



Name of Policy	TITLE IX PROHIBITING SEXUAL MISCONDUCT POLICY
Description of Policy	The purpose of this policy is to inform faculty, staff, and students of their rights under Title IX and clearly and unequivocally state Alcorn State University's rules and responsibilities regarding Title IX and sexual misconduct. It is designed to ensure a safe and non-discriminatory educational and work environment.
Policy applies to	<input checked="" type="checkbox"/> University-wide <input type="checkbox"/> Specific (<i>outline location, campus, organisational unit, etc.</i>)
	<input type="checkbox"/> Staff only <input type="checkbox"/> Students only <input checked="" type="checkbox"/> Staff and students
Policy status	<input type="checkbox"/> New policy <input checked="" type="checkbox"/> Revision of existing policy

Approval authority	
Governing authority	
Responsible officer	The Title IX Coordinator shall be responsible for administering this policy across the Alcorn State University community.

Approval date	
Effective date	August 14, 2020 pursuant to federal guidelines
Approval date of last revision	
Effective date of last revision	
Date of policy review*	As a University-wide policy, this Policy is subject to an annual policy review cycle or as necessary to comply with legislative or regulatory changes. <i>Estimated date of review: August 2021</i>

*unless otherwise indicated, this policy will still apply beyond the review date

Related legislation, policies, procedures, guidelines and local protocols	Alcorn's related procedure policy for responding to Title IX allegations; Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in the University's programs or activities; relevant sections of the Violence Against Women Reauthorization Act; Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of sex in employment; and Mississippi laws that prohibit discrimination on the basis of sex, sexual orientation, and gender identity. <i>It does not preclude application or enforcement of other policies of Alcorn State University.</i>
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Background

Title IX of the Education Amendments of 1972 prohibits discrimination based on sex in education programs and activities that receive federal financial assistance. Title IX states, “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 education program or activity receiving Federal financial assistance.”

In May 2020, the U.S. Department of Education published its final regulations governing campus sexual assault under Title IX. The final regulations obligate Alcorn State University (“Alcorn”) to **respond promptly and supportively** to persons alleged to be victimized by sexual harassment, resolve allegations of sexual harassment promptly and accurately under a predictable, fair grievance process that provides due process protections to alleged victims and alleged perpetrators of sexual harassment, and effectively implement remedies for victims. The final regulations clarify the connection between Title IX, due process, and other laws. Under the final regulations, Alcorn is required to clearly designate a Title IX Coordinator to address sex discrimination including sexual harassment, disseminate its non-discrimination policy and contact information for the designated Title IX Coordinator.

Examples of the types of discrimination that are covered under Title IX include sexual harassment; the failure to provide equal opportunity in athletics; discrimination in a school’s science, technology, engineering, and math (STEM) courses and programs; and discrimination based on pregnancy.¹

Purpose

Sexual misconduct violates an individual’s fundamental rights and personal dignity and will not be tolerated at Alcorn. The purpose of this policy is to establish a mechanism for determining when rights have been violated within an **Alcorn education program or activity**. In considering allegations of sexual harassment, Alcorn is concerned with the rights of both the Complainant and the Respondent. This policy outlines the process for addressing and resolving all formal complaints of sexual misconduct against Alcorn students, faculty, staff and non-affiliates.

Alcorn is committed to ensuring an environment free of discrimination on the basis of sex and will take prompt action towards: (1) stopping prohibited conduct; (2) disciplining those who engage in prohibited conduct in violation of this policy; (3) preventing recurrence of prohibited conduct; and (4) producing equitable remedies. Moreover, Alcorn affirmatively promotes prevention, awareness and training programs to encourage individuals to report concerns or complaints. Every member of the Alcorn community has a responsibility to help prevent and report acts of prohibited conduct.

¹The U.S. Department of Education’s Office for Civil Rights (OCR) enforces Title IX of the Education Amendments of 1972, which prohibits discrimination based on sex in education programs and activities that receive federal financial assistance. Issue areas include: Sex-based Harassment (including Sexual Harassment, Sexual Violence and Gender-based Harassment), Harassment and Bullying, Pregnant or Parenting Students, Athletic Opportunities and Benefits, and Retaliation.

Scope/Application

Title IX's prohibition against sex discrimination and sexual harassment applies to institutions that receive federal financial assistance, including Alcorn. Sexual misconduct will not be tolerated and is considered to be a serious offense. This policy applies to all members of the Alcorn community, including students, faculty, staff, volunteers, organizations, and/or any other affiliate that participates in activities associated with Alcorn. Unequivocally, this policy relates to *all of Alcorn's programs and activities* regardless of whether or not such programs or activities occur on-campus or off-campus and applies to all persons without regard to sexual orientation, gender identity and/or gender expression.

To the extent a conflict exists between State or local law and Title IX, the obligation to comply with Title IX is not obviated or alleviated by any State or local law. To the extent other Alcorn or campus-based policies may conflict with this policy, the provisions of this policy shall supersede and govern.

Jurisdiction

This policy covers conduct that occurs:

- In the course of Alcorn operations;
- On campus or any other Alcorn owned, leased, controlled or operated location;
- Within the bounds of the United States;
- At any Alcorn sponsored event or organizational activity whether on or off campus; and/or
- Where Alcorn exercised substantial control over the Respondent in the context of where or how the alleged incident occurred.

Anyone subjected to sexual misconduct is encouraged to utilize available support measures and/or file a complaint with the Title IX office. Individuals who have experienced sexual misconduct are also advised to utilize supportive measures available through Alcorn whether or not the person(s) who caused the harm is a member of the Alcorn community. Supportive measures are available whether or not a Formal Complaint is filed. *At the time of filing a formal complaint with Alcorn, a Complainant must be participating in or attempting to participate in the education program or activity of Alcorn.* A Formal Complaint may be filed with Alcorn's Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information at www.alcorn.edu for the Title IX Coordinator.

Students are responsible for their conduct from notice of admission to Alcorn through the awarding of a degree or departure from Alcorn. Employees are covered by this policy when representing Alcorn (or deemed to be a representative of Alcorn) whether before, during or after work. This policy also applies to any person who is both a student and an employee at Alcorn.

Freedom of Speech

This policy is not intended to infringe on any form of speech that is protected by the First Amendment of the United States Constitution nor to regulate protected speech. Nothing in this policy is designed to deprive a person of any rights that would otherwise be protected from government action under the Due Process Clause of the Fifth and Fourteenth Amendments of the U.S. Constitution.

Policy Statement and Principles

In accordance with Title IX and other applicable state and federal laws, Alcorn is committed to ensuring a learning, working, and living environment that promotes integrity, dignity, and respect. Alcorn is dedicated to providing an environment free of unlawful discrimination on the basis of sex and sexual misconduct which includes sexual assault, sexual harassment, dating violence, domestic violence, stalking and retaliation. This policy is in compliance with applicable legal requirements including Title IX of the Education Amendments of 1972; relevant provisions of the Violence Against Women Reauthorization Act of 2013; Title VII of the Civil Rights Act of 1964; the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; and other applicable federal and state laws.

At Alcorn, Title IX violations will not be tolerated. Criminal, civil, *and* university disciplinary processes are available to students, faculty, and staff who experience conduct prohibited by Title IX. Alcorn is dedicated to prompt, effective and fair procedures to investigate and adjudicate Title IX Complaints.

Notice of Non-Discrimination

Alcorn State University does not discriminate on the basis of sex, in its education programs or activities, that it operates including admissions and employment. Similarly, Alcorn does not discriminate on the basis of race, pregnancy, sexual orientation, gender identity or expression, religion, citizenship, national origin, age, disability, veteran status, or genetic information. Both men and women are protected from sex discrimination and sex-based harassment. Inquiries about the application of Title IX and this part may be referred to Alcorn's Title IX Coordinator, to the Assistant Secretary, or both. Contact information for both is below:

Ikeecia L. Colenberg, J.D.

Title IX Coordinator

Email: icolenberg@alcorn.edu

Telephone: (601) 877-6124

Bowles Hall, 2nd Floor, Room 217

1000 ASU Drive #217

Lorman, MS 39096

Office of Civil Rights for Mississippi

Office for Civil Rights, Dallas Office

U.S. Department of Education

1999 Bryan Street, Suite 1620

Dallas, TX 75201-6810

Telephone: (214) 661-9600

Facsimile: (214) 661-9587

Email: OCR.Dallas@ed.gov

REPORTING MISCONDUCT

I. Reporting Misconduct

- A. Alcorn strongly encourages prompt reporting of sexual misconduct. Complaints may be reported to:
 1. Alcorn's Title IX Coordinator;
 2. Office of Human Resource Management;
 3. Campus Police Department;
 4. Confidential Support Services on campus;
 5. Any Responsible Employee; or
 6. Online Title IX Incident Report Form.
- B. An individual may also confidentially report to a Confidential Advisor, mental health counselors or staff operating in the Alcorn student health center capacity.
- C. When Alcorn is made aware of the particular circumstances of a possible complaint, the Title IX Coordinator will promptly contact the person alleged to be the victim (referred to as the "Complainant") confidentially to discuss:
 1. Available supportive measures while also considering the Complainant's wishes with respect to supportive measures;
 2. Supportive measures are available with or without the filing of a Formal Complaint; and
 3. Explain to the Complainant the process for filing a Formal Complaint.
- D. Any member or potential member of the Alcorn Community may request information or advice, including whether certain conduct violates policy; seek informal resolution; or file a formal complaint. Anyone with actual knowledge of sexual harassment is encouraged to bring their concerns to the Title IX Coordinator.
- E. Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment).
- F. Most Alcorn employees are considered "**Responsible Employees**" under the Clery Act, and for purposes of this policy, all Alcorn employees should assume that they are Responsible Employees absent specific instructions to the contrary from an official with authority.
- G. Responsible Employees are required to report instances of sexual misconduct to the Title IX Coordinator if they learn about sexual misconduct involving any member of the Alcorn community or any sexual misconduct on campus or in connection with any Alcorn program or activity. The following are exceptions to the Responsible Employee reporting requirement:
 1. Information disclosed at public awareness events (*vigils, protests, speak-outs*) or other public forums where people may disclose incidents of prohibited conduct as part of educating others; and/or
 2. Disclosures made in the course of academic work product consistent with the assignment (*creative writing assignment, team work, public speaking course*).

II. Rights of Complainant and Respondent Following a Report

- A. Both parties have the following equal rights:
 1. The right to be treated with dignity and respect;
 2. The right to receive written notice of a Complaint;
 3. The right to receive *advance notice, in writing*, whenever invited or expected to participate in an interview, meeting, or hearing;
 4. The right to have a meaningful opportunity to be heard by a neutral decision-maker;
 5. The right to present relevant evidence and/or have witnesses speak on their behalf;

6. The right to due process and fairness;
7. The right to select an Advisor of choice (who may be, but is not required to be an attorney) and have their advisor present with them;
8. The right to be informed of available supportive measures;
9. The right to have adequate time to review relevant documents;
10. The right to appeal the decision made or any sanctions impose;
11. The right to receive written notice of any outcome; and
12. The right to report the incident to law enforcement at any time.

B. The Complainant shall have the right to:

- At all times decide if or when to file a Formal Complaint, report to law enforcement, and determine whether to proceed with a Formal Complaint, at the individual's discretion.

C. The Respondent shall have the right to:

- Be presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process (Presumption of Innocence).

COMPLAINT AND INVESTIGATION

I. Initial Response to Complaints

The Title IX Coordinator will promptly contact the Complainant to discuss:

- The process for filing a Formal Complaint;
- The available supportive measures; and
- Consider the Complainant's wishes with respect to filing a complaint or seeking supportive measures.

II. Formal Complaints

A. Formal Complaints will be initially reviewed by the Title IX Coordinator and must include:

1. Facts alleging conduct under this policy;
2. A signature (electronic or handwritten) or other designation that the Complainant is the individual choosing to file a Formal Complaint;
3. Some allegation or evidence the conduct occurred in an environment covered by this policy; and
4. A statement that the Complainant is a student or other person seeking to participate in a program or activity of Alcorn.

B. If the facts stated in the Formal Complaint warrant dismissal, the Complainant will be notified in writing by the Title IX Coordinator within five (5) business days of the filing. Other reasons for dismissal may include:

1. Withdrawal by Complainant;
2. At the time of complaint, the Complainant is no longer participating or attempting to participate as part of the Alcorn community; or
3. Respondent is no longer affiliated with Alcorn.

C. If a Complaint is dismissed, it may be reinstated under the Alcorn student code of conduct or other relevant policy or procedure. (I.e. non-sex or gender-based misconduct.)

III. Title IX Coordinator Initiated Complaint

In very limited circumstances, Alcorn's Title IX Coordinator may pursue a complaint absent a Complainant if determined that the allegations present a risk of substantial harm to community member(s). This may include: use of threats; use of weapons; use of violence; a continued pattern of behavior; and/or predatory behavior.

IV. Consolidation of Multiple Complaints

Formal Complaints under this policy may be consolidated when there are multiple allegations of conduct that arise out of the same facts or circumstances. This may include complaints that involve:

- More than one Respondent; or
- More than one Complainant against one or more Respondents.

V. Notice of Investigation

A. When an investigation commences the Respondent shall be sent written notice including the following:

1. The specific charge(s) alleged;
2. The date and location, if known, of the incident;
3. A summary of the allegation(s) with a reasonable amount of specificity; and
4. A request to meet with the Title IX investigator.

- B. The investigator(s) will make every effort to conduct a thorough and prompt investigation based on the facts and circumstances of each complaint within thirty (30) business days of the notice. Complicated or consolidated investigations may take longer.
- C. The investigation shall include meetings with the parties involved, including witnesses and any other parties the Investigator may deem appropriate.
1. The Respondent and Complainant will be given the opportunity to identify witnesses to be interviewed.
 2. The Investigator may seek and collect, and parties may submit, any documents or other relevant information, including, but not limited to:
 - a. Photographs;
 - b. Video or audio recordings;
 - c. Information from social media; and/or
 - d. Screenshots or other communications
 3. At the conclusion of the investigation, the Investigator shall prepare a draft investigative report that summarizes the investigation, and all relevant evidence obtained.
 4. The draft report shall be sent electronically to each party and the party's Advisor, if identified.
 5. All evidence shall be included, even that which Alcorn does not intend to rely on in reaching a determination regarding responsibility and shall include inculpatory and exculpatory evidence whether obtained from a party or other source.
- D. The parties shall have ten (10) business days from the date a draft report is submitted to review and submit a written response. The Investigator will review the comments and prepare a final report.
- E. The final investigative report shall:
1. Include a timeline of events;
 2. Include the facts and circumstances surrounding the Complaint;
 3. Summarize relevant evidence;
 4. Be sent electronically, along with all evidence, to each party and the party's Advisor, if identified, at least 10 business days prior to a hearing.

NOTE: All evidence shall be included, even that which Alcorn does not intend to rely on in reaching a determination regarding responsibility and shall include inculpatory and exculpatory evidence whether obtained from a party or other source.

INTERIM MEASURES

Interim Measures

- A. Interim measures are remedial measures taken to help deescalate and offer a short-term or temporary resolution during the pendency of an investigation.
- B. Alcorn's Title IX Coordinator, or designee, may recommend interim measures such as a "no contact" order or suspend a Respondent from participating in the education program or activity on an emergency basis.

- C. The following procedure applies to an emergency removal or limitation:
1. The Title IX Coordinator must make a determination that the Respondent presents an immediate threat to the physical health or safety of any other individual arising from the allegations of sexual misconduct.
 2. Written notice must be provided to the Respondent through the institutional email address of the reason for the interim measure.
 3. The Respondent shall have a right to notify the Title IX Coordinator in writing, of any request to challenge the suspension or limitation.
 4. The Title IX Coordinator shall provide an opportunity to meet (virtually or in person, at the discretion of the Title IX Coordinator) within four (4) business days of receipt of notice.
 5. The Title IX Coordinator shall provide written notice of the decision within four (4) business days after the meeting via institutional email. ***This decision is appealable immediately following the removal or limitation.***
 6. The interim action shall be in effect while request for review and the review are pending.

INFORMAL RESOLUTION

- A. Informal resolution is a process whereby the parties work with a qualified and neutral individual to reach a resolution of the Complaint without a formal hearing. This process is completely voluntary and requires the written consent of both parties. ***At any time, a party may terminate the informal resolution process.***
- B. The Title IX Coordinator must determine that the circumstances and parties are appropriate for informal resolution. Complaints classified as sexual assault, rape, statutory rape, incest or involves violence resulting in significant harm to others are not appropriate for informal resolution.
- C. The Title IX Coordinator shall appoint a professional to facilitate the process.
- D. Informal resolution ***will never***:
1. Be required as a condition of enrollment or continuing enrollment, employment or continuing employment or enjoyment of any other right;
 2. Require a waiver of the right to an investigation and adjudication under the Formal Resolution process;
 3. Be offered as a process ***unless a Formal Complaint is filed***;
 4. Be utilized to resolve a ***student Complainant allegation against a Respondent employee***.
- E. Informal Resolution Agreements
1. If a Complaint is resolved through informal resolution, a written agreement shall be issued including any terms, obligations and/or outcomes.
 2. Agreements must have the approval of the Complainant and Respondent.
 3. The Title IX Coordinator must electronically share the agreement with the parties by the within five (5) business days of resolution.
 4. Alcorn shall maintain the privacy of informal resolution processes and these records shall not be utilized or admissible in the Formal Hearing procedures.
 5. No facilitator of an informal process may be called as a witness in any procedure under this policy.

MISCELLANEOUS PROVISIONS

I. Prohibition of Retaliation

No person may intimidate, threaten, coerce or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this policy or because the individual has made or responded to a report or Complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding or hearing under this policy. This also includes serving as an Investigator or as a member of the Title IX Committee, or a decision-maker(s). Alcorn strictly prohibits retaliation or attempted retaliation. Retaliation or attempted retaliation will be subject to severe sanctions up to and including termination or dismissal from Alcorn.

Alcorn will take steps to prevent recurrence and remedy the effects of any violation of this policy. Further, Alcorn is committed to protecting its community from sexual harassment and from retaliation as a result of participating in a Title IX process.

Charging an individual with disciplinary actions outside this policy for making materially false statements in bad faith in the course of a grievance proceeding does not constitute retaliation. A finding of responsibility against a Respondent, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

II. Title IX Coordinator

As required under federal law, Alcorn has designated and authorized Ikeecia L. Colenberg as Title IX Coordinator. As Title IX Coordinator, Ms. Colenberg shall oversee, on all Alcorn campuses, the **implementation, enforcement, and coordination of Title IX**. Specifically, the Title IX Coordinator manages Alcorn's efforts to comply with its responsibilities under Title IX which includes oversight of all Title IX complaints, monitor complaint outcomes, identify patterns, and assess impacts on university climate. Furthermore, the Title IX Coordinator manages support measures, conduct trainings and seminars, as well as disseminate Title IX information.

In consultation with the Athletic Division, the Title IX Coordinator will monitor sports equity, including offerings, participation, and scholarships for Title IX compliance. Complaints, supportive measures or other concerns related to issues of sexual misconduct involving student athletes or Athletics personnel (other than those involving sports equity) shall be addressed in accordance with this policy.

Any member or potential member of the Alcorn community may request information or advice, including whether certain conduct violates policy; seek informal resolution; or file a Formal Complaint. Anyone with actual knowledge of sexual harassment is encouraged to bring their concerns to the Title IX Coordinator. Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by email, using the contact information below for Alcorn's Title IX Coordinator.

Ikeecia L. Colenberg, J.D.

Title IX Coordinator

icolenberg@alcorn.edu or titleix@alcorn.edu

(601) 877-6124

Bowles Hall, 2nd Floor, Room 217

1000 ASU Drive #217

Lorman, MS 39096

III. Amnesty Policy

Alcorn encourages reporting and seeks to remove barriers in reporting of Sexual Misconduct. A Complainant or witness who, in good faith, reports sexual misconduct, shall not be sanctioned for non-violent student conduct violations, such as underage drinking, provided such violation did not place the health and safety of any other person at significant risk of harm. Amnesty will be granted by the Title IX Coordinator.

IV. Confidentiality

Alcorn shall maintain the confidentiality; as permitted by FERPA, required by law, or to carry out the purposes of any proceeding arising under this policy; of any individual under this policy who:

- Has made a report or Complaint;
- Has been named as a perpetrator;
- Has been named as a Respondent; or
- Has been named as a witness.

Alcorn may be required to disclose information on a need-to-know basis in order to properly address a Complaint, when there is a threat to others, pursuant to subpoena, or other court or administrative order, or as may be required by applicable law. Violations of confidentiality or privacy by any other persons involved in the resolution, investigation or administration of the Complaint, including any employee, faculty, staff, or student may result in disciplinary or corrective action.

V. Cooperation with Law Enforcement

Alcorn will comply with law enforcement requests for cooperation and such cooperation may require Alcorn to temporarily suspend, at the direction of the Title IX Coordinator, the fact-finding aspect of an investigation while the law enforcement agency is in the process of gathering evidence. Alcorn will promptly resume its investigation as soon as notified by law enforcement that it has completed the initial evidence gathering process. Alcorn may provide up to 10 calendar days to allow for the law enforcement agency criminal process/investigation to unfold prior to resuming the fact-finding aspect of the investigation.

Alcorn will implement appropriate interim measures and remedies during the law enforcement agency's investigation to provide for the safety of the parties to the case, the campus community, and to avoid any instance of retaliation. Law enforcement investigations shall not be a substitute for Title IX investigations. Law enforcement officials shall not conduct Title IX investigations on behalf of any Alcorn campus unless the Title IX Coordinator has requested law enforcement investigation assistance in writing.

VI. Task Force

The Title IX office shall establish a task force to confer in regards to sexual misconduct. This task force shall invite student members to be represented through their respective student government body or other student organizations. The Task Force shall be chaired by the Title IX Coordinator.

VII. Record Keeping

Records created or received under this policy will be maintained for seven (7) years from the date each case is closed. The following shall be kept as a part of the record:

- Each investigation including any determination regarding responsibility;
- Any audio or audio-visual recording or transcript of a hearing;
- Any disciplinary sanctions imposed on the Respondent;
- Any remedies provided to the Complainant designed to restore or preserve equal access to Alcorn's education program or activity;
- Any appeal and result therefrom;

- Any informal resolution and result therefrom;
- All materials used to train the Title IX Coordinator, Investigators, decision-makers, and any person who facilitates an informal resolution process; and
- Records of any actions, including supportive measures, taken in response to a report or Formal Complaint.

VIII. Campus Climate Survey

The Title IX office will administer a Campus Climate Survey annually to assess the knowledge, perceptions and behaviors of its students, faculty and staff regarding sexual misconduct. The survey will be supplemented with additional information and material to assist in preventing sexual misconduct and strategies to deal with sexual misconduct. This annual Campus Climate Survey shall be submitted to the Executive Director of the Office of University Compliance by June 1 of each year. Thereafter, the Campus Climate Survey will be submitted to the President no later than July 1.

IX. Training, Educational, and Prevention Programs

Alcorn’s policy is to provide regular training and education to its community, including all students and employees, regarding this policy and their duties under it. Training and education programs will include, without limitation:

- A clear statement of the Alcorn’s prohibition of sexual misconduct, including sexual assault, dating violence, and stalking;
- Information designed to enhance awareness of rape, acquaintance rape, domestic violence, dating violence, and stalking;
- Information on the definition of consent;
- Information on bystander intervention strategies to safely prevent harm where a threat of sexual misconduct exists; and
- Information on risk reduction, recognizing signs of abusive behavior, and avoiding potential attacks.

In addition, the Title IX office will provide appropriate training to all persons serving as Investigators, Adjudicators, appointed Advisors, or facilitators of informal resolution under this policy. The Title IX Coordinator will oversee and monitor Alcorn’s training and education efforts to ensure their adequacy for these purposes and their compliance with applicable laws.

X. Policy Related Information and Resources

United States Department of Education, Office of Civil Rights

Title IX Regulations Addressing Sexual Harassment (Unofficial Copy)

<https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>

Title IX Regulations Addressing Sexual Harassment (Unofficial Copy)

<https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>

Title IX: Fact Sheet: Final Title IX Regulations

<https://www2.ed.gov/about/offices/list/ocr/docs/titleix-fact-sheet.pdf>

Title IX: Summary of Major Provisions of the Department of Education’s Title IX Final Rule

<https://www2.ed.gov/about/offices/list/ocr/docs/titleix-summary.pdf>

Title IX: Summary of Major Provisions of the Department of Education’s Title IX Final Rule and Comparison to the NPRM

<https://www2.ed.gov/about/offices/list/ocr/docs/titleix-comparison.pdf>

Review

This is an existing policy that has been modified pursuant to federal guidance and regulations—amended on August 14, 2020. As a University policy, this policy is subject to an annual policy review cycle or as necessary to comply with legislative or regulatory changes.

Revision made to this Policy

Date ²	Major, Minor or Editorial Revision	Description of Revision(s)
	Application of Title IX — <i>jurisdiction, timing of complaints, notice of non-discrimination (free-speech), actual knowledge, formal complaint, dismissals, informal resolution</i>	<ul style="list-style-type: none"> -Title IX’s application (scope & jurisdiction) is limited under this policy. -The definition of Actual knowledge is used to determine when Alcorn must respond under Title IX. -The timeframe in which a formal complaint maybe brought is now limited. -Informal resolution must be voluntary & requires written consent. Informal resolution is not allowed when an employee is accused of sexual harassment against a student. -Formal complaint initiates an investigation and cannot be anonymous. -Grounds for mandatory dismissal
	Definitions —clarifies and clearly defines sexual harassment, Title IX Coordinator role & responsibility	<ul style="list-style-type: none"> -The Final regulations requires Alcorn modify its definitions under Title IX. -Title IX Coordinator is clearly identified in this policy and contact information is easily accessible. -The role of the Title IX Coordinator is defined.
	Fairness & Due Process principles Supportive measures	<ul style="list-style-type: none"> -This Policy incorporates universal principles of fairness and due process. -Written notice of allegations and an opportunity to defend and cross-examine -Defined and listed available supportive measures for the parties.
	Determinations regarding responsibility	<ul style="list-style-type: none"> -Single Investigation model is barred under this policy, decision-makers cannot be Title IX Coordinator and/or investigators. -Sanctions can only be imposed after a determination of responsibility has been made. -Presumption of Innocence
	Evidentiary Standard (higher standard of clear and convincing) & Sanctions	<ul style="list-style-type: none"> -Sanctions may only be imposed after the grievance process and this policy lists the range of possible sanctions and/or remedies.
	Investigation — <i>Notice of allegation, investigative process, burden of gathering evidence is on Alcorn, presentation of witnesses,</i>	<ul style="list-style-type: none"> -Investigation & entire grievance process treats both parties equitably and equally. -Objective evaluation of evidence and training for all involved in the Title IX adjudicatory process. Training materials available on Alcorn’s website.
	Hearings — <i>live hearings, recording or transcribed, advisor, cross examination, 10-day period to review relevant evidence, Appeal process and grounds for appeal</i>	<ul style="list-style-type: none"> -This policy provides for live hearings, advisor for complainants & respondents. -Grievance process that is clearly defined.

² The effective date required by the final regulations is August 15, 2020. By this date, Alcorn must have implemented the final regulations by amending policies and procedures to become compliant.

	Record keeping —7 years	-This policy requires Alcorn keep all records related to Title IX investigations, complaints, hearings, etc. for at least 7 years.
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Further Assistance

For more information about the Final Regulations and Title IX, please review:

- Title IX Regulations Addressing Sexual Harassment (Unofficial Copy), *available at* <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>
- U.S. Department of Education Title IX Final Rule Overview
- Summary of Major Provisions of the Department of Education’s Title IX Final Rule

Glossary of Terms/Definitions*

Sexual Harassment:

1. Unwelcome, gender-based verbal or physical conduct that is sufficiently severe, pervasive, and objectively offensive 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; or
2. An employee of Alcorn State University conditioning the provision of an aid, benefit, or service of Alcorn on an individual’s participation in unwelcome sexual conduct;
3. Sexual assault (as defined in the Clery Act), dating violence, domestic violence or stalking as defined in the Violence Against Women Act (VAWA).

Sexual harassment is not limited to being bi-directional (male-to-female and female-to-male). Prohibited conduct, is still prohibited irrespective of the identity of the Complainant and Respondent. As explained, any person may experience sexual harassment as a form of sex discrimination, irrespective of the identity of the Complainant or Respondent.

Notice: Alcorn’s Title IX definition of sexual harassment, consistent with the United States Supreme Court’s “Davis” definition is intended to provide First Amendment protections appropriate for educational institution where students are learning and employees are teaching. At Alcorn State University students, teachers, faculty, and others enjoy free speech and academic freedom protection even when speech or expression is offensive.

Sexual violence: a form of sexual harassment. Sexual violence, as the U.S. Department of Education’s Office of Civil Rights uses the term, refers to physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent (e.g., due to the student’s age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

Sexual Assault (Sex Offenses): Any sexual act directed at another person, without consent of the victim, as defined in the Clery Act, including instances where the victim is incapable of giving consent, including:

Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes both males and females.

Fondling: The touching of the private parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape: Sexual intercourse with a person who is under the age of consent (in Mississippi, according to Miss. Code §97-3-65, effective consent cannot be given by persons under the age of 14. Persons who are at least 17 years old cannot receive effective consent from anyone between the ages of 14 and 16 or younger by more than 36 months.)

For the purposes of this definition:

Consent means voluntary, positive agreement between the participants to engage in specific sexual activity.

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or to suffer substantial emotional distress.

- *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, threatens, or communicates to or about a person, or interferes with a person's property.
- *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
- *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or professional treatment or counselling.

Dating Violence: Violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (2) where the existence of such a relationship shall be determined based on a consideration of its *length, type, and frequency of interaction between the persons involved in the relationship*.

- Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

Dating Violence does not include acts covered under the definition of domestic violence.

Domestic Violence: A felony or misdemeanor crime of violence committed by:

- A current or former spouse of intimate partner of the victim;
- A person with whom the victim shares a child in common;
- A person who is cohabiting with, or has cohabited with, the victim as a spouse or intimate partner;
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Gender-based harassment: Unwelcome conduct based on a person's actual or perceived sex. It includes slurs, taunts, stereotypes, or name-calling, as well as gender-motivated physical threats, attacks, or other hateful conduct.

Actual knowledge: Notice of sexual harassment or allegations of sexual harassment to Alcorn's Title IX Coordinator or any other Alcorn official who has authority to institute corrective measures on behalf of Alcorn.

Deliberate indifference: Standard used to evaluate Alcorn's selection of supportive measures and remedies, and responding to sexual harassment in a manner that is "clearly unreasonable in light of the known circumstances."

Retaliation: Intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under regulations implementing Title IX.

Complainant: An individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Advisor: Under the conditions outlined in the applicable procedures, the parties in a Title IX grievance process each may be entitled to designate an "advisor" to support him or her during the investigation process. Advisors are individuals who, provide support to the advisee throughout the Title IX investigation. An advisor should be someone who can assist the party without conflict and thus, may not have any other involvement in the process. The advisor may be present when their advisee is being interviewed and can give feedback to their advisee in private. They may not speak for their advisee during the interview or hearing. The Advisor may not an attorney, but is required to be an attorney.

Responsible Employee: Designated people within the Alcorn community, who must report incidents of sexual assault or sexual harassment to the Title IX Coordinator. Most faculty and staff at Alcorn State University are considered "responsible employees" and thus must report. Some employees are considered "Confidential Employees", who do not need to share information.

Grievance Procedure: The process by which Alcorn investigate and adjudicate sexual harassment under Title IX. Alcorn uses this process and procedure to respond to Formal Complaints of sexual harassment.

Title IX Committee: A group of five (5) individuals from the Alcorn faculty and staff. The purpose and mission of this committee is to assist with investigations pursuant to Title IX. In addition, the committee is an integral component of developing and implementing Alcorn's sexual harassment policy.

Supportive Measures: Individualized services (provided to either party, or both parties), reasonably available, offered without charge/fee, designed to restore or preserve a complainant's equal access to the Alcorn's education program or activity without unreasonably burdening the other party, and/or designed to protect the complainant's safety or deter sexual harassment. Support measures should be non-punitive and non-disciplinary. Examples include: (1) Mutual no contact order prohibiting communication between the parties, (2) supervising the respondent, (3) informing the respondent of the Alcorn's policy against sexual harassment, (4) mental health services, (5) academic arrangements or adjustments, (6) modification of work, housing and/or class schedule, and (7) leaves of absence.

NOTE: Supportive measures shall remain as confidential to the extent that such confidentiality would not impair the ability to provide the supportive measures. The Title IX Coordinator shall bear responsibility for coordinating the effective implementation of supportive measures.

Clear and Convincing: Alcorn are required to use a standard of evidence to determine if a respondent is responsible for an incident. Clear and convincing evidence is defined as follows: that weight of proof which produces in the mind of decision-maker a firm belief or conviction as to the truth of the allegations sought to be established, evidence so clear and direct and weighty and convincing as to enable the decision-maker to come to a clear conviction, without hesitancy, of the truth of the precise facts of the case.

Formal Complaint: A document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the school investigate the allegation of sexual harassment. The only Alcorn official who is authorized to initiate a grievance process against a respondent is the Title IX Coordinator (by signing a formal complaint). At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of Alcorn State University (the school with which the Formal Complaint is filed).

Document filed by Complainant: a document or electronic submission (such as by e-mail or through an online portal provided for this purpose by Alcorn) that contains the complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint the Title IX Coordinator is not a Complainant or party during the grievance process, and must comply with requirements for Title IX personnel to be free from conflicts or bias.

*This section may appear at the front of the policy