June 30, 2020

Dear Xavier Community Member,

I hope this letter finds you well in this challenging time. I am writing to provide an update on Xavier’s response to the new Title IX rules released by U.S. Secretary of Education Betsy DeVos on May 6, 2020. Please note that in addition to this letter, I will be holding “Q&A with the Chief Title IX Officer” forums by Zoom to discuss the new rules. My hope, as always, is to engage students and employees in proactive, transparent communication and dialogue, and look forward to addressing your questions and concerns in these forums. Additionally, I strongly encourage you to reach out to me by phone or email at any time.

Let me begin with this critical, foundational tenet: Xavier will continue our commitment to approach Title IX/sex discrimination prevention and response work in a mission-centered, equitable manner that prioritizes the dignity and care of all parties involved. Nothing in the new rules and/or in any changes we are required to make will alter that tenet. We believe our current policies and practices are fair for all parties involved and any changes we make in response to these new regulations will remain fair, compassionate, and supportive.

Next, thank you for your patience. We have been and will continue to work diligently to comprehensively review, digest, and analyze the 2000+ pages of new rules and to ensure that our implementation of the new rules follows the same mission-centered, equitable approach. Though doing so in the unprecedented circumstances of the pandemic and under the extremely tight deadline for compliance (8/14/20) has been challenging, come August, we will be in compliance with the new requirements in the Xavier way and will continue to be national leaders in Title IX and sex discrimination prevention and response.

While the required policy revisions are currently under development and will be shared widely with the community when finalized, let me address here some of the key issues raised by the new rules that I know are on many minds as well as Xavier’s response to those issues.

1. **The new rules narrow the definition (by content, jurisdiction, and regarding when a school is considered on notice and must respond) of what conduct is covered by Title IX.** When the new rules go into effect, Xavier will continue to address the full range of conduct it has historically addressed; however as a consequence of the new rules, certain conduct will be addressed via a set of non-Title IX interpersonal violence and sex discrimination policies. This will allow Xavier to continue to address matters such as allegations of sexual violence, intimate partner violence, and/or stalking between two students on study abroad or at an off-campus location, and reports of harassment/discrimination based on sexual orientation and/or gender identity, that in accord with the new rules, no longer fall under the Title IX definition. Nothing in the new rules hinders in any substantial way how Xavier has traditionally provided a broad range and depth of supportive measures to address the
safety, academics, housing, employment, mental health, or other needs of an individual impacted by sex discrimination, regardless of whether the conduct falls under the rules’ new Title IX Sexual Harassment definition or Xavier’s non-Title IX interpersonal violence and sex discrimination policies.

2. **The new rules permit schools to choose the currently-required “preponderance of the evidence” standard of evidence or switch to the higher “clear and convincing” standard to determine responsibility for a Title IX Sexual Harassment policy violation.** Xavier will continue to utilize the preponderance of evidence standard of evidence in all Title IX and interpersonal violence matters as we believe it results in the most equitable, appropriate standard for an institution’s internal sex discrimination complaint resolution process.

3. **The new rules permit schools to use informal resolution methods, such as mediation and restorative justice, to resolve reports of Title IX Sexual Harassment (including sexual assault, dating violence, domestic violence, and stalking) against students.** Xavier does not currently permit informal resolution processes in these cases. We plan to study this issue in the upcoming year to determine whether we can offer an informal resolution process that is equitable and aligned with our mission; however, the current policy will remain unchanged this year.

4. **The new rules do not require a specific timeline to resolve a Title IX Sexual Harassment report.** Xavier has always and will continue to facilitate its sex discrimination complaint resolution process promptly and comprehensively- two concepts often in tension. We have not and will not permit delay to the process without good reason. Appropriate reasons for delay may include pausing the Title IX process during the evidence-gathering phase of a criminal investigation; requests by either party for additional/adequate time to secure an advisor; adequate/additional time to obtain relevant medical, law enforcement or other records; University closure for breaks/holidays; and to ensure that hearings are scheduled at a time that works for all parties and their advisors. Xavier has not and will not delay the process without good reason or allow either party to cause undue delay. We have and will continue to promptly communicate the reason for any delay and how it may impact the resolution timeline with both parties equitably.

5. **The new rules permit schools to narrow the circumstances in which they are considered on notice of, and therefore required to respond to, a report of Title IX Sexual Harassment.** The new rules state that a school is on notice if an individual reports to the Title IX Coordinator or any school official with authority to institute corrective measures on behalf of Xavier. While Xavier will be identifying those specific University officials to the campus community in its revised policy, we will be continuing Xavier’s policy of requiring all employees who do not have privileged communication protection due to licensure (e.g. counselors, doctors, clergy) or who have been designated as confidential by the Title IX Office (e.g. the Advocacy & Prevention Coordinator) to report all knowledge of sex discrimination impacting students and employees to the Title IX Office. This policy has been in place since 2013 and has been extremely effective in connecting individuals impacted by sex discrimination to appropriate resources and receiving accurate, comprehensive information on their rights, options, and resources; lowering barriers to and increasing knowledge and comfort around reporting and accessing advocacy/support services; and creating and sustaining critical, long term culture change at Xavier.
Let me conclude by saying the Title IX Office has and will continue to promptly, equitably, and with mission-centered care, respond to student, staff, and faculty concerns/reports during the pandemic, and will continue to do so throughout the summer and upcoming year. We are acutely aware that the rules have the potential to raise the barriers to reporting and accessing advocacy/support that we as a community have worked so hard together to bring down over the years. We are committed to keeping those barriers down through proactive communication, education, and prevention activities and our efforts to effectively and comprehensively respond to sex discrimination.

Please contact me with any questions or concerns. I hope to see you in the upcoming Zoom forums, the details of which will be provided to the campus community shortly.

Best,

Kate Lawson
Chief Title IX Officer