

Title IX/Sexual Misconduct Policy

Alcorn State University is committed to providing an environment that fosters respect and dignity for students and employees. Therefore, it is critical for each member of our campus community to work proactively to uphold these principles, intervene in instances that violate this policy, and challenge one another to represent the Alcorn spirit of knowledge and character.

This webpage shares ASU's policies that are intended to prevent and respond to gender discrimination, sexual harassment, sexual violence, and other sexual misconduct involving students. Title IX's goal is to prevent gender discrimination, including sexual misconduct, that unreasonably interferes with a person's ability to participate in an educational program, benefit, or activity. Title VII addresses sexual harassment in employment. The university has developed these policies to nurture a safe living, learning, and working environment for our students.

Most importantly, if you feel that you have encountered discrimination, sexual harassment, or sexual violence, ASU strongly encourages you to report it, use these procedures, and seek help. Resources to support you, such as counseling, are available. You may click on the tabs to the right side of this screen for more information. Information related to filing a formal complaint can be found by clicking on the "What Can I Do?" tab on the right side of this screen.

If you are a victim of sexual misconduct on campus or in connection with a university event, please report the incident to the Title IX coordinator. Most University staff are required to report such incidents to the Title IX coordinator. For questions, concerns, or reporting please contact ASU's Title IX Coordinator at the following number:

Office of Educational Equity and Inclusion
(601) 877-6700

What is Title IX?

Title IX is a federal law that prohibits sex discrimination in education. This law prohibits sexual harassment, sexual violence, as well as other sexual misconduct, as these behaviors can deny an individual equal access to participate in or benefit from education.

For more information about Title IX, visit the [womenslaw.org](http://www.womenslaw.org) site:
http://www.womenslaw.org/statutes_detail.php?statute_id=4535#statute-top

Statement of Nondiscrimination

Alcorn State University does not tolerate any form of inappropriate discrimination and it endorses the following statement from Title IX regulations:

"No person in the United States shall on the basis of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance."

Sexual Misconduct

For purposes of this policy, sexual misconduct offenses include, but are 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.

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, such as social media.

Examples of Harassment

Most of us are familiar with the general concept of sexual harassment, yet the term has a wide range of meanings. Thus, inappropriate touching, comments, gestures, or other behaviors that reasonably make another individual uncomfortable enough to interfere with their ability to participate in their educational program or unemployment constitutes sexual harassment. Sexual harassment has both an objective and subjective component. It is subjective in that the harassed person must find the unwanted conduct to be offensive, but it is objective in that the conduct must also be considered offensive by the average reasonable person in our society. It is

Sexual Harassment, Retaliation, and Sexual Misconduct

A. *Hostile Environment* sexual harassment 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. *Retaliation* 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.

Non-Consensual Intentional Sexual Contact

Non-Consensual Intentional Sexual Contact is any intentional sexual touching with any object, by any person upon another, without consent or by such force or duress so as to negate voluntary consent.

- 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 or by such force or duress so as to negate voluntary consent.

Sexual Contact includes:

- Intentional contact with another’s breasts, buttock, groin, or genitals, or
- intentionally 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.

Non-Consensual Sexual Intercourse

Non-Consensual Sexual Intercourse is:

- any sexual intercourse
- however slight,
- with any object or body part,
- by a man or woman upon a man or a woman,
- that is without consent and/or by force so as to negate consent.

Intercourse involves two or more people and includes:

- vaginal penetration by an object or body part of another, or
- anal penetration by an object or body part of another, or
- oral sex (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

Sexual Exploitation

Sexual exploitation occurs when a student takes non-consensual sexual advantage of another for his/her own advantage or benefit, or to benefit anyone other than the one being exploited without their consent, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to the following non-consensual actions:

- Invasion of sexual privacy;
- Forcing another to engage in prostitution;
- 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 STD to another student;
- Exposing one's genitals in non-consensual circumstances;
- Forcing or intimidating another to expose their genitals;
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation

CRITICAL POINT:

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 sexual activity. Consent must be actively given for each sexual act. Consent can never be given by minors or by those who are mentally and/or physically incapacitated.

Title IX Investigation and Hearing Procedures

I. PURPOSE

ASU provides this process to encourage reporting, conduct investigations, provide due process hearings, issue student disciplinary action, and inform students of resources related to or arising from an incident involving an ASU student or students and sexual misconduct.

II. REPORTING AND VICTIM AMNESTY

Any student or employee who is aware of an incident of sexual misconduct on ASU's campus or in connection with an ASU program or event, is strongly encouraged to report it to the Title IX Coordinator. The university cannot promise confidentiality but efforts are made to protect keep such matters as confidential as possible. In addition to reporting an incident to the university, a person may speak confidentially to a counselor or health professional, and a victim may report the matter to law enforcement. The university process will proceed separately from any criminal system. However, if you are in immediate physical danger or an emergency, call 911.

Although formal reporting is encouraged, and an anonymous report may limit the university's ability to investigate, an anonymous report can be made to ASU's Ethics Point via ASU's website. Understand that Ethics Point is NOT a 911 or emergency service.

To further encourage reporting, ASU will provide amnesty to reporting students. Students who report sexual misconduct as part of ASU's Title IX process, will not be disciplined for violations of ASU's alcohol or drug use policies.

Many university employees are considered "Responsible Employees" under the Clery Act, and these employees are required to report instances of sexual misconduct to the Title IX Coordinator. These employees should 1) report promptly, 2) turn the matter over to the Title IX Coordinator, 3) inform students of your obligations, including the fact that you cannot promise confidentiality, 4) tell the reporting person what will happen next (he or she will be contacted by the Title IX Coordinator), and 5) do not share the reported information with any other persons.

Where to File a Complaint

Complaints about Student Conduct: All complaints alleging sexual harassment or retaliation committed by students should be submitted to the Office of Educational Equity and Diversity/Title IX.

Complaints about Employee or Third Party Conduct: All complaints alleging sexual harassment or retaliation committed by employees and/or third parties should be submitted to:

**LLJuna Grennell-Weir
Director of Educational Equity and Inclusion/Title IX Coordinator
1000 ASU Drive #509A
Lorman, MS 39096-7500**

**Phone: 601.877.6700
Email: weir@alcorn.edu**

III. INVESTIGATIVE PROCESS

ASU will investigate all allegations of sexual harassment, sexual assault, and other sexual misconduct involving a student, regardless of where the alleged violation occurred. For the purpose of this procedure, the Respondent (the accused student) must have been registered or enrolled at the University at the time of the alleged violation (including during an academic recess), and at the time that the complaint is made to the University. Although all allegations will be investigated, the university has limited power over any individual who is not a current student or employee.

Investigations will be conducted by the Title IX Coordinator, his or her designee, or a designated committee. Investigations will move forward reasonably promptly, and investigators will have been trained in Title IX matters and/or related investigations. Unless circumstances require otherwise, ASU will attempt to complete both the investigation and hearing procedure within 60 calendar days of the filing of a formal complaint.

The investigative process may also include an administrative hearing, and that process is outlined below and/or through a separate web site link. All parties to a sexual misconduct investigation will have equal rights and an equal opportunity to present evidence and witnesses if a hearing is necessary. In cases that do not involve sexual assault or physical violence, an informal resolution may be possible but participation of the parties in an informal resolution is strictly voluntary.

Interim Actions

ASU may provide interim assistance during an investigation. Such assistance may include modifying class or work schedules, alternate housing or workplace arrangements (including leaves of absences or withdrawals), no-contact directives, and providing training. Other interim measures may be utilized as ASU deems appropriate, and these actions are determined on a case-by-case basis.

IV. ADMINISTRATIVE HEARING PROCEDURE

Alcorn has developed an administrative hearing procedure for student misconduct which is included in the Student Handbook. Sexual harassment involving employees follows the procedures in ASU's sexual harassment policy for employees. To the extent that a matter involves sexual misconduct falling under Title IX's purview, those policies may be followed where not inconsistent with Title IX guidance. Any administrative hearing involving sexual misconduct and one or more students, will also adhere to the following:

- a. Both the alleged victim and the accused will have equal rights and an equivalent opportunity to present his or her side of events.
- b. Both parties will be given advance notice of the hearing and of a time to review evidence and witness lists. The written notice must provide specific information regarding the conduct to which the accused is alleged to be responsible, including the identities of the parties involved, the section of the student code or this policy which is allegedly violated, the date and location of the incident, and the conduct at issue. Five days advance notice of the hearing is recommended in most cases, with evidence submitted and available for review at least two days in advance of the hearing. The written notice of the hearing should explain the requirements regarding submission of evidence and witness lists to a designated university custodian for that purpose.
- c. Both parties and the university will have equal access to evidence and shall be required to submit evidence and identify witnesses that they wish to have attend. Evidence which is not available for review prior to the hearing, and non-disclosed witnesses, should generally not be considered at the hearing. The hearing process does not have a subpoena power.
- d. While both the complainant and the accused should be available to be present at the hearing, but a reasonable request to participate remotely may be granted in the discretion of the hearing designee or chair.
- e. Determinations will be based upon a preponderance of the evidence. This means a determination of whether the accused is more-likely-than-not responsible or not responsible. This standard provides an

equal burden of proof to each side.

- f. If one party is provided a process or opportunity, including cross-examination of witnesses, having an advisor present, or having a right of appeal, then both parties will be given the same opportunity.
- g. Written notice of the outcome of disciplinary proceedings are to be provided to the reporting and responding parties at approximately the same time. The notice should include an explanation of any appeal right, state the sanctions, and provide a rationale for the result, including the findings. The parties shall both be notified of any changes to the decision by virtue of any appeal.
- h. The Vice President of Student Life may alter the composition of the hearing committee or designee to insure such individuals are adequately trained and free from any actual or perceived conflict of interest. It is generally recommended that students not serve on committees hearing charges of sexual misconduct.

IV. POSSIBLE SANCTIONS

Disciplinary action or sanctions should be in proportion to the violation. The range of sanctions for sexual misconduct includes expulsion, termination of employment, suspension, conduct probation, loss of campus housing, community service, restrictions, reassignment, restitution, warning, educational requirements (training), or any such sanction listed specifically in the student handbook for the particular violation.

V. RETALIATION IS PROHIBITED

Retaliation for making a good faith complaint or solely for participating in an ASU Title IX process is strictly prohibited. If you believe you are being retaliated against for making a good faith complaint, please notify the Title IX Coordinator immediately.

VI. COUNSELING IS AVAILABLE

Counseling is available to ASU students without charge through ASU counseling services. Communications with your counselor are confidential in accordance with ethical and legal standards. These services are located in the Walter Washington Administration/Classroom Building (WWACB), Room 305, and appointments can be made by calling 601-877-6230.

Glossary of Terms

Definitions

Bystander Intervention

Safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. This includes recognizing situations of potential harm and understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking actions to intervene.

Complainant

A person who reports he or she has been subjected to discrimination, harassment, or related retaliation.

Consent

Clear, unambiguous, and voluntary agreement between the participants, communicated by clearly understandable words or actions, to engage in each form of sexual activity.

Someone who is incapacitated cannot consent. Past consent does not imply future consent. Silence or an absence of resistance does not imply consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Consent is not given if it is the result of threats of physical harm, duress, or similar circumstances as would make the consent not voluntary.

Dating Violence

Violence committed by a person who is, or has been, in a romantic or intimate nature with the victim. The existence of such a relationship will be determined by factors such as length, type, and frequency of interaction.

Domestic Violence

Violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, a person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

Harassment

Verbal, emotional, or physical conduct related to a person's protected class that unreasonably interferes with an individual's work or academic performance or creates an intimidating or hostile work or educational environment.

Hostile Environment

Unwelcome conduct by an individual or individuals against another individual based upon her/ his protected class that is sufficiently severe or pervasive that it alters the conditions of education or employment and creates an environment that a reasonable person would find intimidating, hostile, or offensive.

Incapacitation

An individual is unconscious, asleep, intoxicated, or under the influence of other drugs or, for any other reason, physically, mentally or legally unable to communicate or grant consent.

Intimidation

Unlawfully placing another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

Respondent

A person who is charged with or accused of committing acts of discrimination, harassment, or retaliation.

Responsible and Non-Responsible Employees

A “responsible employee” is a university employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty. A responsible employee must report to the Title IX Coordinator all relevant details about the alleged sexual violence shared by the victim. Non-responsible employees include contracted or third-party employees who are not mandated reporters and do not have to report any disclosures of sexual misconduct to the Title IX Coordinator. Confidential communications generally can occur with health care providers, rape crisis centers, psychological counselors, a personal attorney, and one’s religious or spiritual counselor.

Retaliation

An individual’s adverse action against another person because that person has filed a complaint or participated in an investigation.

Sexual Assault

An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s UCR program.

Sex Discrimination

An umbrella term encompassing multiple types of actions involving the unfavorable treatment of an individual or a group of identifiable individuals based on gender.

Sexual Exploitation

Occurs when a person or group of people takes advantage of another person by doing something sexual in a nonconsensual, abusive, or unjust manner. Examples include nonconsensual video or audio taping of a sexual activity, nonconsensual photography of a sexual nature, voyeurism, knowingly transmitting a sexually transmitted infection (STI) or HIV, or prostituting another person. This type of conduct is prohibited by ASU’s Title IX policy.

Sexual Harassment

Sexual harassment is unwelcome conduct of a sexual nature and can include unwelcome sexual advances, request for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, such as sexual assault or acts of sexual violence. Sexual harassment become unlawful under Title IX or Title VII when it creates a hostile environment such as what exists when harassing conduct is sufficiently severe,

persistent or pervasive so that it unreasonably interferes with, denies, or limits an individual's ability to participate in or benefit from the University's work environment, educational programs and/or activities based upon sex.

Sexual Misconduct

Any non-consensual behavior of a sexual nature that is committed by force or intimidation, or that is otherwise unwelcome. The descriptive term includes, but is not limited to, sexual harassment, sexual assault, dating violence, domestic violence, stalking, sexual exploitation, and sexual intimidation.

Stalking

A course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or other's safety, or to suffer substantial emotional distress.