

**BOARD OF TRUSTEES  
THE CITY UNIVERSITY OF NEW YORK  
205 EAST 42<sup>ND</sup> STREET  
NEW YORK, NEW YORK 10017**

**REVISED  
CALENDAR**

**DECEMBER 1, 2014**

**NO. 1. CHANCELLOR'S UNIVERSITY REPORT:** RESOLVED, That the Chancellor's University Report for December 1, 2014 (including Addendum and Errata Items) be approved:

EXPLANATION: The Chancellor's University Report consists of standard resolutions and actions of a non-policy nature which require approval by the Board of Trustees.

**NO. 2. APPROVAL OF MINUTES:** RESOLVED, That the minutes of the regular Board meeting of September 29, 2014, 2014 be approved.

**NO. 3. COMMITTEE ON FISCAL AFFAIRS:** RESOLVED, That the following items be approved:

**A. THE CITY UNIVERSITY OF NEW YORK - LIBRARY ELECTRONIC RESOURCES OMNIBUS:**

RESOLVED, That the Board of Trustees of The City University of New York authorize the Colleges and the University to enter into contracts to license electronic and other information resources in accordance with law and University Regulations not to exceed a total amount of seventy five million dollars (\$75,000,000) during the term of this resolution. Purchases are chargeable to the Central Office or the College(s) CUNYfirst codes as appropriate, and any single proposed acquisition with an aggregate value of five million dollars (\$5,000,000) or more shall be subject to separate approval by the Board of Trustees. All contracts shall be subject to approval as to form by the University Office of the General Counsel. This resolution shall remain in full force and effect until November 30, 2019.

EXPLANATION: The University is committed to providing high quality information resources to support the research, teaching, and learning efforts of students and faculty. In the last academic year, student use of library electronic resources increased to 75 million searches and 22 million downloads. In order to continue to expand available information resources and provide ongoing, uninterrupted provision of existing electronic and other information resources, the Office of Library Services endeavors to decrease costs through coordinated purchasing of electronic and other information resources where appropriate.

**B. THE CITY UNIVERSITY OF NEW YORK - WILEY ELECTRONIC JOURNALS:**

RESOLVED, That the Board of Trustees of The City University of New York authorize the General Counsel to execute a contract on behalf of the University to purchase a subscription of Wiley electronic journals for all of the CUNY campus libraries. Such purchase shall not exceed a total estimated cost of \$5,985,960.91 for five years, chargeable to the CUNYFirst codes for the individual colleges and the Central Office. The contract shall be subject to approval as to form by the University Office of General Counsel.

EXPLANATION: The collection of journals to be subscribed encompasses Wiley's premium package of Social Science, Humanities, Science, Technology, Engineering, and Mathematics journals published generally from 1997 to the present in electronic format. This subscription is a continuation of purchases

of STEM (Science, Technology, Engineering and Mathematics) resources for the libraries. This single source acquisition was advertised as required by law.

**C. THE CITY UNIVERSITY OF NEW YORK - ELSEVIER ONLINE ACCESS TO FULL TEXT JOURNALS:**

RESOLVED, That the Board of Trustees of The City University of New York authorize the Office of Library Services, on behalf of the University, to purchase online access to full text journals from Elsevier B.V. under existing State of New York Contract No. PC65238, pursuant to law and University regulations. Such purchases shall not exceed \$10,300,000 for five years, chargeable to CUNYfirst Codes for the individual colleges and the Central Office.

EXPLANATION: The collection of journals to be subscribed encompasses Elsevier’s full text of science, technology, medicine and social sciences journals. This purchase is a continuation of purchases of STEM (Science, Technology, Engineering and Mathematics) resources for the libraries.

**D. THE CITY UNIVERSITY OF NEW YORK - INTELLECTUAL PROPERTY LEGAL SERVICES:**

RESOLVED, That the Board of Trustees of The City University of New York authorize the General Counsel to execute three contracts on behalf of the University to provide as needed intellectual property legal services. These contracts are being awarded on the basis of best value to responsive and responsible offerors after the University’s evaluation of proposal submissions provided in response to a Request for Proposals issued after public advertisement. The initial term shall be three years with two one-year options for the University to renew in its best interest. Such services shall not exceed a total estimated cost of \$1,500,000 chargeable to the CUNYFirst codes for the Technology Commercialization Office of the Central Office. These contracts shall be subject to approval as to form by the University Office of General Counsel.

EXPLANATION: CUNY requires the services to assist the Technology Commercialization Office with legal issues related to the filing and prosecution of patents worldwide.

**E. BROOKLYN COLLEGE - BARRY R. FEIRSTEIN GRADUATE SCHOOL OF CINEMA AT STEINER STUDIOS ACADEMIC EXCELLENCE FEES FOR THE MASTER OF FINE ARTS (MFA) IN CINEMA ARTS:**

RESOLVED, That The City University of New York adopt a schedule of academic excellence fees for students enrolled in the Master of Fine Arts in Cinema Arts at Brooklyn College’s Barry R. Feirstein Graduate School of Cinema at Steiner Studios, starting in the Fall semester 2015 and ongoing thereafter, as detailed below:

**Effective Fall 2015**

Resident and Non Residents Full-time students:	\$4,140 per semester
Resident and Non Residents Part-time students:	\$2,070 per semester

**Effective Fall 2016**

Resident and Non Residents Full-time students:	\$4,300 per semester
Resident and Non Residents Part-time students:	\$2,150 per semester

**Effective Fall 2017**

Resident and Non Residents Full-time students:	\$4,470 per semester
Resident and Non Residents Part-time students:	\$2,235 per semester

EXPLANATION: The new Barry R. Feirstein Graduate School of Cinema will open at Steiner Studios at the Brooklyn Navy Yard in Fall 2015. The Feirstein School will offer a 3-year specialized education in 6

disciplines leading to an M.F.A in Cinema Art: Producing; Directing; Screenwriting; Cinematography; Post-Production; and Digital Arts. Housed in a newly renovated 68,000 sq. foot, state-of the-art facility on the Steiner Studios lot, the School will be equipped with the most up-to-date production, post-production, animation, motion capture, and other equipment. As such, it will boast a filmmaking environment comparable to the finest in the world.

The School will admit 76 students into the MFA program in Fall 2015 and thereafter 94 per year. At full enrollment, the School will number 282 MFA students.

The expertise of the professors, who will bring industry experience to the classroom, the relevant and practical curriculum, and the extraordinary location of the School increase the attractiveness of the program. Feirstein is both the first public graduate school of cinema in New York and the only film school on a working film lot in the United States.

While the tuition is a fraction of that at comparable private New York Film Schools – NYU (\$26,305 tuition and mandatory fees per semester in AY2014-15), Columbia (\$26,742 tuition per semester in AY2014-15), School of Visual Arts (SVA) (\$18,790 - \$22,940 tuition per semester in AY2014-15) – Feirstein will offer a comparable education in a superior facility. In support of the vision of a world-class, public Film School akin to UCLA in California, the additional fee specified is both necessary and justifiable. In addition, over \$29 million has been raised to launch the Feirstein School of which over \$1.7 million will be available for student scholarships.

In conclusion, the comparative low cost of attendance further enhances the desirability of the Feirstein Graduate School of Cinema among New Yorkers, as well as out-of-state students, who will receive an education that is not only of exceptional quality, but that is also affordable, with full and part-time scholarships available to those in need. The funds will remain in the program to be used to improve and augment the program.

#### **F. THE CITY UNIVERSITY OF NEW YORK - FY 2015-2016 UNIVERSITY BUDGET REQUEST:**

RESOLVED, Subject to the availability of resources, CUNY seeks a total of \$3.311 billion for the University. This total includes additional funding of \$81.5 million for baseline needs and \$122.6 million for an investment plan. At the senior colleges, the total request is \$2.394 billion, a \$135.7 million increase over the 2014-2015 adopted level. Of this amount, \$62.9 million is for baseline needs and \$72.7 million is for the investment plan. At the community colleges the overall request is \$917.3 million, a \$68.5 million increase over the 2014-2015 adopted level. Of this amount, \$18.6 million is for baseline needs and \$49.9 million is for the investment plan.

2014-2015 appropriation levels of \$2.258 billion for the senior colleges and \$848.8 million for the community colleges and allocation to the various units of the university thereof reflect, per the authority vested in the Chancellery by the Board of Trustees, all budget adjustments reflected in the FY2014-2015 state enacted appropriation for the university.

EXPLANATION: With the 2015-2016 Budget Request, the University continues its innovative approach to the financing of its Master Plan—the CUNY Compact. In CUNY’s budget message, the University seeks to finance its ongoing obligations with State and City funds and its investment program through a modest increase in public funding, continuing budget restructuring and efficiencies, philanthropy, and tuition revenue.

The CUNY Investment Plan imbedded in the Compact offers an economically efficient way to finance CUNY by delineating shared responsibility among partners and creating opportunities to leverage funds. This year, the University’s priorities are the hiring of 500 additional full-time faculty, and providing support for initiatives to enhance academic excellence, help students move quickly toward their degrees, expand research, and augment workforce development activities. It also includes an

investment in energy sustainability initiatives with an aim of meeting the governor's goal of reducing energy usage by 22% by 2020. Other initiatives in the request include academic advisement, online education, international education, student internships, veterans' services, and library services.

**NOTE: The Operating Budget Request, FY2015-2016 is on file in the Office of the Secretary of the Board.**

**NO. 4. COMMITTEE ON FACULTY, STAFF, AND ADMINISTRATION:** RESOLVED, That the following items be approved:

**A. THE CITY UNIVERSITY OF NEW YORK - AMENDMENT TO SECTION 6.1 OF THE BYLAWS:**

RESOLVED, That Section 6.1 of the Bylaws of the Board of Trustees be amended to read as follows:

**NOTE: New material is highlighted.**

SECTION 6.1. INSTRUCTIONAL STAFF.

The board hereby establishes the following instructional staff titles:

Chancellor  
 Chancellor emeritus  
 Executive vice chancellor  
 Chief operating officer  
 Senior vice chancellor  
 Vice chancellor  
 Associate vice chancellor  
 University provost  
 Secretary of the board  
 University administrator  
 University associate administrator  
 University assistant administrator  
 President  
 Dean of the City University School of Law  
 Dean of the Graduate School of Journalism  
 Dean of the Sophie Davis School of Biomedical Education  
 Senior vice president  
 Vice president  
 Assistant vice president  
 Senior university dean  
 University dean  
 University associate dean  
 University assistant dean  
 Dean  
 Associate dean  
 Assistant dean  
 Administrator  
 Associate administrator  
 Assistant administrator  
 Distinguished professor  
 University professor  
 Professor  
 Associate professor  
 Assistant professor  
 Einstein professor

Visiting distinguished professor  
Clinical Professor  
Distinguished lecturer  
Distinguished lecturer – medical series  
Distinguished lecturer – law school series  
Medical professor (basic sciences)  
Associate medical professor (basic sciences)  
Assistant medical professor (basic sciences)  
Medical lecturer  
Adjunct medical professor (basic sciences)  
Adjunct associate medical professor (basic sciences)  
Adjunct assistant medical professor (basic sciences)  
Adjunct medical lecturer  
Medical professor (clinical)  
Associate medical professor (clinical)  
Assistant medical professor (clinical)  
Adjunct medical professor (clinical)  
Adjunct associate medical professor (clinical)  
Adjunct assistant medical professor (clinical)  
Law school distinguished professor  
Law school university professor  
Law school non-teaching adjunct  
Law school professor  
Law school associate professor  
Law school assistant professor  
Law school instructor  
Law school library professor  
Law school library associate professor  
Law school library assistant professor  
Law school adjunct professor  
Law school adjunct associate professor  
Law school adjunct assistant professor  
Law school adjunct instructor  
Law school lecturer  
Visiting professor  
Visiting associate professor  
Visiting assistant professor  
Adjunct professor  
Adjunct associate professor  
Adjunct assistant professor  
Adjunct lecturer  
Adjunct lecturer (doctoral student)  
Lecturer (full-time)  
Lecturer (part-time)  
Visiting lecturer  
Instructor  
Instructor (nursing science)  
Research associate  
Research assistant  
Graduate assistant (a-d)  
Senior registrar  
Associate registrar  
Chief college laboratory technician  
Adjunct chief college laboratory technician

Senior college laboratory technician  
 Adjunct senior college laboratory technician  
 College laboratory technician  
 Adjunct college laboratory technician  
 College physician  
 Higher education officer  
 Higher education associate  
 Higher education assistant  
 Assistant to higher education officer  
 Continuing education teacher  
 Non-teaching adjunct (I-V)  
 Non-teaching adjunct (doctoral student)  
 Affiliated professional  
 Professor of Military Science  
 Affiliated medical professor  
 Associate affiliated medical professor  
 Assistant affiliated medical professor

and in the Hunter College Elementary School and Hunter College High School

Principal  
 Chairperson of department  
 Assistant principal  
 Teacher  
 Assistant Teacher  
 Temporary teacher  
 Campus schools college laboratory technician  
 Campus schools senior college laboratory technician  
 Guidance counselor  
 Placement director  
 Education and vocational counselor  
 Librarian  
 Substitute teacher  
 Occasional per diem substitute teacher

and in the childhood centers

Teacher  
 Assistant teacher  
 And in the educational opportunity centers (EOC)  
 Educational opportunity center adjunct lecturer  
 Educational opportunity center adjunct college laboratory technician  
 Educational opportunity center college laboratory technician  
 Educational opportunity center higher education officer  
 Educational opportunity center higher education associate  
 Educational opportunity center higher education assistant  
 Educational opportunity center assistant to higher education officer  
 Educational opportunity center lecturer

\*and in the School of Journalism and in the Executive MBA Programs of the Zicklin School of Business at Baruch College:

Professional programs adjunct professor  
 Professional programs adjunct associate professor

Professional programs adjunct assistant professor  
 Professional programs adjunct lecturer  
 Professional programs professor (H)  
 Professional programs associate professor (H)  
 Professional programs assistant professor (H)  
 Professional programs lecturer (H)  
 Professional programs Non-Teaching Adjunct 1  
 Professional programs Non-Teaching Adjunct 2  
 Professional programs Non-Teaching Adjunct 3

EXPLANATION: On November 25, 2013, the CUNY Board of Trustees approved a letter of intent regarding the creation of the Sophie Davis B.S./M.D. granting program at The City College of New York. The College has applied for accreditation by the Liaison Committee on Medical Education (LCME) and, if granted preliminary accreditation, will offer an M.D. granting program in August 2016. LCME accreditation standards for M.D. programs require, among other things, that supervision of medical student learning experiences at hospitals be provided by physicians who are members of the institution's faculty. Consistent with the practice at many medical schools, it is planned that the clinical supervisors in the Sophie Davis B.S./M.D. granting program will be employed by the hospital and not directly by the school. In order for CUNY to meet the LCME requirement that clinical medical faculty have CUNY appointments, the University is creating these three new titles. Individuals in these Affiliated Medical Professor titles will not receive compensation from or have employment status at CUNY.

**B. THE CITY UNIVERSITY OF NEW YORK - AMENDMENT TO SECTION 9.1(F) OF THE BYLAWS:**

RESOLVED, That Section 9.1(f) of the Bylaws of the Board of Trustees, relating to the personnel and budget process in the Hunter College campus schools, be amended to read as follows:

SECTION 9.1 DEPARTMENT ORGANIZATION

f. There shall be a committee on personnel and budget for the Hunter College Elementary School and a committee on personnel and budget for the Hunter College High School. The committee in each school shall consist of the principal, as chairperson, a designee of the provost of hunter college, and three members of the instructional staff of the school who are tenured or will have tenure by the time of service, elected for a term of three years by members of the permanent instructional staff of the school. These committees shall have in each school, insofar as practicable, the same functions as are assigned by these bylaws to a departmental committee on personnel and budget in a college.

**NOTE: New material is underlined.**

EXPLANATION: This amendment makes explicit that only instructional staff members who are tenured or will have tenure by the time of service may be elected to and serve on the personnel and budget committees at the Hunter College Elementary School and the Hunter College High School. This has been the practice at the schools, and is appropriate as the committees make recommendations on reappointments with tenure. This amendment to the Bylaws makes that practice explicit. It is consistent with Bylaw requirements for departmental personnel and budget committees, which provide that four of five faculty members have tenure.

**C. THE CITY UNIVERSITY OF NEW YORK - AMENDMENTS TO POLICY ON EQUAL OPPORTUNITY AND NON-DISCRIMINATION:**

RESOLVED, That the Board of Trustees The City University of New York hereby adopts the revised Policy on Equal Opportunity and Non-Discrimination, effective January 1, 2015.

**EXPLANATION:** Simultaneous with the consideration of this resolution, the Board will consider a new Policy on Sexual Misconduct. The provisions on sexual harassment in the current Policy on Equal Opportunity and Non-Discrimination have been deleted and will be moved to that new policy. No changes of significance have been made in the revised Policy on Equal Opportunity and Non-Discrimination although it has been updated to reflect some changes to the law and the addition of several CUNY units not previously listed.

## **THE CITY UNIVERSITY OF NEW YORK POLICY ON EQUAL OPPORTUNITY AND NON-DISCRIMINATION**

### **I. Policy on Equal Opportunity and Non-Discrimination**

The City University of New York (“University” or “CUNY”), located in a historically diverse municipality, is committed to a policy of equal employment and equal access in its educational programs and activities. Diversity, inclusion, and an environment free from discrimination are central to the mission of the University.

It is the policy of the University—applicable to all colleges and units—to recruit, employ, retain, promote, and provide benefits to employees (including paid and unpaid interns) and to admit and provide services for students without regard to race, color, creed, national origin, ethnicity, ancestry, religion, age, sex (including pregnancy, childbirth and related conditions), sexual orientation, gender, gender identity, marital status, partnership status, disability, genetic information, alienage, citizenship, military or veteran status, status as a victim of domestic violence/stalking/sex offenses, unemployment status, or any other legally prohibited basis in accordance with federal, state and city laws.<sup>1</sup>

It is also the University’s policy to provide reasonable accommodations when appropriate to individuals with disabilities, individuals observing religious practices, employees who have pregnancy or childbirth-related medical conditions, or employees who are victims of domestic violence/stalking/sex offenses.

This Policy also prohibits retaliation for reporting or opposing discrimination, or cooperating with an investigation of a discrimination complaint.

#### **Prohibited Conduct Defined**

**Discrimination** is treating an individual differently or less favorably because of his or her protected characteristics—such as race, color, religion, sex, gender, national origin, or any of the other bases prohibited by this Policy.

**Harassment** is a form of discrimination that consists of unwelcome conduct based on a protected characteristic that has the purpose or effect of unreasonably interfering with an individual’s work or academic performance or creating an intimidating, hostile or abusive work or academic environment. Such conduct can be spoken, written, visual, and/or physical. This policy covers prohibited harassment based on all protected characteristics other than sex. Sex-based harassment and sexual violence are covered by CUNY’s Policy on Sex-Based Harassment and Sexual Violence.

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<sup>1</sup> As a public university system, CUNY adheres to federal, state and city laws and regulations regarding non-discrimination and affirmative action. Should any federal, state or city law or regulation be adopted that prohibits discrimination based on grounds or characteristics not included in this Policy, discrimination on those additional bases will also be prohibited by this Policy.

**Retaliation** is adverse treatment of an individual because he or she made a discrimination complaint, opposed discrimination, or cooperated with an investigation of a discrimination complaint.

## **II. Discrimination and Retaliation Complaints**

The City University of New York is committed to addressing discrimination and retaliation complaints promptly, consistently and fairly. There shall be a Chief Diversity Officer at every college or unit of the University, who shall be responsible for, among other things, addressing discrimination and retaliation complaints under this Policy. There shall be procedures for making and investigating such complaints, which shall be applicable at each unit of the University.

## **III. Academic Freedom**

This policy shall not be interpreted so as to constitute interference with academic freedom.

## **IV. Responsibility for Compliance**

The President of each college of the University, the CUNY Executive Vice Chancellor and Chief Operating Officer, and the Deans of the Law School, Graduate School of Journalism, School of Public Health and School of Professional Studies and Macaulay Honors College, have ultimate responsibility for overseeing compliance with these policies at their respective units of the University. In addition, each vice president, dean, director, or other person with managerial responsibility, including department chairpersons and executive officers, must promptly consult with the Chief Diversity Officer at his or her college or unit if he or she becomes aware of conduct or allegations of conduct that may violate this policy. All members of the University community are required to cooperate in any investigation of a discrimination or retaliation complaint.

## **D. KINGSBOROUGH COMMUNITY COLLEGE - NAMING OF THE DR. RACHELLE AND BARRY GOLDSMITH TENNIS FACILITY:**

RESOLVED, That the Board of Trustees of The City University of New York approve the naming of the "Dr. Rachelle and Barry Goldsmith Tennis Facility" located on the campus of Kingsborough Community College, and authorize the General Counsel of The City University of New York to execute documents on behalf of CUNY relating to this naming opportunity.

**EXPLANATION:** Dr. Rachelle Goldsmith and her husband, Barry Goldsmith, are long-time employees of the College. Dr. Goldsmith is currently Director of the College's Honors Program and previously served as Director of Kingsborough's College Now Program. Mr. Goldsmith has been the coach of the Kingsborough men's tennis team for more than thirty years, and of its women's tennis team for approximately eight years. He led the women's tennis team to a national championship in 2009, and under his leadership both teams together have produced more than 50 All-Americans. In addition, the Goldsmiths are founding members of the Kingsborough Community College Beacon Society, as they have made a bequest intention to support the College.

The Goldsmiths have donated \$25,000 to the Kingsborough Community College Foundation. The earnings generated by this donation will be used toward the Kingsborough Community College Athletics Wave Fund, an existing fund established to help Kingsborough student athletes better navigate their collegiate experiences.

In recognition of the Goldsmiths' generosity and many contributions to the College community, the College requests that its tennis facility, comprised of four tennis courts located on the Kingsborough campus, be named the "Dr. Rachelle and Barry Goldsmith Tennis Facility."

**E. BROOKLYN COLLEGE - NAMING OF THE CLAIRE TOW THEATER:**

RESOLVED, That the Board of Trustees of The City University of New York approve the naming of the theater in Whitman Hall at Brooklyn College, previously known as the Whitman Theater, as the Claire Tow Theater, which will be part of the previously named Leonard and Claire Tow Center for the Performing Arts.

EXPLANATION: Brooklyn College seeks to formally recognize the outstanding legacy of alumna Claire Tow, who passed away this year after a long battle with ALS. She and her husband, Leonard Tow, graduates of Brooklyn College in 1952 and 1950, respectively, have been amongst the strongest philanthropic supporters of Brooklyn College. Mrs. Tow was a co-founder of the cable television company, Century Communications Corporation, and the cellular telephone company, Centennial Cellular Corporation, and served as director and executive at both companies. Mrs. Tow was also President of The Tow Foundation, the largest single donor to Brooklyn College.

In 1993, through The Tow Foundation, which supports medical research and scientific, community, educational, and cultural organizations, the Tows established the Tow Professorships, as well as annual awards that are given to Brooklyn College faculty members for outstanding teaching and/or research. In 1998, Brooklyn College bestowed the honorary degree of Doctor of Humane Letters on both Leonard and Claire Tow. In January 2004, the Tows pledged a challenge grant of \$10 million—the largest gift in the College’s history—for a new Center for the Performing Arts, if the College mobilized a further \$15 million. That \$25 million became the nucleus for a \$90 million project to provide new facilities for the College’s music and theater departments. The new facility was named the Leonard and Claire Tow Center for the Performing Arts in recognition of the Tows’ contributions. In further acknowledgement of their vision and generosity, the College wishes to integrate and consolidate all of its performing arts facilities under their name, and therefore requests that the theater previously known as the Whitman Theater be named the “Claire Tow Theater.”

**NO. 5. COMMITTEE ON FACILITIES PLANNING AND MANAGEMENT:** RESOLVED, That the following item be approved:

**A. BARUCH COLLEGE - INFORMATION AND TECHNOLOGY BUILDING FIRE ALARM PROJECT:**

RESOLVED, That the Board of Trustees of The City University of New York amend the resolution adopted at the meeting of June 24, 2013, Cal. No. 7.D., by increasing from \$900,000 to \$1,100,000 the amount of the Purchase Order the Vice Chancellor is authorized to execute for the services to design, purchase and install a Fire Alarm System in the Information and Technology Building at Baruch College under an existing New York State General Services Contract, subject to approval as to form by the Office of General Counsel.

EXPLANATION: The Purchase Order for the work was issued to Red Hawk Fire & Security. Subsequent to the completion of the design, it was determined that an additional \$200,000 will be required to undertake the fire alarm installation to meet all New York City Fire Code requirements. The total cost of all such purchases shall be chargeable to the State Capital Construction Fund, Project No. 3167209999 for an amount of not to exceed \$1,100,000.

**B. JOHN JAY COLLEGE - LEASE RENEWAL:**

RESOLVED, That the Board of Trustees of The City University of New York authorize the General Counsel to execute a lease renewal for Nine Years and Eleven Months, for approximately 50,000 rentable square feet of space, at 555 West 57th Street, New York, New York, on behalf of the John Jay College of Criminal Justice. The lease shall be subject to approval as to form by the University Office of General Counsel.

**EXPLANATION:** At 555 West 57<sup>th</sup> Street in Manhattan, the John Jay College of Criminal Justice has occupied 50,000 square feet of office space on the Sixth Floor since 1999. The current lease will expire on January 29, 2020. Under the existing lease the current gross annual rent is \$40.50/SF. In order to secure the long-term occupancy of this space for the benefit of the College, the University and the landlord have agreed to an early renewal of the existing lease. Pursuant to the renewal agreement, the extended term will start on January 30, 2020 and end on December 31, 2030. The base rent for the renewal period will be \$2,750,000 (\$55/SF) per annum for the first five years and \$3,000,000 (\$60.00/SF) for the balance of the term.

The Landlord will continue to be responsible for repairs and cleaning. The University will continue to be responsible for its share of increase in real estate taxes and direct operating costs over base year costs.

**C. THE CITY UNIVERSITY OF NEW YORK - FIVE-YEAR CAPITAL BUDGET REQUEST, FY 2015-16 THROUGH FY 2019-20:**

RESOLVED, That The City University of New York Board of Trustees approve a five-year Capital Budget Request for Fiscal Years FY 2015-16 through FY 2019-20 of approximately \$6.8 billion for projects authorized by The City University Construction Fund to address critical maintenance, infrastructure, and programmatic initiatives in support of the University's mission. These projects shall be funded through bonds sold by the Dormitory Authority of the State of New York with debt service payments appropriated by the State of New York and the City of New York, and through bonds sold by the City of New York; projects shall also be supported by state minor repair funding from General Fund. The request breaks down to \$5.2 billion for the Senior Colleges and \$1.6 billion for the Community Colleges. The state provides 100% of the funding for Senior Colleges and 50% for the Community Colleges. The city provides the matching 50% for the Community Colleges and special projects at Senior Colleges; and be it further

RESOLVED, That the Master Plan for the University be and is hereby amended as necessary to provide for the capital proposal.

**NOTE: The Capital Budget Request, FY 2015-16 through FY 2019-20, and the schedule of projects are on file in the Office of the Secretary of the Board.**

**EXPLANATION:** Every year the University is required to submit a five-year capital plan to the State Division of the Budget and the City Office of Management and Budget. As in previous plans, the FY 2015-16 through FY 2019-20 request focuses on completion of existing projects and critical health, safety, code compliance and rehabilitation projects, while recognizing the need for expansion and modernization of facilities as called for in campus master plans. In formulating specific projects under this plan, an effort will be made where possible to leverage available University real estate resources through public-private development.

The projects included in the plan originate at the campuses and are prioritized following Board of Trustees criteria:

1. Critical Maintenance projects to ensure health, safety, security, facilities preservation, and compliance with codes, including ADA and asbestos-related regulations;
2. Individual campus projects that were started with partial earlier funding and need completion of funding;
3. Projects to upgrade existing science facilities and provide new science instruction and research facilities;

4. CUNY-wide technology projects, including infrastructure upgrades, systems engineering, and new equipment;
5. CUNY-wide projects to meet energy conservation and performance objectives including Executive Order 88 and Local Law 87;
6. New construction of space needed for academic programs, with projects ranked in order of overall campus space deficiency. Highest priority is assigned to classroom and instructional laboratory facilities and to the replacement of temporary or leased space with permanent space;
7. CUNY-wide and individual campus projects for purposes other than those listed above.

**NO. 6. COMMITTEE ON ACADEMIC POLICY, PROGRAMS AND RESEARCH:** RESOLVED, That the followings items be approved:

**A. SCHOOL OF PROFESSIONAL STUDIES - MS IN DISABILITY SERVICES IN HIGHER EDUCATION:**

RESOLVED, That the program in Disability Services leading to the Master of Science at the School of Professional Studies of the Graduate School and University Center be approved, effective December 2, 2014, subject to financial ability.

EXPLANATION: The increase in previously undetected learning disabilities and the implementation of the Americans with Disabilities Act have created a demand on all college and university campuses for professionals knowledgeable in student and faculty accommodations as well as the details of the law. Currently most professionals in this field have tangentially related graduate degrees and acquire the theory, practice and skills to run a disability services office through professional development programs and on the job experience. This program covers the various types of disabilities and appropriate accommodations, the legal requirements as well as the administration of such offices. This degree will be the first of its kind in the nation and will be taught completely in an on-line format, allowing SPS to recruit nationally. The School has already established relationships with relevant professional organizations.

**B. HUNTER COLLEGE - ED.D IN INSTRUCTIONAL LEADERSHIP:**

RESOLVED, That the program in Instructional Leadership leading to the Doctor of Education at Hunter College be approved, effective December 2, 2014, subject to financial ability.

EXPLANATION: This program will be the first Ed.D at CUNY. It will prepare professionals in the K-12 education sector to advance to careers such as school superintendents, district-level directors of curriculum, and charter school network leaders. Students will learn research methodologies that can be used in their current and future professional settings and the program will culminate in an applied dissertation. The students, most of whom will be working full-time while pursuing their degree, will enroll and complete the program in cohorts.

**C. HUNTER COLLEGE - ESTABLISHMENT OF THE DEPARTMENT OF WOMEN AND GENDER STUDIES:**

RESOLVED, That effective January 28, 2015, the Hunter College Department of Women and Gender Studies shall be established in the School of Arts & Sciences as part of the Division of Social Sciences with all of the rights and responsibilities of a department.

EXPLANATION: The Women and Gender Studies Program (WGS; formerly, Women's Studies) at Hunter College was one of the first such programs in the country. Officially established in 1975, the

program emerged as part of larger intellectual, political, and pedagogical movements that sought to redress omissions of the study of gender, sexuality and racial-ethnic minorities in undergraduate university curricula. Because of its location in a predominantly urban, public-sector institution that historically was the first to serve young women of all ethnic and class backgrounds, Hunter's Women and Gender Studies Program was, from its very beginning, conscious of its special mission of diversity and inclusion.

Hunter's Women and Gender Studies Department will be the first of its kind within CUNY, and its creation will allow CUNY to join the ranks of other R1 institutions that recognize the importance of study of this area in a liberal education.

In the spring of 2011, a presidentially appointed Task Force recommended the creation of a WGS department in its final report. Among its reasons for supporting the creation of a WGS department, the Task Force highlighted the facts that "WGS is a discipline with its own concepts and theoretical domain, as well as being an interdisciplinary field that intersects with other fields in the sciences and humanities"; "student success for this popular major depends on departmental status" to provide students with greater programmatic stability, course availability, and access to academic advising and support; and the change will "provide better articulation with CUNY community colleges and the CUNY Graduate Center."

WGS has grown rapidly in size, complexity, and function in recent years. According to analysis by the National Women's Studies Association, WGS at Hunter College is among the largest of such entities in the country based on student enrollment, which has surged in the past decade from 38 majors in 2001 to over 90 majors and 20 minors in 2012. Every year more than 1500 students take WGS 100 Introduction to Women's Studies and WGS 201 Classics in Feminist Thought in order to fulfill a portion of their Pluralism and Diversity requirements. Because WGS carries such a large burden in terms of helping students fulfill general education requirements, it must routinely turn students away from overenrolled WGS courses that students are taking both to fulfill major and minor requirements as well as other college requirements. Department status will allow for thoughtful programmatic development and long term planning so that WGS courses will be available to the students who need them.

The Women and Gender Studies Department will maintain and expand its commitments to its majors by providing students with greater administrative stability, ensured access to required courses, and opportunities for interdisciplinary study. The new department will also maintain its commitment to the general education of Hunter College students through its vast array of courses satisfying college-wide requirements. Departmental status will also allow WGS to expand its contributions to public health, social work, human rights, and developments in various sciences.

The WGS program has sustained itself because of the commitment and generosity of 49 faculty from 25 departments and programs across Hunter College, many of whom have dedicated time to the administration and governance of the program by serving on its policy committee. In addition to its regular academic curriculum, the program contributes to the life of the college through planning and sponsorship of campus-wide events. Since 2004, the program has organized and co-sponsored over 85 events. In these respects, the program already functions in many ways like a department, and it deserves the levels of autonomy and support afforded academic departments.

The college has developed and begun to implement a plan for bringing the new department up to the minimum size of five faculty. The plan called first for the hire of a senior scholar and seasoned academic leader to chair the new department. With the full support of the two dedicated WGS faculty (one currently appointed in the Department of Geography, the other in the Department of Political Science), Hunter searched for and hired the first chair of the Department of Women and Gender Studies in August, 2014. She is currently housed in the Department of Anthropology. Within the next three years, depending upon the specified needs of the new department as defined by its proposed membership, two more faculty will be added either via internal transfers from existing Hunter departments or through

external searches and the establishment of new faculty lines, subject to financial availability. A slightly different version of this resolution was approved by the Hunter College Senate on October 23, 2013. The current resolution with the corrected date was presented to the Senate on October 8, 2014. A separate resolution regarding the transfer and appointment of personnel to the new Department of Women and Gender Studies will be entered into the Chancellor’s University Report. Contingent upon the approval of the Board of Trustees, one designated faculty member from each of the Departments of Anthropology, Geography and Political Science will be transferred to the new Department of Women and Gender Studies.

**D. BOROUGH OF MANHATTAN COMMUNITY COLLEGE - AS IN ANIMATION AND MOTION GRAPHICS:**

RESOLVED, That the program in Animation and Motion Graphics leading to the Associate of Science at Borough of Manhattan Community College, be approved effective December 2, 2014 subject to financial ability.

EXPLANATION: BMCC seeks to build on its current success with associate degree programs in Video Arts Technology, Multimedia Programming and Multimedia Art and Design by adding an AS in Animation and Motion Graphics to this suite of related programs. Computer generated imagery or CGI as it is known, allows for the creation of characters, special effects, and scenes that are imbedded in media that we watch every day. Basic courses in animation and digital art combined with a solid general education program will prepare students for entry level positions and for transfer to senior colleges. An articulation with Lehman College has already been signed.

**E. CITY COLLEGE - MD IN MEDICAL EDUCATION:**

RESOLVED, That the program in Medical Education leading to the Doctor of Medicine at City College, be approved, and that the City College Master Plan be amended accordingly, effective December 2, 2014 subject to financial ability.

EXPLANATION: CUNY presently offers a BS in Biomedical Education at City College and works with partner institutions to admit students into an accelerated MD program. These programs provides access to medical education for youth from social, ethnic, and racial backgrounds historically underrepresented in medicine, and develop primary care physicians committed to practicing in underserved communities. City College is now seeking to become a Doctor of Medicine degree granting institution in order to offer both the BS in Biomedical Education and the MD program at CUNY in a format that would accelerate students through both programs in a fashion similar to the existing structure. This pursuit of permission to award the MD degree also requires a request for a Master Plan Amendment from the New York State Department of Education. By controlling the full continuum of our students’ medical education, these programs will provide the transformational path needed for New York City and State to educate and train primary care physicians to practice in communities that have the highest need for basic medical care and services.

**F. HONORARY DEGREES:** RESOLVED, That the following honorary degrees, approved by the appropriate faculty body, the college president and recommended by the Chancellor, be presented at the commencement exercise as specified:

<b>COLLEGE</b>	<b>DEGREE</b>
<b>CUNY SCHOOL OF LAW</b>	
Lynn Paltrow	Doctor of Laws
(To be conferred at the commencement ceremony on May 15, 2015)	

## HUNTER COLLEGE

Twyla Tharp Doctor of Humane Letters  
(To be conferred at the commencement ceremony on January 22, 2015)

## CITY COLLEGE

Michael Pope Doctor of Science  
(To be conferred at a special event in Spring 2015)

**NO. 7. COMMITTEE ON STUDENT AFFAIRS AND SPECIAL PROGRAMS:** RESOLVED, That the following items be approved:

### **A. THE CITY UNIVERSITY OF NEW YORK - AMENDMENTS TO ARTICLE XV OF THE BYLAWS:**

RESOLVED, That the Board of Trustees of The City University of New York hereby adopts the amendments to Article XV of the Board's Bylaws, effective January 1, 2015.

EXPLANATION: In light of recent changes in federal law and regulations, guidance from the Office of Civil Rights of the U.S., Department of Education and recommendations of the White House Task Force to Protect Students from Sexual Assault, a working group within the Central Office of the University has been reviewing the student disciplinary procedures contained in Article XV of the Bylaws. The working group was comprised of representatives of the Offices of Student Affairs, Human Resources Management and Legal Affairs, and it consulted widely with students, faculty and staff throughout the University, as well as with experts in the field.

The substantive changes contained in the proposed amendments are principally directed to providing complainants with the same opportunity as respondents to participate in student disciplinary hearings before a faculty-student disciplinary committee, including the right to receive notice of the charges, to be represented by a person of their choice, including an attorney, to attend the hearing, to present evidence, to call witnesses, to cross-examine witnesses, to receive notice of the outcome of the hearing, and to appeal from the decision.

## **ARTICLE XV STUDENTS**

### **SECTION 15.0. PREAMBLE.**

Academic institutions exist for the transmission of knowledge, the pursuit of truth, the development of students, and the general well-being of society. Student participation, responsibility, academic freedom, and due process are essential to the operation of the academic enterprise. As members of the academic community, students should be encouraged to develop the capacity for critical judgment and to engage in a sustained and independent search for truth.

Freedom to learn and to explore major social, political, and economic issues are necessary adjuncts to student academic freedom, as is freedom from discrimination, as set forth in the university's non-discrimination policy.

Freedom to learn and freedom to teach are inseparable facets of academic freedom. The concomitant of this freedom is responsibility. If members of the academic community are to develop positively in their freedom; if these rights are to be secure, then students should exercise their freedom with responsibility.

### **SECTION 15.1. CONDUCT STANDARD DEFINED.**

Each student enrolled or in attendance in any college, school or unit under the control of the board and every student organization, association, publication, club or chapter shall obey (1) the laws of the city, state and nation; (2) the bylaws and resolutions of the board, including the rules and regulations for the maintenance of public order pursuant to article 129-a of the education law ("Henderson rules"); and (3) the governance plan, policies, regulations, and orders of the college.

Such laws, bylaws, resolutions, policies, rules, regulations and orders shall, of course, be limited by the right of students to the freedoms of speech, press, assembly and petition as construed by the courts.

### **SECTION 15.2. STUDENT ORGANIZATIONS.**

a. Any group of students may form an organization, association, club or chapter by filing with the duly elected student government organization of the college or school at which they are enrolled or in attendance and with an officer to be designated by the chief student affairs officer of the college or school at which they are enrolled or in attendance (1) the name and purposes of the organization, association, club or chapter, (2) the names and addresses of its president and secretary or other officers corresponding in function to president and secretary.

The board recognizes that students have rights to free expression and association. At the same time, the board strongly believes that respect for all members of the university's diverse community is an essential attribute of a great university.

b. Extra-curricular activities at each college or school shall be regulated by the duly elected student government organization to insure the effective conduct of such college or school as an institution of higher learning and for the prevention of activities which are hereafter proscribed or which violate the standards of conduct of the character set forth in bylaw 15.1. Such powers shall include:

1. The power to charter or otherwise authorize teams (excluding intercollegiate athletics), publications, organizations, associations, clubs or chapters, and, when appropriate in the exercise of such regulatory power, the power to refuse, suspend or revoke any charter or other authorization for cause after hearing on notice.
2. The power to delegate responsibility for the effective implementation of its regulatory functions hereunder to any officer or committee which it may appoint.

c. 1. Any person or organization affiliated with the college may file a complaint with the chief student affairs officer if there is reason to believe that a student organization has violated any of the standards of conduct set forth in section 15.1 above. The chief student affairs officer shall promptly notify the affected organization, investigate any complaint and report the results of that investigation along with a recommendation for appropriate action to the complainant and the student government which shall take action as it deems appropriate, except that in the case of a complaint against the student government itself, the chief student affairs officer shall report the results of the investigation and the recommendation for appropriate action directly to the president.

2. The complainant or any student organization adversely affected pursuant to paragraph c (1) above may appeal to the president. The president may take such action as he or she deems appropriate, and such action shall be final.

d. Each college shall establish a student elections review committee in consultation with the various student governments. The student elections review committee shall approve the election

procedures and certify the results of elections for student governments, and student body referenda. Decisions of the student elections review committee may be appealed to the college president, whose decision shall be final. An appeal from the decision of the student elections review committee must be made in writing to the President within ten (10) calendar days of the decision. The President shall consult with the student elections review committee and render a decision as expeditiously as possible which may affirm, reverse, or modify the decision of the student elections review committee.

e. Student government elections shall be scheduled and conducted, and newly elected student governments shall take office, in accordance with policies of the board, and implementing regulations.

### **SECTION 15.3. THE UNIVERSITY STUDENT SENATE.**

There shall be a university student senate responsible, subject to the board of trustees, for the formulation of university-wide student policy relating to the academic status, role, rights and freedoms of the student. The authority and duties of the university student senate shall not extend to areas of interest which fall exclusively within the domain of the student governments of the constituent units of the university. Consistent with the authority of the board of trustees in accordance with the education law and the bylaws of the board of trustees, the university student senate shall make its own bylaws providing for the election of its own officers, the establishment of its own rules and procedures, for its internal administration and for such other matters as is necessary for its existence. The university student senate shall have the full rights and responsibilities accorded student organizations as provided in these bylaws. The delegates and alternate delegates to the university student senate shall be elected by their respective constituencies, or by their student governments from the elected members of the respective student governments.

### **SECTION 15.4. STUDENT DISCIPLINARY PROCEDURES.**

Complaint Procedures:

- a. A University student, employee, visitor, organization or department who/which believes she/he/it is the victim of a student's misconduct (hereinafter "complainant") may make a charge, accusation, or allegation against a student (hereinafter "respondent") which if proved, may subject the respondent to disciplinary action. Such charge, accusation, or allegation must be communicated to the chief student affairs officer of the college the respondent attends.
- b. The chief student affairs officer of the college or her or his designee shall conduct a preliminary investigation in order to determine whether disciplinary charges should be preferred. The chief student affairs officer or her or his designee shall advise the respondent of the allegation against her or him, explain to the respondent and the complainant their rights, consult with other parties who may be involved or who have information regarding the incident, and review other relevant evidence. The preliminary investigation shall be concluded within thirty (30) calendar days of the filing of the complaint, unless: (i) said complaint involves two or more complainants or respondents; or (ii) said complaint involves a matter that is also under investigation by law enforcement authorities. In those cases, the preliminary investigation shall be completed within sixty (60) calendar days. Further, if the matter has been previously investigated pursuant to the Board of Trustees Policy Against Sex-Based Harassment and Sexual Violence, the chief student affairs officer shall dispense with a preliminary investigation and rely on the report completed by the Title IX Coordinator. Following the completion of the preliminary investigation, the chief student affairs officer or designee shall take one of the following actions:

(i) Dismiss the matter if there is no basis for the allegation(s) or the allegation(s) does not warrant disciplinary action. The individuals involved shall be notified that the complaint has been dismissed;

(ii) Refer the matter to mediation (except in cases involving allegations of sexual assault, stalking or other forms of sexual violence); or

(iii) Prefer formal disciplinary charges.

c. In the event that a respondent withdraws from the college after a charge, accusation or allegation against a respondent has been made, and the college prefers formal disciplinary charges, the respondent is required to participate in the disciplinary hearing or otherwise to resolve the pending charges and shall be barred from attending any other unit of the university until a decision on the charges is made or the charges are otherwise resolved. If the respondent fails to appear the college may proceed with the disciplinary hearing in absentia, and any decision and sanction shall be binding.

Mediation Conference:

d. The college may offer the respondent and the complainant the opportunity to participate in a mediation conference prior to the time the disciplinary hearing takes place in an effort to resolve the matter by mutual agreement (except in cases involving sexual assault, stalking and other forms of sexual violence). The conference shall be conducted by a qualified staff or faculty member designated by the chief student affairs officer. The following procedures shall be in effect at this conference:

1. An effort shall be made to resolve the matter by mutual agreement.
2. If an agreement is reached, the faculty or staff member conducting the conference shall report her/his recommendation to the chief student affairs officer for approval and, if approved, the complainant and the respondent shall be notified, and a written memorandum shall be created memorializing the resolution and any consequences for non-compliance.
3. If no agreement is reached within a reasonable time, or if the respondent fails to appear, the faculty or staff member conducting the conference shall refer the matter back to the chief student affairs officer who may prefer disciplinary charges.
4. The faculty or staff member conducting the mediation conference is precluded from testifying at a college hearing regarding information received during the mediation conference, or presenting the case on behalf of the college.

Notice of Hearing and Charges, and Pre-Hearing Document Inspection:

e. Notice of the charge(s) and of the time and place of the hearing shall be personally delivered to the respondent, or sent by certified or overnight mail and email to the respondent's CUNY-assigned email address. Notice shall also be sent in a similar manner to the complainant to the extent the charges relate to her/him/it. The chief student affairs officer is also encouraged to send the notice of charges to any other e-mail address that he or she may have for the respondent and the complainant. The hearing shall be scheduled within a reasonable time following the filing of the charges or the mediation conference. Notice of at least seven (7) calendar days shall be given to the respondent in advance of the hearing unless the respondent consents to an earlier hearing. The respondent is permitted one (1) adjournment as of right. Additional requests for an adjournment must be made at least five (5) calendar days prior to the hearing date, and shall be granted or denied at the discretion of the chairperson of the faculty-student disciplinary committee. If the respondent fails to respond to the notice, appear on the

adjourned date, or request an extension, the college may proceed in absentia, and any decision and sanction shall be binding.

f. The notice shall contain the following:

1. A complete and itemized statement of the charge(s) being brought against the respondent including the rule, bylaw or regulation she/he is charged with violating, and the possible penalties for such violation.
2. A statement that the respondent and the complainant have the right to attend and participate fully in the hearing including the right:
  - (i) to present their side of the story;
  - (ii) to present witnesses and evidence on their behalf;
  - (iii) to cross-examine witnesses presenting evidence;
  - (iv) to remain silent without assumption of guilt; and
  - (v) to be represented by an advisor or legal counsel at their expense; if the respondent or the complainant request it, the college shall assist in finding a legal counsel or advisor.
3. A warning that anything the respondent says may be used against her/him at a non-college hearing.
4. At least five (5) calendar days prior to the commencement of a student disciplinary hearing, the college shall provide the respondent and the complainant and/or their designated representative, with similar and timely access to review any documents or other tangible evidence that the college intends to use at the disciplinary hearing, consistent with the restrictions imposed by Family Education Rights and Privacy Act ("FERPA"). Should the college seek to introduce additional documents or other tangible evidence during, or some time prior to, the disciplinary hearing, the respondent and the complainant shall be afforded the opportunity to review the additional documents or tangible evidence. If during the hearing the respondent submits documentary evidence, the chairperson may, at the request of either the college or the complainant, direct the respondent to produce such other documents as may be necessary in the interest of fairness.

Emergency Suspension:

g. The president or her/his designee may in emergency or extraordinary circumstances, temporarily suspend a student pending an early hearing as provided in this bylaw section 15.4. to take place within not more than twelve (12) calendar days, unless the student requests an adjournment. Such suspension shall be for conduct which impedes, obstructs, impairs or interferes with the orderly and continuous administration and operation of any college, school, or unit of the university in the use of its facilities or in the achievement of its purposes as an educational institution. Prior to the commencement of a temporary suspension of a student, the college shall give the student oral notice (which shall be confirmed via email to the address appearing on the records of the college) or written notice of the charges against her/him and, if she/he denies them, the college shall forthwith give the student an informal oral explanation of the evidence supporting the charges and the student may present informally her/his explanation or theory of the matter. When a student's presence poses a continuing danger to person or property or an ongoing threat of disrupting the academic process, notice and opportunity for denial and explanation may follow suspension, but shall be given as soon as feasible thereafter. The complainant shall be notified in the event that an emergency suspension is imposed against a student, and/or when the suspension is subsequently lifted to the extent that the suspension involves the complainant in the same manner notice is given to the student.

Faculty-Student Disciplinary Committee Structure:

- h. Each faculty-student disciplinary committee shall consist of two (2) faculty members or one (1) faculty member and one (1) member of the Higher Education Officer series (HEO), and two (2) student members and a chairperson, who shall be a faculty member. A quorum shall consist of the chairperson and any two (2) members, one of whom must be a student. Hearings shall be scheduled promptly (including during the summers) at a convenient time and efforts shall be made to insure full student and faculty representation.
- i. The president shall select in consultation with the head of the appropriate campus governance body or where the president is the head of the governance body, its executive committee, three (3) members of the faculty of that college to receive training and to serve in rotation as chairperson of the disciplinary committee. The following schools shall be required to select two (2) chairpersons: CUNY School of Law, Guttman Community College, CUNY School of Professional Studies, and the CUNY School of Journalism. If none of the chairpersons appointed from the campus can serve, the president, at her/his discretion, may request that a chairperson be selected by lottery from the entire group of chairpersons appointed by other colleges. The chairperson shall preside at all meetings of the faculty-student disciplinary committee and decide and make all rulings for the committee. She/he shall not be a voting member of the committee but shall vote in the event of a tie.
- j. The faculty members shall be selected by lot from a panel of six (6) elected biennially by the appropriate faculty body from among the persons having faculty rank or faculty status. CUNY School of Law, Guttman Community College, CUNY School of Professional Studies, and the CUNY School of Journalism shall be required to select four (4) faculty members. The HEO members shall be selected by lot from a panel of six (6) HEO appointed biennially by the president. CUNY School of Law, Guttman Community College, CUNY School of Professional Studies, and the CUNY School of Journalism shall be required to select four (4) HEO's. The student members shall be selected by lot from a panel of six (6) elected annually in an election in which all students registered at the college shall be eligible to vote. CUNY School of Law, Guttman Community College, CUNY School of Professional Studies, and the CUNY School of Journalism shall be required to select four (4) students. In the event that the student or faculty panel or both are not elected, or if more panel members are needed, the president shall have the duty to select the panel or panels which have not been elected. No individuals on the panel shall serve on the panel for more than four (4) consecutive years. Notwithstanding the above, in cases of sexual assault, stalking and other forms of sexual violence, the president shall designate one (1) chairperson, two (2) faculty/HEO members, and two (2) students, who shall be specially trained, and who shall constitute the faculty-student disciplinary committee in all such cases.
- k. In the event that the chairperson cannot continue, the president shall appoint another chairperson. In the event that a seat becomes vacant and it is necessary to fill the seat to continue the hearing, the seat shall be filled from the respective faculty, HEO, or student panel by lottery.
- l. Each academic year, the chief student affairs officer, and her or his designee, shall appoint/identify one or more college employees to serve as presenters for the hearings. This list shall be forwarded to the Office of the Vice Chancellor for Student Affairs, and the Office of the General Counsel and Sr. Vice Chancellor for Legal Affairs prior to the first day of the academic year.
- m. Persons who are to be participants in the hearings as witnesses or have been involved in preferring the charges or who may participate in the appeals procedures or any other person having a direct interest in the outcome of the hearing shall be disqualified from serving on the committee.

Faculty-Student Disciplinary Committee Procedures:

- n. The following procedures shall apply at the hearing before the faculty-student disciplinary committee:
1. The chairperson shall preside at the hearing. The chairperson shall inform the respondent of the charges, the hearing procedures and her or his rights.
  2. All faculty student disciplinary committee hearings are closed hearings, but the respondent has the right to request an open public hearing. However, the chairperson has the right to deny the request and hold a closed hearing when an open public hearing would adversely affect and be disruptive to the committee's normal operations, or when the complainant in a case involving allegations of sexual assault, stalking, or other forms of sexual violence requests a closed hearing. In the event of an open hearing, the respondent must sign a written waiver acknowledging that those present will hear the evidence introduced at the hearing.
  3. After informing the respondent of the charges, the hearing procedures, and her or his rights, the chairperson shall ask the respondent to respond. If the respondent admits the conduct charged, the respondent shall be given an opportunity to explain her/his actions before the committee and the college shall be given an opportunity to respond and present evidence regarding the appropriate penalty. If the respondent denies the conduct charged, the college shall present its case. At the conclusion of the college's case, the respondent may move to dismiss the charges. If the motion is denied by the committee, the respondent shall be given an opportunity to present her or his defense.
  4. Prior to accepting testimony at the hearing, the chairperson shall rule on any motions questioning the impartiality of any committee member or the adequacy of the notice of the charge(s). Subsequent thereto, the chairperson may rule on the admissibility of the evidence and may exclude irrelevant, unreliable or unduly repetitive evidence. In addition, if either party wishes to question the impartiality of a committee member on the basis of evidence which was not previously available at the inception of the hearing, the chairperson may rule on such a motion. The chairperson shall exclude from the hearing room all persons who are to appear as witnesses, except the respondent and the complainant.
  5. The college shall make a record of each fact-finding hearing by some means such as a stenographic transcript, an audio recording or the equivalent. The college must assign a staff member for each hearing, with the sole responsibility of ensuring that the hearing is recorded in its entirety. No other recording of the proceedings may be permitted. A respondent who has been found to have committed the conduct charged after a hearing is entitled upon request to a copy of such a record without cost upon the condition that it is not to be disseminated except to the respondent's representative or attorney. In the event of an appeal, both the respondent and the complainant are entitled upon request to a copy of such a record without cost, upon the condition that it is not to be disseminated except to their representatives or attorneys.
  6. The college bears the burden of proving the charge(s) by a preponderance of the evidence.
  7. The role of the faculty-student disciplinary committee is to listen to the testimony, ask questions of the witnesses, review the testimony and evidence presented at the hearing and the papers filed by the parties and render a determination. In the event the respondent is found to have committed the conduct charged, the committee shall then determine the penalty to be imposed.
  8. The college, the respondent and the complainant are permitted to have lawyers or other representatives act on their behalf during the pendency of a disciplinary action, which shall include the calling and examining of witnesses, and presenting other evidence. Any party

intending to appear with an attorney shall give the other party 5 (five) calendar days' notice of such representation.

9. The chairperson of the faculty-student disciplinary committee retains discretion to limit the number of witnesses and the time of testimony for the presentations by any party and/or their representative.

10. In the event that the respondent is charged with a sexual assault, stalking or other forms of sexual violence, neither the respondent nor the complainant shall be permitted to cross-examine the other directly. Rather, if they wish to, the respondent and the complainant may cross-examine each other only through a representative. If either or both of them do not have a representative, the college shall work with them to find a representative to conduct such cross-examination. In the alternative, either party may provide written questions to the chairperson to be posed to the witness.

11. At the end of the presentations, the respondent and the complainant may introduce individual character references. The college may introduce a copy of the respondent's previous disciplinary record, including records from any CUNY institution the respondent has attended, where applicable, provided the respondent was shown a copy of the record prior to the commencement of the hearing. The previous disciplinary record shall be submitted to the committee in a sealed envelope, bearing the respondent's signature across the seal, and shall only be opened if the respondent has been found to have committed the conduct charged. The previous disciplinary records, as well as documents and character evidence introduced by the respondent, the complainant, and the college shall be opened and used by the committee for dispositional purposes, i.e., to determine an appropriate penalty if the charges are sustained.

12. The committee shall deliberate in closed session. The committee shall issue a written decision, which shall be based solely on the testimony and evidence presented at the hearing and the papers filed by the parties.

13. The respondent shall be sent a copy of the faculty-student disciplinary committee's decision within seven (7) calendar days of the conclusion of the hearing, by regular mail and e-mail to the address appearing on the records of the college. In cases involving two or more complainants or respondents, the respondent shall be sent a copy of faculty-student disciplinary committee's decision within fourteen (14) calendar days of the conclusion of the hearing. The chief student affairs officer is also encouraged to send the decision to any other e-mail address that he or she may have for the respondent. The decision shall be final subject to any appeal. In cases involving a crime of violence or a non-forcible sex offense, as set forth in FERPA, the complainant shall simultaneously receive notice of the outcome of the faculty-student disciplinary committee's decision as it relates to the offense(s) committed against the complainant, in the same manner as notice is given to the respondent.

14. When a disciplinary hearing results in a penalty of dismissal or suspension for one term or more, the decision is a university-wide penalty and the respondent shall be barred from admission to, or attendance at, any other unit of the university while the penalty is being served.

15. Disciplinary penalties shall be placed on a respondent's transcript unless a mediation agreement, the committee's decision, or the decision on any appeal under section 15.4(o) below, expressly indicate otherwise. For all undergraduate students, a penalty other than suspension or expulsion shall be removed from the respondent's transcript upon the request of the respondent after at least four (4) years have elapsed since the penalty was completed, unless the respondent has been found to have committed a subsequent violation pursuant to this Article. The chief student affairs officer shall be responsible for having any penalty removed from a student's transcript as provided above.

## Appeals.

o. A respondent or a complainant may appeal a decision of the faculty-student disciplinary committee to the president on the following grounds: (i) procedural error, (ii) newly discovered evidence that was not reasonably available at the time of the hearing, or (iii) the disproportionate nature of the penalty. The president may remand for a new hearing or may modify the penalty either by decreasing it (on an appeal by the respondent) or increasing it (on an appeal by the complainant). If the president is a party to the dispute, her/his functions with respect to an appeal shall be discharged by an official of the university to be appointed by the chancellor or her or his designee. If the penalty after appeal to the president is one of dismissal or suspension for one term or more, a respondent or a complainant may appeal to the board committee on student affairs and special programs. The board may dispose of the appeal in the same manner as the president.

p. An appeal under this section shall be made in writing within fifteen (15) calendar days after the delivery of the decision appealed from. This requirement may be waived in a particular case for good cause by the president or the board committee as the case may be. Within three (3) calendar days of the receipt of any appeal, either to the president or the board committee on student affairs and special programs, the appealing party shall be sent a written notice of the other party's appeal. In addition, the respondent and/or the complainant shall have the opportunity to submit a written opposition to the other party's appeal within fifteen (15) calendar days of the delivery of the notice of receipt of such appeal.

q. The president shall decide and issue a decision within fifteen (15) calendar days of receiving the appeal or within fifteen (15) calendar days of receiving papers in opposition to the appeal, whichever is longer. The board committee shall decide and issue a decision within five (5) calendar days of the meeting at which it hears the appeal.

## SECTION 15.5. ACTION BY THE BOARD OF TRUSTEES.

Notwithstanding the foregoing provisions of this article, the board of trustees reserves full power to suspend or take other appropriate action against a student or a student organization for conduct which impedes, obstructs, or interferes with the orderly and continuous administration and operation of any college, school, or units of the university in the use of its facilities or in the achievement of its purposes as an educational institution in accordance with procedures established by the board of trustees.

## SECTION 15.6. COLLEGE GOVERNANCE PLANS.

The provisions in a duly adopted college governance plan shall not be inconsistent with the provisions contained in this article.

## **B. [ADDED ITEM] THE CITY UNIVERSITY OF NEW YORK - POLICY ON SEXUAL MISCONDUCT:**

RESOLVED, That the Board of Trustees of The City University of New York hereby adopts the Policy on Sexual Misconduct and rescind its prior Policy on Sexual Assault, which is superseded by the new Policy on Sexual Misconduct, effective January 1, 2015.

EXPLANATION: The proposed Policy on Sexual Misconduct consolidates in one policy the prior Policy on Sexual Harassment (which was part of the Policy on Equal Opportunity and Non-Discrimination) and the prior Policy on Sexual Assault. Furthermore, the proposed Policy on Sexual Misconduct revises and updates those prior policies in light of recent changes in federal law and regulations, guidance from the Office of Civil Rights of the U.S., Department of Education and recommendations of the White House Task Force to Protect Students from Sexual Assault, and increased and justified concern about these important issues. The proposed policy was drafted by a working group from the CUNY Offices of

Student Affairs, Human Resources Management and Legal Affairs, which consulted widely with students, faculty and staff throughout the University, as well as with experts in the field.

The proposed policy ensures that those who experience campus-related sexual harassment, gender-based harassment or sexual violence, including sexual assault, stalking, domestic violence, intimate partner violence or dating violence, will have the following rights:

- To be provided with confidential on-campus counseling, and to be notified of other available services on- and off-campus.
- To obtain, where appropriate, changes with respect to campus academic and living arrangements, no-contact orders and other interim remedial measures to enable them to continue their education without undue stress or trauma.
- To have their complaints handled respectfully by the campus, to be informed about how the campus will protect their privacy and confidentiality, and to have any allegations of retaliation addressed by the campus.
- To file a criminal complaint and to seek an order of protection with the assistance of the college, if they so choose.
- To make a formal complaint at the campus as the first step in the disciplinary process against the respondent(s).
- To have their complaint investigated in a prompt, impartial and thorough manner by individuals who have received appropriate training in conducting investigations and the issues related to sexual harassment and sexual violence.
- To report incidents of sexual harassment or sexual violence that they experience while under the influence of alcohol or drugs without receiving discipline for their alcohol or drug use, subject to certain conditions.
- To have the same opportunity as the alleged perpetrator(s) to participate in a student disciplinary hearing before a faculty-student disciplinary committee, including the right to receive notice of the charges, to be represented by a person of their choice, including an attorney, to attend the hearing, to present evidence, to call witnesses, to cross-examine witnesses, to receive notice of the outcome of the hearing, and to appeal from the decision.

In separate resolutions, the Board will consider amendments to the Policy on Equal Opportunity and Non-Discrimination to remove the provisions dealing with sexual harassment and amendments to Article 15 of the Bylaws relating primarily to student disciplinary procedures.

**THE CITY UNIVERSITY OF NEW YORK  
POLICY ON SEXUAL MISCONDUCT**

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**I. Policy Statement**

Every member of The City University of New York community, including students, employees and visitors, deserves the opportunity to live, learn and work free from sexual harassment, gender-based harassment and sexual violence. Accordingly, CUNY is committed to:

- 1) Defining conduct that constitutes prohibited sexual harassment, gender-based harassment and sexual violence;
- 2) Providing clear guidelines for students, employees and visitors on how to report incidents of sexual harassment, gender-based harassment and sexual violence and a commitment that any complaints will be handled respectfully;
- 3) Promptly responding to and investigating allegations of sexual harassment, gender-based harassment and sexual violence, pursuing disciplinary action when appropriate, referring the incident to local law enforcement when appropriate, and taking action to investigate and address any allegations of retaliation;

- 4) Providing ongoing assistance and support to students and employees who make allegations of sexual harassment, gender-based harassment and sexual violence;
- 5) Providing awareness and prevention information on sexual harassment, gender-based harassment and sexual violence, including widely disseminating this policy, and implementing training and educational programs on sexual harassment, gender-based harassment and sexual violence to college constituencies; and
- 6) Gathering and analyzing information and data that will be reviewed in order to improve safety, reporting, responsiveness and the resolution of incidents.

This is the sole policy at CUNY addressing sexual harassment, gender-based harassment and sexual violence and is applicable at all college and units at the University. The CUNY community should also be aware of the following policies that apply to other forms of sex discrimination, as well as to other types of workplace violence and domestic violence that affect the workplace:

- **The CUNY Policy on Equal Opportunity and Nondiscrimination** prohibits discrimination on the basis of numerous protected characteristics in accordance with federal, state and local law. That policy addresses sex discrimination other than sexual harassment, gender-based harassment or sexual violence covered by this policy. [Link](#)
- **The CUNY Workplace Violence Policy** addresses workplace violence and the **CUNY Domestic Violence in the Workplace Policy** addresses domestic violence in or affecting employees in the workplace. [Link](#)

In addition, campus crime statistics, including statistics relating to sexual violence, which CUNY is required to report under the Jeanne Clery Act, are available from the Office of Public Safety at each college and/or on its Public Safety website.

## II. Prohibited Conduct

- A. **Sexual Harassment, Gender-Based Harassment and Sexual Violence.** This policy prohibits sexual harassment, gender-based harassment and sexual violence against any CUNY student, employee or visitor.

Sexual harassment includes unwelcome conduct of a sexual nature, such as unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic and electronic communications or physical conduct that is sufficiently serious to adversely affect an individual's participation in employment, education or other CUNY activities.

Gender-based harassment is unwelcome conduct of a nonsexual nature based on an individual's actual or perceived sex, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes that is sufficiently serious to adversely affect an individual's participation in employment, education or other CUNY activities.

Sexual violence is an umbrella term that includes sexual assault, such as rape/attempted rape, criminal sexual act, forcible touching, and sexual abuse. If of a sexual nature, stalking/cyberstalking (hereinafter "stalking") and dating, domestic and intimate partner violence may also constitute sexual harassment, gender-based harassment or sexual violence.

The complete definitions of these terms, as well as other key terms used in this policy, are set forth in Section XI below.

- B. **Retaliation**. This policy prohibits retaliation against any person who reports sexual harassment, gender-based harassment or sexual violence, assists someone making such a report, or participates in any manner in an investigation or resolution of a sexual harassment, gender-based harassment or sexual violence complaint.
- C. **Certain Intimate Relationships**. This policy also prohibits certain intimate relationships when they occur between a faculty member or employee and any student for whom he or she has a professional responsibility as set forth in Section X below.

### **III. Title IX Coordinator**

Each college or unit of CUNY has an employee who has been designated as the Title IX Coordinator. This employee is responsible for compliance with Title IX of the Education Amendments of 1972, which prohibits sex discrimination, including sexual harassment, gender-based harassment and sexual violence, in education programs. The Title IX Coordinator has overall responsibility for implementing this policy, including overseeing the investigation of complaints at her/his college or unit and carrying out the other functions of that position set forth in this policy. The name and contact information for all Title IX Coordinators at CUNY can be found on the university's dedicated Title IX website at [\[Link\]](#).

### **IV. Immediate Assistance in Cases of Sexual Violence**

#### **A. Reporting to Law Enforcement**

Students or employees who experience any form of sexual violence on or off-campus (including CUNY-sponsored trips and events) and visitors who experience sexual violence on a CUNY campus are strongly encouraged to immediately report the incident by calling 911, contacting their local police precinct, or contacting their college public safety office, which is available 24 hours a day, 7 days a week. Campus public safety officers can also assist the complainant with filing a complaint both on and off-campus, and in obtaining immediate medical attention, counseling and other services.

#### **B. Obtaining Immediate Medical Attention and Emotional Support**

CUNY is committed to assisting anyone who experiences sexual violence to seek comprehensive medical attention as soon as possible to treat injuries, obtain preventative treatment for sexually transmitted diseases, and preserve evidence, among other things. For rapes in particular, immediate treatment and the preservation of evidence of the attack are important for many reasons, including facilitating a criminal investigation. In addition, individuals who have experienced or witnessed sexual violence are encouraged to seek emotional support as soon as possible, either on or off-campus.

On-campus resources include nurses and/or nurse practitioners at campus health offices and counselors at campus counseling centers. Counselors are trained to provide crisis intervention and provide referrals for longer-term care as necessary.

For off-campus resources, CUNY maintains a list of emergency contacts and resources, including rape crisis centers, available throughout New York City on its dedicated web page. [Link](#) This list includes a designation of which local hospitals are designated as SAFE (Sexual Assault Forensic Examiner) hospitals, which are specially equipped to handle sexual assaults and trained to gather evidence from such assaults.

### **V. Reporting Sexual Harassment, Gender-Based Harassment or Sexual Violence to the College**

CUNY encourages individuals who have experienced sexual harassment, gender-based harassment or sexual violence (referred to in this policy as "complainants") to report the incident(s) to campus authorities, even if they have reported the incident to outside law enforcement, and regardless of whether the incident took place on or off-campus. Such reporting will enable complainants to get the support they need, and provide the college with the information it needs to take appropriate action.

However, individuals should be aware that there are employees at their college/unit whom they can speak with on a strictly confidential basis before determining whether to make a report to college authorities. See Section VI below.

#### **A. Filing a Complaint with Campus Authorities**

- (i) **Students.** Students who experience sexual harassment, gender-based harassment or sexual violence should bring their complaint to one of the following campus officials/offices:
- Title IX Coordinator;
  - Office of Public Safety;
  - Office of the Vice President for Student Affairs and/or Dean of Students;
  - Residence Life staff in CUNY owned or operated housing, including Resident Assistants.
- (ii) **Employees.** Employees who experience sexual harassment, gender-based harassment or sexual violence should bring their complaint to one of the following campus officials/offices:
- Title IX Coordinator;
  - Director of Human Resources;
  - Office of Public Safety.
- (iii) **Visitors.** Visitors who experience sexual harassment, gender-based harassment or sexual violence should bring their complaint to one of the following campus officials/offices:
- Title IX Coordinator;
  - Office of Public Safety;
  - Residence Life staff in CUNY owned or operated housing, including Resident Assistants.

Once any of the individuals or offices above is notified of an incident of sexual harassment, gender-based harassment or sexual violence, she/he will coordinate with the appropriate college offices to address the matter in accordance with this policy, including taking appropriate interim and supportive measures. All information in connection with the complaint, including the identities of the complainant and the respondent, will be kept as confidential as possible and will only be shared with those who have a legitimate need for the information.

#### **B. Support Assistance for Complainants**

When a Title IX Coordinator receives a complaint of sexual or gender-based violence, she/he will work with the Chief Student Affairs Officer to identify a trained staff member to assist the complainant with support services and accommodations.

#### **C. Request that the College Maintain a Complainant's Confidentiality, Not Conduct an Investigation, or Not Report an Incident to Outside Law Enforcement**

After a report of an alleged incident of sexual harassment, gender-based harassment or sexual violence has been made to the Title IX Coordinator, a complainant may request that the matter be investigated without her/his identity or any details regarding the incident being divulged further. Alternatively, a complainant may request that no investigation into a particular incident be conducted or that an incident not be reported to outside law enforcement.

In all such cases, the Title IX Coordinator will weigh the complainant's requests against the college's obligation to provide a safe, non-discriminatory environment for all students, employees and visitors, including the complainant. A decision to maintain confidentiality does not mean that confidentiality can be absolutely guaranteed in all circumstances, but only that all efforts will be undertaken to keep information confidential consistent with law. Notwithstanding the decision of the Title IX Coordinator regarding the scope of any investigation, the college will provide the complainant with ongoing assistance and support, including, where appropriate, the interim and supportive measures set forth in Section VII of this policy.

If the Title IX Coordinator determines that she/he will maintain confidentiality as requested by the complainant, the college will take all reasonable steps to investigate the incident consistent with the request for confidentiality. However, a college's ability to meaningfully investigate the incident and pursue disciplinary action may be limited by such a request.

In any event, the college is required to abide by any laws mandating disclosure, such as the Jeanne Clery Act and New York's Campus Safety Act. However, notification under the Jeanne Clery Act is done without divulging the complaint's identity, and notification of sexual violence under the New York Campus Safety Act is not required and will not be done if the complainant requests confidentiality.

If the Title IX Coordinator determines that the college must report the incident to outside law enforcement, the college will cooperate with any criminal investigation, which may include providing the outside law enforcement agency with any evidence in its possession relating to the incident.

#### **D. Action by Bystanders and Other Community Members**

While those employees designated as "responsible" employees are required reporters as set forth in Section VI below, CUNY encourages all other community members, including faculty, students and visitors, to take reasonable and prudent actions to prevent or stop an act of sexual harassment, gender-based harassment or sexual violence that they may witness. Although these actions will depend on the circumstances, they include direct intervention, calling law enforcement, or seeking assistance from a person in authority.

In addition, CUNY encourages all community members to report an incident of sexual harassment, gender-based harassment or sexual violence that they observe or become aware of to the Title IX Coordinator, and/or the offices of Public Safety and the Vice President of Students Affairs and/or Dean of Students at their college. Community members who take action in accordance with this paragraph will be supported by the college, and anyone who retaliates against them will be subject to disciplinary charges.

#### **E. Amnesty for Drug and Alcohol Use**

CUNY strongly encourages students to report instances of sexual harassment, gender-based harassment or sexual violence as soon as possible, even if those reporting or the alleged victim may have engaged in the inappropriate or unlawful use of alcohol or drugs. Therefore, a student who reports or experiences sexual harassment, gender-based harassment or sexual violence will not be disciplined by the college for any violation of CUNY's Policy Against Drugs and Alcohol in connection with the reported incident, subject to the conditions in CUNY's Medical Amnesty/Good Samaritan policy. [\[Link\]](#)

#### **F. Reporting Suspected Child Abuse**

Certain members of the CUNY community who interact with, supervise, chaperone, or otherwise oversee minors in programs or activities at CUNY or sponsored by CUNY are required to report immediately to the New York State Maltreatment Hotline if they have reasonable cause to suspect abuse or maltreatment of individuals under the age of 18. Information regarding mandated child abuse

reporting is available on the Office of the General Counsel web page. [\[link\]](#) If anyone other than New York State mandated reporters has reasonable cause to believe that a minor is being or has been abused or maltreated on campus, she/he should notify either the Title IX Coordinator or Director of Public Safety. If any CUNY community member witnesses child abuse while it is happening, she/he should immediately call 911.

### **G. Reporting Retaliation**

An individual may file a complaint with the Title IX Coordinator if she/he has been retaliated against for reporting sexual harassment, gender-based harassment or sexual violence, assisting someone making such a report, or participating in any manner in an investigation or resolution of a sexual harassment, gender-based harassment or sexual violence complaint. All retaliation complaints will be investigated in accordance with the investigation procedures set forth in Section VIII of this policy, and individuals who are found to have engaged in retaliation will be subject to disciplinary action.

## **VI. Reporting/Confidentiality Obligations of College and University Employees**

An individual who speaks to a college or CUNY employee about sexual harassment, gender-based harassment or sexual violence should be aware that employees fall into three categories: (1) “confidential” employees, who have an obligation to maintain a complainant’s confidentiality regarding the incident(s); (2) “responsible” employees, who are required to report the incident(s) to the Title IX Coordinator; and (3) all other employees, who are strongly encouraged but not required to report the incident(s).

### **A. Confidential Employees**

**(i) For Students.** Students at CUNY who wish to speak to someone who will keep all of the communications strictly confidential should speak to one of the following:

- Counselor or other staff member at their college counseling center;
- Nurse, nurse practitioner or other staff member in the college health office;
- Pastoral counselor (*i.e.*, counselor who is also a religious leader) if one is available at their college; or
- Staff member in a women’s or men’s center, if one exists at their college.

The above individuals will not report **any** information about an incident to the college’s Title IX Coordinator or other college employees without the student’s permission. The only exception is in the case where there is an imminent threat to the complainant or any other person.

A student who speaks solely to a “confidential” employee is advised that, if the student wants to maintain confidentiality, the college may be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator. However, these professionals will assist the student in receiving other necessary support. A student who first requests confidentiality may later decide to file a complaint with the college or report the incident to local law enforcement and thus have the incident investigated.

**(ii) For Employees.** Although there is no one directly employed by CUNY to whom CUNY employees can speak on a confidential basis regarding sexual harassment, gender-based harassment or sexual violence, free confidential support services are available through CUNY’s Work/Life Program, which is administered by an outside company. [\(Link\)](#) Confidential community counseling resources are also available throughout New York City. [\(Link\)](#)

## **B. “Responsible” Employees**

“Responsible” employees have a duty to report incidents of sexual harassment, gender-based harassment or sexual violence, including all relevant details, to the Title IX Coordinator. Such employees are not permitted under any circumstances to maintain a complainant’s confidentiality. To the extent possible, information reported to responsible employees will be shared only with the Title IX Coordinator, the “responsible” employee’s supervisor, and other people responsible for handling the college’s response to the report.

Before a complainant reveals any information to a responsible employee, the employee shall advise the complainant of the employee’s reporting obligations—and if the complainant wants to maintain confidentiality, direct the complainant to confidential resources.

CUNY has designated the following individuals as “responsible” employees:

- (i) Title IX Coordinator and her/his staff
- (ii) Office of Public Safety employees (all)
- (iii) Vice President for Student Affairs and Dean of Students and all staff housed in those offices
- (iv) Residence Life staff in CUNY owned or operated housing, including Resident Assistants (all)
- (v) College President, Vice Presidents and Deans
- (vi) Athletics Staff (all)
- (vii) Department Chairpersons/Executive Officers
- (viii) Human Resources staff (all)
- (ix) University Office of the General Counsel employees (all)
- (x) College/unit attorney and her/his staff
- (xi) College/unit labor designee and her/his staff
- (xii) Faculty members at times when they are leading off-campus trips
- (xiii) Faculty or staff advisors to student groups
- (xiv) Employees who are Managers (all)
- (xv) SEEK/College Discovery staff (all)

## **C. All Other Employees**

Employees other than those identified in subsections “A” and “B” above are permitted but not required to report any possible sexual harassment, gender-based harassment or sexual violence; however, they are encouraged by CUNY to make such a report.

It is important to emphasize that faculty members other than those specifically identified in subsection “B” above have not been designated as “responsible” employees and do not have an obligation to report the matter to the Title IX Coordinator, although they are encouraged to do so.

## **VII. Interim and Supportive Measures**

The college will take immediate steps to protect the complainant and other affected parties, as well as the college community at large, following an allegation of sexual harassment, gender-based harassment or sexual violence. In general, when taking such interim and supportive measures, the college will seek to minimize the burden on the complainant.

Interim and supportive measures may include, among other things:

- (i) Making necessary changes to academic programs, including a change in class schedule, making appropriate accommodations to permit the complainant to take an incomplete or drop a course or courses without penalty, permitting the complainant to attend a class via skype or other alternative means where appropriate, providing an academic tutor, or extending deadlines for assignments;

- (ii) Making necessary changes to residential housing situations or providing assistance in finding alternate housing;
- (iii) Changing an employee's work assignment or schedule;
- (iv) Providing the complainant with an escort to and from class or campus work location;
- (v) Arranging appropriate transportation services to ensure safety;
- (vi) Prohibiting contact between the complainant and the respondent ("no contact" orders);
- (vii) Offering counseling services to the complainant, to the respondent, and, where appropriate, to witnesses, through the college Counseling Center or other appropriate college office, or a referral to an off-campus agency;
- (viii) Providing the complainant assistance in obtaining medical and other services, including access to rape crisis centers;
- (ix) Providing the complainant assistance with filing a criminal complaint and seeking an order of protection;
- (x) Enforcing an order of protection;
- (xi) Addressing situations in which it appears that a complainant's academic progress is affected by the alleged incident;
- (xii) In exceptional circumstances, seeking an emergency suspension of a student or an employee under applicable CUNY Bylaws, rules, policies and collective bargaining agreements.

### **VIII. Investigating Complaints of Sexual Harassment, Gender-Based Harassment or Sexual Violence**

The college will conduct an investigation when it becomes aware, from any source (including third-parties not connected to the college or university), that sexual harassment, gender-based harassment or sexual violence may have been committed against a student, employee or visitor, unless the complainant has requested that the college refrain from such an investigation and the college has determined that it may do so.

#### **A. The Investigation**

The college Title IX Coordinator is responsible for conducting the investigation in a prompt, thorough, and impartial manner. The college Title IX Coordinator shall inform the respondent that an investigation is being commenced and shall inform the respondent of the allegations of the complainant. If there is a written complaint, the respondent shall be provided with a copy of the complaint unless circumstances warrant otherwise. The Title IX Coordinator shall coordinate investigative efforts with other college offices, and may designate another trained individual to conduct all or part of the investigation. A respondent employee who is covered by a collective bargaining agreement may consult with and have a union representative present at any interview conducted as part of such investigation.

The college Title IX Coordinator shall take prompt and effective steps reasonably calculated to end any sexual harassment, gender-based harassment or sexual violence, including: (i) taking interim measures; (ii) preventing retaliation; (iii) providing the complainant and the respondent with periodic status updates of the investigation and notice of outcome of the investigation; (iv) informing the complainant of her/his right to file a criminal complaint; (v) coordinating with law enforcement agencies, as appropriate, after consultation with Public Safety; (vi) maintaining all documents of the investigation; and (vii) drafting a report of findings, which is to be submitted to the College President.

#### **B. Conflicts**

If any administrator designated by this policy to participate in the investigation or resolution of a complaint (including but not limited to the Title IX Coordinator) is the respondent, the College President will appoint another college administrator to perform such person's duties under this policy. If the

President is the respondent, the investigation will be handled by the University Title IX Coordinator or her/his designee.

### **C. Mediation**

While mediation is not permitted in cases where sexual violence is alleged, it may be appropriate where sexual harassment or gender-based harassment allegations have been made by a student or employee but there is no allegation of sexual violence. Mediation is a process whereby the parties can participate in a search for fair and workable solutions. Mediation requires the consent of both the complainant and the respondent, but does not require the complainant and respondent to meet face-to-face. Either party, however, has the right to end the mediation at any time and proceed with the investigation process. A respondent who is covered by a collective bargaining agreement may consult with and have a union representative present at any mediation session.

### **D. Timing**

The college shall make every reasonable effort to ensure that the investigation and resolution of a complaint are carried out as timely and efficiently as possible. However, the college may need to delay the fact-finding portion of its investigation during the evidence-gathering phase of a law enforcement investigation. While some complaints may require extensive investigation, whenever possible, the investigation of complaints should be completed within sixty (60) calendar days of the receipt of the complaint. If there is a delay in completing the investigation, the Title IX Coordinator shall notify the complainant and the respondent in writing.

### **E. Report of Findings**

Following the completion of the investigation, the Title IX Coordinator shall report her/his findings to the College President in writing. Following such report, the College President shall review the complaint investigation report and authorize such action as she/he deems necessary to address the issues raised by the findings. In the event the complainant or the respondent is a student, the report shall also be sent to the Chief Student Affairs Officer. A copy of the report shall be maintained in the files of the Title IX Coordinator.

### **F. Disciplinary Action**

Following an investigation, the College President may recommend that disciplinary action be commenced against the respondent student or employee.

- (i) **Discipline against students.** In cases where a student is accused of a violation of this policy, including retaliation, the matter shall be referred to the college's Office of Student Affairs and action shall be taken in accordance with Article XV of the CUNY Bylaws ([link](#)), which contains the student disciplinary process at CUNY. Under the student disciplinary process, complainants have the same right as respondents to receive notice of the charges, to attend and participate fully in a disciplinary hearing, to appear through a representative of their choice, including an attorney, to receive notice of the decision of the faculty-student disciplinary committee, and to appeal. Penalties for students instituted after a hearing before the faculty-student disciplinary committee range from a warning to suspension or expulsion from the University.

- (ii) **Discipline against employees.** In cases where an employee is accused of a violation of this policy, including retaliation, the matter shall be referred for disciplinary action in accordance with the applicable CUNY policies, rules and collective bargaining agreements. Penalties for employees include reprimand, suspension or termination of employment following applicable disciplinary procedures. For many respondent employees, these procedures may include a hearing before a non-CUNY fact-finder, as required by collective bargaining agreements.
- (iii) **Action against visitors.** In cases where the person accused of sexual harassment, gender-based harassment or sexual violence is neither a CUNY student nor a CUNY employee, the college's ability to take action against the accused is extremely limited. However, the college shall take all appropriate actions within its control, such as restricting the visitor's access to campus. In addition, the matter shall be referred to local law enforcement for legal action where appropriate.
- (iv) **No disciplinary action.** In cases where a determination is made not to bring disciplinary action, the Title IX Coordinator shall inform the complainant and the respondent of that decision contemporaneously, in writing, and shall offer counseling or other support services to both the complainant and the respondent.

#### **G. False and Malicious Allegations**

Members of the CUNY community who make false and malicious complaints of sexual harassment, gender-based harassment or sexual violence, as opposed to complaints which, even if erroneous, are made in good faith, may be subject to disciplinary action.

#### **H. Relationship of CUNY's Investigation to the Actions of Outside Law Enforcement**

In cases where the complainant files a complaint with outside law enforcement authorities as well as with the college, the college shall determine what actions to take based on its own investigation. The college may coordinate with outside law enforcement authorities in order to avoid interfering with their activities and, where possible, to obtain information regarding their investigation. Neither a law enforcement determination whether to prosecute a respondent, nor the outcome of any criminal prosecution, is dispositive of whether the respondent has committed a violation of this policy.

#### **I. Filing External Complaints**

Complainants have the right at any time to file complaints with the Office for Civil Rights ("OCR") of the U.S. Department of Education, alleging violations of Title IX, and to file complaints with other appropriate agencies alleging violations of other federal, state or local laws. Contact information for OCR and other relevant agencies is set forth on the CUNY Title IX web page. [\[link\]](#)

### **IX. College Obligations under this Policy**

In addition to addressing possible violations of this policy, colleges/units of CUNY have the following obligations:

#### **A. Dissemination of Policies, Procedures and Notices**

The college Title IX Coordinator, in coordination with the Office of Student Affairs, Office of Public Safety, Human Resources Department and other appropriate offices, is responsible for the wide dissemination of the following on her/his campus: (i) this Policy; (ii) CUNY's Notice of Non-Discrimination; (iii) the Title IX Coordinator's name, phone number, office location, and email address; and (iv) contact information for the campus Public Safety Office. Such dissemination shall include posting the documents and information on the college website and including it in any student or faculty handbooks and in residence life materials. The CUNY offices of Student Affairs, Human Resources Management and Legal Affairs shall assist in such training and educational programming.

## **B. Training and Educational Programming**

The college Title IX Coordinator, in coordination with other applicable offices, is responsible for training all employees who are required to report incidents of sexual harassment, gender-based harassment or sexual violence under this policy, for ensuring that designated offices are offering and administering the appropriate educational programming to all incoming and transfer students, residence hall students, athletes, fraternity/sorority groups, student leaders, and/or any other student groups which the college determines could benefit from education in the area of sexual harassment, gender-based harassment and sexual violence, and ensuring that designated offices promote awareness and prevention of sexual harassment, gender-based harassment and sexual violence among all students and employees.

## **C. Assessing Campus Attitudes**

The college's Vice President for Student Affairs, Vice President responsible for human resources, Title IX Coordinator and/or such employees designated by the college President, in coordination with other applicable offices, are responsible for obtaining current information regarding student experiences with sexual harassment, gender-based harassment and sexual violence. Any survey or assessment instrument shall be structured to be in compliance with any requirements set forth in applicable law and shall be reviewed and approved in advance by the University Title IX Coordinator.

## **D. Dating, Domestic and Intimate Partner Violence**

As noted above, CUNY's Domestic Violence in the Workplace policy provides that colleges shall assist employees who are victims of dating, domestic or intimate partner violence that affects their employment. Similarly, colleges shall assist students who are the victims of dating, domestic or intimate partner violence, including referring them to resources and taking other appropriate supportive measures.

In addition, if a student or employee makes a complaint of dating, domestic or intimate partner violence and the alleged perpetrator is a CUNY student or employee, the college shall investigate the matter if the alleged conduct may constitute a violation of this policy, and take appropriate action based on such investigation, which may include disciplinary action.

## **X. Rules Regarding Intimate Relationships**

### **A. Relationships between Faculty or Employees and Students**

Amorous, dating or sexual activity or relationships ("intimate relationships"), even when apparently consensual, are inappropriate when they occur between a faculty member or employee and any student for whom he or she has a professional responsibility. Those relationships are inappropriate because of the unequal power dynamic between students and faculty members and between students and employees who advise or evaluate them, such as athletic coaches or workplace supervisors. Such relationships necessarily involve issues of student vulnerability and have the potential for coercion. In addition, conflicts of interest or perceived conflicts of interest may arise when a faculty member or employee is required to evaluate the work or make personnel or academic decisions with respect to a student with whom he or she is having an intimate relationship. Finally, if the relationship ends in a way that is not amicable, the relationship may lead to charges of and possible liability for sexual harassment.

Therefore, faculty members and other employees are prohibited from engaging in intimate relationships with students for whom they have a professional responsibility, including undergraduates, graduate and professional students and postdoctoral fellows.

For purposes of this section, professional responsibility for a student means responsibility over academic matters, including teaching, counseling, grading, advising for a formal project such as a thesis or research, evaluating, hiring, supervising, coaching, making decisions or recommendations that confer benefits such as admissions, registration, financial aid, other awards, remuneration, or fellowships, or performing any other function that might affect teaching, research, or other academic opportunities.

#### **B. Relationships between Supervisors and Employees**

Many of the concerns about intimate relationships between faculty members or employees and students also apply to relationships between supervisors and employees they supervise. Those relationships therefore are strongly discouraged. Supervisors shall disclose any such relationships to their supervisors in order to avoid or mitigate conflicts of interest in connection with the supervision and evaluation of the employees with whom they have an intimate relationship. Mitigation may involve the transfer of either the supervisor or employee, reassigning the responsibility to evaluate the employee to a different supervisor, or other appropriate action.

For purposes of this section, supervising an employee means supervising in an employment setting, including hiring, evaluating, assigning work, or making decisions or recommendations that confer benefits such as promotions, raises or other remuneration, or performing any other function that might affect employment opportunities.

### **XI. Definitions of Terms in this Policy**

**A. Sexual harassment** is unwelcome conduct of a sexual nature, including but not limited to unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic and electronic communications or physical conduct of a sexual nature when:

- (i) submission to or rejection of such conduct is made either explicitly or implicitly a condition of an individual's employment or academic standing or is used as the basis for employment decisions or for academic evaluation, grades, or advancement (quid pro quo);

or

- (ii) such conduct is sufficiently serious that it alters the conditions of, or has the effect of substantially interfering with, an individual's educational or work experience by creating an intimidating, hostile, or offensive environment (hostile environment). The effect will be evaluated based on the perspective of a reasonable person in the position of a complainant.

Conduct is considered "unwelcome" if the individual did not request or invite it and considered the conduct to be undesirable or offensive.

While it is not possible to list all circumstances that might constitute sexual harassment, the following are some examples of conduct that might constitute sexual harassment depending on the totality of the circumstances:

- (i) Inappropriate or unwelcome physical contact or suggestive body language, such as touching, groping, patting, pinching, hugging, kissing, or brushing against an individual's body;
- (ii) Verbal abuse or offensive comments of a sexual nature, including sexual slurs, persistent or pervasive sexually explicit statements, questions, jokes or anecdotes,

degrading words regarding sexuality or gender, suggestive or obscene letters, notes, or invitations;

- (iii) Visual displays or distribution of sexually explicit drawings, pictures, or written materials; or
- (iv) Undue and unwanted attention, such as repeated inappropriate flirting, staring, or making sexually suggestive gestures.

For purposes of this policy, sexual harassment also includes acts that violate an individual's right to privacy in connection with her/his body and/or sexual activity such as:

- (i) Recording images (e.g. video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent;
- (ii) Disseminating 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;
- (iii) 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.

**B. Gender-based harassment** is unwelcome conduct of a nonsexual nature based on an individual's actual or perceived sex, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes that is sufficiently serious that it alters the conditions of, or has the effect of substantially interfering with an individual's educational or work experience by creating an intimidating, hostile, or offensive environment (hostile environment). The effect will be evaluated based on the perspective of a reasonable person in the position of the complainant. An example of gender-based harassment would be persistent mocking or disparagement of a person based on a perceived lack of stereotypical masculinity or femininity.

**C. Sexual violence** is an umbrella term that includes: sexual assault, such as rape/attempted rape, criminal sexual act, forcible touching and sexual abuse, as well as dating, domestic and intimate partner violence. Stalking, while not necessarily sexual in nature, can be a form of sexual violence depending upon the circumstances.

- (i) **Sexual assault** is any form of sexual contact (i.e., any touching of the sexual or other intimate parts of a person for the purpose of gratifying sexual desire of either party) that occurs without consent and/or through the use of force, threat of force, intimidation, or coercion. Examples of sexual assault include:
  - (a) **Rape and attempted rape** is engaging or attempting to engage in sexual intercourse with another person: (a) without such person's consent; (b) where such person is incapable of giving consent by reason of being mentally disabled, mentally incapacitated or physically helpless; or (c) where such person is less than seventeen years old. Sexual intercourse includes vaginal or anal penetration, however slight.
  - (b) **Criminal sexual act** is engaging in oral or anal sexual conduct with another person without such person's consent.
  - (c) **Forcible touching** is intentionally touching the sexual or other intimate parts of another person without the latter's consent for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire.

- (d) **Sexual abuse** is subjecting another person to sexual contact without the latter's consent.
- (ii) **Stalking** is intentionally engaging in a course of conduct directed at a specific person that:
- (1) is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or
  - (2) causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted; or
  - (3) is likely to cause such person to reasonably fear that her/his employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.
- (ii) **Dating, domestic and intimate partner violence** is a pattern of coercive behavior that can include physical, psychological, sexual, economic and emotional abuse, perpetrated by one person against an intimate partner. Such violence may occur in all kinds of intimate relationships, including married couples, people who are dating, couples who live together, people with children in common, same-sex partners, and people who were formerly in a relationship with the person abusing them.

**D. Consent** is a knowing, informed, voluntary and mutual decision to engage in agreed upon sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or failure to resist does not, in and of itself, demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression.

Consent can be withdrawn at any time. Past consent to sexual activity between individuals does not constitute consent to subsequent sexual activity between those individuals, and consent to one form of sexual activity does not necessarily imply consent to other forms of sexual activity. Whether one party to sexual activity is in a position of authority or influence over the other party is a relevant factor in determining consent.

In order to give consent, one must be of legal age (17 years or older) and not mentally or physically incapacitated, physically helpless, unconscious or asleep. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs or other intoxicants may be incapacitated and therefore unable to consent. Consent is not valid if it is the result of coercion, intimidation, force or threat of harm.

**E. Complainant** refers to the individual who alleges that she/he has been the subject of sexual harassment, gender-based harassment or sexual violence, and can be a CUNY student, employee (including all full-time and part-time faculty and staff), or visitor. Under this policy, the alleged incident(s) may have been brought to the college's attention by someone other than the complainant

**F. Visitor** is an individual who is present at a CUNY campus or unit but is not a student or an employee.

**G. Respondent** refers to the individual who is alleged to have committed sexual harassment, gender-based harassment or sexual violence against a CUNY student, employee, or visitor.

**H. Complaint** is an allegation of sexual harassment, gender-based harassment or sexual violence made under this policy.

**I. Retaliation** is adverse treatment of an individual as a result of that individual's reporting sexual harassment, gender-based harassment or sexual violence, assisting someone with a report of sexual harassment, gender-based harassment or sexual violence, or participating in any manner in an investigation or resolution of a sexual harassment, gender-based harassment or sexual violence report. Adverse treatment includes threats, intimidation and reprisals by either a complainant or respondent or by others such as friends or relatives of either a complainant or respondent.

**J. Managers** are employees who have the authority to either (a) make tangible employment decisions with regard to other employees, including the authority to hire, fire, promote, compensate or assign significantly different responsibilities; or (b) make recommendations on tangible employment decisions that are given particular weight. Managers include vice presidents, deans, directors, or other persons with managerial responsibility, including, for purposes of this policy, department chairpersons and executive officers.