

A Better U Beauty Barber Academy



2020 ANNUAL SECURITY REPORT

CLERY CRIME STATISTICS 2019 - 2020

JEANNE CLERY DISCLOSURE OF CAMPUS SECURITY POLICIES & CAMPUS CRIME STATISTICS
ACT (20 U.S.C. § 1092 (F))

The ABU Administrative team will prepare the ASR in compliance with the Clery Act. Crime statistics, disciplinary referrals for Clery Act reportable crimes, hate crimes, and violations of state and local drug, liquor, and weapons laws occurring within Clery geography where arrests or referrals for discipline were made, are collected from reports made to Albuquerque Police Department (APD) and designated campus administrators. In addition, the school will conduct outreach and established collaborative relationships with local and state law enforcement agencies to encourage statistical Clery reporting by those agencies serving the public property areas as well as identified noncampus properties that APD does not patrol or provide a primary law enforcement response. The Academy fosters working relationships between several different departments and areas to enable the collection of Clery Act statistics. The ASR is prepared in collaboration with academy administrative staff and local law enforcement agencies.

Each year, the school will send a link to all current students and employees to the school website www.abuacademy.com, where the ASR is available for viewing. Hard copies of the ASR may be obtained at the administration office. Prospective employees and students may also obtain a copy of the ASR by contacting the Administrator’s Office.

Crimes Reported	2019	2020	Location: C= Academy P= Public Area	*Hate Crime
Murder	0	0		0
Negligent manslaughter	0	0		0
Rape	0	0		0
Fondling	0	0		0
Incest	0	0		0
Robbery	0	0		0
Statutory Rape	0	0		0
Aggravated Assault	0	0		0
Burglary	0	0		0
Motor Vehicle Theft	0	0		0
Arson	0	0		0
Larceny- Theft	0	0		0
Simple assault	0	0		0
Intimidation	0	0		0
Destruction/Damage/Vandalism of Property	0	0		0
Liquor Law Arrests	0	0		0
Drug Laws	0	0		0
Illegal Weapon Possession	0	0		0
Domestic Violence	0	0		0
Date Violence	0	0		0
Stalking	0	0		0

HATE CRIMES

2019, 2020 – There were no reported hate crimes.

REPORTING CRIMINAL ACTIONS & EMERGENCIES

Suspicious or criminal acts and other emergencies on campus should be reported directly to the Albuquerque Police Department (APD) by calling 9-1-1 from any phone. For non-emergency situations, call (505)242-COPS. In emergencies, be prepared to provide the police dispatcher

with your name, telephone number, and location, as well as any pertinent information (such as suspect and vehicle description, direction of travel, etc.). In cases involving sexual assaults, crimes may be reported to those listed under "Procedures for Reporting a Crime of Sexual Violence/Sexual Misconduct."

TIMELY WARNINGS

The Academy will issue a timely warning as soon as pertinent information is available when a Clery reportable crime is reported to APD which occurred in a Clery defined geographical area, and a case by case analysis of pertinent facts known is completed and a determination is made that an ongoing or continuing threat to the community exists.

The Chief of Police (or management designee in the absence of the Chief) is responsible for the decision to issue a timely warning and will confer with administrative staff, if available upon receiving a report of an incident reported. The Chief of Police, with the Clery ABU staff if available, will complete a case by case analysis utilizing open communication and collaboration analyzing the reported crime and the known pertinent facts of a reported incident, and determine whether the incident meets all of the following factors: 1) is a Clery reportable crime; 2) occurred in Clery defined geography; and 3) poses a serious or ongoing threat to the community.

If it is determined that any of the three factors are not met, then no timely warning will be issued.

If it is determined that all three factors are met, the Chief of Police (or management designee in the absence of the Chief) will determine the content of the timely warning bulletin, disseminate the timely warning expeditiously in a manner likely to reach the entire campus community utilizing one or more, and not limited to, the following methods to issue the timely warning bulletin:

- All employee and student e-mail distribution
- Academy website • Public area video display monitors
- Hard copies posted on campus building entrance doors

For clarity to the community when a timely warning is issued it will be titled "Timely Warning Crime Bulletin" and include the following:

- A statement that the Timely Warning Crime Bulletin is being issued in compliance with the Jeanne Clery Act and the purpose is to provide preventative information to the campus community to aid members from becoming the victim of a similar crime
- The Clery Act reportable crime that occurred
- The date, time, and location the crime occurred
- The date the Timely Warning Crime Bulletin is issued
- A description of the suspect, and name if known, when the suspect is at large and evading apprehension and/or law enforcement is seeking assistance from the public to locate
- Preventative information specifically related to the type of crime which occurred that could help others from becoming the victim of a similar crime

The Timely Warning Crime Bulletins will not include, under any circumstances, the name of the victim, or information so specific that would or likely could identify the victim of a crime of

sexual violence to include rape, dating violence, domestic violence, or stalking. Issuance of timely warnings will be delayed only if, based on the totality of the circumstances, the issuance would compromise the apprehension of the suspect or compromise the ability of law enforcement to investigate the crime.

VOLUNTARY CONFIDENTIAL REPORTING

Pursuant to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998, the agency who receives reports from employees or students of a Part I violent crime, sexual assault, or hate crime that occurred in an on or non-campus location as defined by the Clery Act, may not disclose to local law enforcement agencies the name of the victim or the alleged assailant, unless the victim consents to disclosing his or her name after being informed of the right to have personally identifying information withheld. The name of the alleged assailant may be disclosed, however, if all of the following conditions are met:

- i. The alleged assailant represents a serious or ongoing threat to the safety of students, employees, or the institution; and
- ii. The immediate assistance of the local law enforcement agency is necessary to contact or detain the alleged assailant.

The Academy does not have any institutional policy regarding the reporting of crimes on a voluntary, confidential basis.

SECURITY OF AND ACCESS TO CAMPUS FACILITIES

The Academy administrative staff are responsible for the locking and unlocking campus facilities. Normal business hours for most departments, on campus is 8:30 a.m. to 5:00 p.m., Tuesday through Saturday. Academy staff has the final responsibility for securing facility at the close of business each day and during holiday or seasonal days off. Anyone working late or on weekends should notify Academy staff. Although proper identification is always required, after hour access will require additional authorization from the requesting department. Access on holidays is treated the same as weekend access.

The campus is secured in accordance with established procedures, while routine janitorial services are performed during the night hours. No facility will be unlocked without proper authority. Police officers check all areas regularly throughout the hours of darkness.

The Academy staff serves as a first point of contact for instructions on and troubleshooting alarm problems. Problems that cannot be repaired by campus personnel are referred to an outside alarm contractor for servicing.

LAW ENFORCEMENT AUTHORITY

In cases involving on-campus and off-campus jurisdictions, or when the resources of another agency can be used to facilitate the resolution of an investigation, the Academy will cooperate fully with local, state, and federal law enforcement agencies and applicable New Mexico state policy.

The Academy encourages accurate and prompt reporting of all crimes to the Academy and/or appropriate police agencies regardless of whether the victim elects to or is able to make a report. The Academy's "See it, Say It" program also encourages the campus community to report any type of suspicious activity or subjects.

SECURITY PROCEDURES AND PRACTICES

The Academy offers various security awareness programs to inform the campus community about campus policies, procedures, and practices, and encourages students and employees to be responsible for their personal safety and the safety of others, when possible.

Preventing crime effectively requires a partnership between the Academy and campus constituents. The academy is dedicated to promoting personal safety awareness through community outreach programs. The Academy coordinates a variety of activities and resources to meet the safety needs of the entire campus community. Presentations and workshops regarding a variety of aspects of personal safety are scheduled on a regular basis or by request for members of the campus community, which include, but are not limited to, the following:

- New Student Orientation (once a year for new students): Incoming students receive information on emergency phone locations and police services such as safety escort procedures, sexual assault prevention, and the "see it, say it" program.
- Electronic Alarm Systems: buildings on campus are protected by an electronic alarm system. Some of the alarm systems have corresponding cameras that allow recordings for investigative purposes.

CRIME PREVENTION PROGRAMS

The APD and other departments on campus offer a variety of crime prevention programs, which include, but are not limited to, the following:

- New Student Orientation Program: Incoming students receive information about sexual misconduct and how to access required online training. In addition, incoming students receive information about emergency phone locations and police services such as safety escort procedures, sexual assault prevention, and the "see it, say it" program. The APD and the Title IX Coordinator present this information at the beginning of each semester.
- Pre-Departure Orientation Sessions: Students studying abroad participate in an orientation session prior to departure. Offered through International Programs, students receive safety information for when travel abroad.
- Resident Advisors Training Program: Resident Advisors receive in-person and online training about sexual misconduct, harassment, and discrimination. The Title IX Coordinator and Campus Advocate present this training to the Resident Advisors twice a year.
- Bystander Intervention Training: The Campus Advocate provides bystander intervention training to students, faculty, and staff. Bystander Intervention is a violence prevention strategy with the goal of creating a safer Academy community free of gender based and sexual violence. This training provides the necessary tools to recognize and stop situations that may lead to sexual misconduct. Barriers to intervening are acknowledged and a variety of creative strategies and options to overcome them are presented. Students are encouraged to express empathy, see prevention as a community issue, and challenge social norms that promote remaining complacent. The training is provided throughout the year upon request.

- Safety Escort Services: The APD provides safety escort services to any location on campus. If for any reason someone doesn't feel comfortable or safe walking during hours of darkness, or anytime, they may call the APD and request a safety escort. A police officer or community service officer will respond and accompany the requester to their destination. Safety Escort Service is available upon request.
- Rape and Aggression Defense Training (R.A.D.): The campus offers R.A.D. which covers many aspects of self-protection. The R.A.D training is a Basic Personal Defense System based on a national program of realistic self-defense tactics and techniques taught for women. All courses are taught by nationally certified R.A.D. instructors. The goal of R.A.D is to provide realistic self-defense options, regardless of their level of physical conditioning. Students at all levels of ability, age, experience, and strength are provided with techniques and information that can be effectively used from the first day of class. The APD offers R.A.D. on an annual basis.
- Driving Under the Influence (DUI) and Drug Abuse Prevention: In Fall Semester, the Health Center partners with APD to focus on reducing drunk driving among college students. Alcohol 101, Marijuana 101, and Conflict 101 classes are also provided to students who have violated applicable campus policies and as needed throughout the year.
- Building, Area, and Parking Lot Lighting Surveys: Light surveys are done once a semester by APD staff for existing lights that may be burnt out or broken. Periodic light inspections are done by campus community groups as they are formed to address specific issues throughout the campus.
- "See It, Say It": The "See it, Say It" program is an APD program which encourages the campus community to report any type of suspicious activity or subjects. This program is as a method of encouraging staff, facility, and students to be the eyes and ears for the APD. The program is presented at the new student orientation with hopes of encouraging students to participate.
- Campus Active Shooter Training: The APD provides its officers with active shooter training twice a year. Some of the training includes practical exercises which incorporate the response to an event on campus. This training allows officers to become familiar with techniques the APD would actually use when responding to an active shooter on campus. Some of the active shooter training incorporates the use of firearms during specific times at the range. As part of the active shooter plan, all officers assigned to patrol the campus are equipped with a rifle and handgun as well as other police equipment. Active shooter training is periodically provided to students, facility, and staff upon request.
- Hazing Prevention for National Hazing Prevention Week: Various events are offered during National Hazing Prevention Week in September to raise awareness on hazing, what it is, as well as information on bystander intervention and reporting.

CRIMINAL ACTIVITY AT NONCAMPUS LOCATIONS OF STUDENT ORGANIZATIONS

The Academy does not have any officially recognized student organizations with off-campus locations, including off-campus housing facilities, and does not support recognized student organization non-campus activities, and therefore does not have a policy for monitoring and recording criminal activity off campus other than by collecting statistics as required by the Clery Act.

ALCOHOL AND DRUGS

The Academy is committed to maintaining a safe and healthy environment for the campus community. Alcohol and other drugs should not interfere with the Academy's educational mission. The Academy complies with the Drug Free Workplace Act of 1990 and the Drug-Free Schools and Communities Act (DFSC Act).

Alcohol

The possession, consumption, or sale of alcoholic beverages on Academy property is prohibited unless prior written approval is granted by the campus. On-campus use of alcohol is limited to certain approved events and locations. The Academy reserves the right to grant approval or disapproval of alcohol use on any Academy property.

The legal drinking age is 21 years. Violations of state laws pertaining to the possession, use, and sale of alcoholic beverages including underage violators, are enforced on campus. The APD strictly enforces such laws.

Drugs

The sale, manufacture, distribution, possession, or use of any controlled substance as defined in the New Mexico Health and Safety Code is illegal. The APD strictly enforces such laws. Violators are subject to criminal prosecution. All Academy students, faculty, staff, and administrators are subject to local state and federal laws regarding the unlawful possession, distribution, or use of illicit drugs.

For employees, the unlawful manufacture distribution, dispensation, possession, or use of a controlled substance on campus or while conducting Academy business off campus is absolutely prohibited. Under Academy policy, employees must report to the Office of Human Resources within five days any conviction under a criminal drug statute for violations occurring at the Academy, or while conducting Academy business.

For students, students found to be in violation of CSUB drug policy and the Student Code of Conduct may be expelled, suspended, placed on probation or given a lesser sanction for violating CSUB policies and campus regulations, consistent with procedures set forth in Executive Order 1098, and pursuant to Section 41304 of Title V of the New Mexico Code of Regulations. Employees found to be in violation of CSUB policy and Federal or State law may be subject to corrective or disciplinary action, up to and including termination.

The use, misuse, and abuse of alcohol and other drugs, both legal and illegal, can have serious consequences to health and well-being. Alcohol and other drug use can lead to psychological and/or physiological dependence and addiction. The physiological and psychological responses differ according to the classification of the chemical ingested. Adverse health reactions can result from both abusive and moderate use of any classification. While chronic health problems are often associated with long-term misuse and abuse, acute and traumatic instances can occur from one-time and moderate use. Such negative results are as dependent upon the circumstances of the use as they are upon whether the user is addicted or alcoholic.

There are a number of off-campus programs that can help you with your choices.

Alcohol Rehab of Albuquerque 1-800-662-4357
New Mexico Alcohol Detox, Vista Taos Renewal Center 1-575-613-7971
Duke City Recovery Toolbox 1-505-224-9777
Drug Rehab Centers 1-855-330-3419
Domestic Violence Resource Center 1-505-843-9123
Employee Assistance Program, The Solutions Group 1-505-254-3555

In compliance with the Drug-Free Workplace (DFSC) Act, the Academy has developed programs to prevent the illicit use of drugs and the abuse of alcohol by students and employees. The Student Health Center offers programs and services related to drug use and abuse including dissemination of informational materials, educational programs, counseling services, referrals, and college disciplinary actions.

Academy campaigns and initiatives include:

- Awake and Aware www.akeawareabq.com 1-505—503-7946

The mission of this organization is to equip youth and their communities with the tools and confidence to prevent lives lost from alcohol poisoning. The ABU Academy Student Health Services incorporates information and tools from this organization into various outreaches throughout the year. For more information, visit their website, Awake and Aware www.akeawareabq.com 1-505-503-7946

- NM Poison & Drug Information Center – City of Albuquerque: Toxic drinking is an epidemic on campuses all across America. Toxic drinking means consuming so much alcohol the drinker passes out and while "sleeping it off," the drinker may be quietly dying.

<https://www.cabq.gov/fire/safety-information/nm-poison-drug-information-center>

- Tobacco Cessation – NM Department of Health

The [Tobacco Use Prevention and Control](#) (TUPAC) program and its partners use a comprehensive, evidence-based approach to promote healthy lifestyles that are free from tobacco abuse and addiction among all New Mexicans. TUPAC follows recommendations from the Centers for Disease Control and Prevention (CDC).

Our mission is to improve lives by eliminating the harm from tobacco abuse through the implementation of effective strategies that incorporate an anti-oppression model.

- Designated Driver Program: The New Mexico Department of Transportation's ENDWI Campaign was created to help reduce the number of drunken driving related crashes and fatalities on our roadways. Through their continuing efforts, we promote designated drivers, safe rides and responsible consumption worth the ultimate goal of ending drunk driving in the state of New Mexico

- Social Norms Campaign: A campus-wide social norms campaign works to correct student misperceptions about their peers' drinking habits. The campaign is based on statistics from the Academy's Core Alcohol and Drug Survey.

SEXUAL VIOLENCE

The New Mexico State Academy does not discriminate on the basis of sex, gender, including gender identity or expression, or sexual orientation in its education programs or activities. Title IX of the Education Amendments of 1972, and certain other federal and state laws, prohibit discrimination on the basis of sex, gender, or sexual orientation in employment, as well as all education programs and activities operated by the Academy (both on and off campus), and protect all people regardless of their gender from Sex Discrimination, including Sexual Harassment, Sexual Misconduct, including Sexual Assault, Dating or Domestic Violence, and Stalking.

The Academy seeks to provide an education environment in which students, faculty, and staff work together in an atmosphere free of Sexual Misconduct, including Sexual Assault, Sexual Harassment,

Dating Violence, Domestic Violence and Stalking. Every member of the Academy community shall be aware that Sexual Misconduct, and/or acts of violence with a sexual nature directed toward another person will not be tolerated and are prohibited by federal and state law and Academy policy. As members of the Academy community, students shall comply with Academy policies and guidelines in addition to federal, state, and local laws whether on or off campus. The Academy will discipline persons identified as responsible for Sexual Misconduct, Dating or Domestic Violence, or Stalking as described in this report and Academy policy.

In an ongoing effort to prevent Sexual Misconduct, Dating Violence, Domestic Violence and Stalking, the Academy provides education and prevention programs, investigates complaints, dispenses corrective or disciplinary action where appropriate, provides referrals for medical care/counseling, modified classes, reduced course loads, campus housing changes, work assignment assistance, stay away orders, leaves of absence, and more. The Academy also provides information to victims on pursuing criminal action and obtaining protective orders if needed. Academy officials who are responsible for investigating and/or adjudicating cases of Sexual Misconduct, Dating Violence, Domestic Violence, and Stalking receive annual training for compliance with federal, state and CSU system regulations.

The Academy is committed to empowering victims of Sexual Misconduct, Dating Violence, Domestic Violence, and Stalking by providing ample supportive services, and encouraging their choice of action, regardless of their decision to seek criminal prosecution of offender(s). If requested by the victim, Academy personnel will assist the victim in notifying the appropriate law enforcement authorities.

PREVENTION, EDUCATION, AND AWARENESS

The Academy educates the campus community about sexual misconduct in collaboration with other departments. The goal of the training, in addition to complying with federal and state law and CSU policy, is to inform campus community members of their rights and options for support services and reporting; defining sexual misconduct; and bystander intervention. Such education programs include without limitation:

The month of October, the Student Health Center organizes an event to raise awareness on safe drinking. Sexual misconduct educational information and materials (i.e., brochures) are included in the events. The Campus Advocate coordinates interactive activities to increase awareness

about dating and domestic violence, and resources available. The programming also has a strong focus on bystander intervention.

During the month of February, the Student Health Center organizes an event to raise awareness on safe sexual practices. Sexual misconduct educational information and materials (i.e., brochures) are included in the events.

New Faculty Orientation: The Title IX Coordinator or Deputy Title IX Coordinator will present information to new faculty during the Fall Semester on Title IX, reporting sexual misconduct, and their duty to report. For more information, please contact the Title IX Coordinator at (505) 265-4777.

Sexual Assault Awareness Month (April): Student led activities to increase awareness, resources, and options for support in regards to sexual misconduct. For more information, please contact the Campus Advocate at (505) 265-4777.

SEX DISCRIMINATION

An adverse action taken against an individual because of gender or sex (including Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence, and Stalking) as prohibited by Title IX; Title IV; VAWA/Campus SaVE Act. See also Title VII of the Civil Rights Act of 1964, and other applicable laws. Persons of all genders and gender identities can be victims of Sex Discrimination.

SEXUAL HARASSMENT

A form of Sex Discrimination, unwelcome verbal, nonverbal or physical conduct of a sexual nature that includes, but is not limited to, sexual advances, requests for sexual favors, offering benefits or giving preferential treatment in exchange for sexual favors and any other conduct of a sexual nature where:

- a. Submission to, or rejection of, the conduct is explicitly or implicitly used as the basis for any decision affecting a person's employment terms or conditions, academic status or progress, or access to benefits and services, honors, programs, or activities available at or through the Academy; or
- i. As mandated by the Clery Act's Violence Against Women Act (VAWA)/Campus SaVE Act, these policy definitions are derived from the local jurisdiction, and based on the New Mexico Penal Code, the New Mexico Family Code, and the New Mexico Evidence Code. In some instances, these definitions may differ slightly from the federal definitions set forth in the next section for mandatory crime statistic reporting. For reportable crime statistics, the Clery Act regulations mandate definitions from the Federal Bureau of Investigation's (FBI's) Uniform Crime Reporting (UCR) Handbook.
- b. The conduct is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the complainant, and is in fact considered by the complainant, as limiting their ability to participate in or benefit from the services, activities or opportunities offered by the Academy; or c. The conduct is

sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the complainant, and is in fact considered by the complainant, as creating an intimidating, hostile or offensive environment.

Sexual Harassment could include being forced to engage in unwanted sexual contact as a condition of membership in a student organization; being subjected to video exploitation or a campaign of sexually explicit graffiti; or frequently being exposed to unwanted images of a sexual nature in a classroom or work environment that are unrelated to the coursework or employment. Sexual Harassment also includes acts of verbal, non-verbal or physical aggression, intimidation or hostility based on gender or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.

The Academy's policy covers unwelcome conduct of a sexual nature. While romantic, sexual, intimate, personal or social relationships between members of the Academy community may begin as consensual; they may evolve into situations that lead to Sexual Harassment or Sexual Misconduct, including Dating or Domestic Violence, or Stalking, subject to Academy policy.

SEXUAL MISCONDUCT

All sexual activity between members of the CSU community must be based on Affirmative Consent. Engaging in any sexual activity without first obtaining Affirmative Consent to the specific activity is Sexual Misconduct, whether or not the conduct violates any civil or criminal law.

Sexual activity includes, but is not limited to, kissing, touching intimate body parts, fondling, intercourse, penetration of any body part, and oral sex. It also includes any unwelcome physical sexual acts, such as unwelcome sexual touching, Sexual Assault, Sexual Battery, Rape and Dating Violence. When based on gender, Domestic Violence or Stalking also constitutes Sexual Misconduct. Sexual Misconduct may include using physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of drugs or alcohol, or taking advantage of the other person's incapacitation (including voluntary intoxication) to engage in sexual activity. Persons of all genders can be victims of these forms of Sexual Misconduct. Sexual activity with a minor is never consensual when the complainant is under 18 years old, because the minor is considered incapable of giving legal consent due to age.

SEXUAL ASSAULT

A form of Sexual Misconduct, an attempt, coupled with the ability, to commit a violent injury on the person of another because of that person's gender or sex.

SEXUAL BATTERY

A form of Sexual Misconduct, any willful and unlawful use of force or violence upon the person of another because of that person's gender or sex, as well as touching an intimate part of another person against that person's will and for the purpose of sexual arousal, gratification or abuse.

RAPE

A form of Sexual Misconduct, non-consensual sexual intercourse that may also involve the use of threat of force, violence, or immediate and unlawful bodily injury or threats of future retaliation and duress. Any sexual penetration, however slight, is sufficient to constitute Rape. Sexual acts including intercourse are considered non-consensual when a person is incapable of giving consent because they are incapacitated from alcohol and/or drugs, are under 18 years old, or if a mental disorder or developmental or physical disability renders a person incapable of giving consent. The respondent's relationship to the person (such as family member, spouse, friend, acquaintance or stranger) is irrelevant. (See complete definition of Consent below.)

ACQUAINTANCE RAPE

A form of Sexual Misconduct committed by an individual known to the victim. This includes a person the victim may have just met or; i.e., at a party, introduced through a friend, or a social networking website.

AFFIRMATIVE CONSENT

An informed, affirmative, conscious, voluntary, and mutual agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure Affirmative Consent has been obtained from the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not mean Affirmative Consent, nor does silence mean consent. Affirmative Consent must be voluntary, and given without coercion, force, threats, or intimidation.

- The existence of a dating or social relationship between those involved, or the fact of past sexual activities between them, should never by itself be assumed to be an indicator of Affirmative Consent. A request for someone to use a condom or birth control does not, in and of itself, constitute Affirmative Consent. • Affirmative Consent can be withdrawn or revoked. Consent to one form of sexual activity (or one sexual act) does not constitute consent to other forms of sexual activity. Consent given to sexual activity on one occasion does not constitute consent on another occasion. There must always be mutual and affirmative consent to engage in sexual activity. Consent must be ongoing throughout a sexual activity and can be revoked at any time, including after penetration. Once consent is withdrawn or revoked, the sexual activity must stop immediately. • Affirmative Consent cannot be given by a person who is incapacitated. A person is unable to consent when asleep, unconscious or is incapacitated due to the influence of drugs, alcohol or medication so that the person could not understand the fact, nature or extent of the sexual activity. A person is incapacitated if they lack the physical and/or mental ability to make informed, rational decisions.

- Whether an intoxicated person (as a result of using alcohol or other drugs) is incapacitated depends on the extent to which the alcohol or other drugs impact the person's decision-making ability, awareness of consequences, and ability to make informed judgments. A person's own intoxication or incapacitation from drugs or alcohol does not diminish that person's responsibility to obtain Affirmative Consent before engaging in sexual activity.
- A person with a medical or mental disability may also lack the capacity to give consent.
- Sexual activity with a minor (a person under 18 years old) is not consensual, because a minor is considered incapable of giving consent due to age.
- It shall not be a valid excuse that a person affirmatively consented to the sexual activity if the

respondent knew or reasonably should have known that the person was unable to consent to the sexual activity under any of the following circumstances: o The person was asleep or unconscious; o The person was incapacitated due to the influence of drugs, alcohol or medication, so that the person could not understand the fact, nature or extent of the sexual activity; o The person was unable to communicate due to a mental or physical condition.

- It shall not be a valid excuse that the respondent believed that the person consented to the sexual activity under either of the following circumstances: the respondent's belief in Affirmative Consent arose from the intoxication or recklessness of the respondent; the respondent did not take reasonable steps, in the circumstances known to the respondent at the time, to ascertain whether the person affirmatively consented.

DOMESTIC VIOLENCE

Abuse committed against someone who is a current or former spouse; current or former cohabitant; someone with whom the abuser has a child; someone with whom the abuser has or had a dating or engagement relationship; or a person similarly situated under New Mexico domestic or family violence law. Cohabitant means two unrelated persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabitating include, but are not limited to, (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and/or (6) the length of the relationship. For purposes of this definition, "abuse" means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to themselves or others. Abuse does not include non-physical, emotional distress or injury.

DATING VIOLENCE

Abuse committed by a person who is or has been in a social or dating relationship of a romantic or intimate nature with the victim. This may include someone the victim just met; i.e., at a party, introduced through a friend, or on a social networking website. For purposes of this definition, "abuse" means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to themselves or others. Abuse does not include non-physical, emotional distress or injury.

STALKING

Engaging in a repeated Course of Conduct directed at a specific person that would cause a Reasonable Person to fear for their own or others' safety, or to suffer Substantial Emotional Distress. For purposes of this definition:

- Course of Conduct means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through Third Parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property;
- Reasonable Person means a reasonable person under similar circumstances and with the same Protected Status(es) as the complainant;
- Substantial Emotional Distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

- Protected Status includes Age, Disability, Gender, Genetic Information, Gender Identity or Expression, Nationality, Marital Status, Race or Ethnicity, Religion, Sexual Orientation, and Veteran or Military Status.

PROCEDURES FOR REPORTING A CRIME OF SEXUAL VIOLENCE/SEXUAL MISCONDUCT

Call 9-1-1 in any kind of emergency, or when facing immediate harm or threat of harm. Persons who have experienced Sexual Misconduct, including Rape, Dating Violence, Domestic Violence, or Stalking, are encouraged to seek immediate assistance from police and healthcare providers for their physical safety, emotional support and medical care. Academy or local police can escort victims to a safe place and transport them to a hospital for medical treatment, if needed. Academy police can also provide access to a Sexual Assault Victim Advocate. Victims who prefer not to notify the police, are strongly encouraged to seek assistance from the campus Title IX Coordinator and/or a Sexual Assault Victim Advocate or counselor who can provide information on options, rights and remedies.

Victims have the right to decide who and when to tell about Sexual Misconduct, Dating and Domestic Violence, and Stalking. However, it is very important that they get medical attention after being assaulted. Following the incident, a victim may be physically injured, may have contracted a sexually transmitted disease, or may become pregnant.

The Academy's primary concern is the safety and well-being of every member of the campus community. The use of alcohol or drugs never makes the victim at fault. If a campus community member has experienced Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking they should not be deterred from reporting the incident out of a concern that they might be disciplined for related violations of drugs, alcohol, or other Academy policies. Except in extreme circumstances, Academy students or employees who are victims of Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking will not be subject to discipline.

The Academy encourages victims of Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking to talk to someone about what happened - so they can get the support they need, and so the Academy can respond appropriately. Whether - and the extent to which - an Academy employee may agree to maintain confidentiality (and not disclose information to the Title IX Coordinator) depends on the employee's position and responsibilities at the Academy. The following information is intended to make everyone aware of the various reporting and confidential disclosure options available to them - so they can make informed choices about where to turn for help. The Academy strongly encourages victims to talk to someone identified in one or more of these groups.

Certain Academy employees, listed below, are required by law to maintain near or complete confidentiality; talking to them is sometimes called a "privileged communication." Academy law enforcement employees may maintain the victim's identity as confidential, if requested by the victim, but will report the facts of the incident to the Title IX Coordinator, including the identity of the perpetrator. Most other Academy employees are required to report all details of an incident (including the identities of both the victim and alleged perpetrator) to the Title IX Coordinator so

the Academy can take immediate action to protect the victim, and take steps to correct and eliminate the misconduct.

Academy Police, the Title IX Coordinator, Academy-employed physicians, professional counselors, licensed clinical social workers, sexual assault and domestic violence counselors and advocates, and certain other Academy employees are required to explain to victims their rights and options with respect to confidentiality.

PRIVILEGED AND CONFIDENTIAL REPORTS

Treating physicians, psychotherapists, professional counselors, and clergy who work or volunteer providing medical or mental health treatment or counseling (including those who act in that role under their supervision may not report any information about an incident of Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking to anyone else at the Academy, including the Title IX Coordinator, without the victim's consent. A victim can seek assistance and support from physicians, psychotherapists, professional, licensed counselors, and clergy without triggering an Academy investigation that could reveal the victim's identity or the fact of the victim's disclosure. However, see limited exceptions below regarding when these professionals must report to local law enforcement agencies. These confidential professionals should explain these limited exceptions to victims, if applicable.

The Academy will be unable to conduct an investigation into a particular incident or pursue disciplinary action against a perpetrator if a victim chooses to (1) speak only to a treating physician, psychotherapist, professional counselor, or clergy member, and (2) maintain complete confidentiality. Even so, these individuals will assist victims in receiving other necessary protection and support, such as victim advocacy, disability, medical/health or mental health services, or legal services, and will advise victims regarding their right to file a Title IX complaint with the Academy and a separate complaint with local or Academy Police. If a victim insists on confidentiality, the Academy will likely not be able to fully assist the victim with: Academy academic support or accommodations; changes to Academy-based living or working schedules; or adjustments to course schedules.

A victim who at first requests confidentiality may later decide to file a complaint with the Academy or report the incident to the police, and thus have the incident fully investigated. Counselors and advocates can provide victims with that assistance if requested. Treating physicians, psychotherapists, professional counselors, and clergy will also explain that Title IX includes protections against retaliation, and that the Academy will not only take steps to prevent retaliation when it knows or reasonably should know of possible retaliation, but will also take strong responsive action if it occurs.

EXCEPTIONS TO CONFIDENTIALITY

Under New Mexico law, any health practitioner employed in a health facility, clinic, physician's office, or local or state public health department or clinic is required to make a report to local law enforcement if they provide medical services for a physical condition to a patient/victim who they know or reasonably suspects is suffering from (1) a wound or physical injury inflicted by a firearm; or (2) any wound or other physical injury inflicted upon a victim where the injury is the result of assaultive or abusive content (including Sexual Misconduct, Domestic Violence, and

Dating Violence). This exception does not apply to sexual assault and domestic violence counselors and advocates. Health care practitioners should explain this limited exception to victims, if applicable.

Additionally, under New Mexico law, physicians, psychotherapists, professional counselors, licensed clinical social workers, clergy, and sexual assault and domestic violence counselors and advocates are mandatory child abuse and neglect reporters, and are required to report incidents involving victims under 18 years of age to local law enforcement. These professionals will explain this limited exception to victims, if applicable. Finally, some or all of these professionals may also have reporting obligations under New Mexico law to (1) local law enforcement in cases involving threats of immediate or imminent harm to self or others where disclosure of the information is necessary to prevent the threatened danger; (2) to the court if compelled by court order or subpoena in a criminal proceedings related to the sexual violence incident. If applicable, these professionals will explain this limited exception to victims.

REPORTING OPTIONS

Victims have several reporting options including those with confidentiality, and may pursue one or all of these options at any time. Victims have a right to have a friend, family member, sexual assault victim advocate, or other representative present while reporting the incident. They also have the right to have a sexual assault victim advocate and support person of their choice present with them during a rape examination. The campus Title IX Coordinator can assist in notifying the police. Victims may also take any of the actions below.

CRIMINAL

Reporting to Academy Police and/or local police is an option at any time. Victims who choose not to report to the police immediately following a Sexual Misconduct, Dating and Domestic Violence, or Stalking incident, can still make the report at a later time. However, with the passage of time, the ability to gather evidence to assist with criminal prosecution may be limited. Depending on the circumstances, the police may be able to obtain a criminal restraining order on the victim's behalf.

REPORTING TO THE POLICE

As soon after the incident as possible, victims of Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking are strongly encouraged to report the incident to the police. Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking may be reported to the Academy Police Department by dialing 911. The Academy Police will support all victims of Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking regardless of their decision to seek criminal prosecution of the offender or not. Victims have the option to report anonymously to the police and the decision to seek criminal prosecution remains with the victim. Academy Police will protect the confidentiality of the victim to the extent permitted by applicable New Mexico State law.

If a victim reports to a local police agency or the Academy Police about Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking, the police are required to notify victims that their names will become a matter of public record unless confidentiality is requested. If a victim requests that their identity be kept confidential, their name will not become a matter of public

record and the police will not report the victim's identity to anyone else at the Academy, including the Title IX Coordinator. Academy Police will, however, report the facts of the incident itself, including the identity of the perpetrator if known, to the Title IX Coordinator being sure not to reveal the victim names/identities or compromise their own criminal investigation. The Academy is required by the federal Clery Act to report certain types of crimes (including certain sex offenses) in statistical reports. However, while the Academy will report the type of incident in the annual crime statistics report known as the Annual Security Report, victim names/identities will not be revealed.

In cases of Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking, the preservation of physical evidence is important to facilitate the identity and successful prosecution of the offender. The victim should not change clothes, bathe, douche, or shower following the attack. Sexual Assault Response Team (S.A.R.T.) medical personnel are trained to collect, process, and preserve physical evidence of Sexual Misconduct, and are committed in their assistance to the victim. Victims may request a S.A.R.T. exam to preserve forensic evidence without completing a police report. This evidence may be used in the case a victim wishes to report the assault at a later date. Victims are not financially responsible for S.A.R.T. exams and the cost will be the responsibility of the local law enforcement jurisdiction.

As time passes, evidence may dissipate or become lost or unavailable, thereby making investigation, possible prosecution, disciplinary proceedings, or obtaining protection orders related to the incident more difficult. Victims who choose not to make a complaint regarding an incident, nevertheless should consider speaking with Academy Police or other law enforcement to preserve evidence in the event that they change their mind and wish to report the assault at a later date.

A victim has the right to have a confidential advocate present when reporting to law enforcement and during examinations. With the victim's consent, the confidential advocate will assess the victim's immediate needs and provide support and referral as appropriate. This confidential assistance may include: counseling, information concerning rape trauma syndrome, information on the collection of medical evidence and available health services to test for injuries, sexually transmitted diseases, and/or pregnancy. Assistance is also available with access to other resources and services, including assistance in obtaining emergency protection orders and restraining orders.

REPORTING TO ADMINISTRATIVE OR FACULTY

Any member of the Academy community may report incidents of Sexual Misconduct, Dating Violence, Domestic Violence or Stalking to any Administrative or Faculty staff. These Academy personnel will assist the victim in notifying the appropriate law enforcement agency if the victim requests the assistance of law enforcement. In addition, most campus employees are required to report incidents of Sexual Misconduct, Dating Violence, Dating Violence and Stalking to the Title IX Coordinator. Title IX Coordinator reporting responsibilities are described in detail below.

NOTE: If the Academy determines that the perpetrator poses a serious and immediate threat to the campus community, under the Clery Act the campus may be required to issue a timely

warning to the community. Any such warning will not include any information that identifies the victim. See section above entitled “Timely Warnings.”

ADMINISTRATIVE

Victims may report to the campus Title IX Coordinator, who will provide written and verbal information regarding applicable Academy complaint procedures for investigations and addressing the incident.

The Title IX Coordinator will also provide information regarding resources available to victims, as well as information regarding their rights and options. Contact information for the Title IX Coordinator is listed above.

REPORTING TO A TITLE IX COORDINATOR OR RESPONSIBLE EMPLOYEE

Many resources and options are available on and off campus including confidential and privileged communication options. The Academy has designated a Title IX Coordinator as the primary point of contact to provide victims with assistance and support, and to monitor and oversee overall compliance with laws and policies related to Sexual Misconduct, Dating and Domestic Violence, and Stalking. The campus Title IX Coordinator is available to explain and discuss rights to file a criminal complaint and to assist in doing so; the Academy’s relevant complaint process, and rights to receive assistance with that process, including the investigation process; how confidentiality is handled; available resources, both on and off campus; and other related matters.

Most Academy employees have a duty to report Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking incidents when they are on notice of it. When a victim tells the Title IX Coordinator or another non-confidential Academy employee about a Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking incident, the victim has the right to expect the Academy to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. In all cases, the Academy strongly encourages victims to report Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking directly to the campus Title IX Coordinator.

As detailed above, most Academy employees except treating physicians, licensed counselors, and clergy must report to the Title IX Coordinator all relevant details about any Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking incidents of which they become aware. The Academy will need to determine what happened and will need to know the names of the victim(s) and the perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the incident.

To the extent possible, information reported to the Title IX Coordinator or other Academy employees will be kept private and shared only with individuals responsible for handling the Academy’s response to the incident. The Academy will protect the privacy of individuals involved in a Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking incident except as otherwise required by law or Academy policy. A Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking report may result in the gathering of extremely sensitive information about individuals in the campus community. While such information is considered confidential, Academy policy regarding access to public records and disclosure of personal

information may require disclosure of certain information concerning a report. In such cases, efforts will be made to redact the records, as appropriate, in order to protect the victim's identity and privacy and the privacy of other involved individuals. Except as detailed in the section on Privileged and Confidential Communications above, no Academy employee, including the Title IX Coordinator, should disclose the victim's identity to the police without the victim's consent or unless the victim has also reported the incident to the police.

If a victim requests of the Title IX Coordinator or another Academy employee that their identity remain completely confidential, the Title IX Coordinator will explain that the Academy cannot always honor that request and guarantee complete confidentiality. If a victim wishes to remain confidential or request that no investigation be conducted or disciplinary action taken, the Academy must weigh that request against the Academy's obligation to provide a safe, non-discriminatory environment for all students, employees and third parties, including the victim. Under those circumstances, the Title IX Coordinator will determine whether the victim's request for complete confidentiality and/or no investigation can be honored under the facts and circumstances of the particular case, including whether the Academy has a legal obligation to report the incident, conduct an investigation or take other appropriate steps. Without information about a victim's identity, the Academy's ability to meaningfully investigate the incident and pursue disciplinary action against the perpetrator may be severely limited.

The Title IX Coordinator will inform the victim of the initiation of an investigation prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the Academy's response to the incident. The Title IX Coordinator will remain mindful of the victim's wellbeing, and will take ongoing steps to protect the victim from retaliation or harm, and work with the victim to create a safety plan. Retaliation against the victim, whether by students, employees or third parties, will not be tolerated. The Academy and

Title IX Coordinator will also:

- Provide interim remedies requested by the victim, if they are reasonably available, regardless of whether the victim chooses to report to campus or local police;
- Assist victims in accessing available victim advocacy, academic support, counseling, disability, medical/health or mental health services, and legal assistance both on and off campus;
- Provide security and support, which could include issuing a no-contact order, helping arrange a change of campus-based living or working arrangements or course schedules (including for the perpetrator pending the outcome of the investigation) or adjustments for assignments, tests, or work duties; and
- Inform victims of their right to report a crime to Academy or local police - and provide victims with assistance if desired.

The Academy will not require a victim to participate in any investigation or disciplinary proceedings if the victim does not wish to participate.

The Academy will not generally notify parents or legal guardians of a Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking report unless the victim is under 18 years old or the victim provides the Academy with written permission to do so.

Under New Mexico law, and pursuant to Academy policy, many Academy employees, including the Title IX Coordinator, are mandatory child abuse and neglect reporters and should explain to

victims under 18 years of age that they are required to report the incident to the police. However, the identity of the person who reports and the report itself are confidential and disclosed only among appropriate agencies.

Because the Academy is under a continuing legal obligation to address the issue of Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking campus-wide, reports (including non-identifying reports) may also require the Academy to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported incident(s) occurred; increased education, training and prevention efforts, including to targeted population groups; climate assessments/victimization surveys; and/or revision of policies and practices.

NON-REPORTING

Victims are strongly encouraged to report any incident of Sexual Misconduct, Dating and Domestic Violence, or Stalking to the police and/or campus Title IX Coordinator so that steps may be taken to protect them and the rest of the campus community. However, non-reporting is also an option.

CIVIL LAWSUIT

Victims may choose to file a civil lawsuit against the perpetrator, whether or not criminal charges have been filed. A civil lawsuit provides the opportunity to recover actual damages, which may include compensation for medical expenses, lost wages, pain, suffering and emotional distress.

RESTRAINING ORDERS

Victims may also choose to obtain a protective or restraining order (such as a Domestic Violence restraining order or a civil harassment restraining order). Restraining orders must be obtained from a court in the jurisdiction where the incident occurred. Restraining orders can protect victims who have experienced or are reasonably in fear of physical violence, Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking. The campus Title IX Coordinator or Sexual Assault Victim's Advocate can offer assistance with obtaining a protective or restraining order.

DISCIPLINARY PROCEDURES

The Academy has procedures that provide for an administrative investigation of reports of Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking, and written findings based on the preponderance of the evidence standard, provided to the complainant and respondent. Both the complainant and respondent may appeal written findings to the CSU Chancellor's Office, as well as the ultimate sanction for violation of CSU policy in student misconduct cases. The procedure for CSU employees and third parties is separate from but similar to the procedure for CSU students.

When a student or employee reports to the Academy that the student or employee has been a victim of Sexual Misconduct, Dating Violence, Domestic Violence or Stalking, whether the offense occurred on or off campus, the Academy will provide the student or employee a written explanation of their rights and options.

The investigation process from initial complaint to final result shall be prompt, fair, and impartial. The investigator will meet separately with the complainant and the respondent and

other potential witnesses to gather information. The investigation shall be completed no later than 60 Working Days after the intake interview, unless the timeline has been extended. The timeline should not be extended for a period longer than an additional 30 Working Days from the original due date.

Before reaching a final conclusion or issuing a final investigation report, the Investigator shall have: a) advised the Parties, or have offered to do so, verbally or in writing, of any evidence upon which the findings will be based; and, b) given the Parties an opportunity to respond to the evidence, including presenting further relevant evidence, information or arguments that could affect the outcome. The Investigator will not reach a final conclusion or issue an investigation report until giving careful consideration to any such relevant evidence, information or arguments provided by the Parties. The Investigator retains discretion and authority to determine relevance. At the conclusion of the Academy's complaint and investigation procedure, any employee or student found to have violated Academy policy against Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking will be subject to discipline. For employees, discipline would be administered consistent with applicable collective bargaining agreements, Academy policies and legal requirements. For students, discipline would be administered in accordance with CSU Executive Order 1098 (discussed below). Victims are not required to participate in any Academy disciplinary procedures and may choose not to be a part of it. Disciplinary procedures will:

- Provide a prompt, fair, and impartial process and resolution;
- Be conducted by officials who receive annual training on Sexual Misconduct, Dating Violence, Domestic Violence, and Stalking and how to conduct a hearing process that protects the rights of victims and promotes accountability;
- Provide the complainant and respondent the same opportunity to be accompanied to any related meeting or proceedings by the advisor of their choice;
- Simultaneously inform the complainant and respondent in writing of the outcome of the disciplinary proceeding; The Academy's procedures to appeal the results of the disciplinary proceeding;
- Any change to the disciplinary results that occurs prior to the time such results become final; and
- When disciplinary results become final.

COMPLAINT PROCEDURES

The CSU has adopted and published complaint procedures that provide for prompt, impartial, and equitable resolution of complaints of Sex Discrimination, including Sexual Harassment, Sexual Misconduct, including Rape and Sexual Assault, Domestic Violence, Dating Violence, and Stalking.

Regardless of whether an employee, a student or a third party ultimately files a complaint under the applicable complaint procedure, if the Academy knows or has reason to know about possible Sex Discrimination, Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence, and Stalking, it must review the matter to determine if an investigation is warranted. When warranted, all such investigations must be prompt, thorough and impartial. The Academy must then take appropriate steps to eliminate the Sex Discrimination, Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence, and/or Stalking, prevent its recurrence, and remedy its effects.

COMPLAINTS MADE BY STUDENTS

Executive Order 1097, entitled "System wide Policy Prohibiting Discrimination, Harassment, and Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking Against Students and Systemwide Procedure for Addressing Such Complaints by Students" is the appropriate system wide procedure for all complaints of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Sexual Violence, Domestic Violence, Dating Violence, and Stalking made by CSU students against the CSU, a CSU employee, another CSU student, or a third party. Executive Order 1097 can be viewed at <https://www.calstate.edu/eo/EO-1097-rev-3-29-19.pdf>.

COMPLAINTS MADE BY EMPLOYEES, FORMER EMPLOYEES, THIRD PARTIES, AND APPLICANTS FOR EMPLOYMENT

Executive Order 1096, entitled "System wide Policy Prohibiting Discrimination, Harassment and Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking Against Employees and Third Parties and System wide Procedure for Addressing Such Complaints by Employees and Third Parties" is the appropriate system wide procedure for all complaints of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence, And Stalking made by employees and former employees against the CSU, another CSU employee, a CSU student or a third party.

Employees covered by a collective bargaining agreement that provides a grievance procedure for raising allegations of Sex Discrimination or Sexual Harassment, including Sexual Misconduct, Domestic Violence, Dating Violence, and Stalking shall use the grievance procedure specified in their collective bargaining agreement. Executive Order 1096 can be viewed at <https://www.calstate.edu/eo/EO-1096-rev-3-2919.pdf>.

COMPLAINTS MADE BY STUDENT-EMPLOYEES

There is an appropriate system-wide procedure for all complaints of Sex Discrimination, including Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence and Stalking made by student-employees where the alleged Sex Discrimination, Sexual Misconduct, Domestic Violence, Dating Violence, and Stalking arose out of the person's status as an employee and not their status as a student.

DISCIPLINARY PROCEDURE

The Title IX Coordinator (or designee) is responsible for investigating complaints of Gender Discrimination, Harassment and Retaliation, including Sex Discrimination and Sexual Harassment, as well as Complaints of Sexual Misconduct, Domestic and Dating Violence, and Stalking. (See Executive Orders 1095, 1096 and 1097.)

With respect to cases adjudicated under Executive Order alleging Sexual Misconduct by a Student that, (ii) if substantiated, could result in a severe sanction (suspension or expulsion), and (iii) where credibility of any Party or witness is central to the finding, a hearing will be conducted after an investigation and a review by the parties of the evidence gathered during the investigation. Generally, within 10 working days of the close of the hearing, the Hearing Officer will make findings of fact and conclusions about whether a violation of CSU policy has occurred. The standard of proof the Hearing Officer will use is whether each allegation is substantiated by a Preponderance of the Evidence.

The Title IX Coordinator will review the Hearing Officer's Report to ensure compliance with CSU policy. The Hearing Officer's Report shall be promptly transmitted to the Parties, the Title IX Coordinator, and the Student Conduct Administrator.

With respect to Executive Order 1096 and all other matters falling under Executive Order 1097 that do not meet the criteria articulated above, the Title IX Coordinator investigates those complaints or assigns an investigator. The investigator prepares a report that includes findings of facts and conclusions about whether the applicable Executive Order was violated. Unless the determination is appealed as provided in Executive Orders 1096 or 1097, it is final and binding in all subsequent proceedings.

Where a complaint is made against a student and the applicable Executive Order is found to have been violated, the Title IX Coordinator shall also notify the Student Conduct Administrator of the investigation outcome and provide a copy of the investigation report.

Where a complaint is made against an employee, Human Resources or Academic/Faculty Affairs shall be notified and provided a copy of the investigation reports. Sanctions are imposed in accordance with current collective bargaining agreement, when applicable, and may include:

- Verbal reprimand
- written reprimand,
- Reduction in salary
- Temporary or permanent demotion
- Paid or unpaid administrative leave
- Suspension
- Denial or curtailment of emeritus status
- Mandated education or training
- Change in work location
- Restrictions from all or portions of campus
- Restrictions to scope of work
- Dismissal

APPEAL OF FINDING IN INVESTIGATION OUTCOME

Any complainant or respondent who is not satisfied with a campus investigation outcome may file an appeal with the Chancellor's Office (CO) within 10 working days after the date of the Notice of Investigation Outcome. The appeal is limited to one or more of the following issues: 1. The investigation outcome is unsupported by the evidence, based on the preponderance of the evidence standard; 2. Prejudicial procedural errors impacted the investigation outcome to such a degree that the investigation did not comply with the relevant Executive Order; or 3. New evidence not available at the time of the investigation. The CO shall respond within 30 working days. The CO appeal response is final.

STUDENT CONDUCT PROCEEDINGS

In cases where there is no hearing and the investigative report finds a violation of Executive Order 1096 or 1097, or where the finding of a violation has been sustained after an appeal, the report is referred to the Student Conduct Administrator to initiate student conduct proceedings. The Student Conduct Administrator will offer to conduct pre-hearing conferences separately with the complainant and respondent to review information concerning the charges, interim

remedies, proposed sanctions or range of sanctions, the nature of further proceedings, and possible disposition without sanction hearing.

The Student Conduct Administrator shall, in consultation with and agreement from the Title IX Coordinator, determine which cases are appropriate for disposition without a sanction hearing, taking into consideration the investigation report and any additional information provided during any conferences. If a proposed resolution agreement can be reached, the terms shall be put in writing and signed by both the student charged and the Academy (after the student has had a reasonable opportunity to consult with an advisor). Any proposed resolution may be appealed by the complainant and is not final until any such appeal is exhausted.

If not resolved, the Student Conduct Administrator will issue a Notice of Hearing and shall schedule the hearing promptly, but in any event no sooner than 10 working days after, and no later than 20 working days after, the date of the Notice of Hearing. The findings and conclusions of the investigations conducted in accordance with Executive Orders 1096 and 1097, once any appeals are exhausted, are final and binding. The hearing is limited to determining appropriate sanctions; the findings of the investigation are not under review.

The Hearing Officer controls the hearing. The Student Conduct Administrator and the student charged each put on the evidence in their case and may each ask questions of the witnesses in whatever manner the Hearing Officer deems appropriate. The Hearing Officer may ask questions of any witness, the student charged, the complainant, Student Conduct Administrator, or the Title IX Coordinator.

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Questions may not be posed to complainants about their past sexual behaviors involving any persons other than the student charged. The Hearing Officer shall ask any questions of the complainant and other witnesses on behalf of the student charged (who shall give the Hearing Officer a written list of questions).

The investigation report and any Chancellor's Office Appeal Response prepared pursuant to Executive Orders shall be entered into evidence at the hearing, redacted as appropriate to protect private (e.g. contact) information or as otherwise required by law. If the student charged fails to appear at the hearing without good cause, the hearing shall nevertheless proceed.

The Hearing Officer shall submit a written report to the president recommending sanctions, if any, as well as any recommendations regarding additional remedies. The report shall include any mitigating or aggravating factors relied upon by the Hearing Officer in reaching the recommendations. The report shall be submitted within 10 working days after the hearing.

DISCIPLINE PROCEEDINGS FOR STUDENT MISCONDUCT CASES

In cases adjudicated under Executive Order 1097 (i) alleging Sexual Misconduct by a Student that, (ii) if substantiated, could result in a severe sanction (suspension or expulsion), and (iii) where credibility of any Party or witness is central to the finding, if a violation is found, within 5 Working Days of receiving the finding the Parties may submit to the Hearing Coordinator an impact statement regarding discipline. The Student Conduct Administrator and/or Title IX

Coordinator may also submit a written statement regarding aggravating and mitigating factors for the Hearing Officer to consider.

After reviewing submitted information from the parties and the Title IX Coordinator and Student Conduct Administrator, the Hearing Officer will make a sanction recommendation. The sanction recommendation will be submitted to the president (or designee), including recommended sanctions (as defined in EO 1098). The Hearing Officer's Report will attach the Investigation Report and will include:

- a) the factual allegations and alleged policy violations;
- b) the Preponderance of the Evidence standard;
- c) the evidence considered including an analysis of the credibility of the Parties and witnesses, when credibility assessments are required to resolve factual disputes;
- d) any material evidence identified by the Parties or witnesses that the Hearing Officer determined was not relevant (or duplicative) and the reason why the evidence was not considered to be relevant;
- e) a list of all questions proposed by the Parties at the hearing, and if any questions were not asked, why;
- f) a summary of the procedural issues raised by the Parties before or during the hearing;
- g) the factual findings and the evidence on which the factual findings are based;
- h) to the extent that the factual findings required a determination concerning of the relative credibility or lack of credibility of the Parties or witnesses, an explanation as to how that determination was reached; and
- i) a determination of whether the Executive Order was violated and an analysis of the basis for that determination.

PRESIDENT'S SANCTION DECISION/NOTIFICATION

The president (or designee) shall review the investigative report and the Hearing Officer's report and issue a decision concerning the appropriate sanction. The president/designee's decision letter shall be issued within 10 working days after receipt of the Hearing Officer's report. The president/designee shall simultaneously send the decision electronically to the student charged and complainant(s).

The president may impose the recommended sanctions, adopt a different sanction or sanctions, or reject sanctions altogether. If the president adopts a sanction other than what is recommended by the Hearing Officer, the president must set forth the reasons in the Decision Letter.

The president will simultaneously send the Decision Letter electronically to the Respondent and Complainant at the Academy-assigned or other primary e-mail address linked to their Academy accounts. The decision will also be sent to the Student Conduct Administrator and the Hearing Officer.

Unless the Chancellor's Office notifies the campus that an appeal has been filed, the President's sanction decision becomes final 11 working days after the date of the decision letter.

STUDENT SANCTIONS

The following sanctions may be imposed for violation of the Student Conduct Code:

1. RESTITUTION.

Compensation for loss, damages or injury. This may include appropriate service and/or monetary material replacement.

2. LOSS OF FINANCIAL AID.

Scholarships, loans, grants, fellowships and any other types of state financial aid given or guaranteed for the purposes of academic assistance can be conditioned, limited, cancelled or denied.

3. EDUCATIONAL AND REMEDIAL SANCTIONS.

Assignments such as work, research, essays, service to the Academy or the community, training, counseling, removal from participation in recognized student clubs and organizations (e.g., fraternities and sororities), and/or Academy events, or other remedies intended to discourage similar misconduct or as deemed appropriate based upon the nature of the violation.

4. DENIAL OF ACCESS TO CAMPUS OR PERSONS.

A student is not considered to be in good standing for purposes of admission to the Academy while under a sanction of suspension or expulsion, or while admission or re-admission has been disqualified.

A designated period of time during which the student is not permitted: (i) on Academy Property or specified areas of campus; or (ii) to have contact (physical or otherwise) with the complainant, witnesses or other specified persons.

5. DISCIPLINARY PROBATION.

A designated period of time during which privileges of continuing in student status are conditioned upon future behavior. Conditions may include the potential loss of specified privileges to which a current student would otherwise be entitled, or the probability of more severe disciplinary sanctions if the student is found to violate the Student Conduct Code or any Academy policy during the probationary period.

6. SUSPENSION.

Temporary separation of the student from active student status or student status.

a. A student who is suspended for less than one academic year shall be placed on inactive student (or equivalent) status (subject to individual campus policies) and remains eligible to re-enroll at the Academy (subject to individual campus enrollment policies) once the suspension has been served. Conditions for re-enrollment may be specified. b. A student who is suspended for one academic year or more shall be separated from student status but remains eligible to reapply to the Academy (subject to individual campus application policies) once the suspension has been served. Conditions for readmission may be specified. c. Suspension of one academic year or more, withdrawals in lieu of suspension, and withdrawals with pending misconduct investigations or disciplinary proceedings shall be entered on the student's transcript permanently without exception; this requirement shall not be waived in connection with a resolution agreement.

7. EXPULSION.

Permanent separation of the student from student status from the New Mexico State Academy system. Expulsion, withdrawal in lieu of expulsion, and withdrawal with pending misconduct investigation or disciplinary proceeding shall be entered on the student's transcript permanently, without exception; this requirement shall not be waived in connection with a resolution agreement.

MORE THAN ONE SANCTION MAY BE IMPOSED FOR A SINGLE VIOLATION.

OTHER CONSIDERATIONS RELATED TO SANCTIONS

1. ADMINISTRATIVE HOLD AND WITHOLDING A DEGREE

The Academy may place an administrative hold on registration transactions and release of records and transcripts of a student who has been sent written notice of a pending investigation or disciplinary case concerning that student, and may withhold awarding a degree otherwise earned until the completion of the process, including the completion of all sanctions imposed.

2. RECORD OF DISCIPLINE

A record of disciplinary probation or suspension is entered on a student's transcript, with beginning and end date, for the duration of the sanction. A record of expulsion or suspension for one academic year or more shall note the effective date of discipline and remains on the transcript permanently, without exception. A record of withdrawal in lieu of suspension or expulsion and withdrawal with pending misconduct investigation or disciplinary proceeding remains on the transcript permanently, without exception. These requirements shall not be waived in connection with any resolution agreement.

3. INTERIM SUSPENSION

A president may impose an interim suspension pursuant to Title 5, New Mexico Code of Regulations section 41302 where there is reasonable cause to believe that separation of a student is necessary to protect the personal safety of persons within the Academy community or Academy property, and to ensure the maintenance of order.

An investigative finding of a violation of Executive Orders 1096 or 1097 standing alone may be sufficient to constitute reasonable cause to believe that an interim suspension is necessary to protect the personal safety of persons within the Academy community or Academy property, and to ensure the maintenance of order.

4. DENIAL OF PRESENCE ON CAMPUS DURING INTERIM SUSPENSION

During the period of an interim suspension, the student charged may not, without prior written permission from the campus president, enter any campus of the New Mexico State Academy other than to attend the hearing regarding the merits of the interim suspension and any disciplinary hearing. The president may also restrict the student's participation in Academy-related activities on a case-by-case basis, such as attending off-campus activities and/or participating in online classes. Violation of any condition of interim suspension shall be grounds for expulsion.

5. ADMISSION OR READMISSION

Applicants for admission or readmission into any Academy program are subject to appropriate sanctions for violations of the Student Conduct Code, including qualification, revocation or denial of admission or readmission. For students who withdraw while a disciplinary matter is proceeding, the campus has discretion whether to continue proceedings or hold proceedings in abeyance.

APPEAL OF PRESIDENT'S SANCTION

The complainant and student charged each may file an appeal of the President's decision of appropriate sanctions to the Chancellor's Office no later than 10 working days after the date of

the President's decision letter. The complainant may also appeal any proposed sanctions agreed to as part of a proposed resolution agreement with the student charged. Sanction appeals are limited to a determination as to whether the sanction is reasonable under the facts and circumstances as determined by the investigation and whether any prejudicial procedural errors occurred during the hearing. The Chancellor's Office appeal review will not involve a new investigation and will not consider evidence that was not introduced during the investigation or hearing. The record will be limited to the record at the hearing. The Chancellor's Office shall issue a final appeal response no later than 10 working days after receipt of the written appeal.

REGISTERED SEX OFFENDERS

New Mexico's sex offender registration laws require convicted sex offenders to register their status with the Academy police department if they are enrolled, residing, attending, carrying on a vocation (i.e. contractor or vendor on campus for more than 30 days in the year), or working with or without compensation for the institution. All public information available in New Mexico about registered sex offenders, to include the ability to look-up offenders by name, residence address, and zip code, is on the New Mexico Department of Justice Megan's law web site at <http://www.meganslaw.ca.gov/>.

EMERGENCY NOTIFICATION

Campus emergencies are reported to the APD in person or by telephone. Dispatcher will send officers to the emergencies to identify and assist with the incident. Based on their training and experience officers make a determination if the incident meets the criteria of an emergency or dangerous situation which may be an imminent threat. Officers and dispatchers receive training regarding the recognition of emergency situations and identifying imminent threats. The training is sanctioned by state of New Mexico Peace Officer Standard and Training (POST).

The Academy will issue emergency notifications, without delay, in response to a confirmed significant emergency or a dangerous situation, occurring in the Clery defined on campus geography that, in the judgment of the Academy, constitutes an immediate threat to the health or safety of members of the on-campus community.

Once APD has received the report, the Chief of Police (or management designee in the absence of the Chief), will confer with the appropriate public official (e.g., fire chief, health department) and any campus officials responsible for managing the on-campus emergency, if available, to confirm both:

- 1) an emergency or dangerous situation in fact exists in on-campus geography; and
- 2) the emergency or dangerous situation poses an immediate or imminent threat to members of the on-campus community.

If both of the above factors are not met, no emergency notification will be issued.

If it is determined that both of the above factors are met, then an emergency notification will be issued to the community.

They will also determine, based on the confirmed facts of the emergency, if the entire campus community or only a specific segment of the on-campus community is threatened and needs to be notified.

The following segmentation process is followed by APD officers:

- Examining the potential that a large segment of the campus will be affected
- Examining the potential that the operation of the campus as a whole may be threatened
- A continual assessment of the situation to determine the notification of additional segments of the campus.

Examples of emergencies where only a segment might be alerted would be a fire contained in a dorm laundry room where only the residents of that one dorm floor or of that one dorm building are at risk and need to evacuate, or a chemical spill in a lab where only the one room, floor, or the occupants of that one building are at risk and need to evacuate.

The Chief of Police (or management designee in the absence of the Chief), will confer with the Clery Director if available, to prepare the content of the notification taking into account the safety of the on-campus community. The content of the notification will be developed by examining the nature of the emergency and crafting the notification to provide the most protection for all individuals. The Chief of Police (or management designee in the absence of the Chief) will make the determination as to how much information is appropriate to disseminate based on the situation.

Once the notification is prepared, the Chief of Police (or management designee in the absence of the Chief) will confer with the Clery Director if available and, without delay and taking into account the safety of the community, determine the content of the notification and initiate the notification system unless issuing a notification will, in the professional judgement of the responsible authorities, compromise efforts to assist a victim or to contain, respond to or otherwise mitigate the emergency, including the ability to provide immediate, life saving measures.

The initiation of the notification often begins with an officer assessing a situation to determine if it meets the criteria for a notification. If the officer believes a notification is warranted the officer in turn makes notification to the Chief of Police (or management designee in the absence of the Chief). The Chief of Police is then responsible for the initiation of the notification process by assuring the person transmitting the information is clearly informed of the method in which the notification will take place.

Distribution methods of emergency notifications may include, but are not limited to, one or more of the following methods:

- The campus mass notification system including, but not limited to, phone, campus email, or text messaging
- Audio/visual message boards
- Audible alarms/sirens
- Campus public address systems
- In person or door-to-door notifications in a building or residence halls
- Other means appropriate under the circumstances

Students and employees who need information on how to add contact information to be included for emergency notification or to remove information and "opt out" of notifications contact administration for assistance.

The Chief of Police or the Clery Director, or in their absence, the management designee(s) will provide follow-up notifications and information until the emergency is mitigated and no longer poses a threat.

If an emergency notification is issued; a timely warning will not be issued to the community for the same incident.

Emergency notifications will only be withheld if issuance of the notification would compromise efforts to assist victims or respond to, contain, or mitigate the emergency.

Emergency Response & Testing

The Academy complies with the National Incident Management System (NIMS) and the New Mexico Standardized Emergency Management System (SEMS) and annual review and training of said plans. The Academy Emergency Operations Plan outlines the Academy response to a variety of specific emergencies and outlines the incident management structure that will be utilized during an emergency response.

During a significant emergency, the protection and preservation of life is the number one priority for our emergency responders. When a report of a significant emergency or dangerous incident is reported to APD, an initial response to the location will be done by police personnel. Once on scene, APD will take actions pursuant to their training to protect life and property.

The Academy's most important resources are the people who work, live and study within our facilities. To ensure that our students, faculty, and staff are adequately informed and provided with critical information necessary to respond knowledgeably and safely to emergency situations. A guide has been created to assist individuals in dealing with emergency situations which may occur on campus.

The Academy has a comprehensive Emergency Management (All Hazards) Plan that establishes the policy, Procedures, and organizational structure to respond, control and recovers from emergency situations, using the Nation Incident Management training system (NIMS).

Emergency procedures are evaluated and validated through regular testing and drills, as required by the Clery Act and Executive Order. Emergency response drills may be announced or unannounced. When drills are scheduled, an email notification is sent out regarding the date and approximate time of the drill.

Trainings are regularly held and made available for departments across campus. These trainings include information regarding available exits out of the building, assembly points for a building evacuation and assembly points for a campus wide evacuation. Designated Department Safety Coordinators are given information regarding evacuations for each department and are responsible for disseminating that information to employees.

MISSING STUDENT NOTIFICATION

If a member of the Academy community has reason to believe that a student who resides in on campus housing is missing for more than 24 hours, he or she may immediately notify:

APD:

(505) 242-COPS

The Academy requires all missing student reports be immediately referred to APD. A student's missing person contact information is retained and confidential, accessible only to the authorized officials who retain the information, and may not be disclosed except to law enforcement personnel in furtherance of an official missing person investigation.

If the missing student is under the age of 18 and not emancipated, Academy will notify the student's parent or legal guardian immediately after the APD has determined the student has been missing for 24 hours.

If, after investigating a missing person report, APD determines that the student has been missing for 24 hours, APD will notify the City of Albuquerque and Sheriff's Department.