

**To Comply or Not To Comply? That Is Not The Question:  
A Multi Content Analysis of Title IX Policies at Historically Black Land Grant  
Universities**

by

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## Abstract

The Office for Civil Rights (OCR) of the U.S. Department of Education (DOE) enforces, among other statutes, Title IX of the Education Amendments of 1972. While Title IX is directed towards the prevention of discrimination in collegiate athletics, Title IX does not explicitly remedy only issues in college athletics. Rather, the statute's heart is a broad prohibition of gender-based discrimination in all-programmatic aspects of educational institutions:

“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 education programs or activity receiving Federal financial assistance...”  
(*Cohen v. Brown University*, 991 F.2d 888)

Reports of sexual discrimination on college campuses have escalated over the past decade (Tjaden & Thoennes, 2006). As a response to public outcry, analysis and review of institutional Title IX policies have permeated public discourse and contributed to significant debate over how higher education institutions are responding to sexual discrimination on their campuses (Lowenthal, 2013). This dissertation analyzes how compliant the Title IX policies at three (3) historically Black land grant universities, Alabama A & M University, Southern University and A & M College, and Florida A & M University, are with federal guidelines and regulations and how each institution compares with one another in terms of compliance.

*Keywords: Title IX, land grant, HBCU, compliance, higher education, policy analysis*

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## List of Abbreviations

SUBR	Southern University and A&M College- Baton Rouge
FAMU	Florida A&M University
AAMU	Alabama A&M University
DCL	Dear Colleague Letter
DOE	Department of Education
OCR	Office of Civil Rights
OPE	Office of Postsecondary Education
TFPSSA	Task Force to Protect Students from Sexual Assault

## **Introduction**

The Office for Civil Rights (OCR) of the U.S. Department of Education (DOE) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX was revised via the Civil Rights Restoration Act of 1988 to correct the growing problem of the disparate treatment of women and women’s athletic programs in intercollegiate athletics (20 U.S.C. § 1681 *et seq.*) and of men in reverse situations (Cozzillio & Levinstein, 1997). While Title IX is directed towards the prevention of discrimination in collegiate athletics, Title IX does not explicitly remedy only issues in college athletics. Rather, the statute’s heart is a broad prohibition of gender-based discrimination in all-programmatic aspects of educational institutions:

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 education programs or activity receiving Federal financial assistance.

(*Cohen v. Brown University*, 991 F.2d 888)

Further, in its affirmative ruling in *Cohen*, the Court determined that prohibiting educational institutions from discriminating on the basis of sex was such an important government objective that it justified gender classification, Title IX, its regulations, and policy

interpretations as substantially related to achieving this objective (1993). Accordingly, Title IX protects all students, regardless of sex, from discrimination in the form of sexual misconduct.

Introduced in 2011 by the Office of Civil Rights (OCR) of the U.S. Department of Education (DOE), the 2011 Dear Colleague Letter on Sexual Violence (DCL) served as an outline of policy requirements for all institutions of higher education receiving federal funding. This document, as well as its 2014 codicil, *Questions and Answers on Title IX and Sexual Violence*, outlined requirements for institutional policies regarding sexual misconduct on campus.

Moreover, on September 22, 2017, withdrawing the statements of policy and guidance reflected in the *Dear Colleague Letter on Sexual Violence*, issued by the Office for Civil Rights at the U.S. Department of Education, dated April 4, 2011, as well as, *Questions and Answers on Title IX and Sexual Violence*, issued by the Office for Civil Rights at the U.S. Department of Education, dated April 29, 2014, which interpreted Title IX to impose new mandates related to the procedures by which educational institutions investigate, adjudicate, and resolve allegations of student-on-student sexual misconduct and required institutions to adopt a minimal evidentiary standard—the preponderance of evidence—another Dear Colleague Letter was instituted.

The 2017 DCL criticized the following aspects of the 2011 DCL: its insistence that schools with an appeals process allow complainants to appeal not-guilty findings, its discouragement of cross-examination by the parties, its suggestion that to recognize a right to cross-examination might violate Title IX, its forbiddance of reliance on criminal investigatory proceedings by law enforcement authorities in Title IX complaint resolution, and its provision that any due-process protections afforded to accused students should not unnecessarily delay resolving the charges against them.

Condemning the 2011 DCL and the 2014 *Questions and Answers on Title IX and Sexual Violence* for placing “improper pressure upon universities to adopt procedures that do not afford fundamental fairness,” DOE references the *Q&A on Campus Sexual Misconduct*, issued contemporaneously with the 2017 DCL, and urged continual reliance on its *Revised Sexual Harassment Guidance*, which was informed by a notice-and-comment process and issued in 2001, as well as the reaffirmation of that Guidance in the *Dear Colleague Letter on Sexual Harassment*, issued January 25, 2006.

### **Statement of Problem**

Reports of sexual discrimination on college campuses have escalated over the past decade (Tjaden & Thoennes, 2006). As a response to public outcry, analysis and review of institutional Title IX policies have permeated public discourse and contributed to significant debate over how higher education institutions are responding to sexual discrimination on their campuses (Lowentheil, 2013). The primary impetus of this research was to determine how compliant the Title IX policies at three (3) historically Black land grant universities are with federal guidelines and regulations and to discover how each institution compares with one another in terms of compliance. Although much existing literature related to sexual discrimination on college campuses is related to statistical publication, awareness, training, education, and/or prevention, previous studies have not simultaneously analyzed institutional compliance across institutional type. There is a lack of literature identifying trends characteristic to institutional type, particularly the historically black land grant university. Tracy (2010) posits worthy topics as those which often emerge from disciplinary priorities and are, therefore theoretically or conceptually compelling; however, she adds the likelihood of topics considered worthy to also derive from timely societal or personal events.

Because of the rising multiplicity and complexity of sexual discrimination as both an issue of public health and safety affecting institutions of higher education in the United States, spurred by the release of statistics mandated by federal law and media coverage of the prevalence of sexual misconduct on college campuses, as well as, proposed modifications in the resilience narrative of the historically black college university, a study of historically black land grant Title IX compliance was deemed timely.

### **Statement of Theoretical Framework**

Posited by Schwandt (2015) as a depiction, portrayal, or description of a social phenomena, representation is central to the modernist project of understanding the world and a goal of qualitative inquiry, as well as, all forms of social science. Further, Creswell & Poth (2017) characterize this description as the foundation upon which qualitative research is built, with how one writes serving as a reflection of his or her own interpretation based on the cultural, social, gender, class, and personal politics that one brings to research. Theoretically undergirded by a concept referred to as “repre-sentin(g),” in “Representin(g) : Negotiating Multiple Roles and Identities in the Field and Behind the Desk,” Hill (2006) illumines the status of representation as severely undermined by questionable identity politics, with each epistemological and methodological turn being offered with the goal of providing a more full and accurate depiction of cultures.

The crisis of representation arises from noncontroversial claim that no interpretive account can ever directly nor completely capture lived experience; thus, it specifically refers to the uncertainty within the human sciences about adequate means of describing social reality (Schwandt, 2015). Based on the premise that knowledge is always provisional and always the result of concrete, situated inquiries, Soviet psychologist, Lev Vygotsky (1978) emphasizes the

role of language and culture in cognitive development and in how we perceive the world, and claimed that they provide theoretical frameworks through which we experience, communicate, and understand reality—social constructivism. Berger and Luckmann (1967) propagate the notion of a continuously constructivist society, opining that societies, non-static in nature, are enacted and reproduced by human behavior, through practice. Thus, new ideals are constructed; new phenomena occur.

Further, Tony Giddens (1984) highlights two panoramas of a continuously constructivist society: while individual behavior results from societal structure, human action also reproduces, sustains, and modifies societal structure. Put simply, social constructivism, transformation of the shared knowledge, beliefs, and metaphors into everyday practices, is the interpretation and appropriation of social representation (Moscovici, 1988). Here, the theoretical framework that is social constructivism, the social construct that is Title IX, the social construct that is compliance with the same, and the policy analysis thereof meet.

Arguing that policy analysis, characterized as a rather “messy and elusive creative process that is strongly drawn on intuition of the analyst (p. 7),” is not rational or linear and does not proceed in an orderly fashion from one stage of analysis to the next, Gill and Saunders (1993) consider it to be the most effective means available for clarifying policy issues, defining objectives, enumerating possible alternatives, and establishing criteria to reaffirm analysis. Echoing premises of social constructivism, policy analysis in higher education champions a realistic identification of the issues, environment, and correlation between political climate and a socially constructivist society.

Precipitated by heightened pressure from the American public and media coverage, threats of loss of federal funding, potential civil litigation, the necessity to implement best

practice to protect and promote the health and safety of their respective campuses, institutions of higher education have had to ensure that their policies and procedures on Title IX are in compliance with federal mandates. Notwithstanding pressure and inherent good faith effort, incongruities between law, government, and institutions of higher education remain. Thus, policy analysis is utilized to ascertain how compliant the Title IX policies of three (3) historically black land grant universities, Alabama A & M University, Southern University and A & M College, and Florida A & M University, are with federal guidelines.

### **Statement of Purpose**

Meaningfully coherent studies (a) achieve their stated purpose; (b) accomplish what they espouse to be about; (c) use methods and representation practices that partner well with espoused theories and paradigms; and (d) attentively interconnect literature reviewed with research foci, methods, and findings (Tracy, 2010, p. 848). The purpose of this qualitative study was to investigate existing Title IX policies of three (3) historically black land grant universities, Alabama A & M University, Southern University and A & M College, and Florida A & M University via a multi-case study policy and content analysis, in order to ascertain how compliant the institutions' Title IX policies are with federal guidelines and to discover how Title IX policies of the three (3) historically black land grant universities compare with one another in terms of their compliance with federal guidelines. This study used qualitative method of policy and content analysis as determined by a rubric adapted from federal guidelines to analyze each institution's policies.

### **Research Questions**

The following research questions were used in this study:

1. To what extent are Title IX policies of the three (3) historically black land grant universities, Alabama A & M University, Southern University and A & M College, and Florida A & M University, compliant with federal guidelines?
2. How do the Title IX policies of the three (3) historically black land grant universities compare with one another in terms of their compliance with federal guidelines?

### **Significance of Study**

Forty-six years later, remarkable progress toward an educational environment free of sexual discrimination has been made, due to the passage of Title IX. This progress, attributed, in part, to vigorous enforcement of Title IX by OCR, and also to federal legislative impositions on institutions regarding how they address issues of sexual discrimination and how they publish crime statistics, has resulted in attention being brought to the protections afforded by Title IX. Of a vital nature is the necessity for institutions of higher education to have clear and compliant policies regarding incidents of sexual discrimination. To comply or not to comply? That is not the question.

### **Definitions of Terms**

The following definitions of terms are furnished to provide, as succinctly as possible, clear and concise applicable meanings of terms as used in this study.

*Adjudication*- An umbrella term to encompass all aspects of the institutional complaint resolution process including investigation, determination of a respondent's responsibility, and appeal (Stoner & Lowery, 2004).

*Complainant*- The individual who is making the complaint or the alleged victim of a sexual harassment/misconduct case (OCR, 2011). Although the term "complainant" is often used



interchangeably with “survivor” and “victim,” some practitioners regard the usage of the latter two terms as a preconceived declaration of judgment (White House Task Force to Protect Students From Sexual Assault, 2014).

*Consent*- The affirmative, unambiguous, and voluntary agreement to engage in a specific sexual activity during a sexual encounter. *Consent* must be informed, voluntary, and mutual, and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person. If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption that meets this standard, or being asleep or unconscious (White House Task Force to Protect Students From Sexual Assault, 2014).

*Hostile Environment*- Created by anyone involved in an institution’s program, activity, or realm of employment (e.g., administrators, faculty members, students, and campus visitors), a *hostile environment* exists when sex-based harassment is sufficiently serious to deny or limit one’s ability to participate in, benefit from, or serve the Institution’s programs, activities, or realm of employment. In determining whether sex-based harassment has created a hostile environment, the institution considers the conduct in question from both a subjective and objective perspective, making an ultimate determination based on factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including: (1) the type, frequency, and duration of

the conduct; (2) the identity and relationships of persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and, (5) the degree to which the conduct affected one or more student's education (White House Task Force to Protect Students From Sexual Assault, 2014).

*Incapacitation-* A state of impairment such that one is unable to make rational, reasonable decisions, unable to understand the fact, nature, or extent of a sexual situation, and therefore lacks capacity to consent (White House Task Force to Protect Students From Sexual Assault, 2014).

*Interim Measures-* Those services, accommodations, or other assistance that the institution puts in place for victims after receiving notice of alleged sexual misconduct, but before any final outcomes—investigatory, disciplinary, or remedial—have been determined (White House Task Force to Protect Students From Sexual Assault, 2014).

*Land grant-* Institutions, the need for which were spearheaded by Senator Justin Morrill, in 1862 via the Morrill Land-Grant Act, following the Civil War and the Thirteenth Amendment's abolition of slavery, to train Americans in the applied sciences, agriculture, and engineering (Roebuck & Murty, 1993).

*Title IX* – Title IX of the Education Amendments of 1972, Pub. L. 92–318, as amended by section 3 of Pub. L. 93–568, 88 Stat. 1855, except sections 904 and 906 thereof; 20 U.S.C. 1681, 1682, 1683, 1685, 1686, which prohibits discrimination on the basis of sex in any education program or activity receiving Federal financial assistance, whether or not such program or activity is offered or sponsored by an educational institution (34 C.F.R. Part 106).

*Respondent:* One who is being accused of sexual harassment/misconduct (OCR, 2011). Although the term “respondent” is often used interchangeably with “accused” and “perpetrator,” some practitioners regard the usage of the latter two terms as a preconceived declaration of judgment on the merit of the allegations.

*Retaliation-* Acts or attempted acts for the purpose of interfering with any report, investigation, or proceeding, or as retribution or revenge against anyone who has reported sexual misconduct or who has participated (or is expected to participate) in any manner in an investigation or proceeding (Sexual Misconduct (Title IX) Policy, 2016).

*Sexual Assault-* Actual or attempted sexual contact with another person without that person’s consent. Sexual assault includes, but is not limited to: intentional touching of another person’s intimate parts without that person’s consent; or other intentional sexual contact with another person without that person’s consent; or coercing, forcing, or attempting to coerce or force a person to touch another person’s intimate parts without that person’s consent; or rape (White House Task Force to Protect Students From Sexual Assault, 2014).

*Sexual Exploitation-* Sexual exploitation occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person without that person’s consent. Examples of behavior that could rise to the level of sexual exploitation include: prostituting another person; recording images (e.g., video, photograph) or audio of another person’s sexual activity, intimate body parts, or nakedness without that person’s consent; distributing images (e.g., video, photograph) or audio of another person’s sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure and objects to such disclosure; and,

viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent, and for the purpose of arousing or gratifying sexual desire (White House Task Force to Protect Students From Sexual Assault, 2014).

*Sexual Harassment*- Unwelcome conduct of a sexual nature, including but not limited to unwelcome sexual advances; requests for sexual favors; or other verbal or nonverbal conduct of a sexual nature, including rape, sexual assault, and sexual exploitation. In addition, depending on the facts, dating violence, domestic violence, and stalking may also be forms of sexual harassment (White House Task Force to Protect Students From Sexual Assault, 2014).

### **Limitations**

There are limitations associated with this study. There are also limitations that are inherent to qualitative studies. The results may not be representative of policies at other historically black land grant universities, since the policies for this study were obtained from three (3) historically land grant universities in the southern United States. The sample size means that its results cannot be generalized to large numbers of historically black land grant universities. The results of the study may be highly interpretative where the development of the instrument, mode of data gathering, and analysis of the data relies on the researcher's interpretations and the influence of possible biases. The aforementioned limitations deter the results of this study from being used to draw conclusions about other institutions.

### **Organization of Study**

Chapter One introduces the study, presenting the statement of the problem, statement of the purpose, research questions, definition of terms, limitations, and organization of the study.

Chapter Two provides an overview of existing relevant literature concerning historically Black

colleges and universities, Title IX, and relevant case law. Chapter Three outlines the qualitative procedures utilized in this study, including the institutional selection, methods of data collection, and data analysis. The findings of the study are presented in Chapter Four. Chapter Five includes a summary of the study, conclusions, implications for research and practice for higher education institutions, and recommendations for practitioners and researchers.

## **Chapter 2**

### **Literature Review**

#### **Introduction**

Of the opinion that the foundation, precondition, and inspiration for substantial, useful research is a substantive, thorough, and sophisticated literature review, Boote & Beile (2005) suggest criteria to evaluate the quality of literature reviews. Further, Creswell (1994) suggests that the literature review should meet three criteria: “to present results of similar studies, to relate the present study to the ongoing dialogue in the literature, and to provide a framework for comparing the results of a study with other studies” (p. 37) that may be effectively accomplished via a five step process: “identifying terms to typically use in your literature search; locating literature; reading and checking the relevance of the literature; organizing the literature you have selected; and writing a literature review” (p. 86). This chapter provides an overview of existing relevant literature concerning HBCUs, Title IX, and relevant case law.

#### **Statement of Purpose**

Meaningfully coherent studies (a) achieve their stated purpose; (b) accomplish what they espouse to be about; (c) use methods and representation practices that partner well with espoused theories and paradigms; and (d) attentively interconnect literature reviewed with research foci, methods, and findings (Tracy, 2010, p. 848). The purpose of this qualitative study was to

investigate existing Title IX policies of three (3) historically black land grant universities, Alabama A & M University, Southern University and A & M College, and Florida A & M University via a multi-case study policy and content analysis, in order to ascertain how compliant the institutions' Title IX policies are with federal guidelines and to discover how Title IX policies of the three (3) historically black land grant universities compare with one another in terms of their compliance with federal guidelines. This study used qualitative method of policy and content analysis as determined by a rubric adapted from federal guidelines to analyze each institution's policies.

### **Research Questions**

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2. How do the Title IX policies of the three (3) historically black land grant universities compare with one another in terms of their compliance with federal guidelines?

### **HBCU: Historically Black College and University**

“If there is no struggle there is no progress,” wrote Frederick Douglass (1857), an advocate for educational equity. Perhaps, one of the greatest struggles faced by Blacks in the United States has been the struggle to be educated. This struggle, guided by a steadfast desire of the Black population, influenced the development of Historically Black Colleges and Universities (HBCUs). In *Historically Black Colleges and Universities: Their Place in American Higher Education*, Julian B. Roebuck and Komanduri S. Murty (1993), review the history of HBCUs from a perspective which follows the monumental establishment of HBCUs to the

emerging changes and challenges facing these institutions today. They provide profiles of each of the major HBCUs from their founding until today, including their current student composition and faculty makeup. Reviewing literature on race relations in college life, the authors describe tensions on campuses as reported in journals and periodicals, while analyzing and interpreting the results of their own empirical study of race relations on fifteen campuses in the southeastern United States.

Framing the history of HBCUs around five periods, (1) the antebellum period (preceding the Civil War), (2) the post-bellum period ( 1865 to about 1895), (3) the separate, but equal period ( 1896 to 1953), (4) the desegregation period ( 1954 to 1975), and (5) the modern period ( 1975 to the present), the first five chapters of this literary work systematize the widely scattered literature on the subject of HBCUs by describing the current debate about HBCUs; profiling the major HBCUs; highlighting current demographics, academic programs, enrollment patterns, and faculty composition of HBCUs; and reviewing the literature on campus race relations, inter-racial and intra-racial perceptions, and conflicts among Black and White students and faculty. Roebuck and Murty's (1993) work is significant as the first comprehensive study of historically Black colleges and universities.

No discussion of HBCUs would be thorough, in absence of the definition of the acronym, as well as, the common values and traditions of these institutions. Thus, the authors of *Historically Black Colleges and Universities: Their Place in American Higher Education* lay foundation for subsequent text by providing an in-depth explanation of the term. Historically Black colleges and universities (HBCUs) are predominantly Black academic institutions established prior to 1964 whose principal mission was, and still is, the education of African-Americans (Roebuck & Murty, 1993). In sum, (1) an HBCU must be an institution of higher learning established prior to 1964,



(2) its principal mission in the past must have been the education of Black Americans, (3) its principal mission currently must be the education of Black Americans, and (4) it must be accredited or be making reasonable progress toward accreditation by an approved accrediting body (Myers 1987).

Characterized by a unique culture and heritage shaped by origins in an era of segregation and hostility, the ability of HBCUs to recruit and retain strong leaders has been problematic. Although the conservative nature of historically Black colleges is considered a survival mechanism, this admirable asset is also considered an impediment of the change and innovation necessary to remain competitive. Effective leadership, strong governance, along with a commitment to work together to fulfill the mission of the institution, are essential to the success of a college or university (Schexnider & Ezzell, 2010).

Essential to the understanding of issues at HBCUs, perhaps one of the most important ideas that emerged from higher education researcher, James T. Minor, is that the problems of one HBCU do not represent those of all (2004). The challenges for HBCUs are complex, varied, and require the energy, management, and leadership skills of the entire university and its supporters (Minor, 2004). Without these, several HBCUs would remain in a state of constant turmoil and semi-consciousness. Taking these factors into consideration, more often than not, HBCUs face crisis in governance due to institutional structural differences.

### **Institutional Structural Differences**

While HBCUs differ along several dimensions, sharing some basic characteristics that place them in a separate educational category, they do not constitute an academic monolith per se. They were founded and developed in an environment unlike that surrounding other colleges—that is, in a hostile environment marked by legal segregation and isolation from mainstream U.S. higher

education (Roebuck & Murty, 1993). Historically, they have served a population that has lived under severe legal, educational, economic, political, and social restrictions (Roebuck & Murty, 1993). The composition and position of the Black population have influenced the development of HBCUs, and, in turn, HBCUs have contributed much to the advancement of the Black population (U.S. Department of Education, 1985). In brief, HBCUs are different from other colleges because they have maintained a very close identity with the struggle of Blacks for survival, advancement, and equality in American society (Thompson 1978, p. 181). In essence, the teaching mission of HBCUs, the possible paradox that this mission presents, as well as, the racialized climate are essential to understanding governance within the HBCU context.

Moreover, Minor (2005) states, “Although many functional elements of teaching and learning are similar to other institutions, the historical foundations, cultural aspects, student population, and racialized climate distinguishes many HBCUs from other sectors of American higher education.” Of most importance, he argues that those without an understanding of the context are susceptible to making unqualified comparisons between HBCUs and other institutions which usually renders HBCUs inadvertently deficient (2005). Thus, contextual factors that include history, race, politics, perception, history, external stimuli, and communicative styles of African Americans influence HBCU decision making practices (Minor, 2005).

Roebuck and Murty (1993) explore several topics that influence the role of HBCUs in American higher education. Led by the notion that HBCUs cannot be meritoriously assessed without visitation of court decisions and major legislations, two of the major themes enforced by the authors in a factual, rather than opinionated manner, include:

1. the role of litigation in the evolution of the HBCU, in relation to American higher education; and,

2. the role of legislation in the evolution of the HBCU, in relation to American higher education.

### **The Role of Litigation in the Evolution of the HBCU**

The U.S. Supreme Court decision in *Plessy v. Ferguson* (1896) established a "separate but equal" doctrine in public education (U. S. Department of Education, 1991). Further, Roebuck and Murty (1993) convincingly portray that, despite the historical role of HBCUs in moving Blacks into the mainstream of American life, they have been under pressure to justify their continued existence, since the U.S. Supreme Court decision in *Brown v. Board of Education* (1954) rejected the "separate but equal" doctrine and held that racially segregated public schools deprive Black children of equal protection guaranteed by the Fourteenth Amendment of the United States Constitution. Paramountly, the *Plessy* (1896) decision, which had governed public education policy for more than a half-century, was overturned (U. S. Department of Education, 1991).

Despite the landmark Supreme Court decision in *Brown*, most HBCUs remained segregated with poorer facilities and diminished budgets compared with traditionally White institutions (U. S. Department of Education, 1991). Lack of adequate libraries, scientific and research equipment, and capabilities placed a serious handicap on many; however, while many public HBCUs closed or merged with traditionally White institutions, most Black college students continued to attend HBCUs years after the decision was rendered (U. S. Department of Education, 1991).

Another pivotal court verdict came in 1992 with the United States Supreme Court's ruling in *United States v. Fordice* (1992), requiring that Mississippi eliminate remnants of its dual, segregated system of education. Similar to the *Adams* decision, except that no special

circumstances were outlined for the treatment of HBCUs, *United States v. Fordice* (1992) is probably the most important Supreme Court ruling affecting the education of Blacks since *Brown* (Roebuck & Murty, 1993).

Thus, a generation after the *Brown* decision, Black and White pupils walked through the same school doors, but seldom sat alongside each other in the classroom (Hacker, 1990).

In sum, many Black and some White educators note the continuation of racism, discrimination, and segregation in the public school system; the failure of Blacks to compete successfully with White students in integrated schools; the necessity of remedial courses for many college-bound Black high school students; and the past and continued success of HBCUs in educating Black youth and in preparing Black teachers to teach Black youth. (Roebuck & Murty, 1993, pp. 9-10)

Therefore, HBCUs remain essential to American higher education for both symbolic and practical reasons (Harvey & Williams, 1989).

### **The Role of Legislation in the Evolution of the HBCU: Land Grant Institutions**

Before the Civil War, higher education for Black students was virtually nonexistent, due to public policy and certain statutory provisions. The few who did receive education, such as Frederick Douglass, often studied in informal and sometimes hostile settings. Spearheaded by Senator Justin Morrill, in 1862, following the Civil War and the Thirteenth Amendment's abolition of slavery, a movement towards the improvement of the state of public higher education throughout the United States, which placed an emphasis on the need for institutions to train Americans in the applied sciences, agriculture, and engineering, was initiated.

Thus, the Morrill Land-Grant Act gave federal lands to the states for the purpose of opening colleges and universities to educate farmers, scientists, and teachers (Roebuck & Murty,

1993); however, although many such institutions were created, very few were made accessible to Blacks, and it would be twenty-eight years before Morrill remedied this issue.

Indicative of heightened public support for the higher education of Black students, the solution came with the Second Morrill Land-Grant Act of 1890, which specified that states using federal land-grant funds must either make their schools open to both Blacks and Whites or allocate money for segregated Black colleges to serve as an alternative to White schools. Essentially, according to the U.S. Department of Education (1991), the Act required states with racially segregated public higher education systems to provide a land-grant institution for Black students whenever a land-grant institution was established and restricted for White students. Consequently, the Act resulted in the establishment of public land-grant institutions in each of the southern and border states.

It was not until 1964 that Congress passed Title VI of the Civil Rights Act, which protects individuals from discrimination based on race, color, or national origin in programs or activities receiving federal financial assistance, to provide a mechanism for ensuring equal opportunity in federally assisted programs and activities (“Historically Black Colleges and Universities”). Indicative of Title IV’s passage was Congress’ concern with the slow progress in desegregating educational institutions following the Supreme Court's *Brown* decision.

The late 1970s and 1980s shifted U.S. educational policy from the strict integration of colleges and universities to the encouragement of racially identifiable Black colleges as a part of the pluralistic system of American higher education. The presidency of George Bush, successor of Reagan, was distinguished by the issuance of an executive order, which expounded upon the Reagan order and established a commission in the Department of Education, tasked with advisement of the President on matters regarding HBCUs (Roebuck & Murty, 1993). Moreover,

the position taken by the executive, legislative, and judicial branches of the federal government has reinforced the acceptability and viability of HBCUs.

### **Title IX**

Title IX of the Civil Rights Act was signed into law on June 23, 1972 by President Richard M. Nixon. The Office for Civil Rights (OCR) of the U.S. Department of Education (DOE) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX was revised via the Civil Rights Restoration Act of 1988 to correct the growing problem of the disparate treatment of women and women's athletic programs in intercollegiate athletics (20 U.S.C. § 1681 *et seq.*) and of men in reverse situations (Cozzillio & Levinstein, 1997). While Title IX is directed towards the prevention of discrimination in collegiate athletics, Title IX does not explicitly remedy only issues in college athletics. Rather, the statute's heart is a broad prohibition of gender-based discrimination in all-programmatic aspects of educational institutions:

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 education programs or activity receiving Federal financial assistance.

*(Cohen v. Brown University, 991 F.2d 888)*

Further, in its affirmative ruling in *Cohen*, the Court determined that prohibiting educational institutions from discriminating on the basis of sex was such an important government objective that it justified gender classification, Title IX, its regulations, and policy interpretations as substantially related to achieving this objective (1993). Accordingly, Title IX protects all students, regardless of sex, from discrimination in the form of sexual misconduct. As part of this ban on discrimination, Title IX protects students from experiencing sexual violence on campus

and outlines what institutions must do once they have been made aware of an act of sexual violence. There is a duty of clear, unambiguous responsibility assigned to colleges and universities under Title IX.

Despite the historic role of HBCUs in the struggle against racial injustice, the civil rights that prescribe equity in the interest of gender and Title IX have yet to be fully illuminated. Historically Black Colleges and Universities (HBCUs) are overlooked in the national discussion concerning campus gender-based and sexual violence. HBCU students, too, experience sexual discrimination. Occurring within a particular racialized context which may complicate how survivors make sense of their experiences and how they decide to move forward, far too many HBCU survivor stories have been buried, manipulated, criticized, and in the most reprehensible, retaliatory manner, used against them.

Institutions such as Hampton, [Howard](#), Morgan State, and Prairie View A&M University all have open and active Title IX cases for potentially mishandling cases of sexual assault, according to *The Chronicle of Higher Education*, which tracks open Title IX investigations at colleges and universities across the country. The reasoning for why these institutions cannot resolve these issues has led to larger conversations about [HBCUs](#).

While prior literature documents disclosure and prevalence rates of sexual misconduct, a failure to consider types of institution and variance based on institutional type, particularly HBCUs, is present. The majority of college sexual assault studies have been conducted at PWIs and the findings are often generalized to women attending all types of colleges. Limited evidence is available on the sexual assault experiences of women attending HBCUs Lindquist, Barrick, Krebs, Crosby, Lockard, & Sanders, [2013](#)). If we are to address the effectiveness of Title IX policy interventions and practices across all college campuses, we have to consider the variety of experiences by institutional types, policies and interventions may be tailored accordingly.

*The Historically Black College and University Campus Sexual Assault study*, a web-based survey of primarily undergraduate women conducted in the fall of 2008 at four HBCUs, which differed in terms of size, location, and their status as public or private universities endeavored to do the same within the context of HBCUs. This study found the following: At HBCUs, 10.1% of the undergraduate women sample between the ages of 18 and 24 experienced sexual assault since entering college. Specifically, 118 victims experienced sexual assault due to force, 176 victims experienced sexual assault due to incapacitation, and 48 victims experienced both forms of sexual assault. The majority of victims in the HBCU analytic subsample were Black (95.4%) (Krebs, Lindquist, & Barrick, 2011).

Compliance with Title IX is a particular problem for the nation's HBCUs according to a study released by the [College Sports Council](#). According to Don Irvine's 2008 *Accuracy in Academia* study entitled, "HBCUs Fail Title IX." there are nearly 212,000 students enrolled at the nation's HBCUs with 61% being female, meaning that on the average, to comply with Title IX, 61% of all the athletes at these schools should be female. When applying the proportionality test to the athletic programs at these schools the council found that 73 of the 75 schools failed this standard. Of the 73 schools that were out of compliance, the study found that they would have received an "F" from the Women's Sports Foundation in their latest report card on gender equity in athletics and that the other 43 schools are facing the possibility of lengthy and expensive litigation to bring them into compliance (Irvine, 2008).

### **Relevant Case Law**

"A university is not a court of law, and it is neither practical nor desirable it be one (*Gomes v. University of Maine System* 365 F.Supp.2d 6, 16 (D. Me. 2005))." Federal courts have repeatedly questioned the assumption that colleges should act as judicial bodies, because a university is not required to adhere to the standards of due process guaranteed to criminal



defendants or to abide by rules of evidence adopted by courts (*Fellheimer v. Middlebury College*, 869 F.Supp. 238, 243 (D. Vt. 1994)). Thus, alleged Title IX violations are matters to be resolved administratively between the university and the Department of Education's Office for Civil Rights, which enforces Title IX at recipient institutions. Accordingly, subsequent to the passage of Title IX, a series of U.S. Supreme Court cases defined the parameters of institutional liability.

Via legal argument in *Alexander v. Yale* (1977) the association of Title IX with institutional sexual violence was first tested when Yale students, Ronni Alexander, Margery Reifler, Pamela Price, Lisa Stone and Ann Olivarius, debated the status of sexual harassment as a form of sex-based discrimination, alleging that Yale professors were propositioning female students for sex in exchange for better grades. The American Civil Liberties Union declared *Alexander*, a "pivotal moment in Title IX history." As opposed to monetary damages, plaintiffs sought the implementation of grievance procedures for sexual harassment claims. As a result of the case, Yale established grievance boards for dealing with sexual harassment cases and soon hundreds of colleges and universities followed (Kingkade, 2014, p. 2).

Further shaping institutional response to allegations of sexual discrimination, another pivotal case is *Davis v. Monroe County Board* (1999). In *Davis*, the U.S. Supreme Court ruled that institutions receiving federal funds can be held liable for student-to-student sexual harassment under Title IX if a plaintiff can demonstrate that: (1) the alleged harassment was so severe, pervasive, and objectively offensive that it deprived the plaintiff of access to the educational opportunities or benefits provided by the school; (2) the institution had actual knowledge of the sexual harassment; and (3) the institution was deliberately indifferent to the harassment (*Davis v. Monroe County Board*, 1999).

## **Conclusion**

Since the establishment of the first HBCUs, which served as islands of hope during the years of strict and legal racial segregation in the United States, there has been a recurrent debate over the role of these institutions within the larger framework of higher education (“Historically Black Colleges and Universities”). Often opined is the unique chapter of HBCUs in the history of American higher education. Despite the tremendous struggle that these institutions have faced, today, there are over one hundred HBCUs, which is equivalent to approximately three percent of U.S. higher education institutions. Literature on higher education is scant concerning the subject matter of HBCUs (“Historically Black Colleges and Universities”). While there was a period where HBCUs had fallen from research literature, current research scholars have developed a renewed interest in these institutions. It is posited that this renewed interest partly stems from the fact that these institutions still play a vital role in American higher education.

HBCUs are faced with increased pressures of minimization of state funding, reduction of endowment funding, retreating of donor pools, retirement of teaching faculty, negative public perceptions, court ordered racial disparities in higher education, increase of costs associated with higher education, accreditation issues, digital division, and enrollment in higher proportions of low and low middle income students (Brown & Yates, 2005). These environmental demands on HBCUs require the institutional leaders to respond quickly to difficult situations; however, their governance bodies are perceived as weak, empty, slow, and ineffective and may not have the ability to be rapidly responsive in a changing higher education environment (Keller, 1983).

As Minor acknowledged, there are problems at HBCUs in terms of the lack of structure for empowering faculty senates, institution-wide understanding of shared governance, as well as, a need for a cultural shift that enhances trust and communication around these issues (Minor, 2004; Minor 2005). Thus, in order for HBCUs to remain viable resources for African American

students, they will have to examine and clearly define the decision making role of faculty governance, and address the internal challenges that include distrust, lack of information, fear, and lack of communication between faculty and upper level administrators (Minor, 2005).

A college education has long been regarded as a passport to a secured future. Sexual violence interferes with a student's ability to obtain a college education and secure a stable future. Sexual discrimination, which affects one's psychological, physical, and academic well-being, is experienced by one in five college women (Fisher et al., 2000), and may disrupt the college community and damage an institution's reputation. Consequently, how to respond to student behavior in a manner which promotes safety and the educational development of students has been a question with which institutions of higher education have grappled (Stoner & Lowery, 2004).

A congressional report entitled, "Campus Sexual Assault: How American Higher Education Institutions Respond" (Karjane, Fisher & Cullen, 2002), sampled 2,428 diverse institutions, including two and four-year institutions receiving Title IX funding. The research found that institutional policies or lack thereof can adversely impact reporting. Reinvigorated by increased by litigation and federal governmental tension, an exploration of the nature of student sexual discrimination and internal examination of policies and procedures lies within the conundrum for institutions of higher education to find a balance between keeping their campuses safe and providing policies and procedures to promote faculty and student development. Federal regulations outline the guidelines institutions must follow in order to be in compliance with Title IX. The following chapter will outline the methodological mechanisms utilized within this study.

## **Chapter 3**

### **Methods**

#### **Introduction**

Characterizing qualitative research as an intricate fabric comprising minute threads, many colors, different textures, and various blends of material held together by general assumptions and interpretive frameworks, Creswell and Poth (2017) posit many individuals with different perspectives and a common task—to create the fabric of qualitative research—at the heart of the design of a qualitative study. This chapter provides the qualitative procedures utilized in this study, including the methodological significance, institutional selection, instrumentation, data collection, data analysis, and reflexivity.

#### **Statement of Purpose**

Meaningfully coherent studies (a) achieve their stated purpose; (b) accomplish what they espouse to be about; (c) use methods and representation practices that partner well with espoused theories and paradigms; and (d) attentively interconnect literature reviewed with research foci, methods, and findings (Tracy, 2010, p. 848). The purpose of this qualitative study was to investigate existing Title IX policies of three (3) historically black land grant universities, Alabama A & M University, Southern University and A & M College, and Florida A & M University via a multi-case study policy and content analysis, in order to ascertain how compliant the institutions' Title IX policies are with federal guidelines and to discover how Title

IX policies of the three (3) historically black land grant universities compare with one another in terms of their compliance with federal guidelines. This study used qualitative method of policy and content analysis as determined by a rubric adapted from federal guidelines to analyze each institution's policies.

### **Research Questions**

The following research questions were used in this study:

1. To what extent are Title IX policies of the three (3) historically black land grant universities, Alabama A & M University, Southern University and A & M College, and Florida A & M University, compliant with federal guidelines?
2. How do the Title IX policies of the three (3) historically black land grant universities compare with one another in terms of their compliance with federal guidelines?

### **Methodological Significance**

One means toward achieving significance of a study's contribution is through engaging research methodology in a new, creative, or insightful way—methodological significance (Tracy, 2010). From anticipated theoretical findings, methodological significance may emerge by introduction and explication of a new methodological approach via exploration of data analysis or representation practices or via originality in data collection or construction of the instrument—a compliance rubric, developed in strict accordance with “Checklist for Campus Sexual Misconduct Policies,” an initiative of the You are Not Alone campaign and comprehensive compendium of essential elements to be considered by institutions when drafting their respective Title IX policies, which was advanced by the Task Force to Protect Students from Sexual Assault (TFPSSA).

## **Institutional Selection**

Establishment of the Morrill Act of 1862 ushered in increase access to federally funded public education via land grant institutions (Dungy & Gordon, 2011). Although much existing literature related to sexual discrimination on college campuses is related to statistical publication, awareness, training, education, and/or prevention, previous studies have not simultaneously analyzed institutional compliance across institutional type. There is a lack of literature identifying trends characteristic to institutional type, particularly the historically black land grant university. Because of the rising multiplicity and complexity of sexual discrimination as both an issue of public health and safety affecting institutions of higher education in the United States, spurred by the release of statistics mandated by federal law and media coverage of the prevalence of sexual misconduct on college campuses, as well as, proposed modifications in the resilience narrative of the historically black college university, deeming a study of historically black land grant Title IX compliance timely, the researcher chose to compare the Title IX policies present at land grant institutions to the federal guidelines.

The sample set for this data set includes a total of three (3) institutions, including Alabama A & M University, Southern University and A & M College, and Florida A & M University. Situated in the southeastern geographical area of the United States, constants of this sample set are their status as historically black colleges and universities (HBCU), their status as public institutions, their geographical situation, and their status as land-grant institutions.

## **Instrumentation**

### **Compliance Rubric**

Developed in strict accordance with “Checklist for Campus Sexual Misconduct Policies,” an initiative of the You are Not Alone campaign, which was advanced by the Task Force to Protect Students from Sexual Assault (TFPSSA), a compliance rubric was utilized for this study. Because “Checklist for Campus Sexual Misconduct Policies” is posited as being a comprehensive compendium of essential elements to be considered by institutions when drafting their respective Title IX policies, utilization of a compliance rubric reflective of the same was deemed to be an accurate and objective mechanism of instrumentation to measure the two research questions, exploring the compliance level of the three institutions, both qualitatively and quantitatively comparing and contrasting the same.

The compliance rubric adhered to the general categories of the checklist in a concise manner, slightly revised for brevity and clarity in word usage, dividing its components into the following ten categories:

- I. Introduction
  - a. Clear statement of the institution’s prohibition against sex discrimination, which includes sexual misconduct
  - b. Statement of institution’s commitment to address sexual misconduct
- II. Scope of the Policy
  - a. Identification of persons, conduct, locations, programs, activities, and relationships covered by the institution’s sexual misconduct policy
  - b. Clear statement of policy application to all students and employees
  - c. Brief explanation of institution’s confidentiality policy

### III. Options for Assistance Following an Incident of Sexual Misconduct

#### a. Immediate Assistance

- i. Identification and provision of contact information for trained on- and off-campus advocates and counselors who can provide immediate confidential response in a crisis situation
- ii. Provision of emergency numbers for on- and off-campus safety, law enforcement, and other first responders
- iii. Description of sexual assault response team (SART) process and resources
- iv. Identification of health care options both on- and off- campus

#### b. Ongoing Assistance

- i. Identification of counseling and support options for victims of sexual misconduct
- ii. Identification of options for confidential disclosure on- and off-campus
- iii. Identification of providers of ongoing support during the institutional disciplinary or criminal process.
- iv. Description of immediate steps and interim measures that the institution can provide for complainants during pending investigation
- v. Description of additional interim measures that the institution can provide for complainants during pending investigation

### IV. Role of Title IX Coordinator

#### a. Identification of institution's Title IX Coordinator

#### b. Brief explanation of Title IX Coordinator's role



V. Definitions

a. Clear definition of all conduct prohibited by policy, including, but not limited

to:

- i. Sexual Harassment
- ii. Hostile Environment
- iii. Sexual Assault
- iv. Domestic Violence
- v. Dating Violence
- vi. Sexual Exploitation
- vii. Stalking
- viii. Retaliation
- ix. Intimidation

b. Clear definition of all additional terms

- i. Incapacitation
- ii. Consent

VI. Reporting Policies and Protocols

a. Identification of formal reporting options

b. Identification of alternatives to reporting

c. Confidentiality Policy

d. Explanation of Clery Act reporting obligations

e. Explanation of third party and anonymous reporting

f. Prohibition of retaliation

g. Amnesty Policy

VII. Investigative Procedures and Protocols

- a. Identification of Title IX Coordinator(s); explanation of roles and responsibilities
- b. Identification of who conducts investigations and what an investigation might entail
- c. Specification of a reasonably prompt time frame for resolving complaints
- d. Explanation of the evidence preservation process
- e. Provision of equitable rights to respondent and complainant
- f. Clarification of parameters and clarify what information may or may not be shared during a parallel investigation with law enforcement
- g. Explanation of institution's immediate steps to protect complainant's pending the final outcome of the investigation
- h. Explanation of institution's response if a victim's request for confidentiality limits the institution's investigative ability in a particular matter

VIII. Grievance and Adjudication Procedures

- a. Explanation of grievance and adjudication process
  - i. Lack of appropriateness of mediation
  - ii. Preponderance of evidence
  - iii. Identification of adjudicators
  - iv. Attendees and/or participants in adjudication process
- b. Outline of rights and roles of both parties in the adjudication process
  - i. Notice of hearing(s) to both parties

- ii. Opportunity for both parties to present witnesses and other evidence
    - iii. Extension of any other rights given to the alleged perpetrator or complainant
  - c. Explanation of possible results of the adjudication process
    - i. Sanctions
    - ii. Remedies/Victim Accommodations
    - iii. Additional remedies for school community
  - d. Outline of how parties will be informed of the results of the adjudication process
    - i. Simultaneous written notice to both parties of outcome of the complaint and the option to appeal, if applicable
    - ii. Statement of lack of non-disclosure agreement requirement, in writing or otherwise
  - e. Description of the appellate procedures
- IX. Prevention and Education
  - a. Outline of institution's approach to prevention
- X. Training
  - a. Outline of faculty and staff training

## Data Collection

### Documents

Attributed by Lindsay Prior (2011) to the formation of a university's identity, business practices, and separation from other similarly situated or different organizations are its documents.

A university (any university) is in its documents rather than its buildings. The charter together with other documents names the university, provides warrant to award degrees, and legitimizes the officers of the university and so on. Naturally, a university has buildings and equipment and lectures and students, but none of those things are sufficient for the award of university status. Only the charter can define the organization as a university, and in that sense provide the one necessary condition for its existence. (p. 60)

Further, documents communicate an institutions' policies and modes of operation. Accordingly, the collection of archival documents—institutional Title IX policies—were deemed as an appropriate data collection method in this study. Creswell (1994) avers upon the importance of records such as public documents and archival materials in a qualitative study, providing a researcher with important contextual information to complement other fieldwork.

Table 1

*Documents Collected by Institution*

Institution	Document(s) Collected
AAMU	<i>Procedure 6.16: Title IX Policy and Procedure, Volume 6</i>
FAMU	Sexual Misconduct Policy
	<i>Regulation 10.103 Non-Discrimination Policy and Discrimination and Harassment Complaint Procedures</i>
	<i>Regulation 2.012 Student Code of Conduct</i>
SUBR	<i>Sexual Misconduct (Title IX) Policy</i>
	<i>The Louisiana Board of Regents Uniform Policy on Sexual Misconduct</i>

**Data Analysis**

Policy analysis is one way of obtaining in-depth knowledge about an institution’s mode of operations, its culture and priorities (Owen, 2014). Content analysis, also known as document analysis, is a research technique for making replicable and valid inferences from texts to the contexts of their use (Krippendorff, 2004, p. 18). Literature indicates disagreement in opinion of whether content analysis is considered a qualitative or quantitative analysis tool. Berg (2001) argues that content analysis can be utilized in both qualitative and quantitative research. Correspondingly, both qualitative and quantitative approaches to content analysis were exhausted in this study.

O’Leary (2004) delineated processes that occur prior to the exploration and content analysis of a policy:

1. Compilation of relevant text documents;
2. Development of an organization/management scheme;
3. Replication of original data for annotation purposes;

4. Assessment of document authenticity;
5. Exploration of document background information,
6. Document Inquiry; and lastly
7. Content Exploration.

The policies investigated are publicly accessible information however, each policy needed to be located on each institution's respective website. Other documents explicitly or implicitly referenced in the body of the policy were also accessed. While a data analysis spiral was utilized to manage, organize and analyze the collected data, the researcher employed content analysis to answer the two research questions, allowing for quantification, comparison, and description of the Title IX policies. A data analysis spiral approach to data analysis, helping to shed light on the connectivity of themes to research questions, involves the reduction of data into meaningful segments, assignment of names to segments, combination of codes into broader categories or themes, and display of comparisons in graphs, tables and charts (Creswell, 2007).

Consequently, in this study, each policy was examined, highlighting analogous sections in correspondence with the compliance rubric. Each policy was then read and notes were taken on the compliance rubric, under the section for the appropriate categorical requirement, to determine institutional compliance.

As the policies from each of the three institutions were reviewed, responses of "yes" and "no" were indicated on each respective rubric—with responses of "yes" being indicative of the inclusion of the applicable section and responses of "no" being indicative of sections that were missing. The aggregate total of "yes" and "no" responses for each institution were compiled. The total of "yes" and "no" responses for each rubric category were also compiled. Meticulously noting content that contained interchangeable terminology by definition, as well as, content that

was included outside of its categorical listing, after completing the content analysis of the policies of the three institutions, the results of each institution were compared. Comparative analysis of the data answered the second research question, which sought to understand how the institutions compared with one another in terms of their compliance.

### **Reflexivity**

Using the word sincerity to relate to notions of authenticity and genuineness, Tracy (2010) categorizes sincerity as an end goal that can be achieved through reflexivity, vulnerability, data auditing, and is marked by honesty and transparency about the researcher's biases, goals, and foibles, as well as, about how these played a role in the methods, joys, and mistakes of the research. How has the researcher's subjectivity been both a producer and a product of the study? Disclosure of one's positionality, termed "reflexivity," describes a researcher's worldview ontological, epistemological, and human nature assumptions and the position they have accepted within his or her research study, which are influenced by his or her individual background and beliefs such as political affiliation, race, gender, and religion and by his or her own life history and experiences. (Savin-Baden & Major, 2013). Therefore, via ongoing self-assessment, positionality requires that one acknowledge and locate his or her views, experiences, interpretations, assumptions, and the influence of possible biases, in relation to the research study and processes involved.

As a researcher, I opine that the following aspects of my identity affect my subjective values, biases, and inclinations, with regards to this study:

1. Gender;
2. Status as an alumna of Southern University and A&M College;
3. Status as an alumna of Alabama A & M University;

4. Status as a Juris Doctor and/or lawyer;
5. Status as a current University Policy Coordinator;
6. Status as a former sexual harassment complainant; and
7. Status as a judicially-ruled victim of sexual harassment.



## **Chapter 4**

### **Findings**

#### **Introduction**

This chapter discusses the findings of the policy analysis conducted at three institutions, Alabama A & M University (Institution A), Florida A & M University (Institution B), and Southern University and A & M College (Institution C), hereinafter referred to interchangeably as Institutions A, B, and C.

#### **Statement of Purpose**

Meaningfully coherent studies (a) achieve their stated purpose; (b) accomplish what they espouse to be about; (c) use methods and representation practices that partner well with espoused theories and paradigms; and (d) attentively interconnect literature reviewed with research foci, methods, and findings (Tracy, 2010, p. 848). The purpose of this qualitative study was to investigate existing Title IX policies of three (3) historically black land grant universities, Alabama A & M University, Southern University and A & M College, and Florida A & M University via a multi-case study policy and content analysis, in order to ascertain how compliant the institutions' Title IX policies are with federal guidelines and to discover how Title IX policies of the three (3) historically black land grant universities compare with one another in terms of their compliance with federal guidelines. This study used qualitative method of policy

and content analysis as determined by a rubric adapted from federal guidelines to analyze each institution's policies.

### **Research Questions**

The following research questions were used in this study:

1. To what extent are Title IX policies of the three (3) historically black land grant universities, Alabama A & M University, Southern University and A & M College, and Florida A & M University, compliant with federal guidelines?
2. How do the Title IX policies of the three (3) historically black land grant universities compare with one another in terms of their compliance with federal guidelines?

### **Findings**

Developed in strict accordance with “Checklist for Campus Sexual Misconduct Policies,” an initiative of the You are Not Alone campaign, which was advanced by the Task Force to Protect Students from Sexual Assault (TFPSSA), a Title IX Compliance Rubric (see Appendix A) was utilized to ascertain the two research questions. The compliance rubric adhered to the general categories of the checklist in a concise manner, slightly revised for brevity and clarity in word usage, dividing its components into the following ten categories:

- I. Introduction
  - a. Clear statement of the institution's prohibition against sex discrimination, which includes sexual misconduct
  - b. Statement of institution's commitment to address sexual misconduct
- II. Scope of the Policy
  - a. Identification of persons, conduct, locations, programs, activities, and relationships covered by the institution's sexual misconduct policy

- b. Clear statement of policy application to all students and employees
  - c. Brief explanation of institution's confidentiality policy
- III. Options for Assistance Following an Incident of Sexual Misconduct
- a. Immediate Assistance
    - i. Identification and provision of contact information for trained on- and off-campus advocates and counselors who can provide immediate confidential response in a crisis situation
    - ii. Provision of emergency numbers for on- and off-campus safety, law enforcement, and other first responders
    - iii. Description of sexual assault response team (SART) process and resources
    - iv. Identification of health care options both on- and off- campus
  - b. Ongoing Assistance
    - i. Identification of counseling and support options for victims of sexual misconduct
    - ii. Identification of options for confidential disclosure on- and off-campus
    - iii. Identification of providers of ongoing support during the institutional disciplinary or criminal process.
    - iv. Description of immediate steps and interim measures that the institution can provide for complainants during pending investigation
    - v. Description of additional interim measures that the institution can provide for complainants during pending investigation

- IV. Role of Title IX Coordinator
  - a. Identification of institution's Title IX Coordinator
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- V. Definitions
  - a. Clear definition of all conduct prohibited by policy, including, but not limited to:
    - i. Sexual Harassment
    - ii. Hostile Environment
    - iii. Sexual Assault
    - iv. Domestic Violence
    - v. Dating Violence
    - vi. Sexual Exploitation
    - vii. Stalking
    - viii. Retaliation
    - ix. Intimidation
  - b. Clear definition of all additional terms
    - i. Incapacitation
    - ii. Consent
- VI. Reporting Policies and Protocols
  - a. Identification of formal reporting options
  - b. Identification of alternatives to reporting
  - c. Confidentiality Policy
  - d. Explanation of Clery Act reporting obligations

- e. Explanation of third party and anonymous reporting
  - f. Prohibition of retaliation
  - g. Amnesty Policy
- VII. Investigative Procedures and Protocols
- a. Identification of Title IX Coordinator(s); explanation of roles and responsibilities
  - b. Identification of who conducts investigations and what an investigation might entail
  - c. Specification of a reasonably prompt time frame for resolving complaints
  - d. Explanation of the evidence preservation process
  - e. Provision of equitable rights to respondent and complainant
  - f. Clarification of parameters and clarify what information may or may not be shared during a parallel investigation with law enforcement
  - g. Explanation of institution's immediate steps to protect complainant's pending the final outcome of the investigation
  - h. Explanation of institution's response if a victim's request for confidentiality limits the institution's investigative ability in a particular matter
- VIII. Grievance and Adjudication Procedures
- a. Explanation of grievance and adjudication process
    - i. Lack of appropriateness of mediation
    - ii. Preponderance of evidence
    - iii. Identification of adjudicators

- iv. Attendees and/or participants in adjudication process
  - b. Outline of rights and roles of both parties in the adjudication process
    - i. Notice of hearing(s) to both parties
    - ii. Opportunity for both parties to present witnesses and other evidence
    - iii. Extension of any other rights given to the alleged perpetrator or complainant
  - c. Explanation of possible results of the adjudication process
    - i. Sanctions
    - ii. Remedies/Victim Accommodations
    - iii. Additional remedies for school community
  - d. Outline of how parties will be informed of the results of the adjudication process
    - i. Simultaneous written notice to both parties of outcome of the complaint and the option to appeal, if applicable
    - ii. Statement of lack of non-disclosure agreement requirement, in writing or otherwise
  - e. Description of the appellate procedures
- IX. Prevention and Education
  - a. Outline of institution's approach to prevention
- X. Training
  - a. Outline of faculty and staff training

Tables 2-11, respectively, display the compliance levels of each of the three institutions, with respect to each of the ten (10) aforementioned categories.

Table 2

*I. Introduction*

Institution	Compliance Level	Percentage (%)
AAMU	2/2	100%
FAMU	2/2	100%
SUBR	2/2	100%

Table 3

*II. Scope of Policy*

Institution	Compliance Level	Percentage (%)
AAMU	3/3	100%
FAMU	3/3	100%
SUBR	3/3	100%

Table 4

*III. Options for Assistance*

Institution	Compliance Level	Percentage (%)
AAMU	6/9	67%
FAMU	8/9	89%
SUBR	9/9	100%

Table 5

*IV. Role of Title IX Coordinator*

Institution	Compliance Level	Percentage (%)
AAMU	2/2	100%
FAMU	2/2	100%
SUBR	2/2	100%

Table 6

*V. Definitions*

Institution	Compliance Level	Percentage (%)
AAMU	7/11	64%
FAMU	11/11	100%
SUBR	11/11	100%

Table 7

*VI. Reporting Policies & Protocols*

Institution	Compliance Level	Percentage (%)
AAMU	5/7	71%
FAMU	5/7	71%
SUBR	7/7	100%

Table 8

*VII. Investigating Procedures & Protocols*

Institution	Compliance Level	Percentage (%)
AAMU	5/8	63%
FAMU	5/8	63%
SUBR	8/8	100%

Table 9

*VIII. Grievance & Adjudication Procedures*

Institution	Compliance Level	Percentage (%)
AAMU	6/13	46%
FAMU	7/13	54%
SUBR	11/13	85%

Table 10

*IX. Prevention & Education*

Institution	Compliance Level	Percentage (%)
AAMU	0/1	0%
FAMU	0/1	0%
SUBR	1/1	100%



Table 11

*X. Training*

Institution	Compliance Level	Percentage (%)
AAMU	0/1	0%
FAMU	0/1	0%
SUBR	1/1	100%

**Institutional Compliance Levels**

**Institution A: AAMU**

Alabama Agricultural and Mechanical University (*AAMU*) is a historic, student-friendly and community-focused institution of higher learning. Reflecting on its heritage as a historical black college and university (HBCU) and a traditional 1890 land-grant institution, AAMU functions as a teaching, research and public service institution, including extension. Founded in 1875 by a former slave, Dr. William Hooper Council, AAMU is a dynamic and progressive institution with a strong commitment to academic excellence. The serene, intimate campus is situated on “The Hill,” only a short distance from downtown Huntsville, the site of the school’s founding.

Alabama Agricultural and Mechanical University provides more than 60 undergraduate, graduate and certificate programs and concentrations, a diverse international faculty, 50 plus student organizations, and an extensive alumni network comprised of politicians, educators, entrepreneurs, doctors, lawyers, engineers, scientists, authors, artist, and more, many of whom are change agents on the local, national and international stage.

(About Alabama A & M University, 2019)

## Institution A: AAMU Compliance Level

Institution A has one document that addresses sexual misconduct, *Procedure 6.16: Title IX Policy and Procedure, Volume 6*, and falls under the purview of the Office of Human Resources. Its latest revision occurred July 1, 2016.

The policy of Institution A was found to contain thirty six (36) of the fifty-seven (57) components of the *Title IX Compliance Rubric*. Table 12 displays the result of the analysis of Institution A's policy in comparison to the *Title IX Compliance Rubric*.

Table 12

### *Institution A Compliance Level*

Rubric Component	Institution A
I.a.	Yes
I.b.	Yes
II.a.	Yes
II.b.	Yes
II.c.	Yes
III.a.i	Yes
III.a.ii	Yes
III.a.iii.	No
III.a.iv.	No
III.b.i.	Yes
III.b.ii.	No
III.b.iii.	Yes
III.b.iv	Yes
III.b.v	Yes
IV.a.	Yes
IV.b.	Yes
V.a.i.	Yes
V.a.ii.	Yes
V.a.iii.	Yes
V.a.iv..	No
V.a.v.	No
V.a.vi.	Yes
V.a.vii.	No
V.a.viii.	Yes
V.a.ix.	No
V.b.i.	Yes
V.b.ii.	Yes
VI.a.	Yes
VI.b.	No
VI.c.	Yes
VI.d.	Yes
VI.e.	No

VI.f.	Yes
VI.g.	Yes
VII.a.	Yes
VII.b.	Yes
VII.c.	Yes
VII.d.	No
VII.e.	Yes
VII.f.	No
VII.g.	Yes
VII.h.	No
VIII.a.i.	No
VIII.a.ii.	Yes
VIII.a.iii.	Yes
VIII.a.iv.	Yes
VIII.b.i.	No
VIII.b.ii.	No
VIII.b.iii.	No
VIII.c.i.	No
VIII.c.ii.	Yes
VIII.c.iii.	No
VIII.d.i.	Yes
VIII.d.ii	Yes
VIII.e.	No
IX.a.	No
X.a.	No

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Total Yes=36 (63%)    Total No=21 (37%)

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### **Institution B: FAMU**

Florida Agricultural and Mechanical University was founded as the State Normal College for Colored Students, and on October 3, 1887, it began classes with fifteen students and two instructors. Today, FAMU, as it has become affectionately known, is the premiere school among historically black colleges and universities. Prominently located on the highest hill in Florida’s capital city of Tallahassee, Florida A&M University remains the only historically black university in the eleven member State University System of Florida. (History of Florida Agricultural & Mechanical University (FAMU), 2019)

### **Institution B: FAMU Compliance Level**

Institution B has three distinct documents that address sexual misconduct: 1) *Sexual Misconduct Policy*, which was last revised on May 31, 2017; 2) *Regulation 10.103 Non-Discrimination*

*Policy and Discrimination and Harassment Complaint Procedures; and 3) Regulation 2.012 Student Code of Conduct.* The policies of Institution B were found to contain forty-three (43) of the fifty-seven (57) components of the *Title IX Compliance Rubric*. The absence of a single integrated policy resulted in the researcher migrating between the documents and amalgamating their content in effort to ascertain compliance. Table 13 displays the result of the analysis of Institution A’s policy in comparison to the *Title IX Compliance Rubric*.

Table 13

*Institution B Compliance Level*

Rubric Component	Institution B
I.a.	Yes
I.b.	Yes
II.a.	Yes
II.b.	Yes
II.c.	Yes
III.a.i	Yes
III.a.ii	Yes
III.a.iii.	No
III.a.iv.	Yes
III.b.i.	Yes
III.b.ii.	Yes
III.b.iii.	Yes
III.b.iv	Yes
III.b.v	Yes
IV.a.	Yes
IV.b.	Yes
V.a.i.	Yes
V.a.ii.	Yes
V.a.iii.	Yes
V.a.iv..	Yes
V.a.v.	Yes
V.a.vi.	Yes
V.a.vii.	Yes
V.a.viii.	Yes
V.a.ix.	Yes
V.b.i.	Yes
V.b.ii.	Yes
VI.a.	Yes
VI.b.	Yes
VI.c.	Yes
VI.d.	No
VI.e.	Yes
VI.f.	Yes
VI.g.	No
VII.a.	Yes

VII.b.	Yes
VII.c.	Yes
VII.d.	No
VII.e.	Yes
VII.f.	No
VII.g.	No
VII.h.	Yes
VIII.a.i.	No
VIII.a.ii.	No
VIII.a.iii.	No
VIII.a.iv.	No
VIII.b.i.	Yes
VIII.b.ii.	No
VIII.b.iii.	Yes
VIII.c.i.	Yes
VIII.c.ii.	Yes
VIII.c.iii.	Yes
VIII.d.i.	Yes
VIII.d.ii	No
VIII.e.	Yes
IX.a.	No
X.a.	No
<hr/>	
Total Yes=43 (75%)    Total No=14 (25%)	
<hr/>	

**Institution C: SUBR**

Founded in 1880, Southern University and A&M College is a comprehensive institution offering four-year, graduate, professional, and doctorate degree programs, fully accredited by the Southern Association of Colleges and Schools Commission on Colleges (SACS-COC). The University today is part of the only historically black Land Grant university system in the United States, the Southern University and A&M College System, which boasts an enrollment of more than 15,000 students throughout five campuses in Louisiana, students come from forty-six (46) states and from at least forty (40) foreign countries. (President-Chancellor’s Office, 2019)

**Institution C: SUBR Compliance Level**

Institution C has two (2) distinct documents that address sexual misconduct. *Sexual Misconduct (Title IX Policy)* falls under the purview of the college’s HR department. Its latest

revision was on August 31, 2016. The second, *The Louisiana Board of Regents Uniform Policy on Sexual Misconduct*, amended August 26, 2015, falls under the jurisdiction of the Louisiana Board of Regents, the governing body of all Louisiana public postsecondary institutions.

The policies of Institution C were found to contain fifty-five (55) of the fifty-seven (57) components of the *Title IX Compliance Rubric*. Table 14 displays the result of the analysis of Institution C’s policy in comparison to the *Title IX Compliance Rubric*.

Table 14

*Institution C Compliance Level*

Rubric Component	Institution C
I.a.	Yes
I.b.	Yes
II.a.	Yes
II.b.	Yes
II.c.	Yes
III.a.i	Yes
III.a.ii	Yes
III.a.iii.	Yes
III.a.iv.	Yes
III.b.i.	Yes
III.b.ii.	Yes
III.b.iii.	Yes
III.b.iv	Yes
III.b.v	Yes
IV.a.	Yes
IV.b.	Yes
V.a.i.	Yes
V.a.ii.	Yes
V.a.iii.	Yes
V.a.iv..	Yes
V.a.v.	Yes
V.a.vi.	Yes
V.a.vii.	Yes
V.a.viii.	Yes
V.a.ix.	Yes
V.b.i.	Yes
V.b.ii.	Yes
VI.a.	Yes
VI.b.	Yes
VI.c.	Yes
VI.d.	Yes
VI.e.	Yes
VI.f.	Yes
VI.g.	Yes

VII.a.	Yes
VII.b.	Yes
VII.c.	Yes
VII.d.	Yes
VII.e.	Yes
VII.f.	Yes
VII.g.	Yes
VII.h.	Yes
VIII.a.i.	No
VIII.a.ii.	Yes
VIII.a.iii.	Yes
VIII.a.iv.	Yes
VIII.b.i.	Yes
VIII.b.ii.	Yes
VIII.b.iii.	Yes
VIII.c.i.	Yes
VIII.c.ii.	Yes
VIII.c.iii.	Yes
VIII.d.i.	Yes
VIII.d.ii.	No
VIII.e.	Yes
IX.a.	Yes
X.a.	Yes

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Total Yes=55 (96%)    Total No=2 (4%)

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### **Institutional Compliance Level Comparison**

The second research question sought to discover how Institutions A, B, and C compare with one another in terms of their compliance with federal guidelines. In total, the policy of Institution A was found to contain thirty-six (36) included and twenty-one (21) excluded components from the *Title IX Compliance Rubric*, with an overall compliance level of 63%. The policy of Institution B was found to contain forty-three (43) included and fourteen (14) excluded components from the *Title IX Compliance Rubric*, with an overall compliance level of 75%. The policy of Institution C was found to contain fifty-five (55) included and two (2) excluded components from the *Title IX Compliance Rubric*, with an overall compliance level of 96%. Institutions A, B, and C achieved compliance levels of 100% in the following categories: I. Introduction, II. Scope of Policy, and IV. Role of Title IX Coordinator. Institutions B and C achieved compliance levels of 100% in the following category: V. Definitions. No institution achieved a compliance level of 100% in the following category: VIII. Grievance and

Adjudication Procedures. In order of highest overall compliance level, the institutions rank in the following order: 1<sup>st</sup>) Institution C, with an overall compliance level of 96%; 2<sup>nd</sup>) Institution B, with an overall compliance level of 75%; and 3<sup>rd</sup>) Institution A, with an overall compliance level of 63%. Tables 15 displays the comparative data for Institutions A, B, and C.

Table 15

*Comparative Data: Institutions A, B, and C*

Compliance Rubric Components	Institution A	Institution B	Institution C
I.a.	Yes	Yes	Yes
I.b.	Yes	Yes	Yes
II.a.	Yes	Yes	Yes
II.b.	Yes	Yes	Yes
II.c.	Yes	Yes	Yes
III.a.i	Yes	Yes	Yes
III.a.ii	Yes	Yes	Yes
III.a.iii.	No	No	Yes
III.a.iv.	No	Yes	Yes
III.b.i.	Yes	Yes	Yes
III.b.ii.	No	Yes	Yes
III.b.iii.	Yes	Yes	Yes
III.b.iv	Yes	Yes	Yes
III.b.v	Yes	Yes	Yes
IV.a.	Yes	Yes	Yes
IV.b.	Yes	Yes	Yes
V.a.i.	Yes	Yes	Yes
V.a.ii.	Yes	Yes	Yes
V.a.iii.	Yes	Yes	Yes
V.a.iv..	No	Yes	Yes
V.a.v.	No	Yes	Yes
V.a.vi.	Yes	Yes	Yes
V.a.vii.	No	Yes	Yes
V.a.viii.	Yes	Yes	Yes
V.a.ix.	No	Yes	Yes
V.b.i.	yes	Yes	Yes
V.b.ii.	yes	Yes	Yes
VI.a.	yes	Yes	Yes
VI.b.	No	Yes	Yes
VI.c.	yes	Yes	Yes
VI.d.	yes	No	Yes
VI.e.	No	Yes	Yes
VI.f.	Yes	Yes	Yes
VI.g.	Yes	No	Yes
VII.a.	Yes	Yes	Yes
VII.b.	Yes	Yes	Yes
VII.c.	Yes	Yes	Yes
VII.d.	No	No	Yes
VII.e.	Yes	Yes	Yes
VII.f.	No	No	Yes



VII.g.	Yes	No	Yes
VII.h.	No	Yes	Yes
VIII.a.i.	No	No	No
VIII.a.ii.	Yes	No	Yes
VIII.a.iii.	Yes	No	Yes
VIII.a.iv.	Yes	No	Yes
VIII.b.i.	No	Yes	Yes
VIII.b.ii.	No	No	Yes
VIII.b.iii.	No	Yes	Yes
VIII.c.i.	No	Yes	Yes
VIII.c.ii.	No	Yes	Yes
VIII.c.iii.	Yes	Yes	Yes
VIII.d.i.	No	Yes	Yes
VIII.d.ii.	Yes	No	Yes
VIII.e.	Yes	Yes	No
IX.a.	No	No	Yes
X.a.	No	No	Yes
<hr/>			
Total: Yes=36(A)+43(B)+55 (C)=134	No=21(A)+14(B)+2 (C)=37		
Total Percentage: Yes=78%	No=22%		

## **Chapter 5**

### **Summary, Conclusions, Implications, Recommendations, and Conclusion**

#### **Introduction**

This chapter will present a summary of findings, implications for further research and practice, and conclusions based on the findings and implications.

#### **Statement of Purpose**

Meaningfully coherent studies (a) achieve their stated purpose; (b) accomplish what they espouse to be about; (c) use methods and representation practices that partner well with espoused theories and paradigms; and (d) attentively interconnect literature reviewed with research foci, methods, and findings (Tracy, 2010, p. 848). The purpose of this qualitative study was to investigate existing Title IX policies of three (3) historically black land grant universities, Alabama A & M University, Southern University and A & M College, and Florida A & M University via a multi-case study policy and content analysis, in order to ascertain how compliant the institutions' Title IX policies are with federal guidelines and to discover how Title IX policies of the three (3) historically black land grant universities compare with one another in terms of their compliance with federal guidelines. This study used qualitative method of policy and content analysis as determined by a rubric adapted from federal guidelines to analyze each institution's policies.

## Research Questions

The following research questions were used in this study:

1. To what extent are Title IX policies of the three (3) historically black land grant universities, Alabama A & M University, Southern University and A & M College, and Florida A & M University, compliant with federal guidelines?
2. How do the Title IX policies of the three (3) historically black land grant universities compare with one another in terms of their compliance with federal guidelines?

## Summary

The Office for Civil Rights (OCR) of the U.S. Department of Education (DOE) enforces, among other statutes, Title IX of the Education Amendments of 1972. While Title IX is directed towards the prevention of discrimination in collegiate athletics, Title IX does not explicitly remedy only issues in college athletics. Rather, the statute's heart is a broad prohibition of gender-based discrimination in all-programmatic aspects of educational institutions:

“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 education programs or activity receiving Federal financial assistance...”  
(*Cohen v. Brown University*, 991 F.2d 888)

Reports of sexual discrimination on college campuses have escalated over the past decade (Tjaden & Thoennes, 2006). As a response to public outcry, analysis and review of institutional Title IX policies have permeated public discourse and contributed to significant debate over how higher education institutions are responding to sexual discrimination on their campuses (Lowentheil, 2013). This dissertation analyzes how compliant the Title IX policies at three (3) historically Black land grant universities, Alabama A & M University, Southern University and A & M College, and Florida A & M University, are with federal guidelines and

regulations and how each institution compares with one another in terms of compliance via a multi-case study policy and content analysis. This study used qualitative method of policy and content analysis as determined by a *Title IX Compliance Rubric* adapted from federal guidelines to analyze each institution's policies.

### **Conclusions**

The following conclusions are based on researcher interpretation of the meaning of the findings and on the data and its relationship to the literature:

1. Provision of a single, easily accessible and user-friendly document for students, employees, and others affected by sexual misconduct is most efficient.
2. Each institution should endeavor to engage in a comprehensive policy drafting process.
3. Segmentation of policy into clear, logical sections is vital.
4. Publication of policy in a generically accessible format is important.
5. Consultation with legal counsel to ensure policy compliance with all applicable federal, state, and local laws is necessary.
6. Development of a plan of implementation and publication of policy is beneficial.
7. Establishment of a procedure for regular review, evaluation, and updating of policy is obligatory.
8. Engagement of a range of administrators in the drafting of the policy will encourage broad institutional support.
9. Perception of the legitimacy of the policy is crucial.

### **Implications**

Advising researchers to review recommendations in light of their candidacy for

implementation, Gill and Saunders (1993) posit recommendations formulated as a result of policy analysis as most important. The following implications for implementation are made for future research:

1. A quantitative study of the compliance level of the nation's other historically black land grant colleges and universities to determine how prevalent the compliance levels found in this study are in other historically black land grant colleges and universities;
2. A multi-case study involving various institution types to explore their compliance level. A larger sample size may better inform the research questions;
3. A mixed-method study of the types of training programs provided across varying institution type and the effectiveness of such programs; and
4. A qualitative study to take into consideration the diversity of organizational structures, student demographics, financial and HR, and other internal and external factors concerning institutional compliance.

### **Recommendations**

Scrutiny of the environment, which involves consideration of institutional and political constraints, were the context in which the following additional recommendations were devised for institutions:

1. Creation of a budget designated for Title IX;
2. Provision of continued professional development for faculty and staff;
3. Implementation of additional training programs for students and other specialized groups.

#### **Creation of a Budget Designated for Title IX**

Because compliance is less expensive than costly litigation or federal penalty,

institutional allocation of resources specific to Title IX is vital. Despite budget constraints, reallocation of funds for professional development and training in the area of Title IX is essential. Further, designation of a specific budget will ensure an institution's ability to exhaust necessary programmatic efforts.

### **Provision of Continued Professional Development for Faculty and Staff**

Because institutional Title IX compliance relies greatly on the facilitation and provision of adequate ongoing training, the second recommendation is for institutions to implement regular training for faculty and staff. Said training should outline their rights and obligations under Title IX, including appropriate response to alleged complaints of sexual misconduct, obligatory duty to report sexual misconduct to appropriate institutional officials, and the extent to which counselors and advocates may keep a report confidential (White House Task Force to Protect Students From Sexual Assault, 2014).

### **Implementation of Additional Training Programs for Students and Other Specialized Groups**

Due to fragmentation in institutional programs, isolation, and divisiveness among both faculty members and administrators, training for students and other specialized student groups such as athletes, residents, and student groups may also prove effective. Regular training for students outlining their rights under Title IX should include a synopsis of what constitutes sexual misconduct and when it creates a hostile environment, the definition of consent, reporting options, grievance procedures used to process complaints, applicable disciplinary code provisions relating to sexual misconduct, the role of alcohol and drugs in sexual misconduct, the effects of trauma, strategies and skills for bystander intervention, the offices or individuals with whom students may speak confidentially, the offices or individuals who can provide support services, mandatory reporters, and protection against retaliation (White House Task Force to Protect Students From Sexual Assault, 2014).

## Conclusion

Title IX, a legislative landscape of which is forever changing and evolving, posits institutions of higher education to continue to grapple with compliance with federal regulations concerning their response to sexual misconduct, more than seven years after the issuance of the 2011 Dear Colleague Letter. The effect of the retraction of the 2011 and 2015 Dear Colleague Letters by the Trump Administration on how institutions respond to alleged complaints of sexual misconduct remains unclear.

According to the 2017 DCL guidance:

[The rescinded] guidance documents may have been well-intentioned, but those documents have led to the deprivation of rights for many students—both accused students denied fair process and victims denied an adequate resolution of their complaints. The guidance has not succeeded in providing clarity for educational institutions or in leading institutions to guarantee educational opportunities on the equal basis that Title IX requires. Instead, schools face a confusing and counterproductive set of regulatory mandates, and the objective of regulatory compliance has displaced Title IX's goal of educational equity...The Department imposed these regulatory burdens without affording notice and the opportunity for public comment. (p. 3)

Despite this uncertainty, what is clear, however, is that sexual misconduct is an issue that shall remain on the forefront of institutions of higher education.

Varying across the board by institutional resources, staffing level, institutional type, a one-size-fits-all model of legislation may contribute to non-compliance for institutions of higher education. The complexity of institutional compliance with Title IX lies in mandates that do not consider institutional type and organizational structures. In *Recalibrating*

*Regulation of Colleges and Universities*, the Federal Taskforce on Federal Regulation of Higher Education (2015) asserted:

Over time, oversight of higher education by the Department of Education has expanded and evolved in ways that undermine the ability of colleges and universities to serve students and accomplish their missions. The compliance problem is exacerbated by the sheer volume of mandates—approximately 2,000 pages of text—and the reality that the Department of Education issues official guidance to amend or clarify its rules at a rate of more than one document per work day. As a result, colleges and universities find themselves enmeshed in a jungle of red tape, facing rules that are often confusing and difficult to comply with. They must allocate resources to compliance that would be better applied to student education, safety, and innovation in instructional delivery. Clearly, a better approach is needed. (p. 2)

Increased legislation has created a trend of risk management consulting groups designed to assist institutions with compliance (Brown, 2017). According to Gill and Saunders' (1993) Model of Policy Analysis in Higher Education, "policy analysis requires a comprehensive understanding of the environment and culture affected by the policy" (p. 20). Consequently, it may be inaccurate to attribute the lack of compliance unearthed in this study to a lack of goodwill or willful non-compliance, but rather to overwhelming legislation, complexities of their respective organizational structures, inadequate resources, or within the the context of the internal and external factors affecting said institutions. In essence, of a vital nature is the necessity for institutions of higher education to have clear and compliant policies regarding incidents of sexual discrimination. To comply or not to comply? That is not the question.



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20 U.S.C. § 1681(a).

34 C.F.R. Part 106

**Appendix A**

***Title IX Compliance Rubric***

Institution	
Policy Name	
Latest Revision	

*Title IX Compliance Rubric*

**I. INTRODUCTION**

	Criteria	YES	NO	Comments
a.	Clear statement of institution's prohibition against sex discrimination, which includes sexual misconduct			
b.	Statement of institution's commitment to address sexual misconduct			

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**II. SCOPE OF POLICY**

a.	Identification of persons, conduct, locations, programs, activities, and relationships covered by institution's policy			
b.	Clear statement of policy application to all students and employees			
c.	Brief explanation of institution's confidentiality policy			

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**III. OPTIONS FOR ASSISTANCE FOLLOWING AN INCIDENT OF SEXUAL MISCONDUCT**

**a. Immediate Assistance**

i.	Identification and provision of contact information for trained on- and off- campus advocates and counselors who can provide immediate confidential response in a crisis situation			
ii.	Provision of emergency numbers for on- and off- campus safety, law enforcement, and other first responders			

Institution	
Policy Name	
Latest Revision	

iii.	Description of sexual assault response team (SART) process and resources	YES	NO	
iv.	Identification of health care options, both on- and off-campus	YES	NO	

**b. Ongoing Assistance**

i.	Identification of counseling and support for victims of sexual misconduct	YES	NO	
ii.	Identification of options for confidential disclosure on- and off- campus	YES	NO	
iii.	Identification of providers of ongoing support during the institutional disciplinary or criminal process	YES	NO	
iv.	Description of immediate steps and interim measures that the institution can provide to ensure safety and well-being of victim	YES	NO	
v.	Description of additional interim measures that the institution can provide for complainants during pending investigation	YES	NO	

**IV. ROLE OF TITLE IX COORDINATOR**

a.	Identification of Title IX Coordinator	YES	NO	
b.	Brief explanation of Title IX Coordinator's role	YES	NO	

**V. DEFINITIONS**

**a. Clear definition of all conduct prohibited by policy, including, but not limited to:**

i.	Sexual Harassment	YES	NO	
ii.	Hostile Environment	YES	NO	
iii.	Sexual Assault	YES	NO	

Institution	
Policy Name	
Latest Revision	

iv.	Domestic Violence	YES	NO	
v.	Dating Violence	YES	NO	
vi.	Sexual Exploitation	YES	NO	
vii.	Stalking	YES	NO	
viii.	Retaliation	YES	NO	
ix.	Intimidation	YES	NO	

**b. Clear definition of additional terms**

i.	Incapacitation	YES	NO	
ii.	Consent	YES	NO	

**VI. REPORTING POLICIES AND PROTOCOLS**

a.	Identification of formal reporting options	YES	NO	
b.	Identification of alternatives to reporting	YES	NO	
c.	Confidentiality Policy	YES	NO	
d.	Explanation of Clery Act reporting obligations	YES	NO	
e.	Explanation of third-party and anonymous reporting	YES	NO	
f.	Prohibition of Retaliation	YES	NO	
g.	Amnesty Policy	YES	NO	

**VII. INVESTIGATIVE PROCEDURES AND PROTOCOLS**

a.	Identification of Title IX Coordinator(s); explanation of roles and responsibilities	YES	NO	
b.	Identification of who conducts investigation and what investigation might entail	YES	NO	
c.	Specification of a reasonably prompt time frame for conducting the investigation and resolving the complaint	YES	NO	
d.	Explanation of the evidence preservation process	YES	NO	



Institution	
Policy Name	
Latest Revision	

e.	Provision of equitable rights to respondent and complainant during the investigative process	YES	NO	
f.	Clarification of parameters concerning what information may and may not be shared during a parallel investigation with law enforcement	YES	NO	
g.	Explanation of institution's immediate steps to protect complainant's pending the final outcome of the investigation	YES	NO	
h.	Explanation of institution's response if a victim's request for confidentiality limits the institution's investigative ability in a particular matter	YES	NO	

### VIII. GRIEVANCE AND ADJUDICATION PROCEDURES

#### a. Explanation of grievance and adjudication process

i.	Lack of appropriateness of mediation	YES	NO	
ii.	Preponderance of Evidence	YES	NO	
iii.	Identification of Adjudicators	YES	NO	
iv.	Attendees and/or Participants in adjudication process	YES	NO	

#### b. Outline of rights and roles of both parties in the adjudication process

i.	Notice of hearing(s) to both parties	YES	NO	
ii.	Opportunity for both parties to present witnesses and other evidence	YES	NO	
iii.	Extension of any other rights given to the alleged perpetrator or complainant	YES	NO	

#### c. Explanation of possible results of the adjudication process

i.	Sanctions	YES	NO	
ii.	Remedies/Victim Accommodations	YES	NO	
iii.	Additional remedies for institution community	YES	NO	

Institution	
Policy Name	
Latest Revision	

d. Outline of how parties will be informed of the results of the adjudication process

i.	Simultaneous written notice to both parties of outcome of the complaint and the option to appeal, if applicable	YES	NO	
ii.	Statement of lack of non-disclosure agreement requirement, in writing or otherwise	YES	NO	
e.	Description of the appellate procedures	YES	NO	

IX. PREVENTION AND EDUCATION

a.	Outline of the institution's approach to prevention	YES	NO	
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X. TRAINING

a.	Outline of faculty and staff training	YES	NO	
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