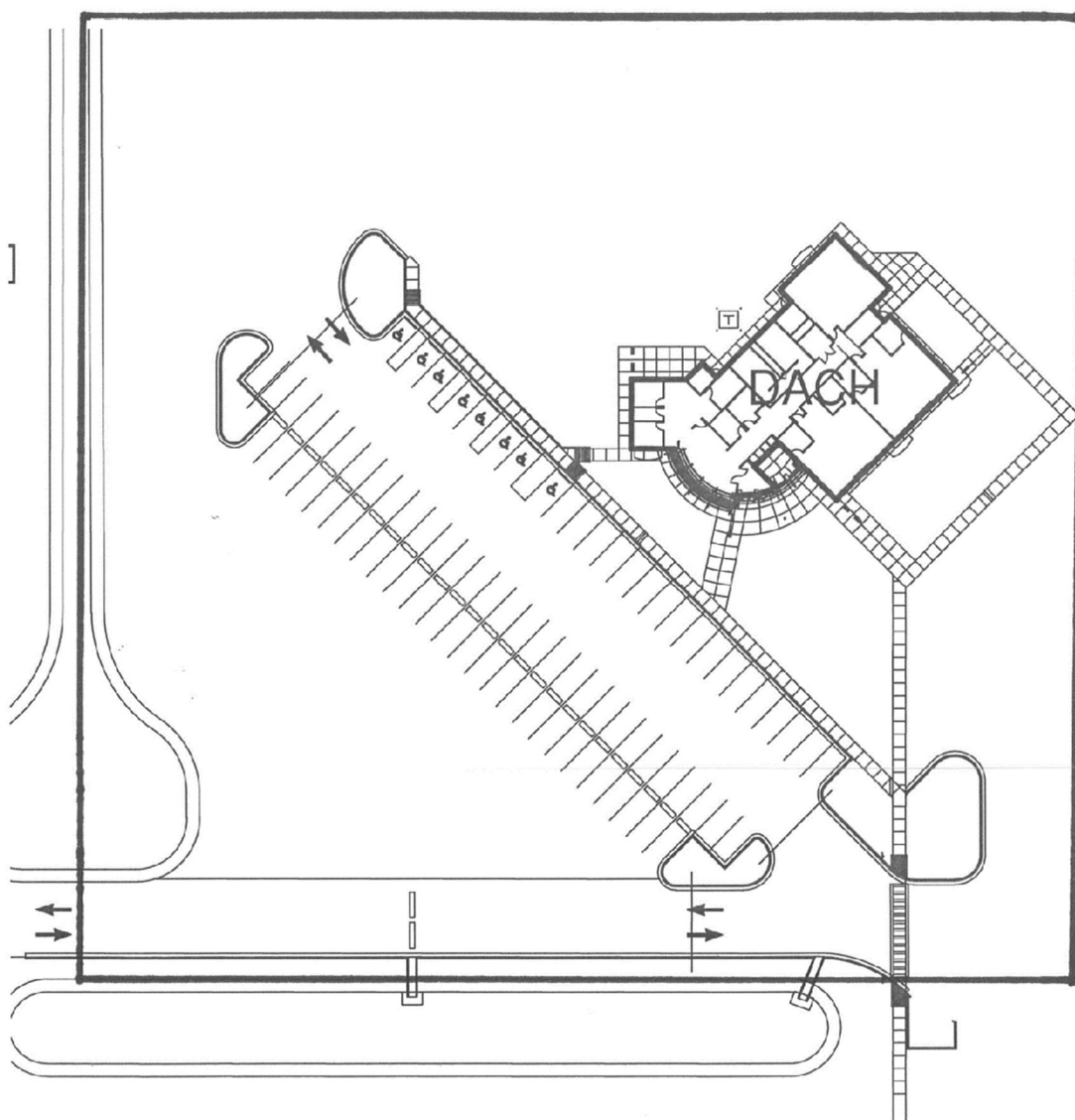


Workforce Center					2345 E. Nevada Ave Las Cruces NM 88001
Floor GSF	Building GSF	Year Built	Floor	Bldg #	23

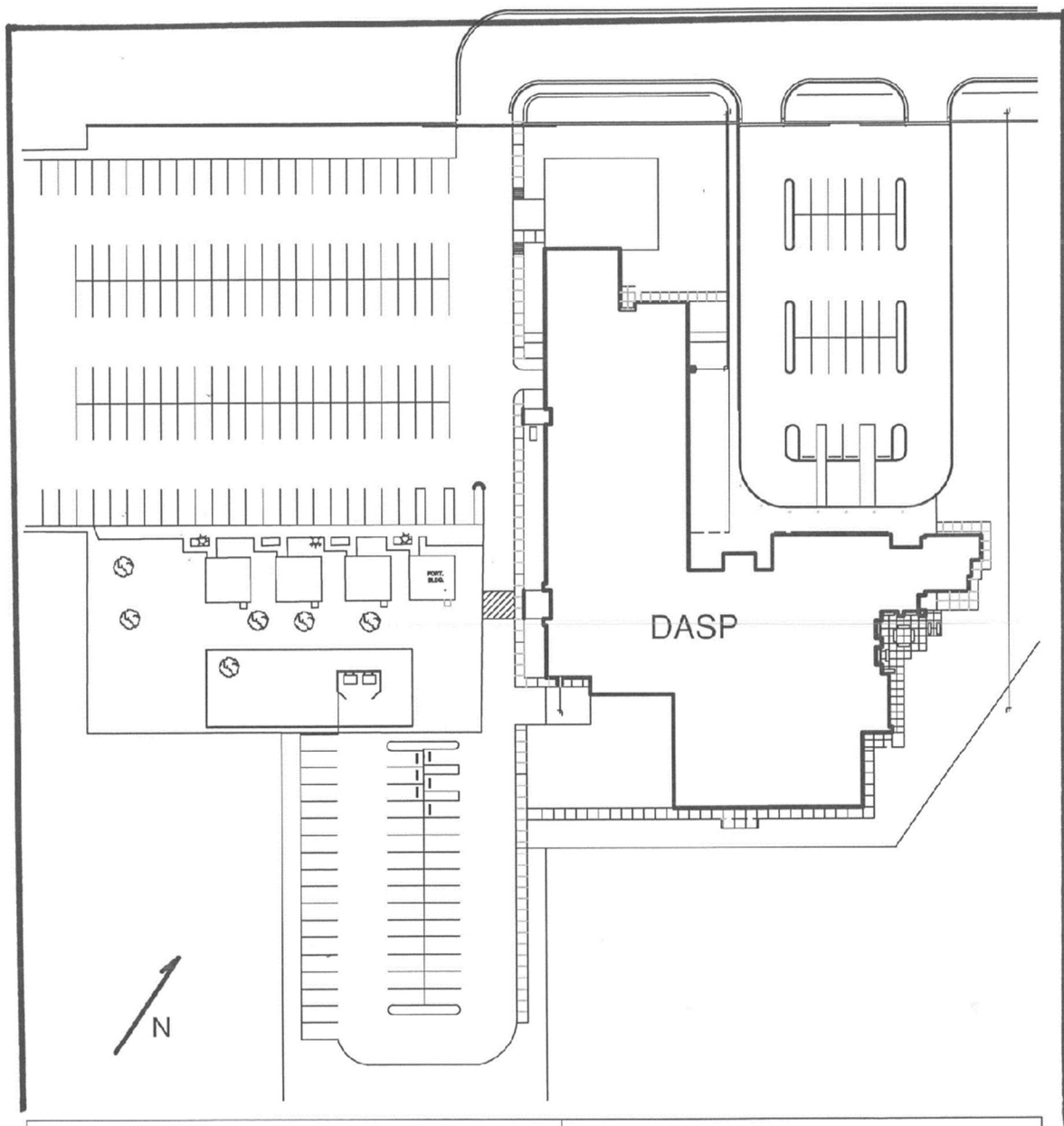




1700 E. O'Hara Rd Anthony NM 88021		Gadsden Campus			
25	20 Acres	Bldg #	Floor	Year Built	Building GSF



755 Prescott Anthony Dr. Chaparral NM 88081		Chaparral Campus			
27	20 Acres	Bldg #	Floor	Year Built	Building GSF



3365 McNutt Road Sunland Park NM 88063		Sunland Park Campus				
29		Floor GSF	Building GSF	Year Built	Floor	Bldg #