9/16/18



**ADMINISTRATIVE PROCEDURE**

**Procedures for Responding to Reports of Sexual Misconduct**

Related Policy:  **Sexual Misconduct Policy**

1. **Reporting Parties**
2. Any New Mexico Tech student or employee who has been sexually assaulted or physically harmed is strongly encouraged to contact the police department for the location where the assault occurred. New Mexico Tech Police Department (NMTPD) can assist in making the contact to the appropriate law enforcement agency.
3. Reporting parties are also encouraged to contact the campus or local victim/survivor service office and/or counseling and health care services.  **These services are strictly confidential**.
4. The University strongly encourages individuals to report all sexual misconduct (e.g. sexual assault, sexual harassment, intimate partner violence or stalking) to appropriate law and University officials because it is the only way that action can be taken against an alleged violator of the policy. Timely reporting and a medical examination is critical in preserving evidence of sexual assault, and the ability to respond effectively, but an individual can report an incident at any time.
5. Reporting parties are also encouraged to contact the University’s [Title IX Coordinator](http://www.nmt.edu/titleix/index.php) for appropriate action. If reports are submitted to other offices, those offices are required to notify the Title IX Coordinator of all incidents involving alleged sexual misconduct or Title IX offenses.
6. Reports of sexual misconduct can also be made through [Tech’s Online Sexual Misconduct Reporting Form](https://cm.maxient.com/reportingform.php?NewMexicoTech&layout_id=1). Reports of sexual misconduct or other prohibited conduct can also be communicated to Tech’s [Affirmative Action/Equal Employment Opportunity](http://www.nmt.edu.affirmative-action) (AA/EEOC) office anonymously or on its hotline (575) 835-5005.
7. **University Employees and Students (when informed of an incident of assault)**
8. **Mandatory Reporting of Child Abuse.** If the assault or abuse was against a minor, you must immediately report the abuse to the University or local police department, county sheriff, or local county social services agency. In addition, inform your supervisor you have made the report.
9. **Encourage Prompt Reporting to Police.** If the assault was against an adult, encourage the victim/survivor to report the incident to the police.
10. **Encourage Contact with Victim Services.** Encourage the reporting party to contact the local victim/survivor service office, as well as the Student Health Center and/or Counseling & Disabilities Office staff on campus.
11. **Make Appropriate University Reports.** Tech has determined that all administrators, professional staff, supervisors, faculty, teaching assistants (TAs), and resident assistants (RAs) are considered “responsible employees” because of their supervisory or advising responsibilities on-campus. As such, students and other employees would assume these responsible employees have the authority or will know the next steps to take for appropriate action to help stop the reported incident, prevent further related issues, remedy the situation, and help prevent any form of retaliation. Responsible employees who receive information involving known or perceived sexual misconduct must report it to our designated [Title IX Coordinator](http://www.nmt.edu/titleix/index.php) even if little information is known. To the extent possible, information reported to a responsible employee will be shared with the Title IX Coordinator. These responsible employees and the Title IX Coordinator will not share personally identifiable information with Campus Police or other law enforcement without the victim’s consent or unless the victim has also reported the incident to law enforcement.

Once informed, the Title IX Coordinator will work to assist the reporting party, including by providing guidance in reporting to law enforcement, obtaining counseling or other health or academic services, interim measures, and filing a complaint with the appropriate University conduct offices. All other non-responsible (i.e. non-supervisory) employees who receive a report should consult with their supervisor for guidance for any next steps.

1. **Confidentiality.** University employees cannot guarantee confidentiality, except when the reports are privileged communications with counselors or health care professionals. If a reporting party requests confidentiality, the University must take all reasonable steps to investigate and respond consistent with that request, taking into account that confidentiality may not be possible in every case given the University's responsibility to provide a safe environment for all. To ensure that the University has met its obligations, University employees must consult with appropriate University offices (listed below) concerning whether and what identifying information they can or must share within the Institution to respond to the report and to promote campus safety.
2. **Reports for Crime Statistics.** The University must track reports of alleged incidents of sexual misconduct or sexual assault for purposes of its required annual crime statistics under the Clery Act. Any employee who is a Campus Security Authority (CSA) or has supervisory or student-advising responsibility (i.e. responsible employees) must report the fact of a report of sexual misconduct or sexual assault as part of the University’s annual crime statistics. Clery Act reporting is for crime occurring on campus, in the residence halls, on public property within or immediately adjacent to campus, and in or on non-campus buildings or property owned or controlled by the University. The identity of reporting parties will be protected and not revealed as part of Clery Act reporting.
3. **University Offices Receiving a Report**
4. **Counseling and Health Care Services will:**

* Maintain the contact as privileged and **confidential**
* Provide appropriate counseling and medical services.
* Encourage, assist (as needed) and support the reporting party in reporting the incident to the police.
* Encourage, assist (as needed) and support the reporting party in reporting the incident to the Title IX Coordinator.
* Provide reporting parties with a copy of the [Complainant’s Rights Related to Sexual Misconduct](http://www.nmt.edu/titleix/docs/Complainant%20-%20Information%20and%20data%20privacy%20notice%20NMTdocx.docx) brochure.

1. **NMT Police departments will:**

* Investigate and refer for prosecution when warranted.
* Determine whether to issue a crime alert.
* Appropriately log and report the incident as required under the Clery Act.
* Provide reporting parties with a copy of the [Complainant’s Rights Related to Sexual Misconduct](http://www.nmt.edu/titleix/docs/Complainant%20-%20Information%20and%20data%20privacy%20notice%20NMTdocx.docx) brochure and inform them of Tech’s internal discipline process for students and employees..

1. **Housing/Residential Life Offices will:**

* Inform complainant of your obligation to report this incident to the Title IX Coordinator.
* If this is the first office notified, contact or encourage contact with the campus or local counseling and medical services, and assist in obtaining these services, if needed, especially if the complainant wants to keep the report confidential and no University action.
* Encourage the reporting party to report the incident to the police, and assist in making the report if requested by the complainant. Housing/Residential Life may report to the police the fact that an assault or prohibited conduct was reported and may share the alleged perpetrator's name, but the name of the reporting party will only be provided with the reporting party’s consent, except in extenuating circumstances, for example where there is a serious threat to campus safety. That decision will be made in consultation with the Chief of Police, AA/EEOC director and title IX Coordinator.
* Report the incident to the [Title IX Coordinator](http://www.nmt.edu/titleix/index.php).
* If the person accused is an employee living in Housing/Residential Life, the AA/EEOC office should be notified. The AA/EEOC office would then notify the employee, their supervisor, and Associate Vice President of Academic Affairs (AVPAA).
* Complete appropriate incident report that can be utilized for appropriate investigation by campus authorities or police.
* In cooperation with the Dean of Students Office (DOSO) and/or Title IX Coordinator, make determinations regarding temporary relocation of residents, and regarding interim suspensions from Housing pending Student Code of Conduct proceedings. To the extent that it is possible and will not impair the facilitation of the relocation, the confidentiality of the reporting student will be preserved in the process.
* Provide reporting parties with a copy of the [Complainant’s Rights Related to Sexual Misconduct](http://www.nmt.edu/titleix/docs/Complainant%20-%20Information%20and%20data%20privacy%20notice%20NMTdocx.docx) brochure if not provided by the Title IX Coordinator.
* Make appropriate reports for purposes of Clery Act crime statistics.

1. **Affirmative Action & Equal Employment Opportunity Commission Office will:**

* Inform complainant of your obligation to report this incident to the Title IX Coordinator.
* If this is the first office notified, contact or encourage contact with local victim/survivor support services, and assist in obtaining medical care, counseling, legal assistance, visa and immigration assistance, Employee Assistance Program (EAP), and other services if needed.
* Encourage the complainant to report the incident to the police, and assist in making the report if requested by the complainant. The AA/EEOC officer may report to the police the fact that an assault was reported and may share the alleged perpetrator’s name, but the name of the victim will only be provided with the complainant's consent, except in extenuating circumstances.
* Notify the Title IX Coordinator.
* The AA/EEOC director will work with employee complainants and respondents, employee’s supervisor when appropriate, the Title IX Coordinator, Title IX Investigator, and Associate Vice President of Academic Affairs (AVPAA) in cases involving faculty.
* The AA/EEOC office notifies the employee of the allegations and notifies their supervisor.
* Respond promptly to the allegations and discipline if needed, consistent with the [Employee Handbook](http://www.nmt.edu/hr/Employee%20Handbook%20April%202018.pdf) and the employee disciplinary process.
* Conduct a prompt, fair and impartial investigation in conjunction with the Title IX Investigator, and makes recommendations to the Director of Human Resources regarding staff respondents and AVPAA regarding faculty respondents.
* Allow the complainant and the respondent to have a non-participating/non-witness advocate (support person) present for interviews.
* Proceed independently of any action taken in the criminal or civil courts, as determined on a case-by-case basis. Criminal court proceedings are not a substitute for University procedures.
* If the person accused is a student, report the incident to the Title IX Coordinator and determine jurisdiction.
* Work collaboratively with the Title IX Coordinator and Investigator so to conduct a thorough investigation of the report.
* Not require a complainant to mediate directly with the respondent.
* Provide complainant with a copy of the [Complainant’s Rights Related to Sexual Misconduct](http://www.nmt.edu/titleix/docs/Complainant%20-%20Information%20and%20data%20privacy%20notice%20NMTdocx.docx) brochure, if not provided by the Title IX Coordinator.
* Provide respondent with a copy of the [Respondent’s Rights Related to Sexual Misconduct](http://www.nmt.edu/titleix/docs/Respondent%20-%20Information%20and%20data%20privacy%20notice.docx) brochure, if not provided by the Title IX Coordinator.
* Inform both complainant and respondent of the outcome.
* Make appropriate reports for purposes of Clery Act crime statistics.

1. **Academic Affairs Office**

* If this is the first office notified, contact or encourage contact with local victim/survivor support services, and assist in obtaining medical care, counseling, legal assistance, visa and immigration assistance, Employee Assistance Program (EAP), and other services if needed.
* Encourage the complainant to report the incident to the police, and assist in making the report if requested by the complainant. The office may report to the police the fact that an assault was reported and may share the alleged perpetrator’s name, but the name of the victim will only be provided with the complainant's consent, except in extenuating circumstances.
* Notify the Title IX Coordinator.
* Sex or gender-based discrimination cases involving employees should also be filed with the Director of Equal Opportunity and Affirmative Action.

1. **Campus Student Conduct Offices-** The Dean of Students Office (DOSO) handles undergraduate student misconduct and the Office of Graduate Studies (OGS) handles graduate students and these office will:

* Inform complainant of your obligation to report this incident to the Title IX Coordinator.
* If this is the first office notified, contact or encourage contact with local victim/survivor support services, and assist in obtaining medical care, counseling, legal assistance, visa and immigration assistance, student financial aid and other services if needed.
* Encourage the reporting party to report the incident to the police, and assist in making the report if requested by the reporting party. Campus conduct offices may report to the police the fact that an assault was reported and may share the alleged perpetrator’s name, but the name of the reporting party will only be provided with the reporting party’s consent, except in extenuating circumstances.
* Notify the Title IX Coordinator.
* Respond promptly to the allegations and discipline if needed, consistent with the Student Code of Conduct and the campus’s student disciplinary process.
* Conduct a prompt, fair and impartial investigation where the accused is a student. Proceed independently of any action taken in the criminal or civil courts, as determined on a case-by-case basis. Criminal court proceedings are not a substitute for University procedures.
* Permit the complainant and respondent to have a support person or advisor present at any interview or hearing, in a manner consistent with the governing student conduct procedures.
* Not require a reporting party to mediate directly with the person accused.
* Inform both reporting party and accused person of the outcome of any disciplinary process.
* Identify transportation options or needed changes to working situations. To the extent that it is possible and will not impair the facilitation of the transportation or adjustments to work situations, the confidentiality of the reporting student will be preserved in the process.
* Provide complainant and respondent with a copy of the [Complainant’s Rights Related to Sexual Misconduct](http://www.nmt.edu/titleix/docs/Complainant%20-%20Information%20and%20data%20privacy%20notice%20NMTdocx.docx) brochure, if not provided by the Title IX Coordinator.
* Make appropriate reports for purposes of Clery Act crime statistics.

1. **Title IX Coordinator’s Response to a Report** 
   1. Help to ensure the Institution’s compliance with Title IX’s administrative requirements.
   2. Ensure the school’s procedures for resolving Title IX offenses and sexual misconduct complaints are followed.
   3. Provide complainant with a copy of the [Complainant’s Rights Related to Sexual Misconduct](http://www.nmt.edu/titleix/docs/Complainant%20-%20Information%20and%20data%20privacy%20notice%20NMTdocx.docx) brochure and the respondent with [Respondent’s Rights Related to Sexual Misconduct](file:///C:\Users\pphaiah\Downloads\titleix\docs\Respondent%20-%20Information%20and%20data%20privacy%20notice.docx) brochure.
   4. Contact, or encourage contact with local victim/survivor support services, and assist in obtaining medical care, counseling, legal assistance, visa and immigration assistance, student financial aid, Employee Assistance Program (employees only), and other services if needed.
   5. Encourage the reporting party to report the incident to the police, and assist in making the report if requested by the reporting party. The Title IX Coordinator may report to the police the fact that an assault was reported and may share the alleged perpetrator’s name, but the name of the reporting party will only be provided with the reporting party’s consent, except in extenuating circumstances.
   6. Notify the appropriate student conduct office or AA/EEOC office that there has been a sexual misconduct complaint and work collaboratively with that office during the investigation and disciplinary processes, as needed.
   7. Assign a Title IX Investigator to the case to address the complaint/s
   8. Work with law enforcement when necessary, and ensuring the complaints are resolved promptly and appropriately.
   9. Be fair and impartial in the investigation and resolution processes.
   10. Make parties aware of timelines and notify them accordingly.
   11. Communicate equally and timely with both parties.