

16.12 – Clery Act Compliance v100119d

PART 1: PURPOSE

- A. This rule, enacted provisionally by the authority of the NMSU System chancellor, is to document the established practices of NMSU pertaining to compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) of 1990, as amended (See 20 U.S.C. §1092 (f) and 34 C.F.R. 668.46). This rule is based upon the university's past practices, and is not intended to prescribe future policy positions. (For further information on the requirements of the Clery Act, see <https://www2.ed.gov/admins/lead/safety/handbook.pdf>.)
- B. This rule also authorizes the creation of a university board (See <https://rpm.nmsu.edu/2-30/>) which shall consist of those university stakeholders whose day-to-day operations should be guided by the university's ongoing Clery Act compliance obligations. The new university board will be named by the chancellor, will be representative of the NMSU system, with members appointed by each campus president and the chancellor. Among other tasks that may be assigned to it by the chancellor, the campus presidents and the Police Chief, this university board will examine current Clery Act practices and make recommendations to enhance inter-campus and intra-campus communication and coordination pertaining to compliance with the Clery Act.

PART 2: DEFINITIONS

- A. **Clery Crime:** Clery Crimes or “crimes” as used in this rule include four general categories of crime statistics:
1. Criminal Offenses (*aka primary crimes*): criminal homicide including murder and non-negligent manslaughter; manslaughter by negligence; sexual assault (*aka sex offenses*) including: rape, fondling, incest and statutory rape; robbery; aggravated assault; burglary; motor vehicle theft; and arson.
 2. VAWA Offenses: Any incidents of domestic violence, dating violence and stalking (Note: sexual assault is also a VAWA Offense but is included in the Criminal Offenses category for Clery Act reporting purposes).
 3. Arrests and Referrals for Disciplinary Action for: carrying/possessing weapons or other violation of state law; drug abuse violations and liquor law violations.
 4. Hate Crimes: Any of the above-mentioned offenses, as well as incidents of larceny, theft, simple assault, intimidation, or destruction/damage/vandalism of property that were motivated by bias.
- B. **Clery Geography:** The areas for which Clery Crimes must be logged and included in statistical reports required by the Clery Act include the three general areas listed below. Crimes that do not occur within Clery Act geography are not included in the Clery Act statistics, even if students or employees are involved. The NMSU officials responsible for submitting Annual Security Reports are encouraged to make a list of the buildings and properties that are within each of these categories to assist with proper reporting.

1. Crimes that happen on campus;
2. Crimes that happen on public property within or immediately adjacent to the campus; and
3. Crimes in or on non- NMSU buildings or property that NMSU owns or controls (e.g. leases).

PART 3: SAFETY EDUCATION

- A. **Safety Education of Students:** The Dean of Students and the Title IX Coordinator are jointly responsible for instituting safety education programs (in conjunction with any appropriate university departments and resources) for students as follows:
1. **All Incoming Students:** All incoming students will be provided awareness information on dating violence, domestic violence, sexual assault, and stalking, to include bystander intervention tips.
 2. **All Continuing Students:** Safety programs and information will be made available on an ongoing basis for students.
- B. **Safety Education of New Employees:** The Human Resources office is responsible for ensuring all new employees receive information on availability of safety programs, how to report emergencies, how to report crimes (including reporting domestic violence, dating violence, sexual assault, and stalking to the Title IX Coordinator), and the university's emergency notification system.

PART 4: UNLAWFUL POSSESSION, USE OR DISTRIBUTION OF ALCOHOL

NMSU strictly prohibits the unlawful possession, use, or distribution of alcohol. The NMSU Police Department enforces state liquor laws and criminal law violations, and the dean of students and human resource services enforce policy violations regarding alcohol by students and employees (respectively).

PART 5: POSSESSION, USE OR DISTRIBUTION OF ILLICIT DRUGS

NMSU strictly prohibits the unlawful possession, use, or distribution of illicit drugs. The NMSU Police Department is authorized to enforce state criminal laws, and to coordinate with other agencies for the enforcement of federal laws to prevent and address the possession, use and distribution of illicit drugs on university property. The Dean of Students and the Human Resources offices regularly enforce policy violations regarding illicit drugs by students and employees (respectively).

PART 6: AUTHORITY TO INSTITUTE DEPARTMENTAL SECURITY PRACTICES

- A. **Security of Housing Facilities:** NMSU Housing and Residential Life is responsible for and authorized to institute security policies and procedures for its department.
- B. **Security of Other Campus Facilities:** Facilities and Services is responsible for and authorized to institute security policies and procedures for its department, to include access control and coordinating locking/unlocking schedules, for all non-residential facilities except for the Physical Science Laboratory and the Police Department, which maintain independent security protocols due to external regulatory requirements. Facilities and Services is also responsible for, and authorized to, establish security practices for facility maintenance and construction.

PART 7: DESIGNATION AND DUTIES OF CAMPUS SECURITY AUTHORITIES

A. **Campus Security Authority (CSA) Designation:** The following NMSU employees or contractors serving in the positions listed below are hereby designated as Campus Security Authorities (CSA's):

1. Police Officers
2. Emergency Dispatchers
3. Security Officers and others assigned to monitor or control access to NMSU property
4. Victim Advocates
5. Housing & Residence Life staff
6. Dean of Students staff
7. Director of Campus Activities
8. Coordinator of Greek Affairs
9. Advisors to student organizations
10. Title IX Coordinator and OIE staff
11. Director of Athletics
12. Athletic Department coaches (including assistants and graduate assistants)
13. Director of the Aggie Health Center
14. Chief Audit Officer

B. **CSA Duties:** The primary duty of CSA personnel designated is to report to the NMSU Police Department any allegation or information about a Clery Crime reported to them or any other emergency situation. It is not within the CSA's authority to investigate, to apprehend an alleged perpetrator, or to persuade the alleged victim to file a police report.

C. **CSA Training:** The NMSU Police Department will facilitate training for CSA personnel to assist them in understanding which crimes require reporting for purposes of Clery Act compliance and how to perform their CSA responsibilities. Maintenance and storage of CSA training records will be coordinated between the NMSU Police Department and HRS-Center for Learning and Professional Development.

PART 8: REPORTING OF CRIMES AND EMERGENCIES

Students, faculty, staff, and guest are encouraged to assist anyone experiencing an emergency or victim of a crime that they may encounter, and to report promptly any emergencies or crimes they witness or experience, as follows:

- A. **All Emergencies (police, fire, medical):** To report an emergency, community members should call 911. NMSU maintains a full public safety answering point (PSAP, or 911 Emergency Dispatch Center) that works in conjunction with others in the area to appropriately route calls and send emergency assistance.
- B. **Emergency Notifications and Timely Warnings:** Anyone who thinks an emergency notification or timely warning is needed should immediately contact the NMSU Police Department (either 911 or (575) 646-3311).
- C. **All Crimes:** All suspected or witnessed crimes on the Las Cruces campus should be reported to the NMSU Police Department (Emergencies – 911; Non-emergencies – 646-3311)
- D. **Domestic Violence, Dating Violence, Sexual Assault, and Stalking:** Even if a victim chooses not to report this type of crime to the NMSU Police Department or local law

enforcement agency with jurisdiction, these crimes must be reported by the CSA's and responsible employees to the university's Title IX Coordinator, pursuant to ARP 3.25 or be reported in accordance with 16.78.

- E. **Misuse of university resources:** Crimes involving misuse of university resources may be reported to the NMSU Police Department or local law enforcement agency with jurisdiction. Suspected financial misconduct or misuse of university resources may also be reported for internal administrative investigation and corrective action to Audit Services (audit@nmsu.edu), to Human Resource Services if involves employee misconduct (elr@nmsu.edu) or through an the university's online reporting system, EthicsPoint: https://secure.ethicspoint.com/domain/en/default_reporter.asp). Administrators will report to the NMSU Police Department or local law enforcement agency when facts indicate the possibility of criminal activity.

PART 9: ISSUANCE OF EMERGENCY AND TIMELY WARNINGS

NMSU utilizes an emergency Notification system, through which warnings about campus emergencies (and periodic updates) are quickly broadcast using multiple media (text, phone, email and tv monitors in university buildings) to all persons with a MyNMSU account (based on the receipt options they have selected). Students and employees are strongly urged to maintain their current cell phone information for themselves and any family members they wish to also receive the notifications. (See ARP 16.11 – Emergency Notification System, for additional information on the NMSU emergency notification system.)

Additionally, when crimes are reported that may present an ongoing threat to the safety of students or employees the NMSU Police Department is responsible for evaluating the facts and context relating to each reported crime and for determining the need, if any, to issue a Timely Warning for the protection of the university community. The Police Department is authorized to establish departmental operational guidance and procedures consistent with the Clery Act and regulations to accomplish this task.

PART 10: EVACUATION OF FACILITIES

Consistent with the university's Emergency Preparedness and Response policy and protocols (ARP 16.10), in the event of an emergency, the incident commander (as identified in ARP 16.01, ARP 16.10 and 16.15) is authorized to order the evacuation of any facility deemed appropriate in order to protect life. NMSU faculty, staff, and students are expected to evacuate facilities whenever building alarms indicate an evacuation is needed; however, they are encouraged to be prudent and evaluate the possibility of other threats or hazards. For example, if the alarm activation was maliciously conducted in order to lure people into a more vulnerable environment (e.g., into the sight of a violent attacker), they may disregard the facility alarm and take whatever action is reasonably necessary to protect themselves until such time as emergency responders are able to alleviate the danger.

PART 11: MONITORING OFF CAMPUS CRIMINAL ACTIVITY

NMSU does not routinely monitor criminal activity or law enforcement actions taking place off campus and outside the control of the Board of Regents. Individuals interested in finding out about off campus crime should contact the appropriate law enforcement agency(ies). Once each year, the NMSU Police Department will request a listing of crimes taking place at off campus registered or chartered student organization properties from the appropriate law enforcement agencies in order to include those statistics in the Annual Security Report.

PART 12: MONITORING FOR CLERY ACT COMPLIANCE; CRIME LOG, AND ISSUANCE OF ANNUAL SECURITY REPORT

- A. **Monitoring for Clery Compliance:** On behalf of NMSU, the Police Department monitors for compliance with the Clery Act and related university policies throughout the NMSU System. Training and assistance will be provided or facilitated to address infractions and inconsistencies. Lack of cooperation or flagrant violations will be reported to the relevant campus president, for internal investigation in conjunction with HRS-ELR, and may subject the responsible official to disciplinary corrective action.
- B. **Maintenance of Crime Log:** The Police Department will maintain a public log of all crimes reported to them, or those of which they are made aware. The log will include the nature, date, time and general location of each crime and disposition of the complainant (within the past 60 days), if known. Information must be readily available within two business days from date of request. Crime logs must be maintained for seven years, and for at least three years following the publication of the most recent amendment of any annual security report. (Historical daily crime logs can be viewed online at <https://www.nmsupolice.com/crime-statistics/>.) The Police Department will maintain crime statistics consistent with the Clery Act and corresponding regulations.
- C. **Issuance of Annual Security Report:** By October 1 of each year, the NMSU Police Department will publish and distribute the Annual Campus Security Report for the Las Cruces and DACC Espina Campuses (joint report) and for the Albuquerque Center campus to current and prospective students and employees. The community colleges other than DACC Espina are responsible for publishing the Annual Security Reports for their campuses. Notice of the Report will be sent and a URL posted with instructions for obtaining a paper copy, if desired. The report will provide crime statistics for the prior 3 years and policy statements about safety and security measures, and procedures applicable to the investigation and prosecution of alleged sex offenses.