

## HLC Accreditation **Evidence Document**

Title: UAPPM Policy 2740: Sexual Misconduct

Office of Origin: University Administrative Policies and Procedures Manual

**Description:** The UAPPM policy on Sexual Misconduct, issued in 2015 and revised in 2018, that provides substantial definitions and procedures for dealing with misconduct at the university.

**Date: 2018** 

Under Review Frequently Asked Questions About University Administrative Policies \* **Sexual Misconduct** Date Originally Issued: 05-15-2015 Revised: 02-26-2018 > Section 1000: Organization General Section 2000: Administration 2000: Responsibility and Accountability for University Information and Transactions 2010: Contracts Signature 2015: Contract Monitoring 2030: Social Security Numbers 2040: Identity Theft Prevention students and employees. 2050: Governmental Relations and Legislative Activity 2060: Political Activity 2110: Long Distance Telephone 2140: Use and Possession of Alcohol on University Property

<u>UNM</u> > <u>Home</u> > <u>University Administrative Policies</u> > <u>Section 2000: Administration</u> > 2740: Sexual Misconduct Administrative Policies and Procedures Manual - Policy 2740: **Table of Contents** The University of New Mexico prohibits discrimination on the basis of sex (including gender, sex stereotyping, gender expression, and gender identity). Sexual 1. Definitions of Sexual Misconduct harassment, which includes acts of sexual violence, is a form of sex discrimination.

3. Consent 4. Amnesty from Disciplinary Action for Students 5. Off-Campus Conduct

Sex discrimination is a violation of Title VII of the Civil Rights Act of 1964; Title IX of the Educational Amendments of 1972; and the New Mexico Human Rights Act, NMSA 1978, Sections 28-1-1 to 28-1-7, 28-1-7.2, 28-1-9 to 28-1-14. Intimate partner violence includes physical, sexual, or psychological harm.

For the purposes of this policy, sexual harassment, sexual violence, and intimate

2. Reporting Sexual Misconduct

As more fully described in Section 5, this policy applies to allegations of sexual

partner violence are collectively referred to as "sexual misconduct." Sexual misconduct subverts the mission of the University and threatens the careers of

misconduct made by or against a student, staff, or faculty member that occur within the course of a UNM program or activity or have continuing adverse effects on campus, regardless of where the alleged activity occurred. If the circumstances

8. Rights of the Parties

7. Disclosure of Information

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giving rise to the allegations are related to UNM's programs or activities, this policy may apply regardless of the affiliation of the parties. The University is committed to responding promptly and fairly to every allegation of sexual misconduct. Sexual misconduct may be committed by anyone, including a stranger, an

acquaintance, a friend, or someone with whom the victim is involved in an intimate or sexual relationship. Individuals who have experienced sexual misconduct are encouraged to report what happened to law enforcement and to seek assistance 13. Investigation and Disciplinary from any of the campus resource offices or community resources listed in Section 9 **Procedures** of this policy. A report of sexual misconduct will be taken seriously and addressed 14. UNM Branch Campus in accordance with UNM policies and procedures. The University's Title IX Coordinator, who oversees institutional compliance with UNM policy related to sex Information discrimination (including sexual misconduct), is located in the Office of Equal Opportunity (OEO). See Section 9 for contact information. For more information on discrimination related to sex and other protected categories, see <u>UAP 2720 ("Prohibited Discrimination and Equal Opportunity")</u>.

responses, education and prevention programs, and possible disciplinary sanctions. 1. Definitions of Sexual Misconduct The components of sexual misconduct—sexual harassment, sexual violence, and intimate partner violence—are defined below. Sexual Harassment Sexual harassment is unwelcome conduct of a sexual nature. Sexual harassment covered by this policy generally falls into one of submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or

This policy includes information for students, staff, and faculty on resources available following an act of sexual misconduct, UNM

two categories: quid pro quo and hostile environment. Conduct of a sexual nature becomes a violation of this policy when: academic advancement (quid pro quo); submission to or rejection of such conduct by an individual is used as the basis for employment decisions or academic decisions affecting such individual (quid pro quo); or • unwanted conduct of a sexual nature is sufficiently serious (i.e., severe, pervasive, or persistent) and objectively offensive as to deny or limit a person's ability to participate in or benefit from the University's programs, services, opportunities, or activities; or when such conduct has the purpose or effect of unreasonably interfering with an individual's employment (hostile

Mere offensiveness is not enough to create a hostile environment. Although repeated incidents increase the likelihood that harassment has created a hostile environment, a serious incident such as a sexual assault, even if isolated, can be sufficient. In determining whether harassment has created a hostile environment, consideration will be made not only as to whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a similar situation would have perceived the conduct as objectively offensive. Also, the following factors will be considered: · The degree to which the conduct affected one or more student's education or individual's employment.

• The nature, scope, frequency, duration, and location of incident or incidents.

· The identity, number, and relationships of persons involved. • The nature of higher education, such as inherent power differentials. Listed below are behaviors that may constitute sexual harassment - (either quid pro quo or hostile environment sexual harassment, as defined above), depending on the particular circumstances of the situation: Suggestive or obscene letters, notes, invitations • Electronic communications, such as e-mail, text messaging, and Internet use, that are sexual in nature

Threats or insinuations that refusal to provide sexual favors will result in reprisals; withholding support for appointments, recommendations, promotions, or transfers; or change of assignments or poor performance reviews or grades

· Unwelcome sexual jokes or comments (including favorable comments about someone's gender, body, or appearance)

· Impeding or blocking movements, touching, or any physical interference or stalking · Sexually oriented gestures; or displaying sexually suggestive or derogatory objects, pictures, cartoons, or posters · Sexual or gender-based violence, including, but not limited to, rape, sexual assault, sexual battery, and sexual coercion While sexual harassment often takes place under circumstances where a power differential between the persons involved exists, faculty-faculty, and staff-staff, or between peers. Additionally, the prohibition against sexual harassment applies regardless of the

this policy recognizes that sexual harassment also may occur between persons of the same University status: student-student, genders of the parties. Sometimes harassers target a person who has authority over them. Harassers can also be persons who are not members of the University community, such as contractors or visitors. Regardless of the source, the University does not tolerate this kind of behavior and the University is committed to maintaining an environment free from sexual harassment. Sexual harassment is especially serious when it threatens relationships between students and teachers, or relationships between supervisors and their subordinates. Through grades, wage increases, recommendations for graduate study, promotion, and the like, a teacher or supervisor can have a decisive influence on a student's or employee's success and future career at the University and beyond Free Speech

In cases of alleged sexual harassment, the protections of the First Amendment must be considered if issues of speech or intended to protect students and employees from discrimination, not to regulate the content of speech.

Sexual Violence sexual assault, forcible fondling, or any other conduct of a sexual nature that is nonconsensual. Sexual violence is a crime.

expression are involved. Free speech rights apply in the classroom and in all other education programs and activities. This policy is Sexual violence refers to physical sexual acts perpetrated with force or coercion against a person's will; or where a person has not given consent as defined in this policy or is unable to consent due to the use of alcohol or drugs, disability, or age. It may include · Rape/sexual assault: non-consensual sexual intercourse (either vaginal or anal) with a penis, vagina, tongue, finger, or any object.

· Non-consensual oral sex: non-consensual contact between one person's mouth and the genitals or anus of another person. · Sexual contact/battery: non-consensual touching, kissing, or fondling of another person in a sexual way, whether the person is clothed or unclothed; or forcing someone to touch another in a sexual way.

· Sexual coercion: the act of using pressure, alcohol or drugs, or force to have sexual contact with someone against the individual's will and includes persistent attempts to have sexual contact with someone who has already refused. **Intimate Partner Violence** 

Intimate partner violence refers to physical, emotional, or psychological violence that threatens, creates fear, or causes intimidation to another person within the context of an intimate (meaning sexual or romantic) or formerly intimate relationship. It may include dating violence, domestic violence, or domestic abuse. It could also include other behaviors such as stalking or sexual

**Sexual Exploitation** Sexual exploitation is taking sexual advantage of another person without consent, including, without limitation, indecent

exposure; voyeurism; non-consensual recording, photographing, or transmitting identifiable images of private sexual activity and/or the intimate parts of another **Stalking** 

individual in reasonable apprehension of personal safety and/or well-being. **Complete Definitions** 

see "New Mexico Definitions of Violence Against Women Act1 Crimes" in Section 15 of this policy. 1.1. Jurisdiction OEO has jurisdiction over all matters related to civil rights at the University of New Mexico. OEO is not a law enforcement

Stalking is knowingly pursuing a pattern of conduct directed at a specific individual when that pattern of conduct would place the For complete definitions of the crimes of sexual assault, domestic violence, dating violence, and stalking under New Mexico law,

of a civil rights policy over which OEO has authority. The information received from an individual will be reviewed and a determination will be made as to whether OEO has jurisdiction over the concerns. Please see OEO's Discrimination Claims

agency. As such, while it is charged with investigating allegations of sexual misconduct as provided in this policy, OEO does not enforce criminal statutes. Enforcement of criminal statutes is the sole jurisdiction of law enforcement agencies. Similarly, while it generally has jurisdiction to administratively investigate claims of sexual misconduct, depending on the allegations made, OEO may not have jurisdiction to investigate all allegations. OEO only has jurisdiction to investigate allegations that allege a violation

Procedure for more information regarding our jurisdiction and our process for accepting jurisdiction and notifying the parties

The University urges any individual who has experienced sexual misconduct, or has knowledge about an incident of sexual

2. Reporting Sexual Misconduct

misconduct, to make an official report. In order for the University to respond effectively to individuals who have experienced sexual misconduct, all UNM staff and faculty, except as noted in Section 7, who receive information about a person who has experienced sexual misconduct must report the information to OEO within 24 hours, or as soon as reasonably practicable, by calling OEO at (505) 277-5251 or by email at oeounm@unm.edu. See Section 7 for more details, including how some persons can retain anonymity when reporting. For more information on resources available to you, see Section 9 of this policy. 3. Consent The University of New Mexico has adopted a definition of consent, as follows: Consent is an affirmative, informed, and conscious decision to willingly engage in mutually acceptable sexual activity. Consent requires a clear affirmative act or statement by each participant to each sexual act in a sexual interaction. Consent demonstrates that the conduct in question is welcome or wanted. Relying solely on non-verbal communication can lead to miscommunication about one's intent. Confusion or ambiguity may arise at any time during a sexual interaction. Therefore, it is essential that each

Figure 1: Definition of Consent Consent: · Affirmative, informed, and conscious decision to willingly engage in mutually acceptable sexual activity Demonstrated by clear affirmative act or statement by each participant to each sexual act in a sexual interaction No consent: · No clear act or statement given · Silence, passivity, or lack of response · Participant is asleep, unconscious, or otherwise unaware of what is · Participant is under the influence of alcohol or drugs such that he or she is unable to give meaningful consent or does not understand the

· Participant is impaired by mental, physical, or psychological disability

Sexual activity will be considered "without consent" if no clear act or statement is given. Consent may not be inferred from

The use of alcohol or drugs can limit or prevent a person's ability to freely and clearly give consent. If a person is under the influence of alcohol or drugs such that he or she is unable to give meaningful consent or does not understand the fact, nature or extent of the sexual situation, there is no consent. Intoxication alone, however, does not mean a person is incapable of consenting to sexual activity. OEO examines the record for other behavior like stumbling or otherwise exhibiting loss of equilibrium; slurred speech or word confusion; bloodshot, glassy or unfocused eyes; vomiting, especially repeatedly; being disoriented, or confused as to time or place; or loss of consciousness, when determining whether meaningful consent to sexual

happening is unable to give consent. Furthermore, a current or past dating or sexual relationship is not sufficient to constitute consent in every instance, and consent to one form of sexual activity does not imply consent to other forms of sexual activity. It is the responsibility of the person initiating the sexual activity to obtain consent from his or her partner. Being intoxicated or under

silence, passivity or lack of active response alone. A person who is asleep, unconscious, or otherwise unaware of what is

· Participant is not of age to consent

the influence of other drugs does not diminish one's responsibility to obtain consent.

5. Off-Campus Conduct

the circumstances, will investigate the conduct.

6. Retaliation

participant makes clear his or her willingness to continue at each progression of the sexual interaction.

activity was or could have been given. Should the preponderance of the evidence in the record demonstrate that one or more such behaviors were objectively apparent at the time the alleged unconsented-to or unwelcomed sexual activity occurred, that evidence may demonstrate that the respondent knew or should have known that the complainant was incapable of giving meaningful consent to sexual activity due to intoxication. If the person initiating the sexual activity is also under the influence of alcohol or drugs, that does not diminish his or her responsibility to obtain consent, and is not a defense to charges of violation of this policy. Because it may be difficult to discern whether a sexual partner is incapacitated, it is better to err on the side of caution and assume that your partner is incapacitated and unable to give consent to the sexual activity. In addition to alcohol or drugs, if a person's mental, physical, or psychological disability (temporary or permanent) or age impairs his or her ability to make an informed decision to willingly engage in sexual activity, there is no consent. Examples include, but are not limited to, when an individual is incapacitated, scared, physically forced, intimidated, coerced, mentally or physically impaired, passed out, threatened, isolated, or confined. 4. Amnesty from Disciplinary Action for Students UNM's primary concern is the safety of students, staff, and faculty. While staff and faculty must report incidents of students experiencing sexual misconduct, except as noted in Section 7, the University strongly encourages all members of the campus community to report instances of sexual misconduct. The University grants amnesty to students who may have violated the Student Code of Conduct's prohibition on the use or possession of alcohol or drugs at the same time they experienced sexual misconduct. Therefore, no drug or alcohol-related charges under the Student Code of Conduct are applied to students who report that they were using drugs or alcohol at the time they experienced sexual misconduct. Depending on the circumstances, the

Dean of Students Office may determine, on a case-by-case basis, that those who witnessed an instance of sexual misconduct and who provide information regarding such instance may be granted the same amnesty. However, students should understand that any violation of state or federal criminal law involving the use or possession of alcohol or illegal drugs may result in prosecution, and UNM cannot grant amnesty from proceedings in the criminal justice system. Decisions about prosecution are made by the District Attorney's Office in the state criminal justice system and by the U.S. Attorney's Office in the federal criminal justice

Conduct that occurs off-campus can be the subject of a complaint or report and will be evaluated to determine whether it implicates this policy or the Student Code of Conduct. If off-campus sexual misconduct occurs within the course of a UNM program or activity or has continuing adverse effects that create a hostile environment on campus or within a UNM program or activity for an individual who has experienced sexual misconduct, the University may take interim measures and depending on

It is a violation of University policy to retaliate against any person who makes a complaint of sexual misconduct or reports,

testifies, assists, or participates in an investigation or proceeding regarding an allegation of sexual misconduct. Concerns that a student, staff, or faculty member has threatened to retaliate or has retaliated against another student, staff, or faculty member should be reported promptly to OEO. A staff, faculty member, or student who retaliates against a person who makes a complaint of sexual misconduct, reports, testifies, assists, or participates in an investigation or proceeding regarding an allegation of sexual misconduct, or seeks assistance from OEO, may be subject to disciplinary action. Figure 2: Retaliation It is a violation of University policy to retaliate against any person who makes a complaint or report of sexual misconduct or testifies, assists, or participates in an investigation or proceeding regarding an allegation of sexual misconduct. 7. Disclosure of Information The University encourages individuals who have experienced sexual misconduct to report the incident so that they get the support they need and the University can respond appropriately. UNM recognizes that such individuals may want to speak with someone on campus before deciding whether to report the incident to the police or OEO for investigation. Individuals who experience sexual misconduct are strongly encouraged to understand the various reporting requirements of University entities in order to make the best decision for their circumstance. Whether or not anonymity is requested, information about sexual misconduct will be treated privately and only be shared on a need-to-know basis, and as authorized under University policy and applicable federal and state law. As required by the federal Clery Act for statistical purposes, instances of sexual misconduct reported to entities other than those identified below as "No Disclosure Required" must be reported to the UNM Police Department, which works with the Clery Compliance Officer on the annual reporting of crime statistics to the University community. Such reports to UNM Police Department do not include identities and are only comprised of the nature, date, time, and general location. These reports do not serve as an official police report and do not launch a criminal or administrative investigation; these reports are purely for statistical purposes to meet Clery Act obligations.

Figure 3: Disclosure Obligations IF YOU DISCLOSE TO THE ENTITIES ON THE **ENTITIES** RIGHT ON CAMPUS OFF CAMPUS No disclosure is required Student Health and Counseling (SHAC) Rape Crisis Center of Central New Mexico Counseling and Referral Services (CARS) Sexual Assault Nurse Examiner (SANE) Other licensed medical providers Confidential, but an anonymous record is made UNM Advocacy centers, such as the <u>LoboRESPECT Advocacy Center</u>, Women's Resource Center (WRC) and the LBGTQ Resource Center. A full listing can be for statistical reporting only found at <a href="http://loborespect.unm.edu">http://loborespect.unm.edu</a>. Privacy maintained, but must be reported to OEO All UNM staff and faculty not employed by or associated with the organizations listed or referred to above. For more information about disclosure obligations, see below. 1. No Disclosure Required: SHAC, CARS, and Off-Campus Resources At UNM, a student who experiences sexual misconduct can speak in complete confidentiality with a licensed counselor or a medical provider at UNM's Student Health and

Counseling (SHAC). SHAC counselors and medical providers do not report any information about an incident to the police or any other University entities. Similarly, UNM staff and faculty may speak confidentially with a licensed counselor at UNM Counseling and Referral Services (CARS) and no information will be disclosed to any entity.<sup>3</sup> Other licensed medical professionals with UNM affiliation who receive information about instances of sexual misconduct while serving in an established practitioner/patient relationship are not required to disclose information. Outside of UNM, the Rape Crisis Center of Central New Mexico and the Sexual Assault Nurse Examiner (SANE) provide their services to victims of sexual violence on a completely confidential basis. These agencies provide statistical information only to UNM SMART. Additional information about Rape Crisis Center of Central New Mexico, SANE and UNM SMART can be found in this policy, under Section 9 on

For examples of all disclosures listed below, please visit loborespect.unm.edu.

"Resources Following an Act of Sexual Misconduct."

8. Rights of the Parties

Counseling and Referral Services (CARS) (for staff and faculty).

Provides a safe and welcoming environment for students to

receive support and advocacy services for a number of areas.

LoboRESPECT Advocacy Center (505) 277-2911

Counseling

(505) 266-7711

free counseling.

(505) 272-6868

Rape Crisis Center of Central New Mexico

**UNM Counseling and Referral Services (CARS)** 

Operates a 24-hour hotline and provides victim advocates and

inform the appropriate office of the recommended interim measures.

assault examination at the office of the Sexual Assault Nurse Examiners.

Figure 4: Procedures to Follow if Sexual Misconduct Happens to You

speak with witnesses.

intimate partner violence cases.

12. Educational Programs

1. Women's Resource Center (505) 277-3716

2. Dean of Students Office (505) 277-3361

(505) 277-2606

4. UNM Police Department (505) 277-2241

(505) 277-5251

5. UNM Office of Equal Opportunity

6. Student Health and Counseling (SHAC) Health Education & Prevention Department

3. Residence Life and Student Housing

Dean of Students Office to file a report.

account of what happened, and that police will be able to identify and speak with witnesses.

take to preserve evidence for possible use later to support a criminal case.

participating in UNM's Sexual Misconduct and Assault Response Team (SMART).

and sexual misconduct issues, including the definition of consent under this policy.

issues. The University offers the following educational programs:

described herein.

2. Confidential/Statistical Reporting Only: Advocacy Centers at UNM UNM's LoboRESPECT Advocacy Center, LGBTQ Resource Center and Women's Resource Center (WRC) are designated as advocacy and support centers for those who have experienced sexual misconduct. UNM may designate other Advocacy Centers on campus from time to time; a complete list of designated Advocacy Centers can be found at http://loborespect.unm.edu. Individuals who have experienced sexual misconduct may talk with these individuals anonymously; however, Advocacy Centers will report the nature, date, time, and general location of the incident to the Office of Equal Opportunity as well as to the UNMPD but will not provide identifying information without written consent from that individual. These reports to OEO and UNMPD do not launch a University investigation. Rather, the purpose of the report is to meet Clery Act compliance, and to help keep the Title IX Coordinator informed of the general extent and nature of sexual misconduct on and off campus in an effort to track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses. 3. Private but report required: All UNM Faculty/Staff Not Previously Identified Information about alleged sexual misconduct that is shared by an individual with any University faculty or staff not previously identified is required to be reported to OEO. However, it is still the full choice of the individual who has experienced sexual misconduct to make a report with UNM Police Department or to participate in an administrative investigation with OEO. UNM faculty/staff receiving information about cases of sexual misconduct involving students must report within 24 hours or as soon as reasonably possible what they have learned to OEO at 505-277-5251 or emailing oeounm@unm.edu. Reports made by faculty or staff to OEO will include the nature, date, time, location, as well as the identities of all involved parties. While faculty and staff must report this information to OEO, this information is still considered private and will only be shared by OEO with those who have a legitimate need-toknow and as authorized by University policy and applicable federal and state law. 4. Requests for Anonymity Within an Investigation or That No Investigation Occur Please refer to Section 13 on "Investigation

and Disciplinary Procedures" for information about requests for anonymity or that no investigation occur.

During OEO's investigation following a report of sexual misconduct, and prior to a final determination being made, the reporting party ("complainant") and responding party ("respondent") have equal rights to be treated with respect, dignity, and sensitivity throughout the process; to information on how the University will protect their confidentiality; and to present evidence or other information they feel relevant to the matter. Once OEO's investigation is complete and a final determination is made, the complainant and respondent have the equal right to notice of those findings and equal access to appeal those findings as

For more information regarding the rights of students in a sexual misconduct proceeding, see the Student Code of Conduct and Student Grievance Procedure in the UNM Pathfinder. Following OEO's investigation, the complainant and respondent have equal rights to seek a discretionary review of OEO's determination through the Office of the President pursuant to <u>UAP 3220 ("Ombuds Services for Staff")</u>, and/or the Board of Regents pursuant to Regents' Policy 1.5. Should the Dean of Students Office take action based on the investigation's findings, both parties will have equal rights to appeal the action pursuant to the Student Grievance Procedure in the UNM Pathfinder. In a grievance of the Dean of Students Office's decision, both parties will have equal access to the information upon which the findings are based, have an equal opportunity to present evidence and witnesses (subject to the limitations in the statement of complainant's rights below), and will receive equal notification of the results of the procedure. Both parties also will have the equal right to appeal the results of the grievance of the Dean of Students Office's decision as provided in the Student Grievance Procedure in the UNM Pathfinder. 9. Resources Following an Act of Sexual Misconduct While UNM encourages an individual who has experienced sexual misconduct to make an official report, whether the person chooses to do so, she or he is urged to seek appropriate help. There are numerous resources for students, staff, and faculty at UNM. Specific resources, either on or off campus for medical treatment, legal evidence collection, obtaining information, support, and counseling, and officially reporting an incident of sexual misconduct are listed below. Each resource can assist a person to

access the full range of services available. Students and staff or faculty accused of committing an act of sexual misconduct may obtain confidential and anonymous support and counseling at Student Health and Counseling (SHAC) (for students) and

Academic Assistance

(505) 277-3361

Dean of Students Office

Women's Resource Center

LGBTQ Resource Center

Offers programs on gender and sexuality issues. Staff also

provides support to individuals who have experienced sexual misconduct and provides mental health referrals for UNM

(505) 277-3716

(505) 277-5428

students.

Dean of Students Office offers students impacted by sexual Sexual Misconduct and Assault Response Team (SMART) misconduct assistance in navigating class issues, processing withdrawals, tuition refund appeals, scholarship and financial aid UNM's Albuquerque Campus has a Sexual Misconduct and issues, and related needs aimed at supporting students. Assault Response Team (SMART), SMART is a victim centered. victim controlled, coordinated response team composed of Additional Campus Resources community and University organizations designed to quickly respond to cases misconduct. Additional information can be Office of Residence Life and Student Housing (505) 277-2606 found at <u>SMART.unm.edu</u>. Addresses misconduct by residence halls students in the Medical and Legal Evidence Collection residence halls. Works with students who need to make changes in on-campus housing due to an incident of sexual misconduct. Sexual Assault Nurse Examiner (SANE) (505) 884-SANE (7263) 24-hour hotline American Campus Community 24-hour free medical and forensic exams by trained nurses, Lobo Village (505) 925-5575 emergency contraception, treatment for sexually transmitted Casas del Rio (505) 277-2094 infection, evidence collection, forensic photography, and follow-Owns and manages Lobo Village and Casas del Rio, in up services. consultation with Office of Residence Life and Student Housing Medical and Counseling Office of Equal Opportunity Student Health and Counseling (SHAC) UNM's Title IX Coordinator is housed in the Office of Equal (505) 277-3136 24-hour number Opportunity. OEO investigates allegations of violations of Counseling, crisis intervention, and comprehensive medical UNM's policy prohibiting sex discrimination, including sexual services for eligible UNM students. SHAC can help expedite misconduct. referrals to SANE for evidence collection.

Free counseling services for eligible UNM staff, faculty, and Provides service to UNM students, staff, and faculty of all their spouses/domestic partners and retirees. gender identities and sexual orientations through support, advocacy and safety. Manzanita Counseling Center **UNM Police Department** (505) 277-7311 (505) 277-2241 Manzanita is a counselor training facility affiliated with the Counselor Education Program in the UNM College of Education. For emergency on campus, dial 911 Specially trained SMART officers will respond to and investigate Counseling for students, staff, and faculty is provided free of sex crimes on the UNM campus, and will forward cases to the charge by advanced graduate students under the supervision of UNM faculty who are licensed professional counselors. Services District Attorney's Office as appropriate. If the sex crime occurred off-campus, UNM Police Department can assist an are available during the academic year (fall and spring semesters) individual who has experienced sexual misconduct in contacting only. the appropriate law enforcement agency to file a report. Agora Crisis Center (505) 277-3013 Volunteer trained peer counselors respond to phone calls on a 24/7 hotline and can refer callers to UNM and community resources. 10. Interim Measures

The University reserves the right to take interim measures as appropriate to ensure the safety of individuals and our campus community. These measures take a variety of forms and can be taken against students, staff, or faculty at UNM. Interim measures are not considered disciplinary in nature and are implemented pending the outcome of an OEO investigation but can be modified or removed if additional information is received that would change the assessment of the need for an interim measure. The Title IX Coordinator or the Director of OEO make decisions related to interim measures in allegations of sexual misconduct and will

Interim measures may include, but are not necessarily limited to, the following measures: (1) directives by OEO that the parties

have no contact with each other; (2) that one or more parties be moved to another office or location, be placed on paid administrative leave, or removed from a class; or (3) have a registration hold placed on a student account. For students, the Dean of Students Office has the authority to implement interim measures which stay in place until the end of any review or appeal process. The Dean of Students Office can impose a "no contact" order, which typically directs the complainant and respondent not to have contact with each other, either in-person or through electronic communication, pending the investigation and resolution of a complaint. The Dean of Students Office can arrange for changes in academic and/or oncampus living situations as needed. Other interim measures, as appropriate, can be implemented by the Dean of Students Office before the final outcome of the investigation and afterwards as needed. Interim measures may also be provided for staff or faculty who experience sexual violence or misconduct, as directed by the appropriate supervisory authority. 11. Procedures to Follow if You Experience Sexual Violence If you are in danger, dial 911 for assistance. If you are on the UNM campus, you will be connected with UNM Police Department. If you are off campus in Albuquerque, you will be connected with the Albuquerque Police Department. You may also want to call a trusted family member or a friend. Seek medical attention. If you have serious injuries, seek emergency medical attention at a hospital. In the Albuquerque area, you can contact SANE (Sexual Assault Nurse Examiners) at (505) 884-7263 for information about receiving a sexual assault examination.

You can also contact the Rape Crisis Center of Central New Mexico at (505) 266-7711 or (888) 881-8282. The Rape Crisis hotline is available 24 hours a day, 7 days a week, 365 days a year. An advocate from Rape Crisis Center will accompany you to a sexual

It is important for individuals who have experienced sexual misconduct, in particular sexual assault, to understand the steps to take to preserve evidence for possible use later to support a criminal case. All those who have experienced a crime have the right to report a crime to police at any time, regardless of when it occurred. However, the sooner you file a report of a sexual assault, the better the chances that helpful evidence can be collected to support a criminal case, that you will be able to convey a clear

• It is important for individuals who have experienced sexual misconduct, in particular sexual assault, to understand the steps to

• The sooner you file a report of a sexual assault, the better the chances that helpful evidence can be collected to support a criminal case, that you will be able to convey a clear account of what happened, and that police will be able to identify and

· You may file a report of sexual assault and/or receive a sexual assault medical examination immediately and then decide at a later date if you want to pursue filing criminal charges. Sexual Assault Nurse Examiners (SANE) can provide the forensic medical exam, free of charge, in a comfortable environment facilitated by nurses specially trained in sexual violence and

The UNM Police Department encourages you to report any act of sexual misconduct that takes place on the UNM campus to UNMPD. Also, as discussed above, if you need assistance in reporting to UNMPD, you can get help from any of the offices

UNM recognizes the harm caused by sexual misconduct and the need to educate the University community regarding these

The Women's Resource Center offers programs on gender and sexuality issues, including a gendered violence prevention program, women's peer mentoring program, self-defense and awareness training, and bystander intervention education. Staff also provides support to individuals who have experienced sexual misconduct and provides mental health referrals for UNM

The Dean of Students Office coordinates new student orientation which includes programs addressing sexuality, relationships,

RLSH coordinates programming for residence halls students, including programs addressing sexuality, relationship, and safety issues. RLSH also administers a Residence Life discipline system which addresses misconduct by residence hall students occurring in the residence halls. Resident Advisors (RAs) are trained in responding to students residing in the residence halls that have experienced sexual misconduct and can assist the student with contacting UNM Police Department and/or the

As requested by campus departments, offices, and student, staff, and faculty groups, the UNM Police Department conducts presentations that center on personal safety, including specific training on sexual violence and misconduct prevention.

OEO staff offer in-person training for departments on preventing and responding to sexual harassment, including sexual misconduct. OEO also provides online training to all the University community on preventing sexual harassment and

(505) 277-3716 SHAC's Health Education Department offers workshops and educational programs on sexuality, sexual decision-making and relationships. A Sexual Assault and Abuse Resource Guide is compiled and updated yearly to include current information about campus and community resources that assist individuals who have experienced sexual misconduct. 7. Office of Student Activities (505) 277-4706 The Office of Student Activities coordinates various programs for UNM's chartered student organizations, including fraternities and sororities, which address sexuality, relationships, and sexual assault issues. 8. LoboRESPECT (505)277-2911 LoboRESPECT provides a mandatory sexual misconduct training to all students called "The Grey Area," which is in-person and interactive. It also offers an online training module for students called "Campus Clarity: Think About It."

The University of New Mexico's Student Code of Conduct and Visitor Code of Conduct, which apply to the Albuquerque campus and all branch campuses, prohibit any form of sexual misconduct. The Student Code of Conduct and Visitor Code of Conduct describe the sanctioning options and procedures that may apply after an investigation pursuant to this section is complete should a finding be made that a student or visitor more likely than not violated this policy. The Student Code of Conduct and Visitor

an investigation pursuant to this section, a finding is made that a staff member violated this policy, disciplinary action may be issued pursuant to <u>UAP 3215 ("Performance Improvement"</u>). These two policies are administered by the UNM Policy Office. All forms of sexual harassment, including sexual misconduct, are considered violations of the Faculty Handbook Policy CO9 ("Respectful Campus"). Allegations of sexual harassment under Policy CO9 are processed pursuant to this policy. If, after an investigation pursuant to this section, a finding is made that a faculty member committed any form of sexual harassment, including sexual misconduct, disciplinary action may be issued pursuant to Faculty Handbook Policy CO7 ("Faculty Disciplinary

A person who experiences an act of sexual misconduct committed by a student, staff, or faculty member, or a visitor to the University, has the option of filing a complaint with OEO. OEO is the University office that processes allegations of sexual misconduct pursuant to its Discrimination Claims Procedure. While OEO's Discrimination Claims Procedure includes mediation as an option for resolving discrimination complaints, mediation will not be employed to address a complaint of sexual violence. OEO

Outside of UNM, the Rape Crisis Center of Central New Mexico (RCCCNM) and the Sexual Assault Nurse Examiner (SANE) provide their services to individuals who have experienced sexual misconduct on a confidential and anonymous basis. The RCCCNM and SANE do not disclose the victim's identity to police or to UNM without the victim's consent. Additional information about the RCCCNM and SANE can be found in this policy under Section 9 on "Resources Following an Act of Sexual

If an individual reporting to a non-confidential UNM entity (see Section 7) that he or she experienced sexual misconduct ("complainant") requests that his or her name not be revealed to the alleged perpetrator ("respondent"), or asks the Title IX Coordinator not to investigate the allegations of sexual misconduct, the complainant will be informed that honoring the request may limit UNM's ability to fully process the allegations, including pursuing disciplinary action against the respondent. The University's prohibition against retaliation will also be explained to the complainant. If the complainant still insists that his or her  $name\ not\ be\ disclosed\ to\ the\ respondent,\ or\ continues\ to\ ask\ the\ University\ not\ to\ investigate\ the\ allegations,\ the\ Title\ IX$ Coordinator will determine whether the University can honor the request while still providing a safe and nondiscriminatory working and learning environment for the complainant and others. The Title IX Coordinator will strive to abide by the complainant's request. However, the Title IX Coordinator reserves the right to determine that it is essential to disclose the complainant's identity and/or to investigate the allegations despite the complainant's request not to in order for UNM to fulfill its obligations under Title IX. In such cases, the Title IX Coordinator will inform the complainant prior to starting an investigation and will share information only with University officials who are responsible for processing the allegations in the complaint and

nent") prohibits all forms of sexual harassment, including sexual misconduct. If, a

Code of Conduct can be found in the <u>UNM Pathfinder</u>, and are administered by the Dean of Students Office.

13. Investigation and Disciplinary Procedures

<u>Policy"</u>). The Faculty Handbook is administered by the Office of University Secretary.

investigators are trained in investigating allegations of sexual misconduct.

therefore need to know that information.

state and federal police and prosecutorial agencies.

misconduct, is subject to the following possible sanctions:

· Verbal warning - means an oral reprimand. · Written warning - means a written reprimand.

 Verbal Warning - means an oral reprimand. · Written Warning - means a written reprimand.

severe sanctions depending on the conditions of the probation.

as provided in UAP 3215 ("Performance Improvement").

Alamos Student Success Manager at (505) 662-0341.

• Esperanza Battered Persons Shelter: 473-5200

Crisis Center of Northern New Mexico: 1-800-206-1656

· Community Counseling Resources

• Regional Crisis Line: (505) 820-6333

Student Services Office at (505) 925-8560 Community and Campus Resources:

experienced sexual violence or misconduct.

**UNM-Valencia Student Services Building** 

Director, Student Affairs

14.4. Taos Campus

Community and Campus Resources

(505) 925-5860

14.3. Valencia Campus

Solace Crisis Treatment Center (24-hour hotline): 1-800-721-7273

assistance in contacting law enforcement authorities in order to report an assault.

• Rape Crisis Center of Central New Mexico / (505) 266-7711 24-hour hotline

6212 for assistance in contacting law enforcement authorities in order to report an assault.

and Visitor Codes of Conduct and can provide information on pursuing on-campus judicial processes.

• Community Against Violence (CAV) | 945 Salazar, Taos, NM 87571 / (575) 758-9888 (hotline)

contacting law enforcement authorities in order to report a crime related to sexual misconduct.

the person possesses a deadly weapon or when the victim is under sixteen years of age

For additional community and campus resources, refer to Section 9 above.

Stalking - NMSA 1978, § 30-3A-1 et seq., "Harassment and Stalking Act"

"Aggravated stalking" consists of stalking perpetrated by a person:

• in violation of a court order setting conditions of release and bond;

orders may constitute a defense to aggravated stalking

· when the person is in possession of a deadly weapon; or · when the victim is less than sixteen years of age.

Crimes Against Household Members Act.

"Assault against a household member" means:

receiving an immediate battery.

kidnapping, false imprisonment, or burglary.

• An attempt to commit a battery against a household member; or

· Unlawfully assaulting or striking a household member with a deadly weapon; or

· Willfully and intentionally assaulting a household member with intent to commit any felony.

"Aggravated assault against a household member" means:

member when done in a rude, insolent, or angry manner.

Criminal Sexual Contact with a Minor (NMSA 1978, § 30-9-13)

of the victim and the force or coercion used by the perpetrator. • "Force or coercion" is defined in NMSA 1978, § 30-9-10(A) and means:

incapable of understanding the nature or consequences of the act.

• the use of threats to use physical force or violence against the victim or another;

member with intent to injure that person or another.

another, whether or not there is any emission.

• the use of physical force or physical violence;

emotional distress.

Community Resources:

resources.html.

14.1. Gallup Campus

14. UNM Branch Campus Information

the University, by University Police Officers or other University agents.

• The sanctions of denial of admission, readmission, or employment by the University.

OEO's investigation procedure. If OEO is unable to contact the respondent or if the respondent elects not to provide a response to the allegations made or information pertinent to the matter, OEO will make its determination based on the information it is Once a complaint is filed, both the complainant and respondent have equal rights to present evidence to OEO during its investigation. Once its investigation is complete, OEO uses a preponderance of the evidence standard to evaluate the evidence and determine whether an act of sexual misconduct occurred. The "preponderance of the evidence standard" means that, on evaluation of all of the evidence, it is more likely than not that the alleged act of sexual misconduct occurred. The evidence OEO gathers during its investigation will be maintained by OEO and kept confidential to the extent authorized by law and policy. Should a complainant or respondent appeal OEO's determination or any sanctions issued by the sanctioning authority, OEO may be required to release the evidence upon which its determination is based to the appealing party or the entity to which the appeal is made or both. If, after investigation, OEO finds that it is more likely than not that a student or visitor committed an act of sexual misconduct (a Determination of Probable Cause), OEO will refer the matter to the Dean of Students Office to decide on the sanction to be imposed on the offender. If OEO makes a Determination of Probable Cause that a staff or faculty member committed an act of sexual misconduct in violation of UNM policy, OEO will refer the matter to that individual's chain of command to take appropriate

action, including taking disciplinary action. Misconduct by staff or faculty is subject to disciplinary action, up to and including termination of employment. Disciplinary action for staff is handled pursuant to <u>UAP Policy 3215 ("Performance Improvement")</u>, and faculty matters are addressed pursuant to the Faculty Handbook, specifically Policy CO7 ("Faculty Disciplinary Policy") and Policy B5 ("Separation from the University"). Appeals to the University President and the Board of Regents are addressed in Section IX of the Discrimination Claims Procedure. OEO does not make any determinations regarding whether a respondent has committed an act of sexual misconduct in violation of criminal statute. Rather, such determinations are the sole jurisdiction of

In any disciplinary proceeding held by the Dean of Students Office, both the accuser and the accused are allowed to bring an advisor, including an attorney advisor. However, such advisors are not authorized to speak on behalf of the individual they are advising. Rather, the accuser and accused must present their own case during the proceeding, and advisors' participation is limited to advising the person they are advising. In addition, both the accuser and accused will be notified in writing of the decision on sanctions to the extent permitted by the federal Family Educational Rights and Privacy Act (FERPA), and both parties have the right to appeal the sanctions decision. More information about the disciplinary process used by the Dean of Students

Under the University's Student Code of Conduct, a student who commits a violation of this Code, including an act of sexual

· Disciplinary probation - means the establishment of a time period during which further acts of misconduct may or will result in more severe disciplinary sanctions depending upon the conditions of the probation. Conditions of probation can include community service, attendance at workshops and/or seminars regarding subjects including but not limited to alcohol, drug or safety workshops and/or seminars, mandatory mental health evaluation and/or counseling or other educational sanctions. · Suspension - means losing student status for a period of time specified in the terms of the suspension. A suspension may

· Expulsion - means losing student status for an indefinite period of time. Readmission may not be sought before the expiration

Students living in UNM residence halls are subject to the following possible sanctions for misconduct occurring in the residence

· Housing reassignment - means the transfer of the student from one dorm room to another or one residence hall to another.

Office can be found in the Student Grievance Procedure. Article 4.4 discusses allegations of sexual misconduct.

commence immediately upon a finding of a violation or it may be deferred to a later time.

Dismissal - means termination of student employment, either for a stated time period or indefinitely.

· Barred from campus - means being barred from all or designated portions of the University property or activities.

• Restricted from entry into specific residence halls, dining hall, commons building, and other UNM housing facilities. · Contract termination - means the termination of the housing contract either for a stated period of time or indefinitely. Under the University's Visitor Code of Conduct, which applies to the Albuquerque and all branch campuses, a visitor who

· Probation - means the establishment of a time period during which further acts of misconduct may or will result in more

· Removal from campus - means being physically escorted or forcibly removed to a location off property owned or controlled by

· Additionally or alternatively, any sanction applicable to a student under the Student Code of Conduct may be provisionally

Faculty who are found to be in violation of this policy may be subject to disciplinary action as provided in the Faculty Handbook Policy CO7 ("Faculty Disciplinary Policy"). Staff who are found to be in violation of this policy may be subject to disciplinary action

UNM's branch campuses in Gallup, Los Alamos, Taos and Valencia, as well as UNM's separate campus, UNM West, follow the University's Student Code of Conduct and Visitor Code of Conduct. All branch campuses prohibit any act of sexual misconduct and encourage students who experience such acts to report them to the appropriate law enforcement agency and to seek assistance from campus and community resources. UNM branch campus students can submit complaints alleging sexual misconduct committed by another student, staff or faculty member, or third party to UNM's Title IX Coordinator, Please refer to Section 7 of this policy for information on Confidential Reporting Sources and persons obligated to report allegations of sexual

A student who experiences sexual misconduct on the Gallup campus or at a UNM-Gallup sponsored or sanctioned activity should contact the UNM-Gallup Campus Police Department at (505) 863-7620. For offenses that happen off campus, contact the Gallup

commits a violation of this Code, including sexual misconduct, is subject to the following possible sanctions:

· Barred from campus - means being barred from all or designated portions of University property or activities.

applied to a visitor, to be made effective should the visitor ever enroll or re-enroll at the University.

of two years from the date of expulsion, and it is not guaranteed even after that time.

In all cases, regardless of a complainant's request for anonymity, the federal Clery Act requires that disclosure of crimes of sexual misconduct that occur on the UNM campus and on other property the University has control over (as defined under the Clery Act) must be reported for statistical purposes to the UNM Police Department, which works with the Clery Compliance Officer to annually report crime statistics to the University community. However, such reports to UNM Police Department are for statistical

If the victim files a complaint with OEO and instructs it to investigate the allegations made, OEO will first make an assessment of whether it has jurisdiction to investigate the allegations made. If OEO does not have jurisdiction to investigate or otherwise process the allegations made, it will refer those issues to the appropriate body, if any. If it does have jurisdiction to investigate, as part of that investigation, OEO will make reasonable attempts to contact the respondent to notify him or her of the allegations made, his or her right to respond to the allegations made and present information he or she deems relevant to the matter, and

purposes only and are not required to include the victim's identity without his or her consent.

Police Department at (505) 726-1745. The UNM-Gallup Police Department can assist in reporting assaults to other law enforcement agencies. Medical services are available at: • Gallup Indian Medical Center / 516 Nizhoni Blvd., Gallup, NM / (505) 722-1000 • Rehoboth McKinley Christian Hospital (RMCH) / 1901 Red Rock Dr., Gallup, NM / (505) 863-7000 Medical and counseling information available at: • Rape Crisis Hotline / 1-800-649-0181 The Director of Student Affairs and the Dean of Instruction are available to assist victim of sexual misconduct by making reasonable changes in academic situations as well as providing information about the on-campus judicial process. 14.2. Los Alamos Campus A student who experiences sexual misconduct on the Los Alamos campus or off-campus in Los Alamos should contact the Los Alamos Police Department. LAPD's non-emergency phone number is (505) 662-8226 (in an emergency, dial 911). A student

seeking assistance with changes to their academic situation due to experiencing sexual misconduct should contact the UNM Los

• Los Alamos Family Council: Crisis hotline (24/7) 662-4422; office (505) 662-3264 or 1-877-602-4060

• For a complete Student Guide to Area Resources for social services, go to http://losalamos.unm.edu/students/crisis-

A student who experiences sexual misconduct on the UNM-Valencia campus or at a University sponsored or sanctioned activity should contact the UNM-Valencia Campus Police Department at (505) 925-8570 or the Valencia County Sherriff's Department at (505) 866-2640. If it is an emergency, call 911. UNM-Valencia strongly encourages individuals who have experienced sexual misconduct to report the incident to law enforcement. Students may contact the Student Services Office at (505) 925-8560 for

Students seeking assistance with changes to their academic situation due to experiencing sexual misconduct should contact the

Provide advocate to accompany victim to Sexual Abuse Nurse Examiners medical and forensic examination, free counseling and 24 hour a day crisis telephone service with counselors available to provide immediate assistance to individuals who have

A student who experiences sexual misconduct on the UNM-Taos campus or off-campus in Taos should contact the Taos Police Department at (575) 758-4656. If it is an emergency, dial 911. UNM-Taos strongly encourages individuals who have experienced sexual misconduct to report the incident to law enforcement. Students may contact the Student Affairs Department at (575) 737-

Students seeking assistance with changes to their academic situation due to experiencing sexual misconduct should contact the  $Student\ Affairs\ Department\ at\ (575)\ 737-6212.\ The\ Student\ Affairs\ Department\ is\ also\ responsible\ for\ administering\ the\ Student\ Affairs\ Department\ is\ also\ responsible\ for\ administering\ the\ Student\ Affairs\ Department\ is\ also\ responsible\ for\ administering\ the\ Student\ Affairs\ Department\ is\ also\ responsible\ for\ administering\ the\ Student\ Affairs\ Department\ is\ also\ responsible\ for\ administering\ the\ Student\ Affairs\ Department\ is\ also\ responsible\ for\ administering\ the\ Student\ Affairs\ Department\ is\ also\ responsible\ for\ administering\ the\ Student\ Affairs\ Department\ is\ also\ responsible\ for\ administering\ the\ Student\ Affairs\ Department\ is\ also\ responsible\ for\ administering\ the\ Affairs\ Department\ administering\ the\ Affairs\ Depar$ 

CAV maintains a 24-hour crisis hotline and has counselors available to provide immediate assistance to individuals who have experienced sexual violence or misconduct. They also provide referrals, medical and legal advocacy and can assist with medical • Tri-County Community Services | 413 Sipapu Street, Taos, NM 87571 / (575) 758-5857 • Suicide prevention hotline: (575) 758-1125 • Public Health Department | 1400 Weimer Rd., Taos, NM 87571 / (575) 758-0493 Holy Cross Hospital | 1397 Weimer Rd., Taos, NM 87571 / (575) 758-8883 • Taos Police Department | Town Hall, 400 Camino de la Placita, Taos, NM 87571 / (575) 758-4656 or 911 in an emergency 14.5. UNM West A student who experiences sexual misconduct on the UNM West Campus or off-campus in Rio Rancho should contact the Rio Rancho Police Department at 505-891-7226. If it is an emergency, dial 911. UNM West strongly encourages individuals who have experienced sexual misconduct to report the incident to law enforcement. Students may contact the UNM Main Campus Office of Equal Opportunity at (505) 277-5251 to report sexual misconduct for administrative action or for assistance in

Students seeking assistance with changes to their academic situation due to experiencing sexual misconduct should contact the UNM Main Campus Dean of Students Office at (505)277-3361. The UNM Dean of Students Office is also responsible for administering the Student and Visitor Codes of Conduct and can provide information on pursuing on-campus judicial processes.

· Stalking: under New Mexico law, "stalking" is defined as 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, or restraint of the individual or another individual. "Aggravated stalking" consists of stalking perpetrated by a person who knowingly violates a court order, including an order of protection, or when

"Harassment" means 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

"Stalking" means 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. A "pattern of conduct" means two or more acts, on more

· who knowingly violates a permanent or temporary order of protection issued by a court, except that mutual violations of such

Domestic Violence - NMSA 1978, § 30-3-10, et seq., "Crimes Against Household Members Act" (includes dating violence) • Domestic violence: under state law, domestic violence is defined as felony and misdemeanor crimes under the New Mexico

Crimes included under the New Mexico Crimes Against Household Members Act are assault, aggravated assault with intent to commit a violent felony, battery, and aggravated battery. A "household member" is 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 person with whom someone has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member. In addition, under the New Mexico Family Violence Protection Act, violation of a court-issued order of protection granted to protect an individual who has experienced sexual violence or domestic abuse is a misdemeanor crime. • Domestic abuse: under the Family Violence Protection Act, "domestic abuse" is defined as "an incident of stalking or sexual assault whether committed by a household member or not" resulting in physical harm, severe emotional distress, bodily injury or assault, a threat causing imminent fear or bodily injury by any household member, criminal trespass, criminal damage to property, repeatedly driving by a residence or work place, telephone harassment, harassment, or harm or threatened harm to children. Under the Family Violence Protection Act, "household members" include a spouse, former spouse, parent, present or former stepparent, present or former parent in-law, grandparent, grandparent-in-law, child, stepchild, grandchild, co-parent of a child, or a person with whom the petitioner has had a continuing personal relationship. Cohabitation is not necessary to be

15. New Mexico Definitions of Violence Against Women Act Crimes

deemed a household member under the Act. Violation of any provision of an order of protection issued under the Family Violence Protection Act is a misdemeanor crime and constitutes contempt of court and may result in a fine or imprisonment or both. • Dating violence: under New Mexico's Crimes Against Household Members Act, someone with whom a person has a dating or intimate relationship is considered to be a household member. Any of the felony and misdemeanor crimes enumerated as domestic violence in the Crimes Against Household Members Act are also crimes when committed against someone with whom the offender has a dating or intimate relationship. "Domestic violence" consists of assault or battery of: · a spouse or former spouse, or • parent, step-parent, in-law, grandparent, grandparent-in-law, co-parent of a child, or a person with whom a person has had a continuing personal relationship. "continuing personal relationship" means a dating or intimate relationship. · Cohabitation is not necessary to be deemed a household member for purposes of the Crimes Against Household Members

Any unlawful act, threat or menacing conduct that causes a household member to reasonably believe they are in danger of

"Assault against a household member with intent to commit a violent felony" means 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,

"Battery against a household member" consists of the unlawful, intentional touching or application of force against a household

"Aggravated battery against a household member" consists of the unlawful touching or application of force against a household

Sexual Assault - Criminal Sexual Penetration (NMSA 1978, § 30-9-11), Criminal Sexual Contact (NMSA 1978, § 30-9-12), and

"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, or the genital or anal openings of

· Criminal sexual penetration is a felony crime; the degree of the felony (first degree through fourth degree) depends on the age

• the use of threats, including threats of physical punishment, kidnapping, extortion, or retaliation directed against the victim or

• committing a criminal sexual penetration or criminal sexual contact when the perpetrator knows or has reason to know that the victim is unconscious, asleep, or otherwise physically helpless or suffers from a mental condition that renders the victim

"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. "Intimate parts" means the primary genital area, groin, buttocks, anus, or · Criminal sexual contact is a felony crime if perpetrated by the use of force or coercion that results in personal injury to the victim, or if the perpetrator is aided or abetted by others, or when the perpetrator is armed with a deadly weapon. • Criminal sexual contact is a misdemeanor crime when perpetrated with the use of force or coercion. "Criminal sexual contact with a minor" is the unlawful and intentional touching of or application of force to the intimate parts of a minor or the unlawful and intentional causing of a minor to touch one's intimate parts. "Intimate parts" means the primary genital area, groin, buttocks, anus, or breast. A "minor" is a person eighteen years of age or younger 16. Providing False Information Because of the nature of discrimination, harassment, or retaliation complaints, allegations often cannot be substantiated by direct evidence other than the complaining individual's own statement. Lack of corroborating evidence should not discourage

individuals from seeking relief under this policy. No adverse action will be taken against an individual who makes a good faith

Notwithstanding this provision, the University may discipline employees or students when it has been determined that they brought an accusation of sexual misconduct in bad faith or with reckless disregard of the truth or falsity of the claim. Additionally, anyone participating in an investigation who intentionally misdirects an investigation, whether by falsehood or

<sup>1</sup>The Violence Against Women Act (VAWA) is a federal law originally passed in 1994 and reauthorized several times by Congress,

allegation of sexual misconduct under this policy, even if an investigation fails to substantiate the allegation.

 $^2$ Except as required by law and their professional licensure requirements such as reporting imminent danger. <sup>3</sup>Except as required by law and their professional licensure requirements such as reporting imminent danger.  $^4$ Under certain circumstances, the allegations made may indicate that a continuing threat to the general public may be present. Under those circumstances, UNM may be obligated to forward the allegations to the appropriate agency for investigation and/or

**Footnotes:** 

most recently in 2013

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omission, may be subject to disciplinary action.