

## **What is the Campus SaVE Act?**

The Campus SaVE Act refers to the recent Violence Against Women Act (VAWA) amendments to the Clery Act. The Campus SaVE Act is an update to the Clery Act, expanding the scope of this legislation in terms of reporting, response, and prevention education requirements around rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking.

### **The Campus SaVE Act has four central components:**

1. Identify the institution's Campus Security Authority personnel;
2. Create a Campus Sexual Assault Victim Bill of Rights;
3. Expand sexual crime reporting on campus;
4. Ensure the college has standard operating procedures for handling incidents of sexual violence.

## **Campus Security Authority (CSA) Personnel**

### **Who is a Campus Security Authority at NMT?**

- The NMT Police Officers
- Dean of Students
- Dean of Graduate Studies
- Director of Residential Life & Housing
- Title IX Coordinator
- Faculty or staff advisors to the SGA (Student Government Association) & GSA (Graduate Student Association) and authorized clubs
- Your sports club coaches and/or the Recreation & Wellbeing Associate Director

### **Examples of who is not a Campus Security Authority**

We want to make sure your privacy and rights are protected so it is important to know who cannot serve as a Campus Security Authority:

- A faculty member who does not have responsibility for a student or campus activity beyond the classroom
- Support staff
- Cafeteria staff
- Custodial or maintenance staff

Note: When in doubt, ask a Campus Police or the Dean of Students to direct you to the right person.

## **Campus Sexual Assault Victim Bill of Rights**

Victims of sexual assault will have the right to the following:

- Reasonable changes to academic situations
- Referrals to counseling, assistance in notifying law enforcement
- Same opportunity as accused to have others present at disciplinary hearing
- Unconditional notification of outcomes of hearing, sanctions, and terms of sanctions in place
- Opportunities and assistance to speak (or choose not to speak) to anyone regarding the outcome
- Name and identifying information kept confidential (FERPA)

## **Violence Against Women Act (Sect. 304): Crime Statistics**

The SaVE Act adds the following offenses to the list of criminal offense for which statistics must be reported:

- Domestic violence
- Dating violence
- Sexual assault
- Stalking

A student or employee who reports to an institution of higher education that they have been a victim of these crimes, whether it has occurred on or off-campus, shall be provided with a written explanation of his or her rights and options.

## **Annual Security and Fire Safety Report**

## **Definitions of Important Terms**

**Affirmative Consent:** affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that the person has the Affirmative Consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean Affirmative Consent, nor does silence mean Affirmative Consent. Affirmative Consent must be ongoing throughout a sexual activity and can be revoked at any time. Affirmative Consent may be based on a condition(s), e.g., the use of a condom, and that condition(s) must continue to be met throughout an activity, unless there is mutual agreement to forego or change the condition. When there is no Affirmative Consent present during sexual activity, the activity at issue necessarily occurred “against the person’s will.”

- The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of Affirmative Consent.
- In evaluating Affirmative Consent, it cannot be a defense that a Respondent’s belief that the complainant consented to the sexual activity arose under either of the following circumstances:
  - o The Respondent’s belief in Affirmative Consent arose from the intoxication or recklessness of the Respondent.

- o The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant gave Affirmative Consent.

### **Sexual Assault**

Any sexual act directed against a Complainant without the Affirmative Consent of the Complainant, including instances in which the Complainant is incapable of giving consent, including because of Incapacitation. The following sexual acts covered by this definition are required to be included by federal regulations and are derived from the FBI's Summary Reporting System and National Incident-Based Reporting System User Manual definitions:

- **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 Affirmative Consent of the Complainant.
- **Sodomy.** Oral or anal sexual intercourse with another person, without the Affirmative Consent of the Complainant, including instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical Incapacitation.
- **Sexual Assault with an Object.** To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, without the Affirmative Consent of the Complainant, including instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical Incapacitation.
- **Fondling.** The touching of the private body parts of another person for the purpose of sexual gratification without the Affirmative Consent of the Complainant, including in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical Incapacitation.

**Domestic Violence:** an act that could be classified as a felony or misdemeanor crime of violence committed:

- by a current or former spouse or intimate partner of the Complainant;
- by a person with whom the Complainant shares a child in common;
- by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
- by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of New Mexico;
- by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of New Mexico.

To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

**Dating Violence**: violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant, including sexual or physical abuse or the threat of such abuse, but excluding acts covered under the definition of Domestic Violence.

New Mexico Tech, collectively uses the term Intimate Partner Violence when referring to Domestic and Dating Violence matters.

**Stalking**: engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- fear for the person's safety or the safety of others; or
- suffer substantial emotional distress.

Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.

Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling. If an individual is notified that their behavior or actions are unwanted and requests a cease and desist.

## **Procedures**

Any individual, regardless of the sex, sexual orientation, gender identity, or gender expression who believes that they have been subjected to sexual misconduct or sex discrimination, is strongly encouraged to report the incident(s) to the New Mexico Tech Police Department (NMTPD), and/or internally with New Mexico Tech's Title IX Coordinator. The Title IX Coordinator can help stop the unwelcome behavior, remedy/resolve the situation with discipline, preventative, referrals, supportive measures (e.g. accommodations), and recommend other related support services or institutional changes.

### **What happens when you report a crime to our police on campus?**

- Campus police will write a report and inform the proper on-and off-campus authorities, including Human Resources (for employees), especially in cases of sexual assault.
- The police will investigate and cooperate with the local police, district attorney/Magistrate, and other appropriate agencies.

- If you are a current student at NMT, the police will report it to the Tech's Title IX Coordinator, Dr. Peter Phaiah ([titleixcoordinator@nmt.edu](mailto:titleixcoordinator@nmt.edu), 575-835-5953, Fidel Student Center, Rm. 288)
- The Title IX Coordinator or a Deputy Title IX Coordinator will want to meet with you to make sure you are safe, to help prevent further incidents, inform you of your rights, available resources and supportive measures, and obtain your statement if you wish to provide one at this time.
- The Title IX Coordinator will work with the Police to investigate the reported crime.

### What happens when you report a Sexual Misconduct directly to the University?

- University employees must report incidents of assault or abuse of a child (i.e. under age 18) that they know about or have reason to believe is occurring or occurred on University property or at University-sponsored activities to the New Mexico Tech Campus Police and Title IX Coordinator.
- Except for Confidential Employees, all New Mexico Tech employees have been designated as **Mandatory Reporters** with regards to the NMT Sexual Misconduct Policy and associated grievance procedure. These Mandatory Reporters are obligated to report any known or perceived sexual misconduct or sex discrimination to the University's [Title IX Coordinator](#) even if little information is known. To the extent possible, information obtained, shared, or reported to a Mandatory Reporter will be communicated with the Title IX Coordinator within 24-hours. These Mandatory Reporters and the Title IX Coordinator will not share personally identifiable information with New Mexico Tech Campus Police or other law enforcement without the Complainant's/victim's consent or unless the victim has also reported the incident to law enforcement. This information is considered private.
- Employees whose communications are privileged or confidential under federal or state law (e.g. Counselors, Medical Professionals) are considered **Confidential Employees**. The University has also extended the role of a Confidential Employee to its two (2) Ombudspersons. Complainants going to these individuals would receive the same confidentiality as they would with the University counseling and medical staff.

However, these Confidential Employees **must** share

- that they are confidential, including when they are not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination;
- how to contact New Mexico Tech's Title IX Coordinator and how to make a complaint of sex discrimination; and
- that the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the grievance procedures.

- The Title IX Coordinator or a Deputy Title IX Coordinator will want to meet with you to make sure you are safe, to help prevent further incidents, inform you of your rights, available resources and supportive measures (e.g., Counseling Services, No Contact Order, changing rooms, classes or work schedule, etc.), and obtain your statement if you wish to provide one at this time.
- The Title IX Coordinator will review internal and external grievance/ resolution options with you:
  - File a Formal Complaint with the Title IX office so it will proceed with an official investigation to resolve the matter formally or informally without going through the police,
  - Have the police handle the investigation and seek criminal charges externally and not have the University directly involved in the resolution process,
  - File a Formal Complainant with the University **and** work with the Police to investigate for possible criminal charges, or
  - Take no immediate action
    - Even if you do not want any official action take at the time of the report, the University can still provide supportive measures such as a No Contact Order (NCO) or other accommodations that can be administered by the Title IX Coordinator
    - There is no statute of limitations for filing a formal Complaint for Sexual Misconduct or Title IX cases, however the delay may impact access to evidence, witnesses, and individuals my leave.

## Disciplinary Procedures

- You have the right to know that your case will be handled appropriately. This means other off –and on-campus authorities may be involved;
- The University is required to ensure that disciplinary procedures for such cases must clearly state that the proceedings will "be conducted by officials who receive annual training on the issues related to":
  - **The four types of cases:** domestic violence, dating violence, sexual assault, and stalking;
  - **How to conduct an investigation** "that protects the safety of victims and promotes accountability";
  - **How to conduct a hearing process** "that protects the safety of victims and promotes accountability."

## Campus SaVE: Prevention Program Components

Primary prevention and awareness programs for all incoming students and new employees, which shall include the applicable jurisdiction's "definition of consent in reference to sexual activity."

- Safe and positive options for "bystander intervention" targeted to "prevent harm or intervene" in cases of domestic violence, dating violence, sexual assault, or stalking;
- Information on "risk reduction" to recognize warning signs of abusive behavior.

### Prevention and Awareness

As an institution of higher education, NMT must engage in "ongoing prevention and awareness campaigns for students and faculty" pertaining to:

- Education programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking
- Provide resources and referrals to on and off-campus services

### How to Report to Authorities

If you have experienced any of these crimes or have witnessed any of these crimes on campus, you may remain anonymous when reporting.

- Call
  - NMT Police for an Emergency: ext. 5555 or 911 (campus phones); 575-835-5555 (off-campus or mobile phones)
  - NMT Police for a Non-Emergency: 575-835-5011 (off-campus or mobile phones) or extension 5434 or "0" (on campus)
  - Socorro Police Department: 911 (off-campus or mobile phones) or dial 9-911 from a campus phone
- Complete and submit Tech's online [Sexual Misconduct & Title IX Reporting Form](https://cm.maxient.com/reportingform.php?NewMexicoTech&layout_id=1) ([https://cm.maxient.com/reportingform.php?NewMexicoTech&layout\\_id=1](https://cm.maxient.com/reportingform.php?NewMexicoTech&layout_id=1))
- Contact the **NMT Title IX Coordinator**, Peter Phaiah, 288 Fidel Student Center, 575-835-5953 (office), 575-322-0001 (cell.), [titleixcoordinator@nmt.edu](mailto:titleixcoordinator@nmt.edu)
- Contact the NM Sexual Assault Program 505-883-8020.



### Risk Reduction for Intimate Partner Violence, Stalking, Sexual Harassment, and Sexual Violence

While victim-blaming is never appropriate and NMT fully recognizes that only those who commit sexual misconduct are responsible for their actions, the University provides the following suggestions to help individuals reduce their risk of being victimized and their risk of committing acts of sexual misconduct.

### Reducing the Risk of Being Accused of Sexual Misconduct

- Show your potential partner respect if you are in a position of initiating sexual behavior.
- If a potential partner says "no," accept it and don't push. If you want a "yes," ask for it, and don't proceed without clear permission.
- Clearly communicate your intentions to your potential sexual partners, and give them a chance to share their intentions and/or boundaries with you.

- Respect personal boundaries. If you are unsure what's OK in any interaction, ask.
- Avoid ambiguity. Don't make assumptions about consent (affirmative consent), about whether someone is attracted to you, how far you can go with that person, or if the individual is physically and mentally able to consent. If you have questions or are unclear, you don't have consent.
- Don't take advantage of the fact that someone may be under the influence of drugs or alcohol, even if that person chose to become that way. Others' loss of control does not put you in control.
- Be on the lookout for mixed messages. That should be a clear indication to stop and talk about what your potential partner wants or doesn't want to happen. That person may be undecided about how far to go with you, or you may have misread a previous signal.
- Respect the timeline for sexual behaviors with which others are comfortable, and understand that they are entitled to change their minds.
- Recognize that even if you don't think you are intimidating in any way, your potential partner may be intimidated by or fearful of you, perhaps because of your sex, physical size, or a position of power or authority you may hold.
- Do not assume that someone's silence or passivity is an indication of consent. Pay attention to verbal and non-verbal signals to avoid misreading intentions.
- Understand that consent to one type of sexual behavior does not automatically grant consent to other types of sexual behaviors. If you are unsure, stop and ask.
- Understand that exerting power and control over another through sex is unacceptable conduct.

## Reducing the Risk of Victimization

- Make any limits/boundaries you may have known as early as possible.
- Clearly and firmly articulate consent or lack of consent.
- Remove yourself, if possible, from an aggressor's physical presence.
- Reach out for help, either from someone who is physically nearby or by calling someone. People around you may be waiting for a signal that you need help.
- Take affirmative responsibility for your alcohol and/or drug consumption. Alcohol and drugs can increase your vulnerability to sexual victimization.
- Look out for your friends, and ask them to look out for you. Respect them, and ask them to respect you, but be willing to challenge each other about high-risk choices.

## Common Myths and Facts about the Causes of Sexual Violence

**Myth: Victims provoke sexual assaults when they dress provocatively or act in a promiscuous manner.**

**Fact:** Rape and sexual assault are crimes of violence and control that stem from a person's determination to exercise power over another. Neither provocative dress nor promiscuous behaviors are invitations for unwanted sexual activity. Forcing someone to engage in non-consensual sexual activity is sexual assault, regardless of the way that person dresses or acts.

**Myth: If a person goes to someone's room or house or goes to a bar, they assume the risk of sexual assault. If something happens later, they can't claim that they were raped or sexually assaulted because they should have known not to go to those places.**

**Fact:** This "assumption of risk" wrongfully places the responsibility of the offender's action with the victim. Even if a person went voluntarily to someone's home or room and consented to engage in some sexual activity, it does not serve as blanket consent for all sexual activity. When in doubt if the person is comfortable with an elevated level of sexual activity, stop and ask. When someone says "no" or "stop," that means "STOP!" Sexual activity forced upon another without valid consent is sexual assault.

**Myth: It is not sexual assault if it happens after drinking or taking drugs.**

**Fact:** Being under the influence of alcohol or drugs is not an invitation for sexual activity. A person under the influence does not cause others to assault them; others choose to take advantage of the situation and sexually assault them because they are in a vulnerable position. A person who is incapacitated due to the influence of alcohol or drugs is not able to consent to sexual activity.

**Myth: Most sexual assaults are committed by strangers. It's not rape if the people involved know each other.**

**Fact:** Most sexual assaults and rape are committed by someone the victim knows. Most often, acts of sexual violence are committed by a partner, ex-partner, classmate, friend, acquaintance, or co-worker.

**Myth: Rape can be avoided if people avoid dark alleys or other "dangerous" places where strangers might be hiding or lurking.**

**Fact:** Rape and sexual assault can occur at any time, in many places, to anyone.

**Myth: A person who has really been sexually assaulted will be hysterical.**

**Fact:** Victims of sexual violence exhibit a spectrum of responses to the assault which can include: calm, hysteria, withdrawal, anxiety, anger, apathy, denial, and shock. Being sexually assaulted is a very traumatic experience. Reaction to the assault and the length of time needed to process through the experience vary with each person. There is no "right way" to react to being sexually assaulted. Assumptions about the way a victim "should act" may be detrimental to the victim because each victim copes in different ways.

**Myth: Only young, pretty women are assaulted.**

**Fact:** The belief that only young, pretty women are sexually assaulted stems from the myth that sexual assault is based on sex and physical attraction. Sexual assault is a crime of power and control. Offenders often choose people whom they perceive as most vulnerable to attack or over whom they believe they can assert power. Men and boys are also sexually assaulted, as well as persons with disabilities. Assumptions about the "typical" victim might lead others not to report the assault because they do not fit the stereotypical victim.

**Myth: It's only rape if the victim puts up a fight and resists.**

**Fact:** Many states do not require the victim to resist in order to charge the offender with rape or sexual assault. Those who do not resist may feel if they do so, they will anger their attacker, resulting in more severe injury. Not fighting or resisting an attack does not equal consent.

**Myth: Someone can only be sexually assaulted if a weapon was involved.**

**Fact:** In many cases of sexual assault, a weapon is not involved. The offender often uses physical strength, physical violence, intimidation, verbal manipulation, threats, or a combination of these tactics to overpower the victim. Although the presence of a weapon while committing the assault may result in a higher penalty or criminal charge, the absence of a weapon does not mean that the offender cannot be held criminally responsible for a sexual assault.

**For additional related information or questions, please contact NMT's Title IX Coordinator:**

**Peter Phaiah, Ph.D.**  
**288 Fidel Student Center**  
**575-835-5953 (office)**  
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