

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

**REVISED
CALENDAR**

OCTOBER 1, 2015

NO. 1. CHANCELLOR'S UNIVERSITY REPORT: RESOLVED, That the Chancellor's University Report for October 1, 2015 (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 meetings and Executive Session of June 29, 2015 be approved.

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

A. HUNTER COLLEGE, SCHOOL OF EDUCATION - ACADEMIC EXCELLENCE FEE FOR GRADUATE PROGRAMS:

RESOLVED, That The City University of New York adopt a schedule of academic excellence fees for students in certain graduate programs in the School of Education at Hunter College, specifically those programs which prepare candidates for initial certification in general and special education, across Adolescent, Childhood, and Early Childhood levels and the K-12 certification areas of Creative Arts Education and TESOL, as well as School Counseling and Mental Health Counseling, effective with the Spring 2016 semester and as detailed below:

Masters of Arts, Masters of Science, and Advanced Certificates in Education in the categories of:

- General Education across Adolescent, Childhood, and Early Childhood levels
- Special Education across Adolescent, Childhood, and Early Childhood levels
- Creative Arts Education and TESOL across K-12 levels
- School Counseling and Mental Health Counseling

Resident Full-time students:	\$50 per credit
Resident Part-time students:	\$50 per credit
Non-Resident students:	\$50 per credit

EXPLANATION: The Hunter College School of Education offers programs in teacher preparation and counseling at the graduate level that lead to master's degrees or advanced certificates. These programs are nationally recognized for their outstanding quality, as well as selectivity, and are consistently viewed as among the best in their fields in the New York area. They are accredited by the specialized program associations in their respective fields, and are highly competitive programs in which to gain admissions. Hunter's nearest competitors are the Steinhardt School at NYU and Teachers College of Columbia University, both of which have much higher tuitions. Additionally, New York State has recently implemented the most stringent teacher certification requirements in the country. The initial implementation of this academic excellence fee will include Initial Teacher Preparation Programs and Counseling Programs.

This academic excellence fee will allow Hunter to provide the quality of support for our clinically rich programs that we know is essential to success. We will add needed full-time clinical/field staff that can

supervise and consult with our students in the schools and agencies where we place them, integrating the delivery of critical knowledge and skills in the environment where they are practiced. We will expand curricular initiatives and access to technology so that students can practice and improve their professional skills, including those required for certification, which will ensure our graduates are prepared with the latest tools for effective teaching or counseling in their careers. With an academic excellence fee, students will continue to receive a Hunter education that is of exceptional quality, but it will be an education that is greatly enhanced in and out of the classroom – and still be financially affordable relative to other comparable programs in New York City.

B. GRADUATE SCHOOL OF JOURNALISM - PROPOSED FEE CHANGES:

RESOLVED, That the Board of Trustees of The City University of New York approve the following fees for students at the Graduate School of Journalism, a non-refundable application fee of \$125, a non-refundable commitment deposit for accepted students of \$250 and an increase in the January Academy fee to \$200 from \$100 to be collected only in the spring semester for all students, effective with the Spring 2016 semester.

Application fee:	\$125.00	from \$65.00
Commitment deposit:	\$250.00	from \$300.00
January Academy:	\$200.00 Spring semester only	from \$100.00

EXPLANATION: A non-refundable application fee of \$125 and a non-refundable commitment deposit for accepted students would make these two fees consistent with CUNY-wide rates. Previously, the School of Journalism had been charging \$65 for the application fee and \$300 for the commitment fee. The funds from the increase in the fee at the January Academy will provide critical support to enable the program to maintain its high level of services and professionalism. The January Academy is a unique feature of the CUNY Graduate School of Journalism offering a series of enrichment workshops and is open to CUNY J-School students, alumni, applicants, select CUNY undergraduates (juniors and seniors only), Macaulay Honors College students and invited guests.

C. LEHMAN COLLEGE - AGREEMENTS FOR VIRTUAL REALITY TRAINING PROGRAM:

RESOLVED, That the Board of Trustees of The City University of New York hereby authorize the General Counsel to execute agreements on behalf of Lehman College with EON Reality, Inc. to allow Lehman College and EON to move forward with a virtual reality training program and any additional third-party agreements necessary to support the training program. The College is not obligated to pay any monetary consideration to EON under the agreements which shall remain in effect for up to ten years. The value of the third-party agreements for software, support, equipment and related services shall not exceed \$6,000,000, shall remain in effect for up to ten years, and shall be entered into pursuant to law and University regulations. All such agreements shall be subject to approval as to form by the University Office of General Counsel.

EXPLANATION: The virtual reality training program will be a certificate program to be offered through the Lehman College School of Continuing and Professional Studies. The program is a year-long coding training and job-creation program that includes three months of classroom training, two months of classroom based experiential projects, and six months of paid project based work that has been developed and will be implemented by EON. Lehman College will be obligated to pay third-parties for software to support the training program; however, the College will seek grant funding to off-set the costs. Furthermore, the College will receive full reimbursement from EON for any software costs not off-set by grant funds.

NO. 4. COMMITTEE ON ACADEMIC POLICY, PROGRAMS AND RESEARCH: RESOLVED, That the following items be approved:

A. BARUCH COLLEGE - MIA IN INTERNATIONAL AFFAIRS:

RESOLVED, That the program in International Affairs leading to the Master of International Affairs at Baruch College be approved, effective October 1, 2015, subject to financial ability.

EXPLANATION: The continuing need for professionals with expertise in nongovernmental organizations, global governance, international public administration, as well as other aspects of international affairs has prompted Baruch's School of Public Affairs to propose this exciting new program. The School will work closely with Baruch's other school, the Zicklin School of Business and the Weissman School of Arts and Sciences to draw upon the international strengths of their curricula.

B. BROOKLYN COLLEGE - MFA IN SONIC ARTS AND MFA IN MEDIA SCORING:

RESOLVED, That the program in Sonic Arts leading to the Master of Fine Arts and the program in Media Scoring leading to the Master of Fine Arts at Brooklyn College be approved, effective October 1, 2015, subject to financial ability.

EXPLANATION: Brooklyn College recently launched two cinema related master's programs, an MFA in Cinema Arts and an MA in Cinema Studies. Both of those programs are being delivered at their new state of the art Steiner Studios facilities. These two new proposed programs will complement the existing programs. The Sonic Arts program will offer students advanced knowledge in the production of artistic and commercial works of sound and the Media Scoring program will students with the knowledge and skills to compose and produce musical scores for a wide range of audio-visual platforms.

NO. 5. COMMITTEE ON FACULTY, STAFF AND ADMINISTRATION: RESOLVED, That the following items be approved:

A. JOHN JAY COLLEGE OF CRIMINAL JUSTICE - NAMING OF THE DR. BETTINA P. MURRAY CLASSROOM:

RESOLVED, That the Board of Trustees of The City University of New York approve the naming of Classroom 1.107 in the new building at John Jay College of Criminal Justice as the "Dr. Bettina P. Murray Classroom."

EXPLANATION: Bettina Murray, a founding trustee of the John Jay College Foundation and John Jay College Assistant Professor since 1996, is a long-time supporter of the College. Her combined lifetime giving and personal fundraising efforts in support of College initiatives total more than \$221,000. These funds support the Brean Murray Scholarship, named in honor of Dr. Murray's late husband, and the McCabe Fellows Program. The funds also provide unrestricted support to the College.

Dr. Murray received her M.A. and M.Ed. degrees from Teachers College, Columbia University, and an M.S. emphasizing linguistics with a specialty in Teaching of English as a Second Language (TESOL) from Long Island University. She specialized in Language, Literacy and Learning for her Ph.D. at Fordham University's Department of Education. Her research and publications are related to the fields of learning strategies and culturally responsive literature.

In honor of her generosity and service, the College requests that the Board name this classroom the "Dr. Bettina P. Murray Classroom."

B. QUEENS COLLEGE - NAMING OF THE PAULA AND JEFFREY GURAL ENDOWED PROFESSORSHIP IN GEOLOGY:

RESOLVED, That the Board of Trustees of The City University of New York approve the naming of the “Paula and Jeffrey Gural Endowed Professorship in Geology” at Queens College.

EXPLANATION: Paula Gural received an M.A. in Geology from Queens College in 2005 and has been a supporter of the College since 2008. She and her husband Jeffrey, one-time chairman of Newmark Grubb Knight Frank, a global real estate company with headquarters in New York City, are active in numerous philanthropic and community activities.

Pursuant to a written agreement, the Gurals pledged \$1,000,000 to The Queens College Foundation. The Foundation will use \$750,000 of the gift to establish the “Paula and Jeffrey Gural Endowed Professorship in Geology” and the remaining \$250,000 to establish the “Paula and Jeffrey Gural Graduate Scholarship Fund.” To date, the Foundation has received payments towards the pledge totaling \$750,000. The endowed professorship fund will support hiring a faculty member in the traditional Geosciences areas of Geology, Tectonics, Mineralogy and Petrology in honor of the Mrs. Gural’s longtime mentors Hannes Brueckner and Patrick Brock. The scholarships will be awarded to graduate students in the School of Earth and Environmental Sciences.

In recognition of the generosity of this contribution from Paula and Jeffrey Gural, the College therefore requests approval to name the “Paula and Jeffrey Gural Endowed Professorship in Geology.”

C. YORK COLLEGE - NAMING OF THE LESLIE LEWIS-JACK SCHLEIN PROFESSORSHIP IN NATURAL SCIENCES:

RESOLVED, That the Board of Trustees of The City University of New York approve the naming of the “Leslie Lewis-Jack Schlein Professorship in Natural Sciences” at York College.

EXPLANATION: Professors Leslie Lewis and Jack Schlein, now retired, were longtime members of the Biology faculty in the Natural Sciences Department at York College. Both professors were prolific and well-respected researchers. Professor Schlein also served as the pre-medical advisor for more than three decades. Professors Lewis and Schlein have inspired and mentored scores of physicians, dentists, researchers and other scientists over their decades at York College. In gratitude to their mentors in the Natural Sciences at York, several of Professor Lewis’s and Professor Schlein’s former students have made pledges and contributions in their honor to The York College Foundation, in a combination of cash and deferred gifts and pledges totaling in excess of \$750,000. Donated funds are being placed in an endowment fund which, as the endowment grows, will help recruit and retain outstanding faculty, fund faculty and student research and travel to academic conferences, provide scholarship support, and help meet other special needs such as paying for MCAT or GRE preparation for students who could not otherwise afford it. This will be York College’s first professorship named by alumni.

In recognition of their decades of mentorship and of the financial commitments made in their honor, The York College Foundation requests the approval of the CUNY Board of Trustees to name the “Leslie Lewis-Jack Schlein Professorship in Natural Sciences.”

D. COLLEGE OF STATEN ISLAND - NAMING OF THE LORRAINE AND GORDON DI PAOLO BOARD ROOM:

RESOLVED, That the Board of Trustees of The City University of New York approve the naming of Room 406 in Building 1A at the College of Staten Island as the “Lorraine and Gordon Di Paolo Board Room.”

EXPLANATION: Gordon Di Paolo has been a Professor of Management at the College of Staten Island and its predecessor institution, Staten Island Community College, since 1971. He and his wife Lorraine are the top individual donors to the College, having committed a total of \$795,776 to date, in addition to naming the College as a beneficiary in their estate plans. The Di Paolos have established several funds throughout the years in support of student travel, services for students with disabilities, commencement awards, and more recently, the new School of Business.

In June 2015, Dr. and Mrs. Di Paolo pledged \$125,000 to refurbish the Board Room adjacent to the President's Office at the College of Staten Island. Funds from this gift will be used to upgrade the microphone system for large meetings, replace furniture, and upgrade the catering facility. In recognition of this gift and the generous life-time support of the Di Paolos, the College asks the CUNY Board of Trustees to approve the naming of the board room as the "Lorraine and Gordon Di Paolo Board Room."

NO. 6. 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 BOARD OF TRUSTEES BYLAWS:

RESOLVED, That the CUNY Board of Trustees amend Article XV of the Board of Trustees Bylaws, as proposed in the attached document, effective October 1, 2015; and be it further

RESOLVED, That the CUNY Board of Trustees, pursuant to Section 5.1 of the Board of Trustees Bylaws, by unanimous consent of the trustees of the board present, hereby waives the requirement that amendments to the bylaws be proposed at a meeting preceding the meeting at which a vote is taken.

EXPLANATION: On July 7, 2015, Governor Andrew M. Cuomo signed into law his "Enough is Enough" legislation to combat sexual violence on campus in New York State. The proposed amendments to Article XV of CUNY's Board of Trustees Bylaws are necessary to comply with the recently enacted New York State Law, and are being adopted at the same time as amendments to other relevant CUNY policies.

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. ~~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. ~~Each student leader and officer of student organizations recognized by or registered with the institution, as well as those seeking recognition by the institution, must complete training on domestic violence, dating violence, stalking, and sexual assault prevention and on CUNY's Policy on Sexual Misconduct prior to the organization receiving recognition or registration.~~

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. ~~4.~~—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. ~~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. ~~e. 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. ~~2.~~—The complainant or any student organization adversely affected pursuant to paragraph ~~e~~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. ~~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.~~ ~~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.~~—A University student, employee, ~~visitor,~~ organization ~~or,~~ department ~~or visitor~~ 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.~~ ~~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~~CUNY Policy ~~Against Sex-Based Harassment and on~~ Sexual ~~Violence~~Misconduct, 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:
- ~~1.~~ ~~(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;
 - ~~2.~~ ~~(ii)~~—Refer the matter to mediation (except in cases involving allegations of sexual assault, stalking or other forms of sexual violence); or
 - ~~3.~~ ~~(iii)~~—Prefer formal disciplinary charges.
- ~~c.~~ ~~c.~~ In cases involving the CUNY Policy on Sexual Misconduct, both the Complainant and Respondent may be accompanied by an advisor of their choice (including an attorney) who may assist and advise throughout the entire process, including all meetings and hearings. Advisors may represent a party and fully participate at a hearing, but may not give testimony as a witness.
- ~~d.~~ ~~e.~~—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. Immediately following the respondent's withdrawal, the college must place a notation on her/his transcript that she/he "withdrew with conduct charges pending." If the respondent fails to appear, the college may proceed with the

disciplinary hearing in absentia, and any decision and sanction shall be binding, and the transcript notation, if any, resulting from that decision and penalty shall replace the notation referred to above

Mediation Conference:

- e. ~~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. ~~4.~~—An effort shall be made to resolve the matter by mutual agreement, through such process as the mediator deems most appropriate; provided, however, that the complainant must be notified of her/his right to end the mediation at any time
 2. ~~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. ~~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, or, if charges have been preferred, proceed to a disciplinary hearing.
 4. ~~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:~~

- f. ~~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 appearing on the records of the college. 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.
- g. ~~f.~~—The notice shall contain the following:
1. ~~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. ~~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)~~ (iii) to cross-examine witnesses presenting evidence;
 - ~~(iv)~~ (iv) to remain silent without assumption of guilt; and
 - ~~(v)~~ (v) to be assisted or represented by an advisor or legal counsel at their expense; if the respondent or the complainant ~~request~~requests it, the college shall assist in finding a legal counsel or advisor.
 3. ~~3.~~—A warning that anything the respondent says may be used against her/him at a non-college hearing.

Pre-Hearing Document Inspection:

h. 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 complainant or 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~~any other party grant an adjournment of the hearing as may be necessary in the interest of fairness to permit the requesting party time to review the newly produced evidence.

Admission and Acceptance of Penalty Without Hearing:

i. At any time after receiving the notice of charges and hearing but prior to the commencement of a disciplinary hearing, the respondent may admit to the charges and accept the penalty that the chief student affairs officer or designee determines to be appropriate to address the misconduct. This agreed upon penalty shall be placed on the respondent's transcript consistent with sections u and v herein. Before resolving a complaint in this manner, the chief student affairs officer must first consult with the complainant and provide the complainant an opportunity to object to the proposed resolution, orally and/or in writing. If a resolution is reached over the complainant's objection, the chief student affairs officer or designee shall provide the complainant with a written statement of the reasons supporting such resolution, and the complainant may appeal the decision to enter into the resolution to the president.

Emergency Suspension:

j. ~~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:

k. ~~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.

l. ~~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 upon appointment 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.

- m. ~~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 from the panels one (1) chairperson, two (2) faculty/HEO members, and two (2) students, who shall be specially trained on an annual basis, and who shall constitute the faculty-student disciplinary committee in all such cases.
- n. ~~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.
- o. ~~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.
- p. ~~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:

- q. ~~n.~~—The following procedures shall apply ~~at the hearing before the~~to faculty-student disciplinary ~~committee~~proceedings:

Hearing:

1. ~~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. ~~2.~~—All faculty student disciplinary committee hearings are closed hearings, ~~but unless~~ the respondent ~~has the right to request~~requests an open public hearing. ~~However~~Notwithstanding such requests, the chairperson shall not permit an open hearing in cases involving allegations of sexual assault, stalking, or other forms of sexual violence. Furthermore, 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. ~~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. ~~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~~any 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. ~~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. ~~6.~~ The college bears the burden of proving the charge(s) by a preponderance of the evidence.
7. ~~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. ~~8.~~ The college, the respondent and the complainant are permitted to have lawyers or other representatives or advisors 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. ~~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. ~~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~~the complainant and respondent may provide written questions to the chairperson to be posed to the witness.
11. In a case involving the CUNY Policy on Sexual Misconduct:
 - a) Evidence of the mental health diagnosis and/or treatment of a party may not be introduced.
 - b) Evidence of either party's prior sexual history may not be introduced except that (i) evidence of prior sexual history between complainant and respondent is admissible at any stage of the hearing, and (ii) past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the stage of that hearing related to penalty

Penalty Phase:

12. ~~11.~~ At the end of the presentations, if the respondent ~~and the complainant may introduce individual character references.~~ The college has been found responsible, then all parties may introduce evidence related to the respondent's character including any past findings of a respondents' responsibility for domestic violence, stalking, or sexual assault or any other sexual

violence. 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. The complainant and respondent may also provide or make an impact statement. Such evidence and impact statements shall be used by the committee only for the purpose of determining an appropriate penalty if the charges are sustained.

Decision:

~~13. 42.~~—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.

~~14. 43.~~—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.

~~15. 44.~~—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.

~~16.~~

~~17. 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:

~~18. e.~~—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.

~~19. 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 non-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.

~~20. e.~~—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.

Notations on Transcripts:

21. In cases in which a respondent has been found responsible for a Clery Act reportable crime of violence, the college must place a notation on her/his transcript stating that she/he was suspended or expelled after a finding of responsibility for a code of conduct violation. In all other cases, the college must place a notation of the findings and penalty on a respondent's transcript unless a mediation agreement, the committee's decision, or the decision on any appeal under section 15.4(p), expressly indicate otherwise.

22. A notation of expulsion after a respondent has been found responsible for a Clery Act reportable crime of violence shall not be removed. In all other cases, a notation of expulsion, suspension or any lesser disciplinary penalty shall be removed, as a matter of right, upon the request of the respondent to the Chief Student Affairs Officer made, four years after the conclusion of the disciplinary proceeding or one year after the conclusion of any suspension, whichever is longer. If a finding of responsibility for any violation is vacated for any reason, any such notation shall be removed.

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. THE CITY UNIVERSITY OF NEW YORK - POLICY ON SEXUAL MISCONDUCT:

RESOLVED, That the CUNY Board of Trustees adopt The City University of New York Policy on Sexual Misconduct as amended, effective October 1, 2015.

EXPLANATION: On December 1, 2014, The City University of New York (“CUNY”) adopted a Policy on Sexual Misconduct, effective January 1, 2015, in response to changes in federal law, regulations and guidance. On July 7, 2015, Governor Andrew M. Cuomo signed into law his “Enough is Enough” legislation to combat sexual violence on campus in New York State. The proposed amendments to CUNY’s Policy on Sexual Misconduct are necessary to comply with the recently enacted New York State Law.

POLICY ON SEXUAL MISCONDUCT

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I.

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, as well as a "students' bill of rights" 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.

L II—Prohibited Conduct

A. Sexual Harassment, Gender-Based Harassment and Sexual Violence

~~A.— Sexual Harassment, Gender-Based Harassment and Sexual Violence.~~ This policy prohibits sexual harassment, gender-based harassment and sexual violence [\(together “sexual misconduct”\)](#) 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: [\(1\) sexual activity without affirmative consent, such as](#) sexual assault, ~~such as~~ rape/attempted rape, ~~criminal sexual act, and~~ forcible touching, ~~and sexual abuse.~~ ~~If of a sexual nature, stalking/cyberstalking (hereinafter “stalking”) and fondling;~~ [\(2\) dating, domestic and intimate partner violence may also constitute sexual harassment, gender-based harassment or sexual violence;](#) [\(3\) stalking/cyberstalking \(“stalking”\) as defined in this policy.](#)

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.

II. ~~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. [All Title IX Coordinators shall receive annual training on sexual harassment, gender-based harassment and sexual violence as required by law.](#) 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].

III. ~~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 [NYPD Special Victims Division](#) or their local police precinct, or contacting their college public safety office, which is available 24 hours a day, 7 days a week. [Each college public safety office shall have an appropriately trained employee available at all times to provide the complainant with information regarding options to proceed, including information regarding the criminal justice process and the preservation of evidence.](#) 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~~[incident](#) 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.

IV. ~~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 authorities, and regardless of whether the incident took place on or off-campus. (including “study abroad” programs.) 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~~students 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

~~(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

~~(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

~~(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 These individuals will maintain a complainant's privacy to the greatest extent possible, and 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 only with those who have a legitimate need for the information.

B. Support Assistance for Complainants

i. Students

When a Title IX Coordinator receives a complaint of sexual ~~or gender-based violence~~misconduct from a student, 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.~~

ii. Employees

When a Title IX Coordinator receives a complaint of sexual misconduct from an employee, she/he will work with the Human Resources Director to assist the complainant with support services.

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~~request 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 and, in the case of employees, the Human Resources office. 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, [in accordance with CUNY's Drug/Alcohol Use Amnesty Policy](#), a student [acting in good faith](#) 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.

~~V.~~ 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.~~ ~~(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. ~~(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~~, except that the Title IX Coordinator may honor a request for confidentiality under the circumstances described in Section V (C) above. However, these employees will maintain a complainant’s privacy to the greatest extent possible, and information reported to ~~responsible employees~~ them 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. ~~(i)~~ Title IX Coordinator and her/his staff
- ii. ~~(ii)~~ Office of Public Safety employees (all)
- iii. ~~(iii)~~ Vice President for Student Affairs and Dean of Students and all staff housed in those offices
- iv. ~~(iv)~~ Residence Life staff in CUNY owned or operated housing, including Resident Assistants (all)
- v. ~~(v)~~ College President, Vice Presidents and Deans
- vi. ~~(vi)~~ Athletics Staff (all)
- vii. ~~(vii)~~ Department Chairpersons/Executive Officers
- viii. ~~(viii)~~ Human Resources staff (all)
- ix. ~~(ix)~~ University Office of the General Counsel employees (all)
- x. ~~(x)~~ College/unit attorney and her/his staff
- xi. ~~(xi)~~ College/unit labor designee and her/his staff
- xii. ~~(xii)~~ Faculty members at times when they are leading or supervising student on off-campus trips
- xiii. ~~(xiii)~~ Faculty or staff advisors to student groups
- xiv. ~~(xiv)~~ Employees who are Managers (all)

- ~~xv.~~ ~~(xv)~~ SEEK/College Discovery staff (all)
- ~~xvi.~~ [College Childcare Center staff \(all\)](#)
- ~~xvii.~~ [Directors of "Equal Opportunity Centers" affiliated with CUNY colleges](#)

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 [strongly](#) 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 [strongly](#) encouraged to do so.

~~VI.~~ ~~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. [The complainant and the respondent shall each be afforded, upon request, a prompt review of the need for and terms of any interim or supportive measure that directly affects him or her and shall be permitted to submit evidence in support of his/her request. The request for such a review shall be made to the college's Chief Student Affairs Officer, if either the complainant or the respondent is a student or to college's Director of Human Resources if both the complainant and the respondent are employees. If a request is made in a case involving both a student and an employee, the Chief Student Affairs Officer shall consult with the Director of Human Resources.](#)

A. Types of Interim and Supportive Measures

Interim and supportive measures may include, among other things:

- ~~i.~~ ~~(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.~~ ~~(ii)~~ Making necessary changes to residential housing situations or providing assistance in finding alternate housing;
- ~~iii.~~ ~~(iii)~~ Changing an employee's work assignment or schedule;
- ~~iv.~~ ~~(iv)~~ Providing the complainant with an escort to and from class or campus work location;
- ~~v.~~ ~~(v)~~ Arranging appropriate transportation services to ensure safety;
- ~~vi.~~ ~~(vi)~~ Prohibiting contact between the complainant and the respondent ("no contact" orders);
- ~~vii.~~ ~~(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.~~ ~~(viii)~~ Providing the complainant assistance in obtaining medical and other services, including access to rape crisis centers;
- ~~ix.~~ ~~(ix)~~ Providing the complainant assistance with filing a criminal complaint and seeking an order of protection;
- ~~x.~~ ~~(x)~~ Enforcing an order of protection;
- ~~xi.~~ ~~(xi)~~ Addressing situations in which it appears that a complainant's academic progress is affected by the alleged incident;

xii. ~~(xii)~~—In exceptional circumstances, seeking an emergency suspension of a student or an employee under applicable CUNY Bylaws, rules, policies and collective bargaining agreements.

B. Process for Review of “No Contact” Orders

The complainant and the respondent shall each be afforded, upon request, a prompt review of the need for and terms of a “no contact” order (including possible modification or discontinuance of the order), and shall be allowed to submit evidence to support their request. The request for such a review shall be made to the college’s Chief Student Affairs Officer, if either the complainant or the respondent is a student, or to the college’s Director of Human Resources, if both the complainant and the respondent are employees. If possible, the college shall establish an appropriate schedule for the complainant and the respondent to access college facilities when they are not being used by the other party to enable both parties to use college facilities to the maximum extent feasible, without violation of the “no contact” order.

VII. 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~~provide the respondent with a written summary 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.~~complaint. 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 of that employee 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. Unless the mediation results in a timely resolution agreed to in writing by the complainant, the respondent and the college, the college shall end the mediation and resume the investigation.

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 temporarily delay the fact-finding portion of its investigation during the evidence-gathering phase of a law enforcement investigation. Temporary delays may not last more than ten days except when law enforcement specifically requests and justifies a longer delay. 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

~~(i) Discipline against students.~~—In cases where a student is **accused of charged with** 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~~ **be represented by an attorney or advisor** 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

~~(ii) Discipline against employees.~~—In cases where an employee is **accused of charged with** 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

~~(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

~~(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~~Action 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]

VIII.IX.—College Obligations ~~under this~~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~~In addition, the Students' Bill of Rights, which is appended to and made a

part of this policy, must be distributed to any individual reporting an incident of sexual misconduct at the time the report is made. It must also be distributed annually to all students, made available on the college's website and posted in college campus centers and in CUNY owned and operated housing.

B. Training and Educational Programming

The college Title IX Coordinator, in coordination with other applicable offices, including Public Safety, Human Resources and Student Affairs, is responsible for ~~training~~ ensuring that the college provides training to college employees on their obligations under this policy; provides education on this policy and on sexual misconduct (including domestic violence, dating violence, stalking and sexual assault) to new and continuing students; and promotes awareness and prevention of sexual harassment, gender-based harassment and sexual violence among all students and employees. Specific required trainings include the following:

i. Training For Responsible and Confidential Employees

The college shall provide training to 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 as well as those employees who have been designated as confidential employees.

ii. Student Onboarding and Ongoing Education

Each college shall adopt a comprehensive student onboarding and ongoing education campaign to educate students about sexual misconduct, including domestic violence, dating violence, stalking, and sexual assault. During the student onboarding process, all new first-year and transfer students shall receive training on this policy and on a variety of topics relating to sexual misconduct. In addition, each college shall offer and administer appropriate educational programming to all incoming and transfer students, residence hall students, athletes, fraternity/sorority groups, and student leaders, and/or. Each college shall also provide such educational programming to 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. The college shall also share information on domestic violence, dating violence, stalking and sexual assault prevention with parents of enrolling students.

C. Assessing Campus Attitudes Campus Climate Assessments

~~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~~

Each college of the University shall conduct, no less than every other year, a climate assessment using an assessment instrument provided by the University central office, to ascertain its students' general awareness and knowledge of the University's policy and procedures regarding sexual misconduct, including but not limited to 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. and knowledge of reporting, investigation and disciplinary processes. The assessment instrument shall include all topics required to be included under applicable law, including Section 129-B of the New York State Education Law. The University shall publish the results of the surveys on its Title IX web page. The published results shall not contain any information which would enable a reader to identify any individual who responded to the climate assessment.~~

~~IX. 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.

X. XI—Definitions of Terms in this Policy

- A. **Affirmative Consent** is a knowing, voluntary and mutual decision among all participants to engage in 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 lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression. Consent may be initially given but withdrawn at any time. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act. In order to give consent, one must be of legal age (17 years or older). Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by lack of consciousness or being asleep, being involuntarily restrained, or if the individual otherwise cannot consent. 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. When consent is withdrawn or can longer be given, sexual activity must stop.
- B. **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.
- C. **Complaint** is an allegation of sexual harassment, gender-based harassment or sexual violence made under this policy.
- D. **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.
- E. **Forcible Touching/Fondling** 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.
- F. **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. 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.
- G. **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.

H. Rape and Attempted Rape is the penetration or attempted penetration, no matter how slight, of any body part by a sex organ of another person, without the consent of that person.

I. 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.

J. 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.

K. Sexual Activity is

- penetration, however slight, of the vulva or the anus by the penis, hand/fingers or other object;
- contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
- intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person; or
- intentional touching, either directly or through the clothing of any other body part, with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person.

L. Sexual Assault is any form of sexual activity that occurs without consent.

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

N. ~~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.~~ **Sexual Misconduct is sexual harassment, gender-based harassment or sexual violence, as defined in this policy.**

O. ~~C. **Sexual violence**~~ **Violence** is an umbrella term that includes: (1) sexual activity without affirmative consent, such as sexual assault, ~~such as~~ rape/attempted rape, ~~criminal sexual act, and~~ forcible touching ~~and sexual abuse, as well as /fondling;~~ (2) dating, domestic and intimate partner violence; (3) stalking as defined below. ~~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.

P. (ii) **Stalking** is intentionally engaging in a course of conduct directed at a specific person with whom the perpetrator currently has, previously has had, or desires to have, some form of sexual or romantic relationship, that:

- 1. ~~(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. ~~(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. ~~(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, or 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~~

~~Q. **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.~~

[The City University of New York](#)
[Students' Bill of Rights](#)

~~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.~~

CUNY students who experience campus-related sexual or gender-based harassment or sexual violence, including sexual assault, stalking, domestic violence, intimate partner violence or dating violence, are entitled to the following rights:

- To report the incident to your campus.
- To report the incident to the University or campus public safety department and/or to file a criminal complaint with the NYPD, or to choose not to report.
- To receive assistance from your campus or others in filing a criminal complaint, which may include seeking an Order of Protection.
- To describe the incident only to those campus officials who need the information in order to properly respond and to repeat the description as few times as practicable.
- To request that the campus file conduct charges against the respondent(s). The decision on whether to bring charges rests with the campus.
- To be protected by your campus from retaliation for reporting the incident, and to have any allegations of retaliation addressed by the campus.
- To receive assistance and resources from your campus, including confidential and free on-campus counseling, and to be notified of other available services on- and off-campus, including, among other resources, the New York State Office of Victim Services.
- To receive assistance in seeking necessary medical services or treatment, including a Sexual Assault Forensic Examination (SAFE exam), on or 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 you to continue your education without undue stress or trauma.
- To have your complaints handled respectfully by the campus, and to be informed about how the campus will protect your privacy and confidentiality.
- To have your 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, and to be accompanied by a person of your choice at all meetings or hearings related to the process.
- To have your complaint against a student adjudicated by individuals who have received appropriate training on issues related to sexual harassment and sexual violence.
- To report incidents of sexual harassment or sexual violence that you experience while under the influence of alcohol or drugs without receiving discipline for your alcohol or drug use.
- To have the same opportunity as the respondent(s) to participate in a student disciplinary hearing before a faculty-student disciplinary committee, including the right to be present, to be assisted by a person of your choice, including an attorney, to present evidence, call witnesses, cross-examine witnesses, have your prior sexual history with persons other than the respondent(s) excluded from the hearing, have your prior mental health diagnosis and/or treatment excluded from the hearing, receive written notice of the outcome of the hearing, and to appeal from the decision.
- To participate in the investigative and disciplinary processes of the campus without interference with your civil rights or practice of religion.

~~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.~~

Questions about CUNY's sexual misconduct policy and procedures may be directed to your campus Title IX Coordinator [name and contact information here].

[Information on resources and the process for filing a complaint is available on CUNY's Title IX web page \[link\]](#)

C. THE CITY UNIVERSITY OF NEW YORK – DRUG/ALCOHOL USE AMNESTY POLICY:

RESOLVED, That the CUNY Board of Trustees adopt The City University of New York Drug/Alcohol Use Amnesty Policy, effective October 1, 2015.

EXPLANATION: On June 30, 2014, The City University of New York (“CUNY”) adopted a Medical Amnesty/Good Samaritan Policy effective July 1, 2014, for the purpose of encouraging students to seek assistance for themselves or others without fear of disciplined for drug and alcohol use. On July 7, 2015, Governor Andrew M. Cuomo signed into law his “Enough is Enough” legislation to combat sexual violence on campus in New York State. The proposed CUNY Drug/Alcohol Use Amnesty Policy amends the Medical Amnesty/Good Samaritan Policy as necessary to comply with the recently enacted New York State Law.

THE CITY UNIVERSITY OF NEW YORK ~~MEDICAL~~DRUG/ALCOHOL USE AMNESTY/~~GOOD~~ SAMARITAN POLICY

~~I.~~ The City University of New York’s (“CUNY’s”) ~~MedicalDrug/Alcohol Use~~ ~~Amnesty/Good Samaritan Policy’s purpose is~~ ~~Policy has two principal purposes.~~ First, it is intended to encourage students to seek medical assistance related to drug and/or alcohol use without fear of being disciplined for such use. Because the use of drugs or alcohol may be life-threatening, CUNY wishes to reduce barriers to seeking and receiving medical help in those situations. ~~In addition~~ Second, CUNY wishes to encourage students under the influence of drugs and/or alcohol who may be the victims of ~~or~~, witnesses to ~~sexual~~, or otherwise become aware of violence (including but not limited to domestic violence, dating violence, stalking, or sexual assault) or sexual harassment or sexual violence while under the influence of drugs or alcohol to seek medical assistance and gender-based harassment to report that sexual assault violence or harassment. Toward that end, CUNY’s Policy is that students who seek medical assistance either for themselves or others and/or are reporting violence or harassment will not be subject to discipline under the circumstances described below.

~~I.~~ Students who in good faith call for medical assistance for themselves or others and/or who receive medical assistance as a result of a call will not be disciplined for the consumption of alcohol (either if underage or if consumed in a CUNY-owned or operated ~~building/facility where alcohol consumption is prohibited) or drugs under certain conditions.~~ First, the students involved must agree to timely completion of assigned residence hall or facility where alcohol consumption is prohibited) or drugs as long as there are no other violations that ordinarily would subject the student to disciplinary action. Similarly, students who may be the victims of, witnesses to, or otherwise become aware of violence or sexual harassment or gender-based harassment and who report such violence or harassment will not be disciplined for the consumption of alcohol or drugs in the absence of other violations that ordinarily would subject the student to disciplinary action. Other violations that would invoke discipline include but are not limited to (i) unlawful distribution of alcohol or drugs; (ii) sexual misconduct, as defined in CUNY’s Policy on Sexual Misconduct; (iii) causing or threatening physical harm; (iv) causing damage to property; (v) hazing.

~~I.~~ ~~The students involved will be encouraged to complete~~ alcohol and/or drug education activities, assessment, and/or treatment, to be determined by the individual campuses or units of CUNY with which the students are affiliated. ~~Second, there must be no other violations that ordinarily would subject the student to disciplinary action.~~ Other violations that would invoke discipline include but are not limited to (i) unlawful distribution of alcohol or drugs; (ii) sexual assault; (iii) sexual harassment; (iv) causing or threatening physical harm; (v) causing damage to property; (vi) hazing.

- II. ~~If students are involved in repeated incidents, the availability of medical amnesty to those students is at the discretion of the campus or unit with which the students are affiliated. Even if medical amnesty is granted to those students, repeated incidents raise issues of medical concern and~~ If repeated incidents of alcohol or drug use are involved, there may be issues of medical concern, which may result in parental notification, medical withdrawal, and/or other non-disciplinary responses.
- III. ~~Failure to complete required alcohol and/or drug education activities, assessment and/or treatment by the deadline may result in a revocation of medical amnesty.~~
- IV. III. CUNY's Policy is intended both to implement Article 129-B of the Education Law (which mandates drug and alcohol amnesty for reporters of violence) and to complement New York State's Good Samaritan Law, which is designed to encourage individuals to call 911 in the event of an alcohol or drug-related emergency. Generally, ~~this law~~ the Good Samaritan Law protects persons who witness or suffer from a medical emergency involving drugs or alcohol from being arrested or prosecuted for drug or underage alcohol possession after they call 911. It does not protect against arrest or prosecution for other offenses, such as the sale of drugs. For more information on New York's Good Samaritan Law, see N.Y. Public Health L. §§ 3000-a, 3000-b, 3013 (McKinney 2000); see also NY State Assembly website database of law.

NO. 7. COMMITTEE ON FACILITIES PLANNING AND MANAGEMENT: RESOLVED,
That the following items be approved:

A. THE CITY UNIVERSITY OF NEW YORK - ARCHITECTURAL DESIGN SERVICES REQUIREMENTS CONTRACTS:

RESOLVED, That the Board of Trustees of The City University of New York request the City University Construction Fund (the Fund) to execute approximately thirty (30) requirements contracts to be used on an as-needed basis for Architectural Design Services for various projects. The contracts shall be subject to approval as to form by the Fund's General Counsel. The firms to be awarded contracts are in the process of being selected.

EXPLANATION: The Office of Facilities Planning, Construction, and Management (FPCM) has issued a new Request for Qualifications and is seeking to award approximately thirty (30) separate requirements contracts to replace the expiring Architectural Design Services Requirements Contracts currently in use. These contracts will provide services on an expedited "as needed" basis at the University's various sites and facilities for projects with an estimated construction cost of up to \$15 million. The design services include: architectural design, building envelope design, historic preservation design, landscape design, and signage and interpretation design. Each contract will have a not-to-exceed amount of \$4.95 million for a three-year term with a three-year renewal clause. Historically, an individual "by project" solicitation process was used for these services. The "by project" process is very costly, time-consuming, labor-intensive, ineffective, inefficient, difficult to administer, and fails to expeditiously and efficiently meet the needs of the University. To eliminate this expensive and burdensome process, FPCM implemented these requirements contracts.

B. BARUCH COLLEGE - RENEWAL OF LEASE FOR BARUCH COLLEGE EARLY LEARNING CENTER, 225 PARK AVENUE SOUTH:

RESOLVED, That the Board of Trustees of The City University of New York authorizes the General Counsel to execute a lease renewal for five years, for approximately 3,790 rentable square feet of space, at 225 Park Avenue South, New York, New York, on behalf of Baruch College. The lease shall be subject to approval as to form by the University Office of General Counsel.

EXPLANATION: At 225 Park Avenue South in Manhattan, the Baruch College Early Learning Center has occupied 3,790 square feet of flexible office space on the Second Floor since 2001. The current lease will expire on June 30, 2016. Under the existing lease the current gross annual rent is \$202,765.00 (\$53.50/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 July 1, 2016 and end on June 30, 2021. The base rent for the renewal period will be \$283,757.30 (\$74.87/SF) per annum for the first year and will increase by \$1.00 per square foot on July 1 of each year for each subsequent year of the term.

The Landlord will continue to be responsible for elevator service, repair of mechanical systems, HVAC maintenance and cleaning. The University will continue to be responsible for interior repairs.

C. BOROUGH OF MANHATTAN COMMUNITY COLLEGE - BUILDING WIDE HVAC AND CONTROLS PROJECT (PlaNYC):

RESOLVED, That the Board of Trustees of The City University of New York accept Genesys Engineering's construction contract for the Building Wide HVAC and Controls Project at Borough of Manhattan Community College (BMCC) for a cost of \$21,410,505; and be it further

RESOLVED, That the City University Construction Fund is requested to authorize the Dormitory Authority of the State of New York to enter into a contract with the selected contractor for such services.

EXPLANATION: The BMCC main campus building located at 199 Chambers Street, Manhattan, is a seven story building completed in 1983. The Borough of Manhattan Community College has seen the largest increase in student population of all CUNY Community Colleges. The 199 Chambers Street building now houses three times the FTEs for which it was originally designed. The HVAC systems originally constructed in the 1980s have never been upgraded or improved. The proposed HVAC project, while reducing energy costs on the order of \$1 million annually, will also replace aging equipment and significantly improve the learning environment for faculty and students. The project will implement the recommendations of a report prepared as part of the PlaNYC initiative.

Funding for the project will be matching PlaNYC and State funds.

D. HOSTOS COMMUNITY COLLEGE - SAVOY MANOR ROOF REPLACEMENT:

RESOLVED, That the Board of Trustees of The City University of New York request the City University Construction Fund to execute a contract on behalf of Hostos Community College to remove the existing roof of the Savoy Manor Building located at 120 East 149th Street and replace it with a LEED certified low maintenance green roof. The contract shall be awarded to the lowest responsive and responsible bidder after public advertisement and sealed competitive bidding. The contract cost shall be chargeable to the City Capital Budget, Project No. HS047-013, for an amount not to exceed \$1,600,000. The contract shall be subject to approval as to form by the Fund's General Counsel.

RESOLVED, That the City University Construction Fund be and is hereby requested to enter into a contract with a roofing contractor to supply and install a new LEED certified low maintenance green roof for the Hostos Community College Savoy Manor Building located at 120 East 149th Street.

EXPLANATION: The existing roof is 20 years old and past its useful life, causing leaks in the building. A new LEED certified low maintenance green roof will be installed.

E. QUEENS COLLEGE AND SCHOOL OF PROFESSIONAL STUDIES - RENEWAL OF LEASE AT 25 WEST 43RD STREET:

RESOLVED, That the Board of Trustees of The City University of New York authorize the General Counsel to execute a renewal of the lease, of approximately 58,905 rentable square feet of space, for a period of fifteen years and six months, at 25 West 43rd Street, New York, New York, for use by the School of Professional Studies and Queens College. The lease shall be subject to approval as to form by the University Office of General Counsel.

EXPLANATION: The University has been a tenant in this building since 1985. The space is a combination of classrooms, offices and support functions and comprises the entire 17th, 18th and 19th Floors as well as part of the 3rd and 10th Floors. The current CUNY occupants include the Murphy Institute of the School of Professional Studies, as well as the Calandra Institute, the Asian-American Institute and the Women-In-Work Center of Queens College. The current lease term which started in 2004 will end on March 31, 2016. The current annual rental cost is \$2,547,642 (\$43.20/SF).

The proposed new lease will be for a period of fifteen years and six months starting on April 1, 2016 and will be based upon the following terms:

Annual Base Rent:

First Five Year Period: \$3,328,132.50 (\$56.50/RSF) per annum
 Second Five Year Period: \$3,563,752.50 (\$60.50/RSF) per annum
 Balance of Term: \$3,799,372.50 (\$64.50/RSF) per annum

The Landlord will perform base building improvements at his own cost, including window replacement and replacement of HVAC units serving the University's spaces. The Landlord will also contribute \$1,811,328 to tenant improvements based on a scope of work provided by the University. Also, under the renewal agreement, the base years for real estate taxes and operating escalations will be revised to 2016/17. The Landlord will continue to be responsible for exterior and structural repairs as well as cleaning.

F. GRADUATE SCHOOL OF JOURNALISM - LEASE OF SPACE AT 230 WEST 41ST STREET:

RESOLVED, That the Board of Trustees of The City University of New York authorize the General Counsel to execute a new lease for ten years, for approximately 8,056 rentable square feet of space on the 13th floor, at 230 West 41st Street, New York, New York, on behalf of Graduate School of Journalism. The lease shall be subject to approval as to form by the University Office of General Counsel.

EXPLANATION: At 230 West 41st Street in Manhattan, the Graduate School of Journalism is in an existing lease occupying the 3rd and 4th floors of office and academic spaces since 2004. The building is owned by the Research Foundation of CUNY. The School is in need of expansion space.

Accordingly, the University and the Research Foundation have agreed to enter into a new lease for administrative offices and academic space constituting the entire 13th floor, consisting of approximately 8,056 rentable square feet. Pursuant to the lease agreement, the term will be for ten years and start upon substantial completion of the new installation. The new installation will be paid for by the Graduate School of Journalism.

The base rent for the term will start at \$331,665.52 (\$41.17/RSF) per annum and will increase by 2.5% per annum for the balance of the term.

The Research Foundation will be responsible for exterior, structural and roof repairs, as well as cleaning. The Graduate School of Journalism will be responsible for interior operating expense

escalations but will not incur real estate tax charges as a result of the property's partial real estate tax exemption.

NO. 8. [ADDED ITEM] THE CITY UNIVERSITY OF NEW YORK - STRATEGIC INVESTMENT FUND:

RESOLVED, That the Board of Trustees of The City University of New York approves the methodology for allocating performance funds to the CUNY colleges as set forth below, and authorizes the University to initiate a competitive proposal process intended to support evidence-based initiatives, encourage innovation, and incentivize the focused pursuit of important goals related to University and State priorities.

EXPLANATION: The New York State budget adopted on April 1, 2015, included for the first time a performance funding provision proposed by Governor Cuomo for which \$12 million of the State's total appropriation is to "be made available [to CUNY's senior colleges] through a CUNY investment and performance fund which shall be allocated to each campus upon completion of a performance improvement plan approved by the board of trustees..." CUNY has supplemented the state appropriation with an additional \$6 million for community college initiatives, and another \$2 million to be allocated flexibly across both sectors.

In response to the performance funding provision included in New York State's adopted budget for FY 2016, The City University of New York has developed a process by which a portion of the FY 2016 budget will be allocated to colleges to support initiatives that hold promise for advancing goals aligned with the highest priorities of both the University and the State.

CUNY's long-standing Performance Management Process of annual planning and assessment, in which goals are identified, targets are established, and progress is measured each year using a set of standard and custom metrics, provides a useful model for the development of a performance funding process that complies with the requirements set forth in the adopted budget. Evaluation of progress for funded initiatives will be built into the University's annual performance management process (PMP).

Colleges will participate in a competitive Request for Proposal (RFP) process. Collaborations among the colleges and across sectors of the University are encouraged. Proposals must demonstrate the college's capacity to implement the initiative within the fiscal year and sustain it beyond the initial funding cycle, and the capacity to evaluate the success of the project. Proposals must also include reference to standard metrics (or reasonable alternatives) by which progress toward meeting specified goals can be measured. A proposed budget is required for each project for which funding is requested.

A review committee will be established to evaluate proposals and identify the most promising initiatives. The committee will subsequently make recommendations to the Chancellor who will then make recommendations to the Board of Trustees. Once board approval is provided, funds will be allocated accordingly.

Funded projects will be related to one or more of the following areas identified by the University as particularly worthy of strategic investment and that align with the State priority areas of access, degree completion, academic programs and student services that support post-graduate success, research, and community engagement for investment:

- Increase student academic success;
- Expand access to under-served populations;
- Improve academic momentum and degree completion;
- Expand online education;

- Expand the use of digital technology to improve instruction and academic support;
- Strengthen global perspective and practice;
- Grow the research enterprise, including research relevant to the 21st century urban environment; and
- Improve workforce preparation and employer engagement.

Colleges may submit up to three project proposals to launch or expand initiatives to advance goals related to the University's above funding priorities.