

**Resolution Agreement
Xavier University
OCR Docket Number 15-12-2048**

In order to voluntarily resolve the above-referenced complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR), and to ensure compliance with Title IX of the Educational Amendments of 1972, 20 U.S.C. § 1681 *et seq.*, and its implementing regulation at 34 C.F.R. Part 106, Xavier University (the University) agrees to implement the actions described below. This resolution has been entered into voluntarily by the University and does not constitute a finding or admission that the University is not in compliance with Title IX and/or its implementing regulations.

University-Wide Remedies

- **Title IX Grievance Procedures**
- 1. By October 31, 2012, the University will submit to OCR, for its review and approval, either draft Title IX grievance procedures or revise and consolidate its already existing harassment procedures under the Harassment Code and the University's student discipline process to specifically address complaints of sex discrimination (including but not limited to sexual harassment, sexual assault, and sexual violence) as required by Title IX's implementing regulation at 34 C.F.R. § 106.8(b). These procedures will provide for the prompt and equitable response and resolution of complaints alleging sex discrimination, including student-on-student discrimination, and including:
 - notice that the procedures apply to complaints alleging sex discrimination (including, but not limited to, sexual harassment, sexual assault, and sexual violence) by employees, students, or third parties;
 - an explanation of how to file a complaint pursuant to the procedures;
 - the name or title, office address, and telephone number of the individual with whom to file a complaint;
 - definitions and examples of what types of actions may constitute sex discrimination (including, but not limited to, sexual harassment, sexual assault, and sexual violence);
 - the adequate, reliable, and impartial investigation of all complaints, including the opportunity for the parties to present witnesses and other evidence, and the assurance of the Title IX coordinator's supervision and oversight of the University's Title IX grievance process;
 - timeframes for the major stages of the investigation, with a provision indicating that the University will comply with law enforcement requests for

cooperation and such cooperation may require the University to temporarily suspend the fact-finding aspect of a Title IX investigation while the law enforcement agency is in the process of gathering evidence and that the University will promptly resume its Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process, which typically takes three to ten calendar days, although the delay in the University's investigation may be longer in certain instances;

- clarification that the University will implement appropriate interim steps during the law enforcement agency's investigation period to provide for the safety of the victim(s) and the campus community and the avoidance of retaliation;
- assurance that victims are aware of their Title IX rights and available resources, such as counseling and the local rape crisis center, as well as their right to file a complaint with a local law enforcement agency;
- assurance that the University will keep the complaint and investigation confidential to the extent possible;
- clarification that the University will not use mediation and other informal mechanisms for resolving allegations of sexual assault, and will only offer an informal process for resolving other types of sexual harassment complaints on a voluntary basis when appropriate, with notification of the right to end the informal process at any time and begin the formal stage of the complaint process;
- clarification that the University will not require a student victim filing a complaint with the Campus Police or Title IX coordinator to sign a no-contact order on the sole basis that the student filed a complaint;
- clarification that in instances where a complainant requests confidentiality, the University will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation, and where the University cannot take disciplinary action against an alleged harasser because of a complainant's insistence on confidentiality, it will pursue other steps to limit the effects of the alleged harassment and prevent its recurrence;
- written notification to the parties of the outcome of the complaint;
- notice of the opportunity for the parties to appeal the findings;
- an assurance that the appeal will be conducted in an impartial manner by an impartial decision-maker;

- an assurance that the University will take steps to prevent recurrence of any discrimination, with examples of the range of possible disciplinary sanctions and the types of remedies available to address the discriminatory effects on victims and others; and
- a statement that Title IX prohibits retaliation against any individual who files a complaint under Title IX or participates in a complaint investigation.

REPORTING REQUIREMENT: By October 31, 2012, the University will provide OCR with a copy of its revised draft Title IX grievance procedures or revised harassment procedures pursuant to item 1 above.

2. Within 60 calendar days of receipt of the OCR-approved, revised Title IX grievance procedures developed in accordance with item 1, the University will adopt and implement the procedures and will provide all students and employees with electronic or written notice regarding the new grievance procedures, together with information on how to obtain a copy of the procedures. The University, at a minimum, will make this notification through the University's website and electronic mail messages to employees and students, as well as by any other additional means of notification the University deems effective to ensure that the information is widely disseminated. The University may adopt and publish the procedures at an earlier date, and will then within such timelines described in this item 2 adopt and publish necessary amendments, if any, after receipt of the described response from OCR.

- **Training for Title IX Coordinator and University Personnel**

3. Within 45 calendar days of receipt of the OCR-approved, revised Title IX grievance procedures developed in accordance with item 1, the University will provide Title IX training to its Title IX Coordinator, any other coordinators, Campus Police staff, and any University officials and administrators who will be directly involved in processing, investigating, and/or resolving complaints of sex discrimination (including sexual harassment, sexual assault, or sexual violence) or who will otherwise coordinate the University's compliance with Title IX. This training will cover the University's grievance procedures for Title IX complaints and will provide attendees with instruction on recognizing and appropriately addressing allegations and complaints pursuant to Title IX. The training will cover sex discrimination (including sexual harassment, sexual assault, and sexual violence) and the University's responsibilities under Title IX to address allegations of sexually inappropriate behaviors, whether or not the actions are potentially criminal in nature, and the need for a process of coordination between Campus Police and the Title IX Coordinator. Additionally, the training will include instruction on how to conduct and document adequate, reliable, and impartial Title IX investigations, including the appropriate legal standards to apply in a Title IX investigation (which differ from a criminal investigation), as well as how the University's responsibilities under Title IX and the Clery Act, 20 U.S.C. § 1092(f), differ. Further, the training will advise staff

to ensure that victims of sexual offenses that are criminal in nature are aware of the University's Title IX obligations and its Title IX grievance procedures.

4. By October 31, 2012, the University will develop an ongoing Title IX program for staff and faculty that will include annual training and annual written notices from the University to all staff and faculty. All staff and faculty will be invited to participate in one or more offered in-depth training sessions and to participate in refresher sessions on an annual basis thereafter. The goal of the training will be to ensure that University staff and faculty are aware of any changes to the law, University policy, and University practices in this area. In addition, this ongoing training will address the process of ensuring coordination between Campus Police and the Title IX Coordinator. Further, all staff and faculty will be sent an annual notice from the University that addresses the topics described in the two preceding sentences.

REPORTING REQUIREMENTS: Within 15 calendar days of implementing item 2 above, the University will provide OCR with documentation showing that it has implemented items 2, 3, and 4 above, including but not limited to a copy of documents showing that the University adopted and provided notice of its revised Title IX grievance procedures pursuant to item 2, any agendas, outlines, handouts, and sign-in sheets from the training(s) provided to faculty and staff, a description of the qualifications of the presenters, a copy of the training program developed pursuant to item 4, and a copy of the notice sent out pursuant to item 4. By August 9, 2013, and August 9, 2014, the University will submit to OCR copies of the complete documentation of all sexual harassment investigations the University conducted during the 2012-2013 and 2013-2014 academic years respectively, including but not limited to interview memoranda, investigation notes, evidentiary documents such as transcripts and records, written findings of fact and other conclusions, and appeal decisions.

- **Student-Focused Remedies**

5. OCR understands that the University established a Title IX Task Force (the "Committee") during the 2011-12 academic year comprised of representatives of various University constituencies (including the Women's Center, the Advocate Program, Student Government Association, Student Life, Health and Counseling, the Green Dot Program, Athletics, Office of Multicultural Affairs, and other groups focused on prevention of sexual assault already in operation on campus) to review and revise the University's policies and procedures for compliance with Title IX. By October 31, 2012, the University will add additional representative leaders from the student community (e.g., women's groups, athletes, residential assistants, fraternity and sorority leaders, etc.) to the Committee. The University will ensure that the Committee continues to take steps to identify strategies for ensuring that students understand their rights under Title IX, as well as how to report possible violations of Title IX, and feel comfortable that the University officials to whom they make such reports will take them seriously and promptly and equitably respond. As part of its ongoing work, the Committee will continue to identify strategies for the prevention of sexual harassment/sexual assault incidents, including outreach and educational

activities such as continuing the requirement that all incoming freshman take a course or attend a workshop that highlights the connection between alcohol abuse and sexual harassment and sexual violence. At a minimum, the University will be responsible for offering a series of informational session(s) to students to ensure that they are aware of the University's prohibition against sex discrimination (including sexual harassment, sexual assault, and sexual violence); can recognize such sex discrimination and sexual harassment when they occur; and understand how and with whom to report any incidents of sex discrimination (including sexual harassment, sexual assault, and sexual violence). In addition, the sessions will cover the University's grievance procedures for Title IX complaints, as well as a general overview of what Title IX is, the rights it confers on students, the resources available to students who believe they have been victims of sexual harassment/assault/violence, and the existence of OCR and its authority to enforce Title IX. These sessions will be provided as part of the annual student orientation for new students, annual refresher sessions for returning students, and annual residence life orientation for students residing in campus housing.

6. By October 31, 2012, the University will develop and submit to OCR for its review a pamphlet on sexual harassment. The pamphlet will contain information on what constitutes a sexual harassment, what to do if you have been the victim of sexual harassment, and contact information for on and off-campus resources for victims of sexual harassment. In addition, the University will include information on how to file a complaint of sexual harassment with the University, how to file a separate complaint of sexual assault with the University, the name and contact information for the University's Title IX Coordinator(s) and a description of the Title IX Coordinator's role, information on how to obtain counseling and academic assistance in the event of sexual harassment, and information on what interim measures can be taken if the alleged perpetrator lives on campus and/or attends classes with the victim. The foregoing information also will be included in any other Title IX publication referenced in – and covered during any Title IX training – required by this agreement.
7. Within 45 calendar days of receipt of written notification from OCR that the above-referenced pamphlet complies with Title IX, the pamphlet will be posted on the University's website, included in the University's student handbooks and staff handbooks, discussed at all future student orientations, and distributed at any sex discrimination awareness events held in accordance with item 5 above. The pamphlet or an abbreviated bulletin containing the key information in the pamphlet also will be widely posted throughout the campus buildings, in particular in residence halls, athletic facilities, student unions, and fraternity and sorority houses. In addition, the pamphlet will be distributed by the University to each individual who makes a complaint of sexual harassment and/or assault. Inserts may be used in any printed items until they are republished. The University may adopt and publish the pamphlet at an earlier date, and will then within such timelines described in this item 7 adopt and publish necessary amendments, if any, after receipt of the described response from OCR.

8. By October 31, 2012, in conjunction with OCR present on campus and with OCR's assistance, and again at the end of the 2012-2013 and 2013-2014 academic years without the assistance of OCR, the University will conduct, with the support and assistance of student group leaders on campus, a climate check or series of climate checks with students on campus to assess the effectiveness of steps taken pursuant to this Resolution Agreement or otherwise by the University to ensure a campus free of sexual harassment, including sexual assault and sexual violence. Information gathered during these climate checks will be used to inform future proactive steps taken by the University.
9. By November 30, 2012, the University will develop a monitoring program to assess the effectiveness of its anti-harassment efforts. In developing the monitoring program, the University will take into consideration the recommendations and suggestions made by its Committee identified in item 5 and the information gathered during the climate checks described in item 8. At or before the conclusion of each academic year, the University will conduct an annual assessment of the effectiveness of its anti-harassment efforts. Such assessment shall include:
 - a. Consultation with the Committee established pursuant to item 5 above;
 - b. Student and faculty surveys and at least one public meeting each academic year to identify student and faculty concerns and to determine where and when harassment on the basis of sex occurs;
 - c. A review of all reports of harassment and University responses;
 - d. Evaluation and analysis of the data collected, including a disaggregated assessment of whether the reported incidents of harassment have increased or decreased in number and severity; and
 - e. Proposed recommendations for improvement to the University's anti-harassment program and timelines for the implementation of the recommendations.
10. By November 30, 2012, the University will review its campus police records for the 2010-2011 and 2011-2012 academic years and, for the complaints of sexual assault/sexual violence that were treated solely as a criminal or disciplinary matter and/or where the Title IX Coordinator was not involved, the University's Title IX Coordinator will review the matter to determine whether the victim or the alleged perpetrator is still enrolled as a student and, if the incident(s) in question raise possible sexual harassment, take appropriate steps to address the harassment.
11. By August 10, 2012, the University will issue a letter to Student A offering to reimburse her for counseling services undergone from April 8, 2011 through the present that relate to the sexual harassment at issue in the complaint, to be paid within two weeks of Student A's production to the University's Title IX Coordinator of supporting documentation, such as billing invoices, receipts, cancelled checks, or other similar records of Student A's out-of-pocket costs for the counseling, and

reimbursement of the out-of-pocket costs for individual counseling twice a month by a licensed therapeutic counselor of Student A's choice for one year from the date of this Agreement, also to be paid upon Student A's production of supporting documentation of the cost of the counseling to the University's Title IX coordinator. The counseling for Student A may start immediately upon receipt of her written acceptance of the University's offer by the University's Title IX coordinator. If Student A fails to notify the University of her acceptance of the offer of counseling by September 7, 2012, then Student A will be deemed to have rejected the offer.

12. In the event that the male student at issue in the above-referenced complaint returns to the University at any time during Student A's enrollment, the University, within one week of the male student's registration or readmission, will take appropriate measures to protect Student A in the educational setting, which could include some or all of the following: the enforcement of a "no contact" order prohibiting the male student's contact with Student A, directly or through a third party; prohibiting the male student's enrollment in the same courses, academic activities, and extracurricular activities in which Student A is enrolled; and/or the designation of a contact person for Student A on campus should the male student approach Student A or otherwise violate the no-contact order.

REPORTING REQUIREMENTS

- **Student-Focused Remedies**

- By October 31, 2012, the University will provide OCR with documentation that it has implemented item 5 above, including a list of names and titles of the members of the Committee; the dates of and copies of any minutes of Committee meetings; a copy of the Committee's recommended actions; a detailed description of each informational session; the date(s) the sessions were held; the names, titles, and qualifications of the individuals who led the informational sessions; and copies of any written materials distributed during the sessions. The University will also provide OCR with a copy of the pamphlet referenced in item 6 above.
- Within 60 calendar days of OCR's approval of the pamphlet referenced in item 6 above, the University will provide OCR with documentation that it has implemented item 7 above, including a link to where the pamphlet is posted on the University's website, documentation that it will be discussed at future student orientations, copies of the University's student and staff handbooks (or inserts), and the name, title, and contact information for the individual(s) at the Campus Police Office responsible for distributing the pamphlet to each individual who makes a sexual assault complaint.
- By October 31, 2012, 2013, 2014, and 2015, the University will provide OCR with documentation demonstrating implementation of item 8 above, including

summaries of the information obtained and proposed actions based on that information.

- By November 30, 2012, the University will provide OCR with a description of its monitoring program described in item 9, and will provide thereafter, by September 21, 2013 and 2014, documentation demonstrating that it conducted annual assessments pursuant to the monitoring program.
- By November 30, 2012, the University will provide OCR with documentation showing implementation of item 10 above, including copies of the initial report, any campus police records, and the investigative files of both the campus police and the University's Title IX Coordinator showing the response and remedies obtained, if any.
- By September 21, 2012, the University will submit to OCR documentation verifying its implementation of item 11 above, including documentation to show the University's reimbursement to Student A of her out-of-pocket costs for counseling expenses during the time periods specified related to the harassment. By August 16, 2013, the University will submit documentation to OCR to show that Student A was provided counseling services or that she refused the University's offer, to further verify its implementation of item 11. In addition, to show compliance with item 12, the University will provide OCR with either documentation of the measures the University took to protect Student A in the event that the male student returned to the University, or a statement that the male student did not return to the University.

General Requirements

The University understands that OCR will not close the monitoring of this agreement until the University has fulfilled the terms of this agreement and is in compliance with Title IX and its implementing regulation at 34 C.F.R. §§ 106.8(b) and 106.31, which were at issue in this case.

The University understands that, by signing this agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this agreement. Further, the University understands that during the monitoring of this agreement, if necessary, OCR may visit the University, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the University has fulfilled the terms of this agreement and is in compliance with Title IX and its implementing regulation at 34 C.F.R. §§ 106.8(b) and 106.31.

The University understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this agreement, OCR shall give the University written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

Scott A Chadwick

Scott A. Chadwick, Ph.D.
Provost and Chief Academic Officer
Xavier University

7/23/12

Date