

# **New Mexico State University**

## **Carlsbad**



# **2022 Annual Security Report**

**Covering: NMSU Carlsbad-With Statistics for 2019-2021**

**Release Date: October 1, 2022**

# **INTRODUCTION**

This report contains information regarding safety and security programs, policies, and procedures in place at New Mexico State University's Carlsbad Community College campus. It complies with the requirements established by 20 USC 1092, also known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, as well as the requirements imposed by the amendments to the Violence Against Women Act (VAWA). Crime statistics from 2019 through 2021 required by this Act are included. The Carlsbad Police Department is the agency with primary responsibility for the collection of data for this report, though it relies on many other departments and agencies for assistance. Individuals and departments identified as Campus Security Authorities are expected to immediately report crimes brought to their attention to the Carlsbad Police Department to ensure they are included herein. Prior to the compilation of this document, the NMSU conducts follow-ups with the Campus Security Authorities to help ensure no crimes are inadvertently missed.

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 NMSU Carlsbad Student Services at (575) 234-9221 for assistance.

*NOTE: There are several sections of Administrative Rules and Procedures, as well as several programs, that are currently under development, revision, or implementation. As these change during the course of the 2020-2022 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.*

# **2021 Annual Safety Report for** **NMSU Carlsbad**

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## **SECTION 1 - OVERVIEW**

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### **ABOUT CARLSBAD CAMPUS**

The NMSU Carlsbad campus was established in 1950 as the state's first community college. NMSU Carlsbad has a student population of approximately 1500 students, approximately 41 full-time faculty members, 63 part-time faculty members and 72 full-time staff members.

NMSU Carlsbad offers a variety of quality educational opportunities. The college is the Eddy County provider of Adult Education services (AE), non-credit programs offered through Community Services and Continuing Education programs which provide a variety of educational, personal interest, and enrichment programs for all ages. The college has a facility of 142,000 square feet.

### **SAFETY – EVERYONE'S BUSINESS**

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

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

The Carlsbad campus is relatively safe compared to other universities and cities its size. A campus community relies on a peaceful, safe, and secure environment. Members of the community are expected to be aware of the policies and procedures of the university and to promptly report any suspicious activity. While the campus provides security on campus everyone needs to be conscious of personal safety. Campus community members are also encouraged to follow common safety practices.

The majority of academic facilities are opened and closed by Facilities and Services Custodial staff. This applies to securing exterior doors of academic and non-academic buildings Monday through Friday. Buildings hours are typically from 8am to 5pm, while some facilities are open later due to classes. With minor exceptions, all facilities are secured by 10pm daily. Facilities open on weekends are based on scheduled classes or events, and are typically secured by 5pm. Centrally scheduled classrooms are opened before 8am with the end of the day user securing the room. All other departmental rooms are opened and secured by their respective departments. Offices and laboratories are controlled by the facility user.

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



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

### **TIMELY WARNINGS AND ALERTS**

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

**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 (<https://www.nmsu.edu>), but depending on the nature of the incident, other sources may also be provided.

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

The Campus has also asked outside law enforcement agencies to notify NMSU Carlsbad leadership of incidents that may warrant warnings to the NMSU Carlsbad community. However, this is not a guarantee these outside agencies will do so in every incident, nor in a timely manner. As a result, anyone believing an alert or warning is needed in a particular instance should contact Presidents office for NMSU Carlsbad.

### **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 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.). The NMSU Police Department has prepared a “Quick Flip Guide to Emergencies” that can be downloaded from the internet (<https://www.nmsupolice.com>) and assembled. It is a good starting point for both incident specific guidelines, as well as general guidelines. Additional information and links are also available on the NMSU Police Department website at <https://www.nmsupolice.com/>. There is a wealth of information, including the NMSU emergency numbers, the Quick Flip Guide to Emergencies, also visit <https://emergencyplanning.nmsu.edu/> for the All Hazards Emergency Operations Plan, hazardous spill procedures, and assistance in developing emergency plans. Safety news and initiatives are in recent news posted on the safety home page.

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

### **FIRE SAFETY**

Statistics on fires and fire responses are managed by the Carlsbad Fire Department. For more information go to <https://cityofcarlsbadnm.com/departments/carlsbad-fire-department/>

### **MISSING PERSON REPORTS**

Any report of a missing person is immediately investigated by the Carlsbad Police Department. In addition, the Carlsbad Police Department will notify appropriate university officials that a person is missing.

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

Any university employee who, through the course of their employment, is informed that a person is missing from campus is required to immediately notify the Carlsbad Police Department. If there is information an abduction has just taken place, the employee should call 911. Otherwise, the person should call 575-234-9200 and provide the information to the operator. A police officer will then be dispatched to meet and gather additional information.

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

If you are the victim of a crime, whether while on campus or off campus, or experience a fire or medical emergency, you are encouraged to report it immediately by calling 911. For non-emergencies taking place on campus, call Carlsbad Police Department at (575) 885-2111. When you call, give your name, the location you are calling from, a brief description of what occurred, and whether there is still a danger present (e.g., the person who committed the crime is still present). Prompt reporting and specific information will increase the chances of solving your case. A police officer will be dispatched to meet with you and obtain all of the necessary information. Here are some guidelines regarding preserving evidence while you wait for an officer:

- If evidence from the crime is still intact, try not to move or destroy it. This includes avoiding trying to clean up the area, moving or throwing away items, or wiping down surfaces.
- If there are text messages, e-mails, voice mails, or other electronic evidence, preserve the original (if possible) or make a copy (if the original might be deleted, such as with Snapchat and similar programs) and provide this evidence to the police officer who responds;
- If you are being harassed or stalked, keep a log of any contact or sightings you have of the suspect, to include any third-party contacts where the suspect uses someone else to contact you or monitor your activities;
- If you are the victim of a sexual assault, avoid showering, changing clothes, or grooming, as these can destroy evidence. Protect any bedding or towels, 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 not to 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 details. Try to include as many details about what happened, as well as everything you can remember about the suspect. Include things you saw, heard, and even smelled, tasted, or felt. Also try to write down things like other people who were around and might be witnesses, locations where different things happened, and any items that you have saved (such as text messages, e-mails, photos, phone messages, etc.) that might be relevant.

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 because they do not want to testify in a trial. Victims are nevertheless encouraged to at least contact the Carlsbad 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 Carlsbad Medical Center, and is a medical exam that is designed to identify damage to your body as a result of a sexual assault so it can be treated. In addition, evidence of sexual assault can be identified and collected during this exam. These exams are confidential, and are conducted by specially trained medical practitioners. You also have a right to have someone of your choosing with you during these exams. If you would like, a victim services advocate can accompany you and help with any questions you might have.
- **Counseling:** Services are available for students through off-campus entities.
- **Medical:** In addition to the SANE exam, medical services are available on campus through the Carlsbad Medical Center and other clinics in the area. The medical centers have 24-hour emergency departments, and many of the urgent care centers and clinics have hours that extend into the evenings and on weekends.
- **Protection Orders:** While certain offices at the university can issue a “no contact” order against students or employees, such orders only apply on campus, and may only be helpful if the perpetrator of the crime is a student or employee. The NMSU Police Department’s Victim Services staff can assist victims of violence in obtaining temporary and permanent restraining orders from the state courts that will apply no matter where you might be, and no matter who the offender is. Victim services units with other police departments offer similar assistance.
- **Victim Services:** This is a unit that operates out of the NMSU Police Department, and is staffed with a coordinator and advocates who can assist with connecting to any of the above resources, making academic or housing changes, getting protective orders through the courts, obtaining emergency food and shelter, applying for special VISA authorizations for citizens of other countries, etc. As mentioned above, victims do not need to file a police report in order to receive assistance from the Victim Services unit.

Students who are victims of crimes may also pursue recourse through either the Office of Institutional Equity or the NMSU Student Judicial System. While these are not a substitute for the criminal justice system, it affords students the opportunity to have their side heard in a less formal environment. If an accused student is found to have violated the Student Code of Conduct by engaging in forcible or non-forcible sex offenses, he or she may be subject to disciplinary action. The level of disciplinary action administered depends on the specific circumstances of the case, but can range from warnings and attendance at mandatory programs up to and including expulsion from NMSU. Both the victim and accused are afforded the same opportunities within the student judicial process, including the ability to have others present during disciplinary proceedings, and both shall be informed of the outcome of any campus disciplinary proceedings alleging sexual assault. Students interested in this course of action may call the Vice President of Student Services office at 575-234-9220 which is responsible for upholding the Student Code of Conduct.

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

In addition to police reports, victims of crimes identified under Violence Against Women Act (VAWA), may file a complaint with the NMSU Title IX Coordinator in the Office of Institutional Equity (OIE) or contact the Vice President of Student Services office at 575-234-9220. These crimes include sexual

assault, domestic violence, dating violence, and stalking.

1. Go to a safe place and speak with someone you trust. Tell this person what happened.
2. If there is any immediate 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 Carlsbad Police Department at (575) 885-2111 at any time day or night, and you do not have to make a police report in order to be provided services.
4. For your safety and well-being, immediate medical attention is encouraged. Further, being examined as soon as possible, ideally within 24 hours, is important in the case of rape or sexual assault. The hospital will arrange for a specific medical examination at no charge. To preserve evidence, it is recommended that you do not bathe, shower, douche, eat, drink, smoke, brush your teeth, urinate, defecate or change clothes before receiving medical attention. Even if you have already taken any of these actions, you are still encouraged to have prompt medical care, and evidence may still be recoverable. Typically, if police are involved or will be involved, they will obtain evidence from the scene, and it is best to leave things undisturbed until their arrival. They may gather bedding, linens or unlaundered clothing and any other pertinent articles that may be used for evidence. It is best to allow police to secure items in evidence containers, but if you are involved in transmission of items of evidence, such as to the hospital, secure them in a clean paper bag or clean sheet, to avoid contamination. If you have physical injuries, photograph or have them photographed, with a date stamp on the photo. Record the names of any witnesses, and their contact information. This information may be helpful to the proof of a crime, to obtain an order of protection or to offer proof of a campus policy violation. Try to memorize details (physical description, names, license plate number, car description, etc.), or even better, write notes to remind you of details, if you have time and the ability to do so. If you obtain external orders of protection (e.g. restraining orders, injunctions, protection from abuse), please notify the NMSU Presidents Office so that those orders are enforceable on campus.
5. Even after the immediate crisis has passed, consider seeking support from local counseling centers and/or the local rape crisis center.
6. Contact the Carlsbad Police Department if you need assistance with concerns, such as no-contact orders or other protective measures.

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

The issue of sexual assault and other sexual misconduct is at the forefront of universities nationwide. NMSU Carlsbad prohibits sexual misconduct and will assist victims in seeking counseling, obtaining medical treatment, 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 Carlsbad 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 Carlsbad Police Department, it will be fully investigated with the findings being referred to the District Attorney's Office for prosecutorial decisions. (NOTE: The state statutes related to sexual assault, harassment, stalking, and other crimes can be found in Section 4 of this publication.)

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

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

More information regarding student discipline hearings can be found at: <https://studenthandbook.nmsu.edu/> to review the Student Handbook, there you will find links to Social Conduct Standards, Students Rights and Responsibilities, discipline and appeal processes and more.

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

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

Bystander engagement is encouraged through safe and positive intervention techniques and by empowering third-party intervention and prevention such as calling for help, identifying allies, and/or creating distractions.

Programs also offer information on risk reduction that strives to empower victims, teaches them how to recognize warning signals and how to avoid potential attacks, and to do so without victim-blaming approaches. Throughout the year, ongoing awareness and prevention campaigns are directed to students and employees.

### **MEASURES TAKEN BY NMSU**

In the event that sexual misconduct, gender-based violence or the crimes of sexual assault, stalking, dating violence or domestic violence occur, the University takes the matter very seriously. However, students can also file (or file in lieu of a criminal report) an administrative report/complaint with the university for incidents involving dating violence, domestic violence, sexual assault, or stalking by contacting the Title IX Coordinator 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 Policy 3.25 Equal Opportunity and Prohibition of Unlawful Discrimination occurred.

If it is determined that a violation occurred and the respondent is a student, the Finding of Facts is sent to the Office of the Dean of Students to conduct a hearing. Both the accuser and accused are allowed to have someone present with them at any meeting, investigation, or hearing related to the incident. This information is stated in the Student Social Code of Conduct see <https://arp.nmsu.edu/5-26/>. The accused and accuser receive a copy of these rights when they attend a meeting (separately) to discuss how the conduct process works.

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

The University employs interim protection measures such as interim suspension and/or no contact orders in any case where a student's or employee's behavior represents a risk of violence, threat, pattern or predation. A student wishing to officially report such an incident to the university may do so by contacting the Title IX Coordinator at (575) 646-3635.

The student may also report to Carlsbad Police or other law enforcement if they wish to pursue criminal charges. NMSU employees with knowledge about sexual misconduct or gender-based violence or the crimes of rape, sexual assault, sexual harassment, stalking, dating violence or domestic violence are encouraged to report it immediately.

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

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

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

In any complaint of sexual misconduct, sexual assault, stalking, dating violence, domestic violence or other sex or gender-based discrimination covered under the federal law, Title IX, the person bringing the accusation and the responding party are entitled to the same opportunities for a support person or advisor of their choice throughout the process, including any meeting, conference, hearing or other procedural action.

Once complete, the parties will be informed, in writing, of the outcome, including the finding, the sanctions (if any). Delivery of this outcome will be issued to the parties, and will occur at the same time and utilizing the same method of delivery. All parties will be informed of the University's appeal processes, and their rights to exercise a request for appeal. Should any change in outcome occur prior to finalization, all parties will be timely informed in writing, and will be notified when the results of the resolution process become final.

### **NMSU POLICIES AND PROCEDURES**

Below are summaries or excerpts of the NMSU Administrative Rules and Procedures related to discrimination, sexual misconduct, harassment, alcohol, drugs, and related topics. Some of these are in the process of being re-written, with new rules and procedures expected to be issued in the 2019-2020 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://arp.nmsu.edu/>.

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

If a person wishes to report a crime for inclusion in this report, or to report an emergency on campus, should do so by contacting the NMSU Police Department as soon as possible by dialing 911, calling (575) 646-3311, or going to the NMSU Police Department building at 725 College Drive, University Park, NM 88003. 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 at the NMSU Carlsbad campus are:

- ❑ Associate Campus Director
- ❑ Associate Vice President of Academic Affairs
- ❑ Vice President of Business and Finance
- ❑ Vice President of Student Services
- ❑ Human Resources
- ❑ Director of Counseling and Student Development
- ❑ Student Development Advisor Program Coordinator
- ❑ Faculty/Staff advisors to chartered student organizations
- ❑ Off-site trip coordinators
- ❑ Study abroad coordinators
- ❑ Custodians
- ❑ Access control personnel
- ❑ Security officers and related staff

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 to the Carlsbad Police Department and to report to the Associate Campus Director of NMSU Carlsbad or any of the Vice Presidents listed above at the NMSU Carlsbad campus. 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 Carlsbad Police Department will generate a police report in order to ensure accurate tracking, and will evaluate whether an Emergency Alert or Timely Warning are 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. NMSU explicitly prohibits the unlawful use, possession, sale, or distribution of alcohol, controlled substances (drugs), or drug paraphernalia by all students and employees. Violations of applicable local, state, or federal laws is considered a violation of the institution's policies. Underage possession or consumption of alcohol is also specifically prohibited. Students who violate the rules and procedures are referred for violation of the Student Code of Conduct, and frequently also face criminal charges (see arrests and disciplinary referrals later in this report). These also link to the Student Social Code of Conduct Part II, Section 5.a (Alcohol Use), Section 5.b (drugs), Section 5.c (prescription medications), and Section 5.h (Violations of Law). Employees found in violation are also subject to criminal charges, as well as being referred for human resources action. The full Rule can be found in the Administrative Rules and Procedures at <https://arp.nmsu.edu> (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)**

Students with a concern about their level of abuse can see professional staff to objectively assess the impact that their use has on their lives. This assessment is accomplished using inventories, online tools such as 3rd Millennium's Alcohol-Wise and Marijuana 100, 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.

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.

Once an assessment is completed, staff assists the student to set appropriate goals with strategies to attain those goals. Other resources utilized are community Alcoholics Anonymous groups. If the assessment determines that the student needs additional services beyond what the NMSU Carlsbad Health Clinic can provide, the student is referred to community outpatient or inpatient treatment programs. The Aggie Health and Wellness Center provides students with support for their efforts to maintain sobriety.

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

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

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

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

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

C. Title IX Notice:

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

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

2. Title IX prohibits:

- a. Sexual misconduct (including sexual violence)
- b. Sex discrimination (gender bias)
- c. Sexual harassment
- d. Retaliation



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

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

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

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

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

Further, a resource guide will be provided which includes information on counseling, health, local advocacy and legal service agencies. The range of any possible disciplinary actions or sanctions and procedures may be found in the *NMSU Student Code of Conduct* and/or the *NMSU Policy Manual*.

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

E. Discrimination Policy:

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

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

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

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

4. The specific action taken, if any, depends on the nature and the seriousness of the reported conduct and may include disciplinary processes.
5. 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:  

Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic status;

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

**G. Retaliation:**

1. Retaliation against an individual who in good faith complains of alleged discrimination or sexual harassment or provides information in an investigation about behavior that may violate this policy is prohibited and may be grounds for discipline. Retaliation in violation of this policy may result in discipline up to and including termination and/or expulsion. Any employee or student bringing a discrimination or sexual harassment complaint in good faith or assisting in the

investigation of such a complaint will not be adversely affected in terms and conditions of employment and/or academic standing, nor discriminated against, terminated, or expelled because of the complaint.

2. "Retaliation" may include, but is not limited to such conduct or adverse actions as:
  - a. Adverse action taken to keep someone from opposing a discriminatory practice, or from participating in a discrimination proceeding;
  - b. Employment actions such as termination, refusal to hire, and denial of promotion;
  - c. Threats, unjustified negative evaluations, unjustified negative references, or increased surveillance;
  - d. Action such as an assault or unfounded civil or criminal charges that are likely to deter reasonable people from pursuing their rights; or
  - e. An unfair or unjustified grade.

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

#### H. Applicability and Sanctions:

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

#### I. Policy Statement Distribution:

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

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

#### J. Complaints and Investigation:

1. Employees and students may file an internal discrimination complaint with OIE within fifteen (15) working days from the date of the incident(s). Individuals may use the NMSU Internal Discrimination Complaint Form to submit their complaint. The use of this form facilitates the gathering of information that is necessary to assess the complaint. The OIE Executive Director (or designee) may extend the filing date of a complaint beyond the fifteen (15) working days if there are extenuating circumstances.

2. OIE will provide the option to the complainant of pursuing their complaint through an informal (which may include mediation) or formal process (submittal of the complaint). The formal internal discrimination complaint will be subject to an initial review to determine if the complaint will proceed to the investigation. If the initial review finds that the complaint will not be accepted for investigation, the OIE Executive Director (or designee) will inform the complainant in writing of the decision. The complainant may appeal the decision in writing to the Executive Vice President and Provost (or designee) within five (5) working days of receipt of the notification letter.
3. If the internal discrimination complaint is accepted, the accused individual(s) will be provided a copy of the complaint and will be extended five (5) working days to provide a written response to OIE. OIE shall initiate the process to investigate the complaint. This process includes interviewing the complainant, respondent, potential witnesses and the gathering of any related documents.
4. All individuals are required to cooperate with any investigation in response to allegations of discrimination. Refusal to cooperate in an investigation may result in disciplinary action in accordance with university policy or student code of conduct. The completion of the investigation will be within sixty (60) days of initiation unless there are extenuating circumstances. A report of inquiry will be generated by the investigator and forwarded to the Executive Vice President and Provost. Within fifteen (15) days of receipt, the Executive Vice President and Provost (or designee) will review the report and render a decision in writing to the OIE Executive Director. The standard of evidence used for internal discrimination investigations is the “preponderance of the evidence”. Preponderance of the evidence means the greater weight of the evidence. The OIE Executive Director (or designee) will transmit the Executive Vice President and Provost’s (or designee) decision in writing to the complainant, the accused and appropriate administrators. The completion of the decision transmittal exhausts the internal process available under this policy for employees, students and others or may file complaints.
5. Penalties: Cases for students who are found to have violated the *NMSU Student Code of Conduct* and/or *NMSU Policy Manual* will be referred to Assistant Dean of Students. Cases for employees who are found to have violated *NMSU Policy Manual* will be referred to Human Resource Services/Employee and Management Services. Sanctions for students may include action up to and including expulsion. Sanctions for employees may include employment action up to and including termination in accordance with provisions of the *NMSU Policy Manual*.

#### K. General Information

1. Supervisors: If anyone in a supervisory, managerial, administrative or executive role or position, such as a supervisor, department chair, or director of a unit, receives a complaint of alleged discrimination or sexual harassment, or observes or becomes aware of conduct that may constitute discrimination or sexual harassment, that person must immediately contact OIE.
2. Employees: An employee who believes that he or she has been subjected to discrimination or sexual harassment by anyone is encouraged, but it is not required, particularly if it may be confrontational, to promptly tell the person that the conduct is unwelcome and ask the person to stop the conduct. An employee is not required to do this before filing a complaint.

A person who receives such a request must immediately comply with it and must not retaliate against the employee. If the employee feels uncomfortable about discussing the incident with the immediate supervisor, the employee should feel free to bypass the supervisor and file a complaint with OIE.

3. Students: A student who believes that he or she has been subjected to discrimination or sexual harassment by anyone is encouraged, but it is not required particularly if it may be confrontational, to promptly tell the person that the conduct is unwelcome and ask the person to stop the conduct. A student is not required to do this before filing a complaint. A person who receives such a request must immediately comply with it and must not retaliate against the student. If the student feels uncomfortable about discussing the incident with the faculty member, department head, dean or director of an administrative unit, the student should feel free to bypass the person and file a complaint with OIE.
4. When discriminatory conduct involves a crime of violence or a non-forcible sex offense, FERPA permits NMSU to disclose to the alleged victim the name of the alleged perpetrator, any violation found to have been committed and any sanction imposed). In the event a student is found to have engaged in sexual harassment of another student, NMSU will disclose to the student who was harassed, information about the sanction imposed on the student when the sanction directly relates to the harassed student.
5. Internal NMSU Units: Internal units such as the Dean of Students Office, Housing and Campus Life, Athletics and community colleges will promptly contact and consult with OIE when knowledge is obtained relating to potential discrimination or sexual harassment.
6. Non-employees and non-students: Individuals who are neither NMSU employees nor NMSU students and who believe they have been subjected to discrimination or sexual harassment by an NMSU employee during the employee's work hours or by a NMSU student on campus or at a NMSU-sponsored event may utilize the complaint process set forth above.

**L. Prompt Attention:**

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

**M. Confidentiality:**

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

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

**N. Supervisor Responsibilities:**

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

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

**O. Relationship to Freedom of Expression:**

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

**NOTIFICATION OF FINAL RESULTS**

When a complaint has been filed with the university, NMSU 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.

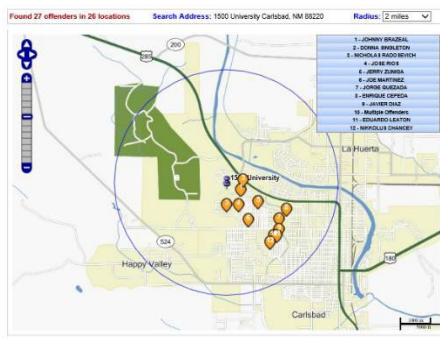
**Additional Information On Sexual Assaults, Sexual Violence, and Sexual Misconduct**

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 OIE. In addition, the OIE has implemented a 90-day follow up procedure of following up with victims of sexual violence and sexual misconduct for those victims who initially elected not to file internal complaints.



## SEX OFFENDERS

In accordance to the Campus Sex Crimes Prevention Act of 2000 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. The registry, maintained by the State of New Mexico can be found: <http://www.nmsexoffender.dps.state.nm.us/>. In addition to other legal requirements, any convicted sex offender who is a student or employee of NMSU is required to register with the NMSU Police Department, as well as make notification to either the Registrar's Office (if a student) or the department head of their employing department (if an employee), or both (if both a student and an employee). As of September 20, 2021, no known sex offenders lived on the NMSU campus based on a search of this database.



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

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

### **SAFETY CLASSES AND WORKSHOPS**

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

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

Classes are scheduled as requested by groups or organizations. The NMSU Police Department also teaches segments of academic courses at the request of instructors and faculty. Courses are tailored for each audience, and range in length from 15 minutes to 8 hours. Further information, including a list of currently scheduled courses, how to request a course, descriptions of the courses, or discussion of specific needs is available by contacting the NMSU Police Department at 646-3311. Additional information regarding safety can also be found at [www.nmsupolice.com](http://www.nmsupolice.com) and [Personal Safety and Crime Prevention | New Mexico State University - BE BOLD. Shape the Future. \(nmsupolice.com\)](http://www.nmsupolice.com/personal-safety-and-crime-prevention), as well as by following the NMSU Police Department Facebook and Twitter accounts (<http://facebook.com/nmsupolice> and <https://twitter.com/NMSUPolice>).

### **NEW STUDENT PROGRAMS**

Student Services presents to new student orientation (first-year, re-admits, 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.

All new students are required to complete the online orientation; they must complete the myNMSU Respects Campus SaVe Act. 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

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confidentiality; steps to take in case of a crime of violence; and bystander behavior.

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

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

All new keys for university buildings are issued directly through the Business Office to insure key records are controlled by a central location. Keys authorized by the responsible department head or other authorized person are only issued to a valid NMSU student or staff member. Use and security of keys are the responsibility of the recipient. Upon severing ties with the university, keys must be returned to the Business Office. Distribution of master keys require the approval of the President.

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

NMSU 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 rollout of a campus bystander intervention education and training program called “Green Dot” is already underway. 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 NMSU 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 Dean of Students Office at (575) 646-1722.

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

Facilities and Services also works to help maintain safety of the campus by, among other efforts, replacing burned out lights, trimming vegetation that blocks lights, and conducting annual tours of the campus to develop a prioritized list of projects for improvements. The employees who work for Facilities and Services also serve as additional observers and reporters of problems around the campus, as do the facilities workers at the Carlsbad Campus.

### **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.
- Lock the doors and windows to 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 ([NMSU Police Department | New Mexico State University](#)), or by contacting the Crime Prevention Office at 646-3311.

## **DRUGS AND ALCOHOL**

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

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

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

## **OTHER SERVICES AVAILABLE**

New Mexico State University Carlsbad provides a Health Clinic and serves as a resource for counseling services. Staff is comprised of well-trained professionals that can help students with a wide range of problems. Students interested should call 575-234-9291.

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

Additional services exist throughout the community to deal with special problems. Students may contact the Carlsbad Police Department 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 NMSU administration, and the NMSU Police Department strongly discourage any conduct that is illegal or that violates the rights of another individual. This specifically includes laws concerning possession, use, and sale of alcohol and illegal drugs. NMSU may take both administrative (student judicial and/or personnel) and criminal action against individuals and organizations found to be violating federal, state or university laws or policies regarding alcohol or drugs. Various drug or alcohol abuse education programs are sponsored by NMSU's Police Department, the Vice President for Student Affairs Office, the WAVE program, and the Human Resources Office. The NMSU Police Department makes every effort to assist victims of crimes through the Police Department's Victim Services Office and to prosecute those responsible. 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: Distributed via email on October 5, 2021 by Human Services, call (575) 646-2449

Biennial Review of Drug Prevention Efforts: Visit [https://studentlife.nmsu.edu/Drug\\_Free/drug-free-schools.html](https://studentlife.nmsu.edu/Drug_Free/drug-free-schools.html) or <https://deanofstudents.nmsu.edu/files/2019/07/Biennial-Review-Alcohol-Drug-Policy-2016-2018.pdf>

Additional information: <https://benefits.nmsu.edu/other/drug-free/> and <https://hr.nmsu.edu/employment/emp-eligibility/drug-testing/>

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

The NMSU Police Department does not actively monitor criminal activity taking place at off-campus student organization facilities. However, it does obtain crime statistics for this report from the local police agencies having jurisdiction over property owned or controlled by chartered student organizations. Crimes identified in this process will be included in the "non- campus property" column below.

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

The NMSU Board of Regents, the NMSU administration, and the NMSU Police Department strongly discourage any conduct that is illegal or that violates the rights of another individual. This specifically includes laws concerning possession, use, and sale of alcohol and illegal drugs. NMSU may take both administrative (student judicial and/or personnel) and criminal action against individuals and organizations found to be violating federal, state or university laws or policies regarding alcohol or drugs. Various drug or alcohol abuse education programs are sponsored by NMSU's Police Department, the Vice President for Student Affairs Office, the WAVE program, and the Human Resources Office. The NMSU Police Department makes every effort to assist victims of crimes through the Police Department's Victim Services Office and to prosecute those responsible. The complete NMSU policies on alcohol use, drug use, prohibited activities, restrictive access, and crime can also be found at [16.65 – Drug and Alcohol Free University Community | Administrative Rules and Procedures \(ARP\) | New Mexico State University \(nmsu.edu\)](#).

The NMSU Police Department and the Carlsbad Police Department is responsible for the investigation of all crimes that take place on university premises, which includes the filing of appropriate police reports and filing of annual reports and statistics. However, other agencies have concurrent jurisdiction in many cases. The NMSU Police Department takes efforts to encourage any other agency taking a report to notify the university so the incident can be reflected in the annual crime reports. While there

has been a history of excellent cooperation and data sharing among local law enforcement agencies in Eddy 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 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 NIBRA 2021 User Manual:**

**MURDER AND NON NEGLIGENT MANSLAUGHTER:** The willful (non-negligent) 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.

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**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 2021 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).

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

**“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 NMSU Carlsbad geography included in this report includes buildings and property located on the NMSU Carlsbad Main campus including Early College High School.





## CRIME STATISTICS

The previous 3 years of crime statistics:

Offense	Year	On-Campus Property	On-Campus Total	Non-Campus Property	Public Property
Murder/Non-Negligent Manslaughter	2021	0	0	0	0
	2020	0	0	0	0
	2019	0	0	0	0
Negligent Manslaughter	2021	0	0	0	0
	2020	0	0	0	0
	2019	0	0	0	0
Sex Offenses, Forcible (Rape)	2021	0	0	0	0
	2020	0	0	0	0
	2019	0	0	0	0
Sex Offenses, Non-Forcible	2021	0	0	0	0
	2020	0	0	0	0
	2019	0	0	0	0
Fondling	2021	0	0	0	0
	2020	0	0	0	0
	2019	0	0	0	0
Incest	2021	0	0	0	0
	2020	0	0	0	0
	2019	0	0	0	0
Statutory Rape	2021	0	0	0	0
	2020	0	0	0	0
	2019	0	0	0	0
Domestic Violence	2021	0	0	0	0
	2020	0	0	0	0
	2019	0	0	0	0
Dating Violence	2021	0	0	0	0
	2020	0	0	0	0
	2019	0	0	0	0
Stalking	2021	0	0	0	0
	2020	0	0	0	0
	2019	0	0	0	0
Robbery	2021	0	0	0	0
	2020	0	0	0	0
	2019	0	0	0	0
Aggravated Assault	2021	0	0	0	0
	2020	0	0	0	0
	2019	0	0	0	0
Burglary	2021	0	0	0	0
	2020	0	0	0	0
	2019	0	0	0	0
Motor Vehicle Theft	2021	0	0	0	0
	2020	0	0	0	0

	2019	0	0	0	1
Arson	2021	0	0	0	0
	2020	0	0	0	0
	2019	0	0	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.

Hate Crimes 2021: 0 (Prejudice Category: (0). Incident Type: Larceny-Theft (0)

Hate Crimes 2020: 0 (Prejudice Category: (0). Incident Type: Larceny-Theft (0)

Hate Crimes 2019: 0 (Prejudice Category: (0). Incident Type: Larceny-Theft (0)

ARRESTS	TYPE	Year	On-Campus Property	**Residential Facilities	On-Campus Total	Non-Campus Property	Public Property
	Weapons: Carrying, Possession, Etc.	2021	0	0	0	0	0
		2020	0	0	0	0	0
		2019	0	0	0	0	0
	Drug Abuse Violations	2021	0	0	0	0	0
		2020	0	0	0	0	0
		2019	0	0	0	0	0
	Liquor Law Violations	2021	0	0	0	0	0
		2020	0	0	0	0	0
		2019	0	0	0	0	0

REFERRALS	TYPE	Year	On-Campus Property	**Residential Facilities	On-Campus Total	Non-Campus Property	Public Property
	Weapons: Carrying, Possession, Etc.	2021	0	0	0	0	0
		2020	0	0	0	0	0
		2019	0	0	0	0	0
	Drug Abuse Violations	2021	0	0	0	0	0
		2020	0	0	0	0	0
		2019	0	0	0	0	0
	Liquor Law Violations	2021	0	0	0	0	0
		2020	0	0	0	0	0
		2019	0	0	0	0	0

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

The NMSU Police Department and each of the branch campuses has always believed in openness in its activities and records, so there are several ways in which members of the public can find out what is happening related to crime. The Police Department maintains a Daily Crime Log that is a listing of all police reports filed, including both alleged and confirmed criminal incidents of all types. 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.

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.

A hard copy of the Daily Crime Log is available for inspection at the NMSU Police Department Records and Evidence Office during regular 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/safety/crime-statistics.html> 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.

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 residence 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 Round Up student newspaper also sometimes publishes stories on recent police reports taken by the NMSU Police Department. The NMSU Police Department experiences a high degree of cooperation from the local news media and issues press releases on cases believed to be of public interest. As noted above, the crime log and individual police reports may be viewed at the NMSU Police Department Records Office. The Police Department also submits its crime statistics to the U.S. Department of Justice’s Uniform Crime Reports.

### **OFF-CAMPUS CRIME**

Crime occurring off campus involving students or chartered NMSU organizations is reported to and handled by a variety of agencies, including the Carlsbad 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 crime is done by the agency of primary jurisdiction. The university does not routinely monitor nor track incidents that are on private property or public property not owned by NMSU. Anyone wanting specific information on off-campus crime should contact the appropriate agency(s).

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

Please help us in deterring crime on our campus by promptly calling the Carlsbad Police Department at 885-2111 or 911 (in case of emergencies) to report suspicious activity, safety problems, or crimes. In accordance with state law, the NMSU Police Department cannot accept anonymous reports, and must disclose certain information to prosecutors and defense counsel. However, it will take steps in sensitive cases to keep personal information confidential to the extent possible. This includes cases of sexual assault, as well as cases where there is a concern of possible retaliation. The NMSU Police Department also encourages 3<sup>rd</sup> party reports from non-NMSU counselors, pastors, and other mental health practitioners. Victims or witnesses of a crime desiring to remain anonymous but who want to ensure the crime is included in the annual crime statistics may submit an e-mail to [NMSU Police Department | New Mexico State University](#) and may use an anonymous e-mail address (such as an account on Hotmail), or he/she may submit it through Ethicspoint ([NAVEX Global's EthicsPoint Client Portal](#)). In such cases, the reporting person should include the date, time, and location of the incident, a detailed description of what took place, and any identification information on the suspect that might be known.

The person at NMSU who receives the report may need to ask the reporter for additional information in order to properly classify the crime or help protect others from a similar occurrence. Thus, the reporter is asked to check the anonymous e-mail account or Ethicspoint account for at least a couple of weeks to check for correspondence.

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

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

### **LEGAL DEFINITIONS**

Rape is defined by the FBI as the penetration (no matter how slight) of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of a victim. It includes situations where the victim is incapable of giving consent due to incapacitation by means of disability or alcohol or other drugs. In New Mexico, the term "rape" is not used in statute. Instead, the term is "criminal sexual penetration." New Mexico also does not specifically define consent during a sexual assault, but clearly indicates through the statutory language that it does not involve any amount of force or coercion, and that a person who is incapacitated by alcohol or drugs or who is too young cannot give consent. Many rapes are committed by someone the victim knows, such as a date or friend. Under New Mexico State Law, Criminal sexual penetration is defined as follows:

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

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

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

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

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

Whoever commits criminal sexual penetration in the second degree when the victim is a child who is

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

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

G. Criminal sexual penetration in the fourth degree consists of all criminal sexual penetration:

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

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

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

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

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

A. Criminal sexual contact is the unlawful and intentional touching of or application of force, without consent, to the unclothed intimate parts of another who has reached his eighteenth birthday, or intentionally causing another who has reached his eighteenth birthday to touch one's intimate parts.

B. Criminal sexual contact does not include touching by a psychotherapist on his patient that is:

- (1) inadvertent;
- (2) casual social contact not intended to be sexual in nature; or
- (3) generally recognized by mental health professionals as being a legitimate element of psychotherapy.

C. Criminal sexual contact in the fourth degree consists of all criminal sexual contact perpetrated:

- (1) by the use of force or coercion that results in personal injury to the victim;
- (2) by the use of force or coercion when the perpetrator is aided or abetted by one or more persons; or
- (3) when the perpetrator is armed with a deadly weapon.

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

D. Criminal sexual contact is a misdemeanor when perpetrated with the use of force or coercion.

E. For the purposes of this section, "intimate parts" means the primary genital area, groin, buttocks, anus or breast.

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

A. Criminal sexual contact of a minor is the unlawful and intentional touching of or applying force to

the intimate parts of a minor or the unlawful and intentional causing of a minor to touch one's intimate parts. For the purposes of this section, "intimate parts" means the primary genital area, groin, buttocks, anus or breast.

B. Criminal sexual contact of a minor in the second degree consists of all criminal sexual contact of the unclothed intimate parts of a minor perpetrated:

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

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

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

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

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

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

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

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

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

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



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

- A. Aggravated indecent exposure consists of a person knowingly and intentionally exposing his primary genital area to public view in a lewd and lascivious manner, with the intent to threaten or intimidate another person, while committing one or more of the following acts or criminal offenses:
  - (1) exposure to a child less than eighteen years of age;
  - (2) assault, as provided in Section 30-3-1 NMSA 1978;
  - (3) aggravated assault, as provided in Section 30-3-2 NMSA 1978;
  - (4) assault with intent to commit a violent felony, as provided in Section 30-3-3 NMSA 1978;
  - (5) battery, as provided in Section 30-3-4 NMSA 1978;
  - (6) aggravated battery, as provided in Section 30-3-5 NMSA 1978;
  - (7) criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978; or
  - (8) abuse of a child, as provided in Section 30-6-1 NMSA 1978.
- B. As used in this section, "primary genital area" means the mons pubis, penis, testicles, mons veneris, vulva or vagina.
- C. Whoever commits aggravated indecent exposure is guilty of a fourth degree felony.
- D. In addition to any punishment provided pursuant to the provisions of this section, the court shall order a person convicted for committing aggravated indecent exposure to participate in and complete a program of professional counseling at his own expense.

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

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

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

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

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

descriptions or narrative accounts of sexual excitement, sexual conduct or sado-masochistic abuse and which, taken as a whole, is harmful to minors.

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

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

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

As used in this act:

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

- (2) the age of the minor.

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

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

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

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

As used in the Crimes Against Household Members Act:

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

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

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

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

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

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

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

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

- A. Battery against a household member consists of the unlawful, intentional touching or application of force to the person of a household member, when done in a rude, insolent or angry manner.
- B. Whoever commits battery against a household member is guilty of a misdemeanor.
- C. Upon conviction pursuant to this section, an offender shall be required to participate in and complete a domestic violence offender treatment or intervention program approved by the Children Youth and Families Department pursuant to rules promulgated by the department that define the criteria for such programs.
- D. Notwithstanding any provision of law to the contrary, if a sentence imposed pursuant to this section

is suspended or deferred in whole or in part, the period of probation may extend beyond three hundred sixty-four days but may not exceed two years. If an offender violates a condition of probation, the court may impose any sentence that the court could originally have imposed and credit shall not be given for time served by the offender on probation; provided that the total period of incarceration shall not exceed three hundred sixty-four days and the combined period of incarceration and probation shall not exceed two years.

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

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

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

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

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

- A. Criminal damage to the property of a household member consists of intentionally damaging real, personal, community or jointly owned property of a household member with the intent to intimidate, threaten or harass that household member.

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

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

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

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

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

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

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

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

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

- A. picketing or public demonstrations that are lawful or that arise out of a bona fide labor dispute; or

B. a peace officer in the performance of his duties.

#### **OTHER DEFINITIONS**

The following are additional terms that are used in various places in this Report, and the definitions of what they mean at NMSU: **Awareness Program:** An educational program delivered either in person or online that makes a person familiar with material surrounding a particular topic (in this case, sexual assault, domestic violence, dating violence, and stalking); should be culturally relevant and inclusive of all individuals and groups.

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

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

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

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

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

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

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

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

Carlsbad Police Department	<b>EMERGENCY.....911</b>
	Non-emergency .....575-885-2111
Carlsbad Fire Department	Non-emergency ..... 575-885-3125
NMSUC Vice President of Student Services.....	575-234-9220
NMSUC Health Center .....	575-234-9291
NMSU Title IX Coordinator.....	575-234-9220
NMSU Office of Institutional Equity .....	575-646-3635
Domestic Violence Hotline.....	800-376-2272

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

Carlsbad Police Department.....	575-885-2111
Eddy County Sheriff's Office .....	575-887-7551
New Mexico State Police.....	575-524-6111
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 1 – MAP OF CAMPUS LOCATION

