

ALCORN STATE UNIVERSITY

GENDER-BASED SEXUAL MISCONDUCT POLICY

INTRODUCTION

Title IX (part of the Education Amendments Acts of 1972, amending the Higher Education Act of 1965) represents the federal law that prohibits sex discrimination in the operation in all educational institutions. Since its inception, the scope of Title IX has expanded to include sexual harassment and sexual violence, as these behaviors are clear impediments to creating an atmosphere free from discrimination. All schools receiving federal funds must create strategies and policies that illustrate their ability to uphold the law and comply with all regulations.

The Alcorn State University policy utilizes the term “gender-based sexual misconduct” to refer to all behaviors that involve gender-based violations of individual’s rights that are manifested in sexual behavior and actions. Thus, our term is inclusive of conduct considered to constitute sexual harassment, non-consensual sexual contact or intercourse (of which sexual violence would be included), sexual exploitation, stalking, intimate partner violence, and other forms of inappropriate behavior that are linked with the sex/gender of the offender and/or victim. These behaviors, when deemed to deprive an individual from full rights and access to his/her education and/or employment, constitute a violation of our policy and thus place the offender at immediate risk of serious sanctions.

Members of the Alcorn State University community, guests, and visitors have the right to be free from sexual misconduct of any type. Indeed, we are committed to maintaining a climate of respect and safety for everyone. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The university has established a zero tolerance policy for gender-based sexual misconduct. When an allegation of misconduct is brought to the attention of the appropriate administrators, and a respondent is found to have violated this policy, serious sanctions will be used to reasonably ensure that such actions cease and are never repeated. In addition, the university’s response will provide individuals who bring forth complaints with reasonable remedies for the situation that allow them full participation in their educational and/or employment activities. Individuals who bring forth concerns may also elect to pursue more informal mechanisms for resolving less egregious offenses.

In general, this policy has been developed to reaffirm the principles of safety and equity for all individuals and to provide recourse for those individuals whose rights have been violated. This policy is also intended to define community expectations, to establish a

mechanism for determining when those expectations have been violated and rectifying the situation, and to clearly articulate our collective commitment to the safety and respectful treatment of all members of the Alcorn family.

SEXUAL MISCONDUCT OFFENSES

The university policy defines sexual misconduct offenses to include, but not limited to:

1. Sexual Harassment
2. Non-Consensual Sexual Contact (or attempts to commit same)
3. Non-Consensual Sexual Intercourse (or attempts to commit same)
4. Sexual Exploitation

All forms of sexual misconduct can be committed by men or women and against other men or women.

1. SEXUAL HARASSMENT

By definition, sexual harassment is

- unwelcome, gender-based verbal or physical conduct that is,
- sufficiently severe, persistent or pervasive that it,
- unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the university's educational program and/or activities

It is important to note that harassment can occur in a variety of contexts, including face-to-face interactions, emails, and other forms of written communication, social media, etc.

Examples of Harassment

Most of us are familiar with the general concept of sexual harassment, yet the term has a wide range of meanings. Clearly, it is unacceptable to utilize sexualized words or actions that create discomfort for others. Thus, inappropriate touching, comments, gestures, or other behaviors that reasonably make another individual uncomfortable enough to interfere with their ability to fully participate in their educational program or unemployment would constitute sexual harassment. It could include attempts to: coerce an unwilling person into a sexual relationship; repeatedly subject a person to inappropriate, unwelcome sexual attention; punish a refusal to comply with a sexual

based request; or condition a benefit on submitting to sexual advances. The key notion is not what you intend – it's about the other person's interpretation.

Here are a few concrete examples that may help to provide additional understanding:

- A professor insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student gives in to the request.
- A student repeatedly sends sexually oriented jokes around on an email list s/he created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they live.
- Explicit sexual pictures are displayed in an advisor's office, on the exterior of a residence hall door, or on a computer monitor in a public space.
- Two supervisors frequently 'rate' several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.
- A professor engages students in discussions in class about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class. She probes for explicit details, and demands that students answer her, though they are clearly uncomfortable and hesitant.
- An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social outcast on campus
- Male students take to calling a particular student "Monica" because of her resemblance to Monica Lewinsky. Soon, everyone adopts this nickname for her, and she is the target of relentless remarks about cigars, the president, "sexual relations" and Weight Watchers.
- A student grabbed another student by the hair, then grabbed her breast and put his mouth on it. He says it was just being playful, but it's not appropriate or allowed.

Three Types of Sexual Harassment—Legal Constructs

As defined by the courts, three different types of sexual harassment exist. All of them are equally egregious, inappropriate, and unacceptable. The policy seeks to deliver clear definitions of these three different legal constructs to ensure that all members of our university community appreciate the complexity and inclusiveness of the term.

A. Hostile Environment includes any situation in which there is harassing conduct that is sufficiently severe, pervasive, and objectively offensive that it alters the conditions of employment or limits, interferes with or denies educational

benefits or opportunities, from both a subjective (the alleged victim's) and an objective (reasonable person's) viewpoint.

B. *Quid pro quo* sexual harassment exists when there are:

- 1) unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature; and
- 2) submission to or rejection of such conduct results in adverse educational or employment action.

Quid pro quo means "this for that." Essentially, this type of sexual harassment occurs when an individual reasonably believes that consent to or rejection of an unwelcome request for sex would have consequences in their educational or employment status. A concrete example would be a supervisor who suggests to an employee that she might not get promoted if she does not have sex with the supervisor – or that the promotion possibility would be helped by agreeing to engage in sex.

C. *Retaliatory harassment* is any adverse employment or educational action taken against a person because of the person's participation in a complaint or investigation of discrimination or sexual misconduct. An example would be if a professor fails a student unfairly through retaliation because he was upset by the fact that the student brought forth a complaint of sexual harassment charge against him.

2. NON-CONSENSUAL SEXUAL CONTACT:

Non-Consensual Sexual Contact is

- any intentional sexual touching,
- however slight,
- with any object,
- by a man or a woman upon a man or a woman,
- that is without consent and/or by force.

Sexual Contact includes:

- Intentional contact with the breasts, buttock, groin, or genitals, or
- touching another with any of these body parts, or
- making another touch you or themselves with or on any of these body parts, or
- any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.

3. NON-CONSENSUAL SEXUAL INTERCOURSE:

Non-Consensual Sexual Intercourse is

- any sexual intercourse
- however slight,
- with any object,
- by a man or woman upon a man or a woman,
- that is without consent and/or by force.

Intercourse includes:

- vaginal penetration by a penis, object, tongue or finger, or
- anal penetration by a penis, object, tongue, or finger, or
- oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

4. SEXUAL EXPLOITATION

Sexual exploitation occurs when a student takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy;
- prostituting another student;
- non-consensual video or audio-taping of sexual activity (including use of cell phone);
- positioning camera and taking photos/videos in such a way as to capture another person's body revealing their exposed genitals or other sexual body parts;
- going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex);
- engaging in voyeurism;
- knowingly transmitting an STI or HIV to another student;
- Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation

ADDITIONAL APPLICABLE DEFINITIONS:

- *Consent:* Consent is clear, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable

clear permission regarding willingness to engage in (and the conditions of) sexual activity.

- Consent to any one form of sexual activity does not automatically imply consent to any other forms of sexual activity.
- Previous relationships or prior consent cannot imply consent to future sexual acts.
- *Force* is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent (“Have sex with me or I’ll hit you. Okay, don’t hit me, I’ll do what you want.”).
 - Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
 - NOTE: There is no requirement that a party resists the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.
 - In order to give effective consent, one must be of legal age.
 - Sexual activity with someone who one should know to be -- or based on the circumstances should reasonably have known to be -- mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout) constitutes a violation of this policy.
 - Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction).
 - This policy also covers a person whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the taking of rape drugs. Possession, use and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another student is a violation of this policy. More

information on these drugs can be found at
<http://www.911rape.org>

- Use of alcohol or other drugs will never function as a defense to a violation of this policy.
- The sexual orientation and/or gender identity of individuals engaging in sexual activity is not relevant to allegations under this policy, as all individuals regardless of orientation or identity are protected with the same rights.

OTHER MISCONDUCT OFFENSES (WILL FALL UNDER TITLE IX WHEN GENDER-BASED)

1. Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
2. Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of gender;
3. Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
4. Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the university community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the university's Hazing Policy);
5. Bullying, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally (that is not speech or conduct otherwise protected by the 1st Amendment).
6. Violence between those in an intimate relationship to each other;
7. Stalking, defined as repetitive and/or menacing pursuit, following, harassment and/or interference with the peace and/or safety of a member of the community; or the safety of any of the immediate family of members of the community.

EXAMPLES

1. Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Amanda convinces Bill to come up to her room. From 11:00pm until 3:00am, Amanda uses every line she can think of to convince Bill to have sex with her, but he adamantly refuses. He mentions that he is religious and doesn't believe in sex before marriage. She keeps at it, and begins to

question his religious convictions, and accuses him of being “less than a man.” Finally, it seems to Amanda that his resolve is weakening, and she convinces him to let her provide him with a “hand job” (hand to genital contact). He says that he doesn’t really want to, but she tells him that if he wants a chance to be with her, he needs to take care of business; besides, she comments that it isn’t real sex anyway, so he wouldn’t be violating his religious principles. Bill would never had done it but for Amanda's incessant advances. She feels that he successfully seduced her, and that he wanted to do it all along, but was playing shy and hard to get. Why else would he have come up to her room alone after the party? If he really didn't want it, he could have left. **Amanda is responsible for violating the university Non-Consensual Sexual Contact policy. It is likely that a university hearing board would find that the degree and duration of the pressure Amanda applied to Bill are unreasonable. Amanda coerced Bill into performing unwanted sexual touching upon him. Where sexual activity is coerced, it is forced. Consent is not effective when forced. Sex without effective consent is sexual misconduct.**

2. Jiang is a junior at Alcorn. Beth is a sophomore. Jiang comes to Beth’s dorm room with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, and are soon becoming more intimate. They start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a baby-sitter when she was five, and has not had any sexual relations since, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses her, and begins to have intercourse with her, Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop, but cannot. Beth is stiff and unresponsive during the intercourse. Is this a policy violation? **Jiang would be held responsible in this scenario for Non-Consensual Sexual Intercourse. It is the duty of the sexual initiator, Jiang, to make sure that he has mutually understandable consent to engage in sex. Though consent need not be verbal, it is the clearest form of consent. Here, Jiang had no verbal or non-verbal mutually understandable indication from Beth that she consented to sexual intercourse. Of course, wherever possible, students should attempt to be as clear as possible as to whether or not sexual contact is desired, but students must be aware that for psychological reasons, or because of alcohol or drug use, one’s partner may not be in a position to provide as clear an indication as the policy requires. As the policy makes clear, consent must be actively, not passively, given.**
3. Kevin and Tony are at a party. Kevin is not sure how much Tony has been drinking, but he is pretty sure it’s a lot. After the party, he walks Tony to his room, and Tony comes on to Kevin, initiating sexual activity. Kevin asks him if he is really up to this, and Tony says yes. Clothes go flying, and they end up in

Tony's bed. Suddenly, Tony runs for the bathroom. When he returns, his face is pale, and Kevin thinks he may have thrown up. Tony gets back into bed, and they begin to have sexual intercourse. Kevin is having a good time, though he can't help but notice that Tony seems pretty groggy and passive, and he thinks Tony may have even passed out briefly during the sex, but he does not let that stop him. When Kevin runs into Tony the next day, he thanks him for the wild night. Tony remembers nothing, and he decides to make a complaint to the Dean. **This is a violation of the Non-Consensual Sexual Intercourse Policy. Kevin should have known that Tony was incapable of making a rational, reasonable decision about sex. Even if Tony seemed to give consent, Kevin was well aware that Tony had consumed a large amount of alcohol, and Kevin thought Tony was physically ill, and that he passed out during sex. Kevin should be held accountable for taking advantage of Tony in that condition. This is not the level of respectful conduct expected of students.**

POLICY EXPECTATIONS WITH RESPECT TO PHYSICAL SEXUAL MISCONDUCT

The expectations of our community regarding sexual misconduct can be summarized as follows: In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing, and voluntary consent prior to and during sexual activity. Consent is sexual permission. Consent can be given by word or action, but non-verbal consent is not as clear as talking about what you want sexually and what you don't. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Silence--without actions demonstrating permission--cannot be assumed to show consent.

Additionally, there is a difference between seduction and coercion. Coercing someone into sexual activity violates this policy in the same way as physically forcing someone into sex. Coercion happens when someone is pressured unreasonably for sex.

Because alcohol or other drug use can place the capacity to consent in question, sober sex is less likely to raise such questions. When alcohol or other drugs are being used, a person will be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction (who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation. Individuals who consent to sex must be able to understand what they are doing. Under this policy, "No" always means "No," and "Yes" may not always mean "Yes." Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a "no."

Simply put, before proceeding with any sexual act, individuals must actively seek voluntary and affirmative consent from partners. If any uncertainty remains, the desired behavior must be avoided.

POLICY EXPECTATIONS WITH RESPECT TO CONSENSUAL RELATIONSHIPS

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student or supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of the faculty/staff handbooks. The university does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the university.

For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student) are generally discouraged. Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or shift the student out of being supervised or evaluated by someone with whom they have established a consensual relationship. This includes RAs and students over whom they have direct responsibility. While no relationships are strictly prohibited by this policy, failure to self-report such relationships to a supervisor as required can result in disciplinary action for an employee.

SEXUAL VIOLENCE -- RISK REDUCTION TIPS

Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention to victim-blame, and with recognition that only those who commit sexual violence are responsible for those actions, these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act:

1. If you have limits, make them known as early as possible.
2. If you feel uncomfortable in any moment during an interaction with someone, say so.
3. Tell a sexual aggressor "NO" clearly and firmly.
4. Try to remove yourself from the physical presence of a sexual aggressor.
5. If in the presence of a sexual aggressor, do your best to find someone nearby and ask for help.

6. Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
7. Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

1. Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
2. Understand and respect personal boundaries; if someone expresses discomfort or uncertainty about any behavior, respect their wishes and back off.
3. DON'T MAKE ASSUMPTIONS about consent, about someone's sexual availability, about whether they are attracted to you, about how far you can go, or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity, then you DO NOT have consent. ASK or STOP.
4. Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
5. Don't take advantage of someone's drunkenness or drugged state, even if they did it to themselves.
6. Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
7. Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior. Each progressive act of sexual behavior requires active consent.
8. Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

REPORTING POLICY AND ISSUES OF CONFIDENTIALITY AND PRIVACY

The section below clearly articulates who are considered “responsible employees” under Title IX for purposes of initiating notice and/or investigation, and those who have more discretion on how they act in response to notice of gender-based discrimination. Different people on campus have different reporting responsibilities and different abilities to maintain confidentiality, depending on their roles at the university and upon university policy.

When consulting campus resources, all parties should be aware of confidentiality, privacy and mandatory reporting in order to make informed choices. On campus, some resources can offer you confidentiality, sharing options and advice without any obligation to tell anyone unless you want them to. Other resources are expressly there for you to report crimes and policy violations and they will take action when you report your victimization to them. Most resources on campus fall in the middle of these two extremes. Neither the university nor the law requires them to divulge private information that is shared with them except in certain circumstances, some of which are described below. A victim may seek assistance from these university officials without starting a formal process that is beyond the victim’s control, or violates her/his privacy.

TO REPORT CONFIDENTIALLY

If one desires that details of the incident be kept confidential, they should speak with on-campus mental health counselors, campus health service providers or off-campus rape crisis resources who can maintain confidentiality. Campus counselors are available to help you free of charge, and can be seen on an emergency basis.¹ In addition, you may speak on and off-campus with members of the clergy and chaplains, who will also keep reports made to them confidential.

Reporting to those who can maintain the privacy of what you share

You can seek advice from certain resources who are not required to tell anyone else your private, personally identifiable information unless there is cause for fear for your safety, or the safety of others. These are individuals who the university has not specifically designated as “responsible employees” for purposes of putting the institution on notice and for whom mandatory reporting is required, other than in the stated limited circumstances. These resources include those without supervisory responsibility or remedial authority to address sexual misconduct, such as RAs, faculty members, advisors to student organizations, career services staff, admissions officers, student activities personnel, and many others. If you are unsure of someone’s duties

and ability to maintain your privacy, ask them before you talk to them. They will be able to tell you, and help you make decisions about who can help you best.

Some of these resources, such as RAs, should be instructed to share incident reports with their supervisors, but they will not share any personally identifiable information about your report unless you give permission, except in the rare event that the incident reveals a need to protect you or other members of the community. If your personally identifiable information is shared, it will only be shared as necessary with as few people as possible, and all efforts will be made to protect your privacy.

NON-CONFIDENTIAL REPORTING OPTIONS

You are encouraged to speak to officials of the institution to make formal reports of incidents (deans, vice presidents, or other administrators with supervisory responsibilities, campus security, and human resources). The university considers these people to be “responsible employees.” Notice to them is official notice to the institution. You have the right and can expect to have incidents of sexual misconduct to be taken seriously by the institution when formally reported, and to have those incidents investigated and properly resolved through administrative procedures. Formal reporting means that only people who need to know will be told, and information will be shared only as necessary with investigators, witnesses, and the accused individual.

You may also directly contact the university’s Title IX Administrator, who is ultimately responsible for overseeing the investigatory process related to all reports. The university has delegated the following individual as the Title IX Administrator:

Dr. Derek Greenfield
Director of Educational Equity and Inclusion
dgreenfield@alcorn.edu
(601) 877-6700
Walter Washington Administrative Building Suite 519A

Federal Statistical Reporting Obligations

Certain campus officials have a duty to report sexual misconduct for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the annual Campus Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Mandated federal reporters include student affairs, campus law enforcement, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant

responsibility for student and campus activities. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

Federal Timely Warning Reporting Obligations

Victims of sexual misconduct should also be aware that university administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. The university will make every effort to ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger. The reporters for timely warning purposes are exactly the same as detailed at the end of the above paragraph.

QUESTIONS AND ANSWERS

Here are some of the most commonly asked questions regarding Alcorn State University's sexual misconduct policy and procedures.

- *Does information about a complaint remain private?*

The privacy of all parties to a complaint of sexual misconduct must be respected, except insofar as it interferes with the university's obligation to fully investigate allegations of sexual misconduct. Where privacy is not strictly kept, it will still be tightly controlled on a need-to-know basis. Dissemination of information and/or written materials to persons not involved in the complaint procedure is not permitted. Violations of the privacy of the complainant or the accused student may lead to conduct action by the university.

In all complaints of sexual misconduct, all parties will be informed of the outcome. In some instances, the administration also may choose to make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information of the alleged victim. Certain university administrators are informed of the outcome within the bounds of student privacy (e.g., the university President, Vice President of Student Affairs, Chief of Police). If there is a report of an act of alleged sexual misconduct to a conduct officer of the university and there is evidence that a felony has occurred, local police will be notified. This response does not mean charges will be automatically filed or that a victim must speak with the police, but the institution is legally required to notify law enforcement authorities. The institution also must statistically report the occurrence on campus of major violent crimes, including

certain sex offenses, in an annual report of campus crime statistics. This statistical report does not include personally identifiable information.

- *Will my parents be told?*

No, not unless you tell them. Whether you are the complainant or the accused student, the university's primary relationship is to the student and not to the parent; this response is in alignment with federal FERPA laws. However, in the event of major medical, disciplinary, or academic jeopardy, students are strongly encouraged to inform their parents. University officials will directly inform parents when requested to do so by a student, in a life-threatening situation, or if an accused student has signed the permission form at registration which allows such communication.

- *Will the accused student know my identity?*

Yes, if you file a formal complaint. Sexual misconduct is a serious offense and the accused student has the right to know the identity of the complainant/alleged victim. If there is a hearing, the university does provide options for questioning without confrontation, including Skype, using a room divider, or being placed in separate hearing rooms.

- *Do I have to name the perpetrator?*

Yes, if you want formal disciplinary action to be taken against the alleged perpetrator. No, if you choose to respond informally and do not file a formal complaint (but you should consult the complete confidentiality policy above to better understand the university's legal obligations depending on what information you share with different university officials). Victims should be aware that not identifying the perpetrator may limit the institution's ability to respond comprehensively.

- *What do I do if I am accused of sexual misconduct?*

DO NOT contact the alleged victim. You may immediately want to contact someone in the campus community who can act as your advisor. You may also contact the Title IX Administrator, who can explain the university's procedures for addressing sexual misconduct complaints. You may also want to talk to a confidential counselor in the Counseling and Testing Center or seek other community assistance. See below regarding legal representation.

- *Will I (as a victim) have to pay for counseling/or medical care?*

Not typically. If a victim is accessing community and non-institutional services, payment for these will be subject to state/local laws, insurance requirements, etc. Free

confidential counseling is available in the Counseling and Testing Center, and the Title IX website also contains a list of other service providers available to you at little or no cost.

- *What about legal advice?*

Victims of criminal sexual assault need not retain a private attorney to pursue prosecution because representation will be handled by the District Attorney's office. You may want to retain an attorney if you are the accused student or are considering filing a civil action. The accused student may retain counsel at their own expense if they determine that they need legal advice about criminal prosecution and/or the campus conduct proceeding.

- *What about changing residence hall rooms?*

If you want to move, you may request a room change. Room changes under these circumstances are considered emergencies. It is typically institutional policy that in emergency room changes, the student is moved to the first available suitable room. If you want the accused student to move, and believe that you have been the victim of sexual misconduct, you must be willing to pursue a formal or informal university complaint. No contact orders can be imposed and room changes for the accused student can usually be arranged quickly. Other accommodations available to you might include:

- Assistance from university support staff in completing the relocation;
- Arranging to dissolve a housing contract and pro-rating a refund;
- Assistance with or rescheduling an academic assignment (paper, exams, etc.);
- Taking an incomplete in a class;
- Assistance with transferring class sections;
- Temporary withdrawal;
- Assistance with alternative course completion options;
- Other accommodations for safety as necessary.

- *What should I do about preserving evidence of a sexual assault?*

Police are in the best position to secure evidence of a crime. Physical evidence of a criminal sexual assault must be collected from the alleged victim's person within 120 hours, though evidence can often be obtained from towels, sheets, clothes, etc. for much longer periods of time. If you believe you have been a victim of a criminal sexual assault, you should go to a local hospital emergency room, before washing yourself or your clothing. The Sexual Assault Nurse Examiner (a specially trained nurse) at the hospital is usually on call 24 hours a day, 7 days a week (call the Emergency Room if you first want to speak to the nurse; ER will refer you). A member of the Residence Life staff or other available university representative can also accompany you to Hospital and law enforcement or Security can provide transportation. If a victim goes to the hospital, local police will be called, but s/he is not obligated to talk to the police or to pursue

prosecution. Having the evidence collected in this manner will help to keep all options available to a victim, but will not obligation him/her to any course of action. Collecting evidence can assist the authorities in pursuing criminal charges, should the victim decide later to exercise it.

For the Victim: the hospital staff will collect evidence, check for injuries, address pregnancy concerns and address the possibility of exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you to the hospital in a clean, sanitary container such as a clean paper grocery bag or wrapped in a clean sheet (plastic containers do not breathe, and may render evidence useless). If you have not changed clothes, bring a change of clothes with you to the hospital, if possible, as they will likely keep the clothes you are wearing as evidence. You can take a support person with you to the hospital, and they can accompany you through the exam, if you want. Do not disturb the crime scene—leave all sheets, towels, etc. that may bear evidence for the police to collect.

- *Will a victim be sanctioned when reporting a sexual misconduct policy violation if he/she has illegally used drugs or alcohol?*

No. The severity of the infraction will determine the nature of the university's response, but whenever possible the university will respond educationally rather than punitively to the illegal use of drugs and/or alcohol. The seriousness of sexual misconduct is a major concern and the university does not want any of the circumstances (e.g., drug or alcohol use) to inhibit the reporting of sexual misconduct.

- *Will the use of drugs or alcohol affect the outcome of a sexual misconduct conduct complaint?*

The use of alcohol and/or drugs by either party will not diminish the accused student's responsibility. On the other hand, alcohol and/or drug use is likely to affect the complainant's memory and, therefore, may affect the outcome of the complaint. A person bringing a complaint of sexual misconduct must either remember the alleged incident or have sufficient circumstantial evidence, physical evidence and/or witnesses to prove his/her complaint. If the complainant does not remember the circumstances of the alleged incident, it may not be possible to impose sanctions on the accused without further corroborating information. Use of alcohol and/or other drugs will never excuse a violation by an accused student.

- *Will either party's prior use of drugs and/or alcohol be a factor when reporting sexual misconduct?*

Not unless there is a compelling reason to believe that prior use or abuse is relevant to the present complaint.

- *What should I do if I am uncertain about what happened?*

If you believe that you have experienced sexual misconduct, but are unsure of whether it was a violation of the university's sexual misconduct policy, you should contact the Title IX Administrator, the Office of the Vice President of Student Affairs, or Campus Police. The institution provides individuals who can help you to define and clarify the event(s), and advise you of your options.

ALCORN STATE UNIVERSITY GRIEVANCE AND INVESTIGATION PROCESS

Complaints Concerning Discrimination and/or Sexual Misconduct

The university does not permit discrimination or harassment in our programs and activities on the basis of gender, in compliance with Title IX policy. Students who believe they have been subjected to discrimination or harassment in violation of this policy should follow the procedure outlined in this section to report these concerns.

This process involves an immediate initial investigation to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. If so, the university will initiate a prompt, thorough and impartial investigation. This investigation is designed to provide a fair and reliable determination about whether the university nondiscrimination policy has been violated. If so, the university will implement a prompt and effective remedy designed to end the discrimination, prevent its recurrence and address its effects.

Formal and Informal Grievance Process for Student Complaints

This procedure is intended to apply to student grievances against employees, employee civil rights grievances against students, and student-on-student civil rights grievances. All other grievances by students against students or employees against students will be addressed through the student conduct procedures located elsewhere in this policy.

The university community benefits from formal and informal procedures that encourage prompt resolution of complaints and concerns that students may have about the implementation of policies and procedures that govern the institution.

Informal Resolution Efforts: A Useful First Step before Filing Formal Complaints

Before pursuing the formal complaint process, every reasonable effort should be made to constructively resolve issues. Whenever possible and safe, the problem or complaint should first be discussed with the individual involved in the complaint. If satisfactory

resolution is not reached after discussion with the individual, the student should contact the individual's direct supervisor (in the case of an employee) or an appropriate staff person (in the case of a student) to attempt to resolve the complaint. If these efforts are unsuccessful, the formal complaint process may be initiated. The university does not require a student to contact the person involved or that person's supervisor if doing so is impracticable, or if the student believes that the conduct cannot be effectively addressed through informal means. *Note that informal resolution will never be used in instances of sexual violence.*

Formal Grievance Process

The Title IX Administrator is officially responsible for formally carrying out the investigation of student grievances, address inquiries and coordinate the university's compliance efforts regarding student complaints and grievances related to sexual misconduct. He or she may designate other university staff as Deputy Title IX Administrators for the purposes of handling investigatory duties. All of the aforementioned university personnel have been trained for this task and consider this service to be of critical importance. These individuals will not "take sides," but rather, will conduct a thorough and impartial investigation of the matter and present the findings to the University Disciplinary Committee for adjudication of the complaint.

Notice of a formal complaint can be made in person or orally to an appropriate university official, but the university strongly encourages submission of grievances in writing, using the form provided in the "Complaint Form" on the Title IX website or available in the Office of the Vice President of Student Affairs or by the Title IX Administrator. The form may be brought in personally to the Title IX Administrator or emailed.

The grievance should clearly and concisely describe the alleged incident(s), when and where it occurred, and the desired remedy sought. The grievance should be signed by the initiator or, in the case of an email submission, sent as an email attachment, and should contain the name and all contact information for the grievant. Any supporting documentation and evidence should be referenced within the body of the formal grievance. Additionally, the initiator of a formal grievance should submit any supporting materials in writing as quickly as is practicable.

The grievant's supporting documentation should clearly demonstrate all informal efforts, if any, to resolve the issue(s) with the person involved and the person's supervisor or other relevant university employees. This includes names, dates and times of attempted or actual contact along with a description of the discussion and the manner of communication made in the course of each effort. If contacting the person involved and/or the supervisor is impracticable, the grievant should state the reasons

why. In the event that the complaint references an act of sexual violence, it is not recommended that any attempts for informal resolution take place.

Upon receipt of a grievance from the Title IX Administrator, the Office of the Vice President for Student Affairs will open a formal case file and confer with the Title IX Administrator on interim action, accommodations for the alleged victim, or other necessary remedial short-term actions.

The Title IX Administrator will then take the following steps:

- Determine the identity and contact information of the complainant (whether that be the initiator, the alleged victim, or a University proxy or representative);
- Identify the correct policies allegedly violated;
- Conduct an immediate initial investigation to determine if there is reasonable cause to charge the accused individual, and what policy violations should be alleged as part of the complaint;
 - If there is insufficient evidence to support reasonable cause, the grievance should be closed with no further action;
- Meet with the complainant to finalize the complaint and
- Prepare the notice of charges on the basis of the initial investigation;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the accused individual, who may be given notice prior to or at the time of the interview;
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline, with a maximum timeline of 60 days (unless exigent circumstances make it impossible to do so);
- Make a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not);
- Present the findings to the accused individual, who may accept the findings, accept the findings in part and reject them in part, or may reject all findings;
- Share the findings and update the complainant on the status of the investigation and the outcome.

When the accused individual is found not responsible for the alleged violation(s), the investigation should be closed. When the accused individual accepts the finding that s/he violated university policy, the University Disciplinary Committee will impose appropriate sanctions for the violation, after consultation with the Title IX Administrator. The University will act to end the discrimination, prevent its recurrence, and remedy its effects on the victim and the university community.

In the event that the accused individual rejects the findings in part or entirely, the University Disciplinary Committee will convene a hearing under its respective

procedures to determine whether the accused individual is in violation of the contested aspects of the complaint. At the hearing, the findings of the investigation will be admitted, but are not binding on the decider(s) of fact. The investigator(s) may give evidence. The hearing will determine whether it is more likely than not that the accused individual violated the policies forming the basis of the charge. The goal of the hearing is to provide an equitable resolution via an equitable process, respecting the civil and legal rights of all participants.

The University Disciplinary Committee has final decision-making authority with regard to formal complaints, subject to appeal. Where an accused individual is found in violation, the University Disciplinary Committee will impose appropriate sanctions for the violation, after consultation with the Title IX Administrator. The university will act to end the discrimination, prevent its recurrence, and remedy its effects on the victim and the university community. Appeal proceedings as described in this policy will apply to all parties to the complaint.

In campus hearings, legal terms like “guilt,” “innocence” and “burdens of proof” are not applicable, but the university never assumes a student is in violation of university policy. Campus hearings are conducted to take into account the totality of all evidence available, from all relevant sources.

The university reserves the right to take whatever measures it deems necessary in response to an allegation of sexual misconduct in order to protect students’ rights and personal safety. Such measures include, but are not limited to, modification of living arrangements, interim suspension from campus pending a hearing, and reporting the matter to the local police. Not all forms of sexual misconduct will be deemed to be equally serious offenses, and the university reserves the right to impose different sanctions, ranging from verbal warning to expulsion, depending on the severity of the offense. The university will consider the concerns and rights of both the complainant and the person accused of sexual misconduct.

Elaboration on Student Participation in the Grievance Process

Upon receipt of a complaint, the assigned investigator will contact or request a meeting with the initiator of the formal grievance, and the complainant (if different people). The investigator also may contact or request a meeting with relevant university staff, students, or others as part of the investigation. The complainant may request to meet and discuss the allegations of the grievance with the investigators and may offer any documentation, witnesses, or other materials in support of the complaint. The complainant has the option to have an advocate during a meeting with the investigators to discuss the documentation submitted by the student in support of the grievance. Such an advocate should be a member of the university community: student; faculty member; academic advisor; or staff member.

The complainant must advise the investigator of the identity of an advocate or witness at least two (2) business days before the date of the meeting with the investigator. During a meeting with the case officer, an attorney acting as a lawyer may not serve as the student's advocate or formally represent the student. These procedures are entirely administrative in nature and are not considered legal proceedings. No audio or video recording of any kind other than as required by university procedure is permitted, nor is formal legal representation allowed. At the investigator's discretion, the investigator may remove anyone disrupting the meeting from the discussion. All these same opportunities and privileges extend to all parties to the complaint.

Time Frame and Grounds for Filing an Appeal Request

In the event that an accused individual accepts the findings of the investigation, those findings cannot be appealed. Sanctions imposed by the University Disciplinary Committee post-investigation can be appealed by any party according to the grounds, below. Post-hearing, any party may appeal the findings and/or sanctions only under the grounds described, below.

All sanctions imposed by the original hearing body will be in effect during the appeal. A request may be made to the Vice President of Student Affairs for special consideration in exigent circumstances, but the presumptive stance of the university is that the sanctions will stand. Graduation, study abroad, internships/externships, etc. do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal. In cases where the appeal results in reinstatement to the institution or of privileges, all reasonable attempts will be made to restore the student to their prior status, recognizing that some opportunities lost may be irretrievable in the short term.

The decision of the University Disciplinary Committee may be appealed by petitioning the Title IX Administrator, who operates as the appeals officer. Accused students or complainants must petition within 3-5 business days of receiving the written decision for a review of the decision or the sanctions imposed. Any party who files an appeal must do so in writing to the Title IX Administrator. The Title IX Administrator will share the appeal with the other party (e.g., if the accused student appeals, the appeal is shared with the complainant, who may also wish to file a response), and then will draft a response memorandum (also shared with all parties). All appeals and responses are then forwarded to the Title IX Administrator for initial review to determine if the appeal meets the limited grounds and is timely. The original finding and sanction will stand if the appeal is not timely or substantively eligible, and the decision is final. If the appeal has standing, the documentation is forwarded for consideration. The party requesting appeal must show error as the original finding and sanction are presumed to have been decided reasonably and appropriately. The ONLY grounds for appeal are as follows:

1. A procedural [or substantive error] occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.);
2. To consider new evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included;
3. The sanctions imposed are substantially disproportionate to the severity of the violation.

If the appeals officer determines that new evidence should be considered, it will return the complaint to the University Disciplinary Committee to reconsider in light of the new evidence, only. The reconsideration of this hearing body is not appealable.

If the appeals officer determines that a material procedural [or substantive] error occurred, it may return the complaint to the University Disciplinary Committee with instructions to reconvene to cure the error. In rare cases, where the procedural (or substantive) error cannot be cured by the original hearing officers (as in cases of bias), the appeals officer may order a new hearing on the complaint with a new body of hearing officers. The results of a reconvened hearing cannot be appealed. The results of a new hearing can be appealed, once, on the four applicable grounds for appeals.

If the appeals officer determines that the sanctions imposed are disproportionate to the severity of the violation, the appeals officer will return the complaint to the University Disciplinary Committee, which may then increase, decrease or otherwise modify the sanctions. This decision is final.

The procedures governing the hearing of appeals include the following:

- All parties should be timely informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision;
- Every opportunity to return the appeal to the original hearing body for reconsideration (remand) should be pursued;
- Appeals are not intended to be full rehearings of the complaint (de novo). In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal;
- This is not an opportunity for the appeals officer to substitute his/her judgment for that of the original hearing body merely because of disagreement with its finding and/or sanctions. Appeals decisions are to be deferential to the original hearing body, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so;

- Sanctions imposed are implemented immediately unless the Vice President of Student Affairs stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
- The appeals officer will render a written decision on the appeal to all parties within seven (7) business days from hearing of the appeal. The appeals officer's decision to deny appeal requests is final.

Special Grievance Process Provisions

a. Attempted violations

In most circumstances, the university will treat attempts to commit any of the violations listed in the *Student Handbook* as if those attempts had been completed.

b. University as Complainant

As necessary, university reserves the right to initiate a complaint, to serve as complainant, and to initiate conduct proceedings without a formal complaint by the victim of misconduct.

c. False Reports

University will not tolerate intentional false reporting of incidents. It is a violation of the *Student Handbook* to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.

d. Immunity for Victims and Witnesses

The university community encourages the reporting of conduct code violations and crimes by victims and witnesses. Sometimes, victims or witnesses are hesitant to report to university officials or participate in grievance processes because they fear that they themselves may be accused of policy violations, such as underage drinking at the time of the incident. It is in the best interests of this community that as many victims as possible choose to report to university officials, and that witnesses come forward to share what they know. To encourage reporting, university pursues a policy of offering victims of crimes and witnesses limited or full immunity from policy violations related to the incident.

e. Bystander Engagement

The welfare of students in our community is of paramount importance. At times, students on and off-campus may need assistance. The university encourages students to offer help and assistance to others in need. Sometimes, students are

hesitant to offer assistance to others, for fear that they may get themselves in trouble (for example, as student who has been drinking underage might hesitate to help take a sexual misconduct victim to the Campus Police). While policy violations cannot be overlooked, the university will provide educational options, rather than punishment, to those who offer their assistance to others in need.

f. *Parental Notification*

The university reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status or conduct situation, particularly alcohol and other drug violations. The university may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations. Where a student is not-dependent, the university will contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk. The university also reserves the right to designate which university officials have a need to know about individual conduct complaints pursuant to the Family Educational Rights and Privacy Act.

g. *Notification of Outcomes*

The outcome of a campus hearing is part of the educational record of the accused student and is protected from release under a federal law, FERPA. However, university observes the legal exceptions as follows:

- Complainants in non-consensual sexual contact/intercourse, sexual exploitation, sexual harassment, stalking, and relationship violence incidents have an absolute right to be informed of the outcome, essential findings, and sanctions of the hearing, in writing, without condition or limitation.
- The university may release publicly the name, nature of the violation and the sanction for any student who is found in violation of a university policy that is a “crime of violence,” including arson, burglary, robbery, criminal homicide, sex offenses, assault, destruction/damage/vandalism of property and kidnapping/abduction. The university will release this information to the complainant in any of these offenses regardless of the outcome.

h. *Alternative Testimony Options*

For sexual misconduct complaints, and other complaints of a sensitive nature, whether the alleged victim is serving as the complainant or as a witness, alternative testimony options will be given, such a placing a privacy screen in the hearing room, or allowing the alleged victim to testify outside the physical presence of the accused individual, such as by Skype. While these options are intended to help make the alleged victim more comfortable, they are not intended to work to the disadvantage of the accused student.

i. *Past Sexual History/Character*

The past sexual history or sexual character of a party will not be admissible by the other party in the investigation or hearing unless such information is determined to be highly relevant by the Chair. All such information sought to be admitted will be presumed irrelevant, and any request to overcome this presumption by the parties must be included in the complaint/response or a subsequent written request, and must be reviewed in advance of the hearing by the Chair of the University Disciplinary Committee. While previous conduct violations by the accused student are not generally admissible as information about the present alleged violation, the Chair of the University Disciplinary Committee may supply previous complaint information to the investigators, the conduct board, or may consider it him/herself if s/he is hearing the complaint, only if:

- 1) The accused was previously found to be responsible;
- 2) The previous incident was substantially similar to the present allegation;
- 3) Information indicates a pattern of behavior and substantial conformity with that pattern by the accused student.

SANCTION STATEMENT

The University Disciplinary Committee is the body at the university authorized to conduct hearings regarding all alleged incidents of student misconduct. As noted in the *Student Handbook*, the committee is comprised of a wide range of representative individuals on campus who are specially trained to evaluate evidence and render judgments on matters of student misconduct brought before the body.

While the sanctions determined by the University Disciplinary Committee follow the guidelines established in the *Student Handbook*, the actual decision rendered may vary based on a number of factors. The committee will evaluate all available evidence in issuing its findings and the appropriate sanctions. The conduct body reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior. Neither the University Disciplinary Committee nor any appeals body or officer will deviate from the range of recommended sanctions unless compelling justification exists to do so.

In general, the following results will be expected:

- Any student found responsible for violating the policy on Non-Consensual or Forced Sexual Contact (where no intercourse has occurred) will likely receive a sanction ranging from probation to expulsion, depending on the severity of the incident, and taking into account any previous campus conduct code violations.

- Any student found responsible for violating the policy on Non-Consensual or Forced Sexual Intercourse will likely face a recommended sanction of suspension or expulsion.
- Any student found responsible for violating the policy on sexual exploitation or sexual harassment will likely receive a recommended sanction ranging from warning to expulsion, depending on the severity of the incident, and taking into account any previous campus conduct code violations.

STATEMENT OF THE RIGHTS OF THE ALLEGED VICTIM

- The right to investigation and appropriate resolution of all credible complaints of sexual misconduct made in good faith to university administrators;
- The right to be treated with respect by university officials;
- The right of both accuser and accused to have the same opportunity to have others present (in support or advisory roles) during a campus disciplinary hearing;
- The right not to be discouraged by university officials from reporting an assault to both on-campus and off-campus authorities;
- The right to be informed of the outcome and sanction of any disciplinary hearing involving sexual assault, usually within 24 hours of the end of the conduct hearing;
- The right to be informed by university officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses. This right also includes the right not to report, if this is the victim's desire;
- The right to be notified of available counseling, mental health or student services for victims of sexual assault, both on campus and in the community;
- The right to notification of and options for, and available assistance in, changing academic and living situations after an alleged sexual assault incident, if so requested by the victim and if such changes are reasonably available (no formal complaint, or investigation, campus or criminal, need occur before this option is available). Accommodations may include:
 - Change of an on-campus student's housing to a different on-campus location;
 - Assistance from university support staff in completing the relocation;
 - Arranging to dissolve a housing contract and pro-rating a refund;
 - Exam (paper, assignment) rescheduling;
 - Taking an incomplete in a class;

--Transferring class sections;
--Temporary withdrawal;
--Alternative course completion options.

- The right not to have irrelevant prior sexual history admitted as evidence in a campus hearing;
- The right ***not*** to have any complaint of sexual assault mediated (as opposed to adjudicated);
- The right to make a victim-impact statement at the campus conduct proceeding and to have that statement considered by the board in determining its sanction;
- The right to a campus no contact order against another student who has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the complaining student or others;
- The right to have complaints of sexual misconduct responded to quickly and with sensitivity by campus law enforcement.
- The right to appeal the [finding and] sanction of the conduct body, in accordance with the standards for appeal established by the institution;
- The right to review all documentary evidence available regarding the complaint, subject to the privacy limitations imposed by state and federal law, at least 48 hours prior to the hearing;
- The right to be informed of the names of all witnesses who will be called to give testimony, within 48 hours of the hearing, except in cases where a witness' identity will not be revealed to the accused student for compelling safety reasons (this does not include the name of the alleged victim/complainant, which will always be revealed);
- The right to preservation of privacy, to the extent possible and allowed by law;
- The right to a hearing closed to the public;
- The right to petition that any member of the conduct body be removed on the basis of demonstrated bias;
- The right to bring a victim advocate or advisor to all phases of the investigation and campus conduct proceeding;

- The right to give testimony in a campus hearing by means other than being in the same room with the accused student;
- The right to ask the investigators to identify and question relevant witnesses, including expert witnesses;
- The right to be fully informed of campus conduct rules and procedures as well as the nature and extent of all alleged violations contained within the complaint;
- The right to have the university compel the presence of student, faculty and staff witnesses, and the opportunity (if desired) to ask questions, directly or indirectly, of witnesses (including the accused student), and the right to challenge documentary evidence.
- The right to be present for all testimony given and evidence presented before the conduct body;
- The right to have complaints heard by conduct and appeals officers who have received annual sexual misconduct training;
- The right to a conduct panel comprised of representatives of both genders;
- The right to have university policies and procedures followed without material deviation;
- The right to be informed in advance of any public release of information regarding the complaint;
- The right not to have released to the public any personally identifiable information about the complainant, without his or her consent.

STATEMENT OF THE ACCUSED STUDENT'S RIGHTS

- The right to investigation and appropriate resolution of all credible complaints of sexual misconduct made in good faith to university administrators against the accused student;
- The right to be treated with respect by university officials;
- The right to be informed of and have access to campus resources for medical, counseling, and advisory services;

- The right to be fully informed of the nature, rules and procedures of the campus conduct process and to timely written notice of all alleged violations within the complaint, including the nature of the violation and possible sanctions;
- The right to a hearing on the complaint, including timely notice of the hearing date, and adequate time for preparation;
- The right not to have irrelevant prior sexual history admitted as evidence in a campus hearing;
- The right to make an impact statement at the campus conduct proceeding and to have that statement considered by the board in determining its sanction;
- The right to appeal the finding and sanction of the conduct body, in accordance with the standards for appeal established by the institution;
- The right to review all documentary evidence available regarding the complaint, subject to the privacy limitations imposed by state and federal law, at least 48 hours prior to the hearing;
- The right to be informed of the names of all witnesses who will be called to give testimony, within 48 hours of the hearing, except in cases where a witness' identity will not be revealed to the accused student for compelling safety reasons (this does not include the name of the alleged victim/complainant, which will always be revealed);
- The right to a hearing closed to the public;
- The right to petition that any member of the conduct body be removed on the basis of bias;
- The right to have the university compel the presence of student, faculty and staff witnesses, and the opportunity to ask questions, directly or indirectly, of witnesses, and the right to challenge documentary evidence.
- The right to have complaints heard by conduct and appeals officers who have received annual sexual misconduct adjudication training;
- The right to have university policies and procedures followed without material deviation;
- The right to have an advisor or advocate to accompany and assist in the campus hearing process. This advisor can be anyone, including an attorney (provided at the

accused student's own cost), but the advisor may not take part directly in the hearing itself, though they may communicate with the accused student as necessary;

- The right to a fundamentally fair hearing, as defined in these procedures;
- The right to a campus conduct outcome based solely on evidence presented during the conduct process. Such evidence shall be credible, relevant, based in fact, and without prejudice;
- The right to written notice of the outcome and sanction of the hearing;
- The right to a conduct panel comprised of representatives of both genders;
- The right to be informed in advance, when possible, of any public release of information regarding the complaint.

Individuals with complaints related to Title IX and/or the university's administration of this policy also always have the right to file a formal complaint with the United States Department of Education:

- Office for Civil Rights (OCR)
- 400 Maryland Avenue, SW
- Washington, DC 20202-1100
Customer Service Hotline #: (800) 421-3481
- Facsimile: (202) 453-6012
TDD#: (877) 521-2172
- Email: OCR@ed.gov
- Web: <http://www.ed.gov/ocr>