The Board of Trustees of The City University of New York (CUNY) met on October 26, 2020 via audio teleconference, pursuant to a Notice sent by the Office of the Secretary of the Board on October 9, 2020.


Others present: Chancellor Félix V. Matos Rodriguez, EVC&UP José L. Cruz, EVC&COO Hector Batista, SAC and Board Secretary Gayle M. Horwitz, General Counsel and SVC Derek Davis, SVC and Special Counsel Glenda G. Grace, SVC&CFO Matthew Sapienza, SVC Pamela S. Silverblatt, VC&CIO Brian Cohen, Vice Chancellor Doriane K. Gloria, Vice Chancellor Richard R. White, Interim Vice Chancellor Denise Maybank, and Interim Vice Chancellor Andrea Shapiro Davis

Absent and Excused: Vice Chairperson Barry F. Schwartz

CONVENCING OF PUBLIC MEETING
Chairperson William C. Thompson, Jr. called the Public Meeting to order at 4:06 p.m., and he immediately moved to go into Executive Session. The motion was seconded by Trustee Brian Obergfell.

CONVENCING OF EXECUTIVE SESSION
Chairperson Thompson, Jr. called for an Executive Session pursuant to Section 105, Article 7, of the Public Officers Law, to discuss matters pertaining to investigations and personnel. The Board met in Executive Session from 4:06 p.m. to 4:37 p.m.
Moved by Chairperson Thompson, Jr. and seconded by Trustee Obergfell, the public session was reconvened at 5:19 p.m.

**CHAIRPERSON’S REPORT**

**Statement of William C. Thompson, Jr.:**
“On March 7, 2020, Governor Cuomo issued Executive Order 202 declaring a State of Emergency in response to the COVID-19 outbreak. On March 13, 2020, Governor Cuomo issued Executive Order 202.1, which included a suspension of law allowing the attendance of meetings telephonically or other similar service.

Article 7 of the Public Officers Law, to the extent necessary to permit any public body to meet and take such actions authorized by the law without permitting in public in-person access to meetings and authorizing such meetings to be held remotely by conference call or similar service, provided that the public has the ability to view or listen to such proceeding and that such meetings are recorded and later transcribed.

In accordance with the Executive Order, this Board meeting is being held via teleconference with a live stream found at the CUNY Board of Trustees website.

A copy of the calendar (agenda) is also available online at the CUNY Board of Trustees website. Additional items may be added during the meeting. As a reminder, please mute your phones so we can ensure that everyone can hear.”

**William C. Thompson, Jr.’s Remarks:**
“On behalf of the CUNY Board of Trustees, I would like to welcome our newest Trustee – Juvanie Piquant. Juvanie was recently elected to serve as Chair of the University Student Senate and Student Trustee for this academic year. Ms. Piquant is a third-year honors student attending New York City College of Technology, where she majors in Law & Paralegal Studies. Ms. Piquant is not new to the Trustees as she previously served as Vice Chair of the University Student Senate and was a member of the Board of Trustees Student Affairs and Special Programs Committee. Welcome Juvanie. We have an item later in the meeting to say our farewell to Juvanie’s predecessor, Timothy Hunter.

As you know, the CUNY Board of Trustees could not convene its October 19, 2020 Public Hearing and Manhattan Borough Hearing. Instead, the Office of the Secretary accepted written and video testimony and statements from concerned individuals on items on the calendar for this October 26, 2020 Board Meeting via email. Testimonies were accepted until 11:30 p.m., on Monday October 19, 2020 and shared with the Trustees on October 22, 2020.

A total of 20 written testimonies and 4 video testimonies were submitted.
Students, faculty and staff urged CUNY to consider implementing Credit/No Credit for the fall 2020 semester and any semesters during the pandemic. They also expressed concerns about potential budget cuts and staff layoffs, and requested a reduction in tuition.

John Jay College of Criminal Justice reported on the success of the 2 year old Completion for Upper-Division Students Programs (CUSP). Over the last two years, 600 more students than projected earned their Bachelor’s degrees. CUSP has been central to John Jay’s increased 4- and 6-year graduation rates, which have risen 8 percentage points and 4 percentage points respectively in just two years.

CUNY professors testified against cuts to adjunct positions and the underfunding of full time mental health counselors and offices on campuses. Professors also raised concerns regarding lack of COVIID-19 accommodations at Hunter College High School, as well as safety and communications issues regarding COVIID-19 updates on campus. Staff urged the CUNY administration to provide more timely information regarding health and safety issues and procedures on campuses.

Thank you to all who submitted.

Testimonies are available for review in the Office of the Secretary.

The last seven months have been challenging for everyone, and I just want to say thank you to the entire CUNY community for your tireless efforts to keep teaching and learning alive at our colleges.

And, I would be remiss in not reminding everyone to get out and VOTE if you have not already.”

CHANCELLOR’S REPORT

Félix V. Matos Rodríguez’ Remarks:

“Thank you, Chair Thompson, Trustees, Presidents, and Vice Chancellors. It’s great to be back with you today to update you on the hard work that has been done since we last met back in June. Welcome to our student Trustee Juvanie Piquant. I look forward to working with you. I also want to welcome, this is the first board meeting for Interim Vice Chancellor Denise Maybank for Student Affairs and Enrollment Management. So welcome! And, we have six new presidents for whom this will be their first livestream meeting. President Anthony Munroe at BMCC, Christine Mangino at Queensborough Community College, Ken Adams over at LaGuardia Community College, Robin Garrell at The Graduate Center, and the Interim President Daisy Cocco De Filippis at Hostos Community College, Doris Cintrón Guttman Community College. So welcome to all of you!

Back in June, we were in celebration mode for all our graduates, and we were managing virtual celebrations to provide them with a type of unforgettable send off that they deserved. The resilient Class of 2020 was able to maintain their focus and determination amid unprecedented challenges and
distractions to finish the spring semester strong. I am so pleased to announce that this tough group of irrepressible graduates would not be deterred and that CUNY continued a decade-long trend of increasing the number of degrees bestowed—this time with more than 56,000 degrees—the second highest number in CUNY’s history, a remarkable accomplishment in the midst of a pandemic. In the last decade, we have handed out half a million degrees to CUNY students, a testament to the University’s ability to drive social mobility and improve their fortunes.

I couldn’t be prouder of what we have accomplished and how the entire CUNY community has rallied and come together in this time of crisis.

As we have navigated the pandemic, the inspiring nature of our response has been tempered by loss. To honor our talented and cherished faculty, staff, and students, as well as retirees and alumni whose lives were taken too soon, we created an “In Memoriam” page on the CUNY website. We invite you to visit the page and to leave sympathy messages to celebrate and commemorate their lives and contributions and to never forget.

The online memorial was one of the many steps and announcements that was made to help the University move forward and to sustain and uphold its standards of inclusion and scholarship.

In August, we announced a $10 million gift from the Mellon Foundation—the largest gift that foundation has ever given to the City University of New York—funding that provided support for a range of activities: $3 million to re-imagine CUNY’s programs in Black, race, and ethnic studies; $2.5 million for the Chancellor’s Emergency Relief Fund; $2.5 million to bolster the teaching in the humanities; and $2 million to support the expansion of the CUNY Cultural Corps, which provides pathways to careers in the arts to students from under-represented communities.

The reason I mentioned this grant so early in my report is because the initiatives that we are pursuing through this historic gift from the Mellon Foundation provide a framework for many other projects we are actively developing under my administration, and many of these initiatives will come up again later in my report. These ventures form some of the underpinnings of our response to the pandemic—from raising money to help some of the most vulnerable students to continue their studies; to connecting them with life-altering resources; to innovating pedagogy with short- and long-term initiatives to improve student outcomes; to forming partnerships to foster a pipeline to industry, connecting our students to the employers who very much need them; to engaging students by re-conceptualizing key aspects of their course of study; and as a way also for us to respond to the recent calls for additional thinking and action on racial injustice. We couldn’t be more grateful to the Mellon Foundation for this historic gift, and for helping to drive change across our 25 campuses.

Here are some of the other actions we took in preparation for the start of a mostly virtual fall semester that have allowed the University to remain on solid footing and helped its students maintain their momentum and manage the challenges of the pandemic:
• CUNY received $250 million from the federal government through the CARES Act. These funds included $118 million related to Student Emergency Relief, most of which has already been distributed directly to 194,000 students. The remaining $132 million is being disbursed as part of the University’s Fiscal Year 2021 budget and pending the adoption of a budget by this Board—except for $41 million that has been allocated to the colleges to cover eligible expenses such as reimbursement for tuition and fees, IT infrastructure, such as the purchase of laptops or hotspots, and to bolster mental health services for students.

• The Chancellor’s Emergency Relief Fund has grown to $8.3 million and counting, and by the middle of November, we will have given emergency relief grants to almost 10,500 students.

• In addition to the Chancellor’s Emergency Relief Fund, individual colleges and schools have raised more than $8.6 million on their own, enabling them to help nearly an additional 10,000 students on their campuses who were adversely impacted by the pandemic. All told, The City University of New York and its 25 campuses have raised close to $17 million in the past seven months in emergency relief funds that have helped thousands of students weather the economic impact of the pandemic.

• At a time when increasing numbers of students at CUNY and across the country are struggling with the effects of the COVID-19 pandemic, CUNY expanded its mental health services through $5 million in funds allocated to the University through the federal CARES Act. This support will allow CUNY colleges to reach more students with face-to-face online counseling and other remote wellness services as they continue to pursue their degrees at distance from their professors, classmates, and campuses. CUNY’s 18 senior and community college campuses will receive allocations that they can use to expand the clinical staff of their health and wellness centers, and increase their capacity to provide counseling and other services using distance technology.

• We have also continued our efforts to ease student food insecurity, in addition to eradicating a key impediment to student success, it is a moral imperative for CUNY as a core New York institution. Recently, we announced a policy change to open every campus food bank to every CUNY student, regardless of their home campus or where they live. I also applaud Governor Cuomo’s new policy to reduce food insecurity, by making CUNY Career and Technical Education (CTE), students eligible to receive SNAP benefits, more commonly known as food stamps. Thanks to this effort, 42,000 additional CUNY students will be able to access this very effective antidote to food insecurity.

Along with expanding the development opportunity for students, we have also increased our support for faculty, with a new focus on pedagogy to increase student outcomes. Much of the professional development training we have offered faculty in recent months have been centered on the improvement of distance learning, such as the creation of online developmental workshops for more than 2,000 faculty members to improve their online instructional practices. Our CUNY School of Professional Studies has developed these workshops, and received an award for faculty development distinction for developing these trainings. I’m also proud that under the 10th of CUNY Innovative Teaching Academy,
which has been now our hub for the professional development for faculty.

In addition to the $2,000 faculty members that were trained by the School of Professional Studies, we have 720 faculty members who are going to be receiving professional development through our partnership with the Association of College and University Educators (ACUE), and the National Association of Systems Heads (NASH), and we have 300 other faculty from community colleges that will be receiving high-quality professional development in our partnership with Western Governors University. This is a total of 3,020 faculty members who will be receiving additional professional development to drive their outcomes for students.

And, as mentioned, $2 million from that Mellon Foundation grant will go to training humanities faculty. We hope that the Innovative Teaching Academy will become a national model, and we are confident that CUNY will continue to maintain its status as a symbol of excellence in the field of professional development for our faculty.

This comprehensive effort to provide new programs and initiatives for students and faculty was part of our all hands on deck operation to prepare for the start of the fall semester. After months of planning, we welcomed back our CUNY community for the start of the new academic year on August 26th with a renewed sense of energy, enthusiasm and optimism—and with an emphasis on safety. We decided to deliver the vast majority of courses and instruction at CUNY virtually to safeguard our community’s academic and personal well-being, a decision we didn’t take lightly because of the value of in-person learning, but it was a move that we knew we needed to make. Almost 99% of nearly 50,000 course sections for the fall semester have been conducted via distance learning, minimizing exposure of students and faculty and their need to travel to our campuses.

To enable screening, CUNY is using the Everbridge Safety Connection Pro/Contact Tracing mobile app, in accordance with State and City guidelines for the safe return to a campus or office. Everybody coming to our campuses must use this app. Moreover, occupancy limits are being applied and enforced in all campus spaces, including classrooms with a minimum of six feet of distance between seats. Instructors and students are required to wear masks, and enhanced cleaning protocols are in place, with campuses performing cleanings of each classroom multiple times a day.

To make sure students have the technology they need to carry out their academic responsibilities, we created a Student Technology form to help schools identify students that needed devices for the fall semester. With the support from Governor Cuomo, the University purchased more than 33,000 laptops and iPads to loan to students in need. Additionally, the University purchased and distributed approximately 4,000 Wi-Fi hotspot devices to campuses, which in turn provided them to the students.

Campuses submitted individual re-opening and operating plans to my office to ensure planning for a range of scenarios that reflected the engagement with campus stakeholders, administrators, faculty, staff, students, unions, alumni, and community based organizations. These plans are in accordance with CUNY Guidelines for Safe Campus Reopening, which provide best practice recommendations and
baseline requirements for gathering in enclosed spaces, including lecture halls and classrooms, and embody the most recent New York State guidance for the re-opening of Higher Education institutions.

I am happy to report, as I’ve been sharing in my weekly reports to the Board, that the measures we have taken have meant that in two months, we’ve only had 29 positive COVID cases so far in our CUNY community.

While we’re doing this, CUNY continues to garner high praise for its quality and affordability, with multitude of college rankings acknowledgements identifying the University’s ability to elevate students from underrepresented groups. Assessments from Business Insider, the Princeton Review, Money.com Magazine, College Consensus, College Magazine, and a June report from the Brookings Institution further validate CUNY’s ability to deliver a top-notch, affordable education at a time when more and more people are turning to the University to help them get back on their feet. These rankings and evaluation attest to the University commitment to helping low income students ascend the economic ladder to the middle class, and we are proud to have our mission and record of driving social mobility acknowledged and emphasized in these rankings.

CUNY is also very fortunate to have many great allies to collaborate on the efforts to restore the city’s brilliance and on preparing our students for life after college, and contributing to a stronger economy. You are aware of the recently-launched CEO Council—a partnership led by JP Morgan Chase CEO Jamie Dimon—that creating a robust pipeline of good jobs for CUNY students with the top industries in New York.

CUNY is also partnering with the New York State Department of Labor to help equip New Yorkers with the digital skills they need to land in-demand jobs in sectors that include data analytics, cybersecurity, digital marketing and software development as part of an $18 million initiative from Governor Cuomo to train workers and support entrepreneurs during and after the COVID-19 pandemic. CUNY will receive $5 million over four years for this innovative program.

I also want to acknowledge, in the issue of representation and civic duty that the public health crisis has highlighted the bearing of an accurate census count, preparing for future health crisis, and for deriving funding for hospitals and schools. I am sure that you are aware that, despite the long odds, New York City achieved a historic 61.8% self-response rate in the 2020 Census, surpassing most major cities in the United States, and CUNY’s Census Corps played a key role in generating those results. Our students reached over 2.1 million New Yorkers through texts and calls and over 3,000 student-driven events. After starting the mobilization effort in February with mostly in-person communication, the more than 260 Census Corps students shifted to remote platforms in mid-March. I congratulate all of those who participated in that important endeavor.

While we start to prepare the students for in-demand jobs, we also try to make other aspects of their college life easier, such as the transfer experience. At the October meeting, members of the Committee on Academic Policy, Programs and Research, (CAPPR) discussed the Pathways Initiative Six-Year
Review, which determined whether the Pathways general Education Framework was working as intended to support student momentum across the University. The review presented a number of key findings and recommendations, and I’m happy to report my administration has undertaken measures to improve and streamline the transfer experience to make it easier and less disruptive for students.

Among the steps that we have taken, I’ve personally accepted the appointment to The National Task Force on Transfer of Credit, sponsored by The American Council on Education in January and established a University-wide Transfer Steering Committee in February to improve policies and practices. Executive Vice Chancellor and University Provost José Luis Cruz and I are committed to working with the college presidents to implement the recommendations of the Pathways Initiative’s Six Year Review, and I plan on providing a progress review to this Board of Trustees in the spring of 2022 highlighting how campuses have advanced those recommendations and the proposals suggested by the CUNY Transfer Steering Committee to further support our students. I look forward to speaking to you then about the progress that we have made in this issue.

I would close by noting the obvious—we all have had to make sacrifices this year, and we can expect to confront new challenges in the weeks and months to come. What remains evident in the face of these difficulties however is the fortitude and resilience of the CUNY community. I believe we are headed in the right direction, and I believe in CUNY’s ability to withstand the challenges of the moment, to coalesce around a shared vision and to attain greater degrees of success. I want to thank all the presidents, the members of the chancellery, the entire CUNY community, and the Board of Trustees for their support, and even in the darkest of moments, CUNY’s stars continue to shine bright. Thank you so much, and I’m happy to take any questions from the Board members.”

Chairperson Thompson, Jr. stated, “Given that all Board members are participating remotely, I will read the resolutions and ask for members to respond only if you would like to abstain or oppose an item, otherwise your vote will be recorded as a yes vote. If you are voting no or abstaining, please state your name and vote. Additionally, if you wish to second an item or have any questions, please state your name first for the record and let us do that in an orderly way.

For clarity and coordination, I will read all of the items rather than turning to committee chairs.”
**APPROVAL OF MINUTES:** Chairperson Thompson, Jr. called for a motion to approve the minutes of the regular Board meeting of June 29, 2020, and the minutes of the Special Board meetings of July 9, 2020 and July 30, 2020, which was seconded by Trustee Michael Arvanites. He asked if there were any amendments. Upon hearing none, the item was unanimously adopted by the Board:

1. **Approval of Minutes:**

RESOLVED, That the minutes of the regular Board meeting of June 29, 2020, and the minutes of the Special Board Meetings of July 9, 2020 and July 30, 2020 be approved.

2. **COMMITTEE ON FISCAL AFFAIRS:**

Chairperson Thompson, Jr. reported that at the October 5, 2020 meeting of the Committee on Fiscal Affairs, the Committee approved the following resolution, and Trustee Fernando Ferrer recommended its approval by the Board.

Moved by Chairperson Thompson, Jr. and seconded by Trustee Ferrer, the following resolution was presented and opened for discussion:

A. **City University of New York (Central Office) - Authorize a Contract with W.W. Grainger, Inc.:**

   WHEREAS, The University is a member of Educational and Institutional Cooperative Services, Inc. ("E&I"), a purchasing consortium; and

   WHEREAS, Pursuant to Resolutions of the Board of Trustees adopted on October 29, 2018 (Cal. No. 4.E) and March 30, 2020 (Cal. No. 3.D), the University has purchased maintenance, repair and operating supplies ("MRO Supplies") from W.W. Grainger, Inc. under a consortium contract offered through E&I (the "Existing E&I Contract"); and

   WHEREAS, The University has realized material savings through the Existing E&I Contract in comparison to purchases made from a New York State Office of General Services contract with Grainger (the “OGS Contract”); and

   WHEREAS, In Calendar Year 2019, the University saved $300,767 and received $68,389 in rebates; and

   WHEREAS, The E & I Consortium Contract offers growth incentive rebates of 2% and an ecommerce discount of 2% on growth dollars year to year as well as a 2% discount on green product purchases; and
WHEREAS, The E & I Consortium Contract also offers Vendor Managed Inventory Services to help reduce overages and inefficiencies in stockroom management; and

WHEREAS, The Existing E&I Contract with W.W. Grainger is set to expire on December 31, 2020; and

WHEREAS, E&I has put in place a new agreement with W.W. Grainger for MRO Supplies to replace the existing E&I Contract that is similarly available for use by E&I members (the "E&I Consortium Contract"); and

WHEREAS, The University has determined that the new E&I Consortium Contract continues to offer more advantageous pricing, and

WHEREAS, The E & I Consortium Contract contains an MWBE participation goal of 30%; and

WHEREAS, W.W. Grainger has committed to continue partnering with the University on its successful mentor-protégé program that will accelerate the business development of NYS-certified minority- and women-owned firms, consistent with the University's deep commitment to the development and growth of New York State-certified minority, women, and service-disabled veteran-owned businesses; and

WHEREAS, The University, in determining that the E&I Consortium Contract best serves its business interests, has placed a notice in the New York State Contract Reporter to disclose the University's intention to enter into an agreement to make purchases under the E&I Consortium Contract; now therefore be it

RESOLVED, That the Board of Trustees of The City University of New York (the "Board of Trustees") authorize the General Counsel or his designees, and that they hereby are, and each of them hereby is, authorized to execute, seal, and deliver any and all agreements, documents, and other instruments and to take any and all other actions, as such officer so acting may deems necessary, useful, or appropriate for the University and the Colleges to make purchases pursuant to the E&I Consortium Contract (as its terms may be modified or supplemented by the Office of the General Counsel) through December 31, 2024, with the option to renew for an additional five-year term for an annual estimated spend of $5 million (exclusive of expenditures made by the University in connection with the COVID-19 public health emergency and which expenditures may be reimbursed to the University pursuant to the federal CARES's ACT regulations) and that such execution by such duly authorized officer of the University shall be conclusive evidence of his or her authority to perform all such acts and to execute and deliver all such agreements, documents, and instruments on behalf of the University; and be it further
RESOLVED, That any material changes to the terms and conditions of the agreements, documents, and other instruments hereby approved by the Board of Trustees shall be submitted to the University Board of Trustees for its consideration and approval.

EXPLANATION: Colleges need to purchase on an ongoing and as needed basis, maintenance, repair and operating supplies for their day-to-day operations. By utilizing the E&I Consortium Contract, the University anticipates a savings of 8%-10% over the current OGS Contract with Grainger. It is estimated that savings would amount to between $280,000 and $400,000 per year. In addition to the savings, the E&I Consortium Contract offers growth incentive rebates of 2% and an ecommerce discount of 2% on growth dollars year to year, as well as a 2% discount on green product purchases. The E&I Consortium Contract also offers the end users an opportunity to take advantage of Vendor Managed Inventory (VMI) Services, which will reduce overages and inefficiencies in stockroom management. The E&I Consortium Contract also offers the opportunity for individual campuses to develop "hot lists" that can be customized to individual campus-specific needs resulting in deeper discounts on high-volume purchases. This strategically sourced contract contains an MWBE participation goal of 30%. Additionally, Grainger has committed to continue partnering with the University on its successful mentor-protégé program that will accelerate the business development of the NYS-certified minority- and women-owned firms. The University and Grainger will actively monitor the progress and development of this initiative.

The benefit of a multi-year agreement is the ability to lock in pricing based on established discounts off the list price. The University will also be able to renegotiate these discounts during the term of the contract based on quantities. The multi-year aspect of the contract also enables the University to generate rebates based on prior year spending. The agreement includes the right to terminate the contract for convenience at any point during the term of the contract.

Chairperson Thompson, Jr. asked for a vote. Cal. No. 2.A. was adopted.
3. **COMMITTEE ON ACADEMIC POLICY, PROGRAMS, AND RESEARCH:**
Chairperson Thompson, Jr. reported that at the October 5, 2020 meeting of the Committee on Academic Policy, Programs, and Research, the Committee approved the following resolution, and Trustee Jill O’Donnell-Tormey recommended its approval by the Board.

Moved by Chairperson Thompson, Jr. and seconded by Trustee O’Donnell-Tormey, the following resolution was presented and opened for discussion:

**A. CUNY Office of Academic Affairs – Approval of the Actions in the CAPPR Dashboard:**

WHEREAS, The Board of Trustees of the City University of New York (the “University”) who serve on the Committee of Academic Policy, Programs, and Research approve a range of academic actions presented by the Office of Academic Affairs before these actions go to the full Board of Trustees; and

WHEREAS, Proposed academic actions are submitted to the CAPPR committee for approval either through individual resolutions or in summary form; and

WHEREAS, Individual resolutions are submitted to the CAPPR committee in the case of new academic degree programs, university-wide academic or research policy, transfer of degree-granting authority, the establishment or closing of departments, and the establishment of university-wide institutes; and

WHEREAS, A summary report is submitted to the CAPPR committee in the case of changes to existing academic degree programs that require New York State Education Department approval, the creation of new certificate programs and new degree programs from existing programs, the establishment of campus-based policy, and the inclusion of approved courses in general education; and

WHEREAS, Members of the CAPPR committee have requested that the summary report be presented in a dynamic, interactive dashboard that helps to visualize academic activity from the previous month and over time; and

WHEREAS, The Office of Academic Affairs introduced its CAPPR Dashboard during the CAPPR meeting on October 7, 2019 and will continue to provide updated dashboards at every committee meeting; now therefore be it

RESOLVED, That the actions in the CAPPR Dashboard be approved effective October 27, 2020.

EXPLANATION: Routine academic matters, local academic policies, and course inclusions in the University’s general education program are presented to the Committee of Academic Policy, Programs, and Research in summary form. The new CAPPR Dashboard makes it possible for Trustees to interact with this summary data. Using the new dashboard format, Trustees are able to manipulate and explore graphic representations and charts of the academic activity from the previous month and over time using various tools and filters.

Chairperson Thompson, Jr. asked for a vote. Cal. No. 3.A. was unanimously adopted.

4. COMMITTEE ON FACULTY, STAFF AND ADMINISTRATION:
Chairperson Thompson, Jr. reported that at the October 5, 2020 meeting of the Committee on Faculty, Staff and Administration, the Committee approved the following resolutions, and Trustee Cortés-Vázquez recommended their approval by the Board.

Moved by Chairperson Thompson, Jr. and seconded by Trustee Charles Shorter, the following resolution was presented and opened for discussion:

A. City University of New York - Approve the Committee on Faculty, Staff and Administration (CFSA) Report:

WHEREAS, The colleges and University central office appoint faculty, executives, and staff to ensure academic and administrative operations continue seamlessly and new initiatives are implemented effectively; and

WHEREAS, Faculty are evaluated and reappointed on a systematic basis, sometimes resulting in the awarding of tenure, in order to retain superior faculty; and

WHEREAS, Faculty are granted fellowship leave in order to conduct research, improve their teaching, or conduct creative work, thereby improving the students’ experience and university’s success; and

WHEREAS, Other personnel actions, including executive level appointments, appointments of named chair, appointments waiving bylaws requirements, and appointments with 211 waivers and 212 notices, are considered as appropriate to
RESOLVED, That the CFSA Report prepared by the Office of Human Resources Management and presented, be approved effective October 26, 2020.

**NOTE:** The CFSA Report for the October 2020 Board meeting is on file in the Office of the Secretary of the Board and at https://www.cuny.edu/wp-content/uploads/sites/4/page-assets/about/trustees/meetings-of-the-board/Committee-on-Faculty-Staff-and-Administration-Report-October-2020.pdf

Chairperson Thompson, Jr. asked for a vote. Cal. No. 4.A. was unanimously adopted.

Moved by Chairperson Thompson, Jr. and seconded by Trustee Mayra Linares-Garcia, the following resolution was presented and opened for discussion:

**B. City University of New York - Extension of the Period of the Chancellor’s Emergency Relief Fund to June 30, 2021:**

WHEREAS, The Board of Trustees of The City University of New York (the “University”) established the Chancellor’s Emergency Relief Fund by resolution on March 30, 2020, to provide financial assistance and support to University students in the greatest need across the University’s 25 campuses during the economic crisis triggered by the COVID-19 pandemic; and

WHEREAS, The Board of Trustees voted on June 23, 2020, to extended the period of the Chancellor’s Emergency Fund to October 31, 2020; and

WHEREAS, A large portion of the University’s student population is economically vulnerable in the best of times and is even more vulnerable during the ongoing public health crisis; and

WHEREAS, The Chancellor’s Emergency Relief Fund has raised more than $8.3 million, distributed $3.9 Million to more than 7,700 students in need, and will distribute another $2 Million to 4,000 additional students by the end of October 2020 with the remainder of the funds to be distributed throughout the remainder of the 2020-2021 Academic Year; and

WHEREAS, The recipients include students who (i) have a family income profile of high need (zero family contribution on their financial aid packages); (ii) are within 12 credits of completing their degree; (iii) are student parents; (iv) are undocumented students; (v) are students in foster care; (vi) had owed fees and debts to the University that prevented
WHEREAS, The University anticipates there will be continuing need for additional student financial assistance and support in the 2020-2021 Academic Year due to the ongoing COVID-19 economic crisis; and

WHEREAS, The Chancellor is authorized to (i) solicit pledges for the Chancellor’s Emergency Fund of up to $15 Million and (ii) accept individual donations up to and including $1,000,000 for the Chancellor’s Emergency Fund, on or before October 31, 2020; and

WHEREAS, There continues to be keen public and private interest in donating and pledging to the Chancellor’s Emergency Relief Fund; now therefore be it

RESOLVED, That the Board of Trustees hereby approves the extension of the period of the Chancellor’s Emergency Relief Fund from October 31, 2020 to June 30, 2021; and

be it further

RESOLVED, That, in accordance with Board of Trustees Policy 3.05 - Trust and Gift Funds, Acceptance and Administration, the Chancellor shall continue to maintain a separate bank account designated for this specific purpose; and be it further

RESOLVED, That the Chancellor be, and hereby is authorized to solicit pledges of up to $15 Million, on or before June 30, 2021 and it being understood that any funds pledged by a donor should be reported monthly to the Board of Trustees; and be it further

RESOLVED, That the Chancellor be, and is hereby authorized to accept individual donations up to and including $1,000,000 prior to June 30, 2021, and be it understood that this authorization shall continue to supersede Board of Trustees Policy 3.05 - Trust and Gift Funds, Acceptance and Administration up and until, June 30, 2021, and such donations shall be subject to a post audit and shall be reported to the Board of Trustees on a weekly basis; and be it further

RESOLVED, That any donation of more than $1,000,000 shall require the approval of the Board of Trustees or its Executive Committee in accordance with Policy 3.05 - Trust and Gift Funds, Acceptance and Administration, including all audit and reporting requirements; and be it further

RESOLVED, That in addition to the report required November 15, 2020, the Chancellor shall provide to the Board of Trustees by July 15, 2021 a report of all expenditures made through June 30, 2021.
EXPLANATION: Given the unprecedented and enduring public health and economic crisis posed by the COVID-19 pandemic and the severe impact it has had on our community, the University recommends the continuation of the Chancellor’s Emergency Relief Fund as a means to mitigate the financial impact on our students. There is still interest from potential funders and our students’ needs will no doubt continue through June 2021.

University Student Senate (USS) Chair and Trustee Juvanie Piquant stated, “I think that the extension of the Chancellor’s Emergency Relief Fund is extremely important and that there are many concerns that the students have—some of them are experiencing during the pandemic—despite that we are months into this. It’s important as an University that we look into ways to do comprehensive analysis, understanding the issues that students are facing beyond financial implications, such as mental health services or other services and support students need. Being this is a pandemic, many things are affecting them, and I think as an University, how do we look at that and look into, beyond the issues that are just the general ones that we can hear the student concerns and move forward to try and tackle those issues.”

Chairperson Thompson, Jr. asked for a vote. Cal. No. 4.B. was unanimously adopted.

Moved by Chairperson Thompson, Jr. and seconded by Trustee Shorter, the following resolution was presented and opened for discussion:

C. Queensborough Community College - Naming of The Dr. Joseph Bertorelli Mathematics and Computer Science Classroom:

WHEREAS, Dr. Joseph Bertorelli was a distinguished professor in the field of mathematics education, who joined Queensborough Community College in 1976 and spent four decades at the College, serving two terms as Chairperson of the Mathematics and Computer Science department, as well as the liaison to CUNY Computer Science Discipline Council; and

WHEREAS, During his tenure, Dr. Bertorelli established several facilities at Queensborough, including the Mathematics and Computer Learning Centers and the Computer Classroom, that were aimed at offering peer-learning opportunities, expanding computer science curriculum, and incorporating computer science into the study of mathematics; and

WHEREAS, In 1998, Dr. Bertorelli was awarded a National Science Foundation grant and as part of the grant project developed two software packages to aid the teaching of remedial mathematics to students with learning disabilities; and

WHEREAS, To many of Queensborough’s students, Dr. Bertorelli was the ideal
mathematics and computer science teacher, who enriched thousands of lives with his patience, his willingness to help beyond the classroom, and his ability to give real-life applications to abstract math concepts; and

WHEREAS, Dr. Bertorelli spent his long and distinguished career as a steward of quality mathematics education, a trusted mentor, and a Queensborough stalwart, his love for math and his students serving as an inspiration to other faculty; and

WHEREAS, On April 2, 2020, Dr. Bertorelli passed away from complications due to COVID-19 and since his passing $26,390 has been donated to the QCC Fund, Inc. in his memory by 97 faculty, staff and friends of the College; and

WHEREAS, Queensborough wishes to honor Dr. Bertorelli’s service to the College and dedication to mathematics education through the naming of a classroom; now therefore be it

RESOLVED, That the Board of Trustees of The City University of New York approves the naming of The Dr. Joseph Bertorelli Mathematics and Computer Science Classroom, at Queensborough Community College.

EXPLANATION: In recognition of Dr. Joseph Bertorelli’s distinguished service to the College and his contributions in the field of mathematics education, Queensborough Community College enthusiastically supports the naming of Room S-213 on the 2nd floor of the Science Building at Queensborough Community College, The Dr. Joseph Bertorelli Mathematics and Computer Science Classroom.

Chairperson Thompson, Jr. asked for a vote. Cal. No. 4.C. was unanimously adopted.

Moved by Chairperson Thompson, Jr. and seconded by Trustee Obergfell, the following resolution was presented and opened for discussion:

D. The City College of New York - Naming of the Richard J. Henley and Susan L. Davis, RN, Ed.D. Deanship at the Colin Powell School for Civic and Global Leadership:

WHEREAS, Richard J. Henley came the United States as a toddler with his family, fleeing persecution in his native Poland, and received his primary education in New York City public schools; and

WHEREAS, Mr. Henley went on to simultaneously earn a Master of Arts and a Bachelor of Arts, Summa Cum Laude, from City College in 1978 and was inducted into Phi Beta Kappa; and
WHEREAS, Using the guidance of the City College’s placement office, Mr. Henley set himself on a successful career in healthcare management and currently serves as President and CEO at Healthcare Strategic Solutions, LLC, an advisory firm focused on optimizing enterprise value for health systems, private equity firms, portfolio companies, and other business entities; and

WHEREAS, Mr. Henley and his wife Susan L. Davis, R.N., Ed.D., an experienced healthcare executive and a managing partner at Healthcare Strategic Solutions, LLC, firmly believe in “paying it forward” and have demonstrated their commitment to philanthropy by contributing to causes and institutions that reflect their values; and

WHEREAS, The Richard J. Henley and Susan L. Davis Charitable Fund has committed $2,500,000 to The Foundation for City College to establish the first deanship at the Colin Powell School for Civic and Global Leadership; and

WHEREAS, The Richard J. Henley and Susan L. Davis Charitable Fund will satisfy this pledge over the course of the next seven years on or before December 31, 2027; now therefore be it

RESOLVED, That the Board of Trustees of The City University of New York approves the naming of the Richard J. Henley and Susan L. Davis, RN, Ed.D Deanship at the Colin Powell School for Civic and Global Leadership at The City College of New York.

EXPLANATION: To celebrate and honor Mr. Henley and Dr. Davis’s generous support of the Colin Powell School for Civic and Global Leadership, The City College of New York enthusiastically recommends the naming of the Richard J. Henley and Susan L. Davis, RN, Ed.D. Deanship.

Chairperson Thompson, Jr. asked for a vote. Cal. No. 4.D. was unanimously adopted.
5. COMMITTEE ON FACILITIES PLANNING AND MANAGEMENT:
Chairperson Thompson, Jr. reported that at the October 5, 2020 meeting of the Committee on Facilities Planning and Management, the Committee approved the following resolution, and Trustee Obergfell recommended its approval by the Board.

Moved by Chairperson Thompson, Jr. and seconded by Trustee Arvanites, the following resolution was presented and opened for discussion:

A. City University of New York - Authorization of a Lease Amendment at 875 Avenue of the Americas:

WHEREAS, In an effort to reduce the University’s operating expenses, the University is reviewing its real estate portfolio to find operational efficiencies; and

WHEREAS, The City University of New York (the "University") currently leases, the entire 6th and 7th floors and a portion of the 9th floor, totaling approximately 28,756 rentable square feet (the "Existing Demised Premises"), in the building located at 875 Avenue of the Americas, New York, New York, pursuant to a Board resolution approved on May 21, 2001 and an October 23, 2001 Agreement of Lease between Old 875 LLC and New 875 LLC, as tenants-in-common, as landlord (the "Landlord"), and the University, as tenant, which agreement of lease was previously modified pursuant to a Board Resolution approved on November 23, 2009 and by an Amendment to Lease dated as of March 1, 2010, and another Board Resolution approved on November 22, 2010 and by a Second Amendment to Lease dated as of February 28, 2011 (said agreement of lease, as so modified, is hereinafter referred to as the “Lease”); and

WHEREAS, The term of the Lease with respect to the Existing Demised Premises is currently set to expire on January 31, 2021; and

WHEREAS, The University has determined that the 9th floor space of the Existing Demised Premises can be surrendered on January 31, 2021, in accordance with the existing Lease for a total savings of $4.5 million; and

WHEREAS, Programs and staff of CUNY Citizenship Now! currently operating in such space can be relocated to another location; and

WHEREAS, The University, as tenant, desires to enter into an amendment of the Lease with Landlord to reduce the square footage and extend the term of the Lease by an additional term of five (5) years commencing on February 1, 2021 and expiring on January 31, 2026, solely with respect to a portion of the Existing Demised Premises consisting of the entire 6th floor and the entire 7th floor only, which collectively consists of 23,208 rentable square feet (the entire 6th floor and the entire 7th floor being...
hereinafter collectively referred to as the “Renewal Premises”); and

WHEREAS, The University is currently paying an annual base rent for the Existing Demised Premises of $1,276,191.28 per annum ($44.38/SF), which is subject to annual escalations of 2.5% in lieu of operating expenses; and

WHEREAS, The University is currently paying an annual base rent for the Existing Demised Premises of $1,276,191.28 per annum ($44.38/SF), which is subject to annual escalations of 2.5% in lieu of operating expenses; and

WHEREAS, The University also pays the tenant’s proportionate share of real estate tax escalations based on a 2010/2011 tax year and is responsible for the cost of utilities, including paying for electric through an electric rate inclusion factor; and

WHEREAS, The University is responsible for paying maintenance and repair of building systems serving the Existing Demised Premises and other interior repairs and cleaning, while the Landlord is responsible for the cost of structural building repairs and maintenance; and

WHEREAS, The terms of the renewal lease are on substantially the same business terms and conditions as are contained in the Lease, except as follows:

(i) the annual base rent for the Renewal Premises shall be at the rate of $36.00/RSF for years 1 to 3, and $39.50/RSF for years 4 and 5, with the first five months of rent accruing during the renewal being abated; and

(ii) the base year for real estate tax escalations shall be adjusted to reflect a 2021/2022 tax year; and

(iii) electric shall be provided to the Renewal Premises on a submetered basis at cost plus 5%, with Landlord installing submeters to measure electric; now therefore be it

RESOLVED, That the Board of Trustees of The City University of New York authorize the General Counsel or his designee, and that they hereby are, and each of them hereby is, authorized to sign and deliver an amendment of the Lease to extend the term of the Lease with the Landlord in respect of the Renewal Premises only for a period of five (5) years commencing on February 1, 2021 and expiring on January 31, 2026, upon substantially the same business terms and conditions as are contained in the Lease, except with:

(i) an annual base rent for the Renewal Premises at the rate of $36.00/RSF for years 1 to 3, and $39.50/RSF for years 4 through January 31, 2026, with the first five months of rent accruing during the renewal being abated; and

(ii) the base year for real estate tax escalations being adjusted to reflect the 2021/2022 tax year; and

(iii) electric being provided to the Renewal Premises on a submetered basis at cost plus 5%, with Landlord installing submeters to measure electric;
together with any and all agreements, documents, and other instruments related thereto, and to take any and all such other actions, as such officer so acting may deem necessary or appropriate, and that such signature by such duly authorized officer of the University shall be conclusive evidence of his or her authority to perform all such acts and to sign and deliver all such documents and instruments on behalf of the University; and be it further

RESOLVED, That any subsequent material changes to the terms and conditions of the aforesaid contract shall be submitted to the University Board of Trustees for its consideration and approval.

EXPLANATION: In accordance with the University’s review of its leased facilities and its goal to reduce operating costs to the University, the University will only be renewing this lease for a portion of the current space (the 6th and 7th floors only) and relocating the programs and staff on the 9th floor to other University facilities. Such space consolidation will yield approximately $4.5 million of operating savings to the University.

Chairperson Thompson, Jr. asked for a vote. Cal. No. 5.A. was unanimously adopted.

Moved by Chairperson Thompson, Jr. and seconded by Trustee Una Clarke, the following resolution was presented and opened for discussion:

6.  City University of New York - Amendment of Article XV of the University Bylaws to Reflect Changes in the New Federal Title IX Regulations Prohibiting Sex Discrimination in Education Programs:

WHEREAS, On May 19, 2020, the U.S. Department of Education promulgated new regulations (“Regulations”) under Title IX of the Education Amendments of 1972, 20 U.S.C. Chapter 38 (“Title IX”), the statute that prohibits sex discrimination in education programs, with an effective date of August 14, 2020; and

WHEREAS, The Regulations require educational institutions to adopt very specific investigation and adjudication procedures in cases involving Title IX Sexual Harassment that were not previously required by law; and

WHEREAS, In order to comply with the Regulations, The City University of New York (the “University”) was required to make substantial revisions to its Policy on Sexual Misconduct; and

WHEREAS, In August 12, 2020, the Board of Trustees adopted an amended Policy on Sexual Misconduct (the “Revised Policy on Sexual Misconduct”) to reflect the new federal
requirements, effective August 14, 2020, which replaced the existing policy set forth in Policy 7.142 of the University’s Manual of General Policy; and

WHEREAS, In order to comply with the Regulations and applicable New York State laws in the manner set forth in the Revised Policy on Sexual Misconduct, the provisions in Article XV of the University Bylaws must be amended to provide that the procedures for addressing all allegations made under the University’s Policy on Sexual Misconduct then in effect, including procedures for student discipline and appeals, shall be those in the Policy on Sexual Misconduct, which will supersede existing language contained in Article XV of the Bylaws; now therefore be it

RESOLVED, That Article XV of the University Bylaws be amended and it hereby is amended, as set forth in the attached document presented to this Board of Trustees, effective immediately; and be it further

RESOLVED, That with respect to the foregoing amendment, pursuant to Section 5.1 of the University Bylaws, by unanimous consent of the members of the Board of Trustees so acting and present at a meeting of the Board of Trustees, the Board of Trustees hereby waives the requirement that such amendment to the University Bylaws be proposed at a meeting of the Board of Trustees preceding the meeting at which this Resolution is taken.

EXPLANATION: The University’s Policy on Sexual Misconduct was revised effective August 14, 2020 to comply with recent amendments to the federal Title IX Regulations. To best comply with the new Regulations as well as New York State law, it is necessary to amend the language contained in Article XV of the University Bylaws to provide that the process for addressing all allegations made under the University’s Policy on Sexual Misconduct then in effect, including procedures for student discipline and appeals, shall be those in the Policy on Sexual Misconduct, which will supersede existing language contained in Article XV of the Bylaws. These amendments to Article XV of the University Bylaws are also necessary to ensure that the process for addressing sexual misconduct allegations made against students under the University’s Revised Policy on Sexual Misconduct are addressed appropriately and in accordance with the new Regulations.

NOTE: New material is underlined.

ARTICLE XV STUDENTS

SECTION 15.0. PREAMBLE.

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

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

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

SECTION 15.1. CONDUCT STANDARD DEFINED.

Each student enrolled or in attendance in any college, school or unit under the control of the board and every student organization, association, publication, club or chapter shall obey (1) the laws of the city, state and nation; (2) the bylaws and resolutions of the board, including the rules and regulations for the maintenance of public order pursuant to article 129-a of the education law ("Henderson rules"); and (3) the governance plan, policies, regulations, and orders of the college. Such laws, bylaws, resolutions, policies, rules, regulations and orders shall, of course, be limited by the right of students to the freedoms of speech, press, assembly and petition as construed by the courts.

SECTION 15.2. STUDENT ORGANIZATIONS.

a. Any group of students may form a team (excluding intercollegiate athletics), student media/publications, 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 and requires viewpoint neutrality in the recognition of student teams, student media/publications, organizations, associations, clubs or chapters.

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. i. The power to charter or otherwise authorize teams (excluding intercollegiate athletics), student media/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. All such decisions must be based upon viewpoint neutral criteria as detailed in the Fiscal Accountability Handbook and must be based upon the written submissions of the student team, publication, organization, association, club or chapter, which will describe its intent to conduct activities for the benefit of students. ii. All decisions declining a charter or authorization must be in writing and are appealable to the college or school’s chief student affairs officer or designee, who shall render a final written decision on the appeal. iii. Appeals must be based upon one or both of the following two grounds: the denial was arbitrary and capricious or discriminated against the applicant based upon viewpoint.

2. The power to delegate responsibility for the effective implementation of its regulatory functions hereunder to any officer or committee which it may appoint.

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

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

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

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

SECTION 15.3. THE UNIVERSITY STUDENT SENATE.

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

SECTION 15.4. STUDENT DISCIPLINARY PROCEDURES.

Complaint Procedures:

a. A University student, employee, organization, department or visitor who believes she or he is the victim of a student’s misconduct (hereinafter “complainant”) may make a charge, accusation, or allegation against a student (hereinafter “respondent”) which if proved, may subject the respondent to disciplinary action. Such charge, accusation, or allegation must be communicated to the chief student affairs officer of the college the respondent attends.

b. The chief student affairs officer of the college or her or his designee shall conduct a preliminary investigation in order to determine whether disciplinary charges should be preferred. The chief student affairs officer or her or his designee shall advise the respondent of the allegation against her or him, explain to the respondent and the complainant their rights, consult with other parties who may be involved or who have information regarding the incident, and review other relevant evidence. The preliminary investigation shall be concluded within thirty (30) calendar days of the filing of the complaint, unless: (i) said complaint involves two or more complainants or respondents; or (ii) said complaint involves a matter that is also under investigation by law enforcement authorities. In those cases, the preliminary investigation shall be completed within sixty (60) calendar days. Further, if the matter has been previously investigated pursuant to the CUNY Policy on Sexual 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. 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. Refer the matter to mediation (except in cases involving allegations of sexual assault, stalking or other forms of sexual violence); or
3. Prefer formal disciplinary charges.

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. 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:

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

1. An effort shall be made to resolve the matter by mutual agreement 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. If an agreement is reached, the faculty or staff member conducting the conference shall report
her/his recommendation to the chief student affairs officer for approval and, if approved, the
complainant and the respondent shall be notified, and a written memorandum shall be created
memorializing the resolution and any consequences for non-compliance.

3. If no agreement is reached within a reasonable time, or if the respondent fails to appear, the
faculty or staff member conducting the conference shall refer the matter back to the chief student
affairs officer who may prefer disciplinary charges, or, if charges have been preferred, proceed to
a disciplinary hearing.

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 Charges and Hearing:

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 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. The chief student affairs officer is also encouraged to send
the notice of charges to any other e-mail address that he or she may have for the respondent and
the complainant. The hearing shall be scheduled within a reasonable time following the filing of
the charges or the mediation conference. Notice of at least seven (7) calendar days shall be
given to the respondent in advance of the hearing unless the respondent consents to an earlier
hearing. The respondent is permitted one (1) adjournment as of right. Additional requests for an
adjournment must be made at least five (5) calendar days prior to the hearing date, and shall be
granted or denied at the discretion of the chairperson of the faculty-student disciplinary
committee. If the respondent fails to respond to the notice, appear on the adjourned date, or
request an extension, the college may proceed in absentia, and any decision and sanction shall
be binding.

f. The notice shall contain the following:

1. A complete and itemized statement of the charge(s) being brought against the respondent
including the rule, bylaw or regulation she/he is charged with violating, and the possible penalties
for such violation.
2. A statement that the respondent and the complainant have the right to attend and participate
fully in the hearing including the right:
(i) to present their side of the story;
(ii) to present witnesses and evidence on their behalf;
(iii) to cross-examine witnesses presenting evidence;
(iv) to remain silent without assumption of guilt; and
(v) to be assisted or represented by an advisor or legal counsel at their expense; if the respondent or the complainant requests it, the college shall assist in finding a legal counsel or advisor.

3. A warning that anything the respondent says may be used against her/him at a non-college hearing.

Pre-Hearing Document Inspection:

gh. 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 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:

hi. 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 subparagraphs q(19) and (20) 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:

jj. 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:

jk. 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.

kl. 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.

lm. 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) HEOs 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) HEOs. 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.

me. 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.
Each academic year, the chief student affairs officer, or 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.

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:

The following procedures shall apply to faculty-student disciplinary proceedings:

Hearing:

1. The chairperson shall preside at the hearing. The chairperson shall inform the respondent of the charges, the hearing procedures and her or his rights.

2. All faculty student disciplinary committee hearings are closed hearings unless the respondent requests an open public hearing. 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. In the event of an open hearing, the respondent must sign a written waiver acknowledging that those present will hear the evidence introduced at the hearing.

3. After informing the respondent of the charges, the hearing procedures, and her or his rights, the chairperson shall ask the respondent to respond. If the respondent admits the conduct charged, the respondent shall be given an opportunity to explain her/his actions before the committee and the college shall be given an opportunity to respond and present evidence regarding the appropriate penalty. If the respondent denies the conduct charged, the college shall present its case. At the conclusion of the college’s case, the respondent may move to dismiss the charges. If the motion is denied by the committee, the respondent shall be given an opportunity to present her or his defense.

4. Prior to accepting testimony at the hearing, the chairperson shall rule on any motions questioning the impartiality of any committee member or the adequacy of the notice of the charge(s). Subsequent thereto, the chairperson may rule on the admissibility of the evidence and may exclude irrelevant, unreliable or unduly repetitive evidence. In addition, if 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. The college shall make a record of each fact-finding hearing by some means such as a stenographic transcript, an audio recording or the equivalent. The college must assign a staff member for each hearing, with the sole responsibility of ensuring that the hearing is recorded in its entirety. No other recording of the proceedings may be permitted. A respondent who has been found to have committed the conduct charged after a hearing is entitled upon request to a copy of
such a record without cost upon the condition that it is not to be disseminated except to the respondent's representative or attorney. In the event of an appeal, both the respondent and the complainant are entitled upon request to a copy of such a record without cost, upon the condition that it is not to be disseminated except to their representatives or attorneys.

6. The college bears the burden of proving the charge(s) by a preponderance of the evidence.

7. The role of the faculty-student disciplinary committee is to listen to the testimony, ask questions of the witnesses, review the testimony and evidence presented at the hearing and the papers filed by the parties and render a determination. In the event the respondent is found to have committed the conduct charged, the committee shall then determine the penalty to be imposed.

8. The college, the respondent and the complainant are permitted to have lawyers or other representatives 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. The chairperson of the faculty-student disciplinary committee retains discretion to limit the number of witnesses and the time of testimony for the presentations by any party and/or their representative.

10. In the event that the respondent is charged with a sexual assault, stalking or other forms of sexual misconduct, 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, 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:

102. If the respondent 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
Decision:

113. 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.

124. 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.

135. 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.

Appeals:

146. 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 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.

157. 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.

168. 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:

179. 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, under subparagraph e(2) herein, the determination of the chief student affairs officer or designee under subparagraph I herein, the committee’s decision under subparagraph q(13) herein, or the decision on any appeal under subparagraphs q(16)-(18) herein expressly indicate otherwise.

1820. 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.

q. In cases where allegations are made that a student has violated CUNY’s Policy on Sexual Misconduct, the procedures for addressing those allegations, including the procedures for student discipline, shall be those set forth in the Policy on Sexual Misconduct and not this bylaw 15.4.

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.

Chairperson Thompson, Jr. asked for a vote. Cal. No. 6 was unanimously adopted.
Moved by Chairperson Thompson, Jr. and seconded by Trustee Ferrer, the following resolution was presented and opened for discussion:

7. **City University of New York - Approval to Continue the Offering of Online Instruction for the Delivery of Courses in Degree and Non-Degree Programs and the Offering of Remote Support Services for the Spring 2021 Semester:**

WHEREAS, The City University of New York (the “University”), announced on March 11 that effective on March 19, 2020, in response to the threat presented by the spread of the coronavirus, also known as COVID-19, and in an effort to reduce the density of faculty, staff, and students on the University campuses, that all academic courses would be moved online or alternatively to a distance learning modality; and

WHEREAS, On July 9, the Board of Trustees endorsed the University’s preparation for the offering of its academic courses and support services as is reasonably practical, in an online modality and remote format for the Fall Semester 2020—with exceptions being made for courses that cannot be effectively delivered at a distance, such as those which are highly experiential, or services that involve some form of tangible exchange, such as food pantries, provided they meet New York State and University guidelines for on-site instruction or delivery; and that the Chancellor shall take such actions as are reasonable and necessary to give effect to the foregoing; and

WHEREAS, The University’s conversion of Spring, Summer and Fall 2020 courses to online and distance learning was enabled by the flexibility provided by the guidance from the US Education Department (USED), the New York State Education Department (NYSED), the Middle States Commission on Higher Education (MSCHE) and the Student and Exchange Visitor Program (SEVP) regarding the conversion of the teaching modality for courses/programs already in progress; and

WHEREAS, The Board of Trustees, subject to the prevailing conditions and circumstances of the COVID-19 pandemic emergency and approval of NYSED to extend such offerings of online courses in academic programs at that time, also conditionally extended the University’s ability to prepare for the continuation of the online and distance learning modality and remote services for the majority of the University’s academic courses to the Spring Semester 2021, as reasonably necessary; and

WHEREAS, The University’s faculty, staff, and students successfully implemented an online and distance learning conversion process for the majority of its academic courses and support services for the majority of its academic courses and support services for the remainder of its Spring 2020 Semester and its Summer and Fall Terms and developed alternatives for safeguarding the completion of courses not easily converted to said modalities; and
WHEREAS, The University has successfully provided more than 1,700 CUNY faculty further opportunities to effectively teach online and at a distance through award-winning programs, like the CUNY School of Professional Studies (SPS) Online Teaching Essentials Workshops; and

WHEREAS, The newly trained faculty are teaching more than 47,000 students across approximately 2,200 courses; and

WHEREAS, The University’s Central Office and individual campuses further strengthened and continue to enhance online teaching across the University; and

WHEREAS, The University has launched efforts to maintain academic quality by releasing its Expectations for Assessment, a document that provides specific guidance on how to successfully assess distance learning; and

WHEREAS, The University has also offered a Blackboard-based course, Are You Ready?, designed to help students prepare for online learning, which has been completed by almost 7,000 students across 19 campuses; and

WHEREAS, The long-term ability of students to access an education online has been strengthened by University efforts to obtain and distribute more than 30,000 computer devices and 4,000 “WiFi hotspot” devices to campuses, which distributed such devices to the students deemed to have the greatest need for access; and

WHEREAS, The University organized two professional development series for advisors, Successful Strategies for Remote Advising, and the Advisement Discussion Series, which have been completed by over 900 staff from various parts of the University; and

WHEREAS, Pending the introduction of effective long-term health solutions, the COVID-19 pandemic public health emergency continues to be a concern in the State of New York, the City of New York, and elsewhere throughout the United States, and in fact is showing recent signs of worsening, imperiling our students, faculty and staff; and

WHEREAS, The University’s highest priority in planning for the Spring 2021 semester is to protect the health and safety of students, faculty, and staff while creating the conditions for our students to make progress in their academic programs, and for our faculty to advance their creative and scholarly activities, and our staff to meet our myriad programmatic goals; and

WHEREAS, The New York State Education Department (NYSED) has extended into Spring 2021 the regulatory waivers that have allowed the University to operate in a mostly virtual modality since March 2020; and
WHEREAS, The preference of the University continues to be to offer in-person instruction and services to students for the Spring 2021 semester where practicable and prudent and, should conditions allow an increase in the density of activity on campuses as the semester progresses, each individual campus has a preapproved staged reopening plan that could be invoked; now therefore be it

RESOLVED, That the Board of Trustees approves the University’s decision to extend and continue the offering of online and distance learning instructional modality for the delivery of courses in degree and non-degree programs and the offering of remote support services for the Spring Semester 2021 — with exceptions only being made for courses that cannot be effectively delivered at a distance, such as those courses which are highly experiential, or services that involve some form of tangible exchange, such as food pantries, provided they meet New York State and University guidelines for on-site instruction or delivery; and that the Chancellor shall take such actions as are reasonable and necessary to give effect to the foregoing.

EXPLANATION: The University, through this resolution, recognizes that by (i) reducing the density of individuals on the University campuses (ii) offering classes and support services in a primarily online and remote format and (iii) continuing to build a robust slate of programs that enhance the ability of faculty, staff, and students to teach, support, and learn online and remotely, the University can better ensure the continued health, safety and welfare of its students faculty and staff and further ensure a continuity of educational curricula and better outcomes for our students, and preserve the availability of its physical spaces for those academic programs and support services that require them. Thus, positioning the University to continue serving as an engine of social mobility while securing safety, ensuring equity, and maintaining academic quality and momentum for all members of our campus communities who disproportionately represent those who have been most affected by the health disparities laid bare by the COVID-19 pandemic.

Chairperson Thompson, Jr. stated, “I understand that we are providing this opportunity, but if situations change, we can revert back, am I correct?” Chancellor Matos Rodriquez stated, “Absolutely. I think one of the things that makes this conversation somewhat different from when we voted on the resolution on July 9th, which endorsed our plans for a mostly online fall, was that now we have the reopening plans that have been done under the state guidelines so we have a very concrete map now. If we’re going to bring additional students to campus because the conditions have improved and there’s a vaccine, all the different things that might change things on the ground, we now have a very detailed plan that’s available online so that everybody knows how we intend to bring people back in a safe way. So, in some ways, we have the experience from the fall that we didn’t have before to be able to transition should the condition on the ground permit to do so. We’re in a much better scenario than we were when we voted in a similar situation back on July 9th.”
University Faculty Senate (UFS) Chair and Trustee Martin Burke asked, “Am I to understand or is the faculty to understand that the Spring 2021 semester could be continued through the Summer 2021 semester or will it end with the Spring semester?” Chancellor Matos Rodriguez responded, “This is a resolution that is really geared to being ready for the Spring 2021 semester, and I would imagine that we’ll look at the Summer 2021 semester at some point later in the Spring.”

UFS Chair and Trustee Burke following up by asking, “Would that possibly entail yet another resolution coming either to the CAPPR or coming to the Board in this setting.” Chancellor Matos Rodriquez stated, “That’s the way that we’ve been doing things, and we’d like to keep it that way. We’ll have to also work with all the regulatory bodies that guide some of these things—the Department of Education and Middle states. I think many of us hope by that Summer, we can recapture a lot more things as they were before COVID, but I think that’s a conversation to be had in the Spring.”

USS Chair and Trustee Piquant shared her views about the Board of Trustees meetings that are being held telephonically, suggesting that the Trustees move to a more virtual software so that they can see each other face-to-face—being that the students are required to go on Zoom and the faculty are expected to teach on Zoom—as well as for members of the public to have a human interaction with the Board. Board Secretary Gayle Horwitz stated, “The Chair and I have discussed this, and we tried some technology in the spring that did not work out well, but we now have a new Zoom platform, and our next meeting is slated to be on Zoom, so thank you for sharing those concerns.”

Chairperson Thompson, Jr. asked for a vote. Cal. No. 7 was unanimously adopted.

Moved by Chairperson Thompson, Jr. and seconded by Trustee Shorter, the following resolution was presented and opened for discussion:

8. Resolution of Appreciation - Timothy Hunter:

WHEREAS, Timothy Hunter was elected by his fellow students as Chairperson for the University Student Senate (USS) in October 2019, serving a one year term; and

WHEREAS, As Chairperson for USS, Mr. Hunter served as the only student member of the Board of Trustees, representing the interests of more than 500,000 students; and

WHEREAS, Mr. Hunter fiercely represented CUNY students during one of the most challenging years in the University’s history; and

WHEREAS, Mr. Hunter at New York Tech 2020 graduate and a second generation City University of New York student, sharing this proud alumni status with his mother, a Medgar Evers College graduate; and
WHEREAS, Mr. Hunter started first experience with City Tech when, at age 15, he participated, through his high school, City Polytechnic High School for Architecture and Engineering in their renowned 9-14 partnership with City Tech; and

WHEREAS, Mr. Hunter proudly served as the Undergraduate Student Government President at New York City College of Technology; and

WHEREAS, The University Student Senate recognized his leadership skills and awarded him the Outstanding Leadership Award for his advocacy during the 2018-2019 academic year; and

WHEREAS, Mr. Hunter exemplifies CUNY's motto of “education of free people is the hope of humanity” through his commitment to high school students as a Technical Education Instructor for the New York City Department of Education; and

WHEREAS, Timothy Hunter was a valued voice on the Board of Trustees; now therefore be it

RESOLVED, That the members of the Board of Trustees of The City University of New York express their sincere thanks and deepest appreciation to Timothy Hunter for his partnership, determination, devotion, and outstanding service to The City University of New York; and be it further

RESOLVED, That the Board of Trustees extends its best wishes for his continued success in all of his future endeavors.

Members of the Board and the Chancellery expressed their sincere admiration of Mr. Hunter, for his perceptiveness, reflection, dedication, willingness, and outstanding service, and thanked him for being a great partner as a Board member of the City University of New York.

Chairperson Thompson, Jr. asked for a vote. Cal. No. 8 was unanimously adopted.

9. EXECUTIVE COMMITTEE:
Board Secretary Gayle M. Horwitz noted that Item Nos. 9.A. through 9.F. are being read for informational purposes only. It serves as notice of actions taken by the Board of Trustees' Executive Committee on August 12, 2020.

A. City University of New York - Authorize the Purchase of WiFi Hotspot or MiFi Devices for Emergency Distribution to Students Needing Broadband Internet Access in Response to the Continuing COVID-19 Pandemic Health Emergency:

WHEREAS, Governor Cuomo issued Executive Order No. 202 declaring a Disaster Emergency in the State of New York on March 7, 2020 due to the COVID-19 outbreak;
WHEREAS, The City University of New York (the “University”), in compliance with the State and City’s emergency declarations, transitioned to an online and distance learning modality on March 19, 2020; and

WHEREAS, On July 9, 2020, the Board of Trustees approved a resolution recognizing that by “(i) reducing the density of individuals on the University campuses; and (ii) offering classes and support services in a primarily online and remote format, the University can better ensure the continued health, safety and welfare of its students faculty and staff and further ensure a continuity of educational curricula and better outcomes for our students, and preserve the availability of its physical spaces for those academic programs and support services that require them;” and

WHEREAS, Based on the July 9, 2020 Board of Trustees resolution, the Chancellor announced that the University would prepare to offer a range of virtual, hybrid, and in-person academic modalities for the Fall 2020 academic term, with the vast majority of academic courses being offered online; and

WHEREAS, The transition to an online and distance learning modality during the Spring 2020 academic term demonstrated that there are disparities among University students in access to remote learning tools and technology, such as computers laptops and broadband internet that hinders their ability to take full advantage of the online and distance learning modalities and perform their coursework remotely; and

WHEREAS, During the Spring 2020 academic term, the University attempted to mitigate this disparity by securing free access to the internet with the support of local broadband internet providers and by distributing laptop computers to students to enable them to complete their coursework remotely; and

WHEREAS, The University’s Office of Institutional Research and Assessment (“OIRA”) recently surveyed students regarding access to technology and remote learning tools, including access of broadband internet at home, which is a necessity for their engagement in online and hybrid courses, and found that as many as 6,500 students could need assistance with broadband internet access; and

WHEREAS, In response to this demonstrated need, the University found that it could assist these students by securing mobile devices to create “WiFi hotspots” that provide wireless access to broadband internet via a monthly service plan; and
WHEREAS, The University desires to purchase “WiFi hotspot” devices from one or more mobile wireless service providers in order to meet the anticipated need identified in the OIRA survey and provide the most cost-effective means to provide high-speed connectivity access to the internet for students lacking broadband internet services at home; and

WHEREAS, The purchase of these “WiFi hotspot” devices is eligible for funding under the federal Coronavirus Aid, Relief, and Economic Security Act, otherwise known as the “CARES Act”; and

WHEREAS, The University has identified three (3) potential vendors on New York State vendor contract (T-Mobile, AT&T, and Verizon) that are able to provide these “WiFi hotspot” devices together with cost effective monthly services plans; now therefore be it

RESOLVED, That the University’s Board of Trustees authorizes the procurement of, from one or more mobile wireless service providers, approximately 4,000 “WiFi hotspot” devices, each such device to be equipped with a twelve (12) month broadband internet service plan, for a purchase price not to exceed $1.4 million; and that the General Counsel or his designee be, and they hereby are, and each of them hereby is, authorized to execute, seal, and deliver a contract or purchase order to procure the same, together with any and all agreements, documents, and other instruments related thereto, and to take any and all such other actions, as such officer so acting may deem necessary or appropriate, and that such execution by such duly authorized officer of the University shall be conclusive evidence of his or her authority to perform all such acts and to execute and deliver all such documents and instruments on behalf of the University.

EXPLANATION: The continued impact of the COVID-19 public health emergency requires the University to take ongoing steps to support distance learning. The Chancellor recognizes the need to reduce the technological barriers to access facing numerous University students due to lack of equipment and broadband internet service to access academic coursework. The University expects that a purchase and distribution of approximately 4,000 “WiFi hotspot” devices to those students lacking broadband service at home will facilitate access to online and hybrid instruction and further the efforts of the University to ensure student engagement and success during this COVID-19 public health emergency period. These devices will be distributed to the colleges, which will provide them to the students deemed to have the greatest need for broadband internet access.
B. City University of New York - Authorize a Construction License Agreement and an Easement Agreement with The New York City Transit Authority to Grant Temporary Access for Construction Staging and a Permanent Easement at a Plaza Adjacent to Hostos Community College for Subway Station Improvements to Comply with The Americans With Disabilities Act of 1990, as Amended:

WHEREAS, The Dormitory Authority of the State of New York (“DASNY”) is the owner in fee of and The City University of New York (the “University”) has a possessory interest in certain land, with the building and improvements thereon, in the Borough and County of the Bronx, City and State of New York, having a street address of 475 Grand Concourse, designated on the tax map of the City of New York (the “City”) as Block 2346, Lot 29 (“Lot 29”); and

WHEREAS, DASNY is also the owner in fee of and the University has a possessory interest in certain land, adjacent to Lot 29, in the Borough and County of the Bronx, City and State of New York, having a street address of 485 Grand Concourse, designated on the tax map of the City as Block 2346, Lot 43 (“Lot 43”); and

WHEREAS, Pursuant to that certain master lease (the “Master Lease”) dated as of January 22, 2003, among DASNY, as lessor, and the City University Construction Fund (“CUCF”), as lessee, and the University, relating to DASNY City University System Consolidated Fifth General Resolution Revenue Bonds, the building and improvements on Lots 29 and 43, are leased by DASNY to CUCF for use and occupancy by the University, and the University has operational control of the building and improvements on Lots 29 and 43; and

WHEREAS, New York City Transit Authority (“Authority”), pursuant to the Public Authorities Law of the State of New York and an Agreement of Lease with the City dated June 1, 1953 (as amended, supplemented, renewed and extended, the "Authority Master Lease"), operates the New York City Transit System and appurtenant facilities (the “Subway”) including the 149th Street/Grand Concourse Subway station serving the Lexington Avenue 4 and 5 Lines and the Seventh Avenue 2 Line (said station, including in service and out of service entrances from the street level, being herein collectively referred to as the “Station”); and

WHEREAS, Lot 43 is subject to existing subway easements or rights of way (the “Existing City Station Easement”) in favor of the Authority, as cited in the court order titled "In the Matter of the Application of The Dormitory Authority of the State of New York", relative to acquiring title in fee simple absolute to certain real property for the purpose required as a site for Eugenio Maria de Hostos Community College, located in the Borough of the Bronx, State of New York, in the area bounded generally by Grand
Boulevard and Concourse; Anthony J Griffin Place; East 144th Street and East 149th Street; and

WHEREAS, The building and improvements on Lots 29 and 43 include (i) an educational and administrative building (the “College Building”) comprising part of Eugenio Maria de Hostos Community College (the “College”) owned by DASNY and operated by the University on Lot 29, and (ii) an open plaza area owned by DASNY and operated by the University located adjacent to the College Building leading to and providing access to the College Building (the “Plaza” and together with the College Building the “Hostos Property”) on both Lot 29 and Lot 43 from public sidewalks; and

WHEREAS, A separate free-standing building and improvements is also located on Lot 43, owned by the City and leased to Authority under the Authority Master Lease, comprising an currently unused headhouse (the “Headhouse”) for Authority housing, an out-of-service elevator and its mechanical systems formerly used to allow the public and intended passengers using the Station to traverse between the street/plaza level at the intersection of Grand Concourse and 149th Street and the subgrade mezzanine level in the Station; and

WHEREAS, In order to encourage and accommodate the increased usage of the Station by the public and to make the Station compliant with the Americans with Disabilities Act of 1990, as amended (“ADA”), Authority is undertaking, at its sole cost and expense, improvements and enhancements to the Station (the “Station Project”); and

WHEREAS, As part of the Station Project, Authority will perform the following work in and to the Headhouse (hereinafter collectively referred to as the “Headhouse Work”): (i) the rehabilitation of the structural components of the Headhouse, (ii) the renovation of the aesthetic components of the interior and exterior of the Headhouse, (iii) rehabilitation of the entrance to the Headhouse, including the installation of a permanent new canopy (the “Canopy”) over the entrance to the Headhouse on the southerly wall thereof, (iv) the installation of a new replacement elevator within the Headhouse (the “Headhouse Elevator”) to provide access and service, to and from the street/plaza level to the subgrade mezzanine level of the Station and (v) installation of an emergency exit stairway to the street within the Headhouse (the “Headhouse Emergency Entrance, and together with the Headhouse Elevator, the “Headhouse Entrance”); and

WHEREAS, In connection with the Station Project, Authority has requested that the University enter into a Construction License Agreement granting Authority: (i) access to the Hostos Property to perform a pre-construction survey of the Hostos Property and establish a monitoring program and install monitoring equipment within certain areas of the Hostos Property, and (ii) a temporary license to access, enter upon, and use a small
WHEREAS, The University, having operational control of the building and improvements on Lots 29 and 43 under the Master Lease, desires to enter into a Construction License Agreement with the Authority granting such temporary rights of access to the Hostos Property and portions of the Plaza related to the Station Project; and

WHEREAS, In addition to the Construction License Agreement, Authority has requested that the University (together with DASNY) enter into an Easement Agreement granting Authority a permanent non-exclusive easement extending four (4) feet into the Plaza from the southerly wall of the Headhouse for the following purposes: (i) a means of ingress to and egress from the Headhouse Entrance to and from the sidewalk on the Grand Concourse side thereof by passengers of the Subway, and by employees, contractors, agents, and licensees of Authority; (ii) a permanent Canopy to extend out from the southerly wall of the Headhouse into airspace above and overhang within a portion of the Plaza extending onto the Plaza for approximately four (4) feet; (iii) to permit the swing of the Headhouse Emergency Exit door to open onto the easement area, and (iv) to permit the Authority a means of access to and from the Headhouse and to inspect and perform routine maintenance and repairs to the exterior of the Headhouse, and to perform Authority’s cleaning and maintenance and repair responsibilities; and

WHEREAS, The University, having operational control of the building and improvements on Lots 29 and 43 under the Master Lease, desires to enter into an Easement Agreement with the Authority granting such permanent non-exclusive easement to the Plaza in connection with the Station Work; now therefore be it

RESOLVED, That the Board of Trustees authorizes the General Counsel or his designee be, and that they hereby are, and each of them hereby is, authorized to sign and deliver: (i) a Construction License Agreement with the Authority granting temporary rights of access to the Hostos Property and portions of the Plaza related to the Station Work; and (ii) an Easement Agreement with the Authority granting a permanent non-exclusive easement extending four (4) feet into the Plaza from the southerly wall of the Headhouse for certain purposes related to the Station Project, together with any and all such other agreements, documents, and other instruments related thereto, and to take any and all such other actions, as such officer so acting may deem necessary or appropriate, and that such signature by such duly authorized officer of the University shall be conclusive evidence of his or her authority to perform all such acts and to sign and deliver all such documents and instruments on behalf of the University; and be it further
RESOLVED, That any subsequent material changes to the terms and conditions of the aforesaid contract shall be submitted to the University Board of Trustees for its consideration and approval.

EXPLANATION: According to the United States Code of Federal Regulations, the Metropolitan Transportation Authority is required to make certain subway stations on their system ADA-accessible. The Grand Concourse Station at Hostos is scheduled to become part of the network of ADA-accessible stations that interconnect with MTA NYCT’s accessible bus system, the ADA-accessible stations of Metro-North Railroad and Long Island Rail Road, and other ADA-accessible subway stations.

The Authority plans to restore the Headhouse in connection with turning the Headhouse into an ADA accessible subway entrance by installing an elevator and a new stairway in the Headhouse to connect the street level to the subway station mezzanine below.

C. City University of New York - Approve the Acceptance of The Andrew W. Mellon Foundation’s $2.5 Million Donation to the CUNY Chancellor’s Emergency Relief Fund:

WHEREAS, The Board of Trustees of The City University of New York (the “University”) established the CUNY Chancellor’s Emergency Relief Fund (the “Chancellor’s Emergency Relief Fund”) on March 30, 2020 to provide financial assistance and support to University students in the greatest need across the University’s 25 campuses during the economic crisis triggered by the COVID-19 public health emergency; and

WHEREAS, On June 29, 2020, the Board of Trustees continued the Chancellor’s Emergency Relief Fund through October 31, 2020 based upon the persistent need of a large portion of the University’s student population during this public health crisis and the continuing interest in donating and pledging to the Chancellor’s Emergency Relief Fund; and

WHEREAS, The Andrew W. Mellon Foundation – which has a 45-year history of generously supporting the University– has authorized a donation of $2.5 million to the Chancellor's Emergency Relief Fund to provide retention and completion grants to University students (with $75,000 to be used towards the administration of the grants); and

WHEREAS, These grants are to be awarded to University undergraduate students at community colleges and senior colleges in good academic standing, possessing at least a 2.0 GPA, and who have completed at least 24 credits — with priority being given to students not otherwise eligible for CARES Act funding (e.g., international and undocumented students); and
WHEREAS, These grants (which will typically range from approximately $200 to $1000) will help students who have registration holds that result from fees and debts owed to the University continue pursuing their education; and

WHEREAS, The Chancellor is authorized to accept individual donations for the Chancellor’s Emergency Relief Fund up to and including $1,000,000, it being understood that this authorization supersedes Board of Trustees Policy 3.05 - Trust and Gift Funds, Acceptance and Administration until October 31, 2020; and

WHEREAS, In light of the fact this donation is greater than $1,000,000, the Chancellor seeks approval of the Board of Trustees to accept this $2.5 million donation in accordance with Policy 3.05 - Trust and Gift Funds, Acceptance and Administration, including all audit and reporting requirements; now therefore be it

RESOLVED, That the Board of Trustees hereby approves the acceptance of the Andrew W. Mellon Foundation’s $2.5 million donation to the Chancellor’s Emergency Relief Fund in accordance with the terms of said donation.

EXPLANATION: The CUNY Chancellor’s Emergency Relief Fund, with over $5.6 million donations from foundations, corporations and individuals, has thus far awarded over $3 million dollars in grants and will award grants through October 31. The Andrew W. Mellon Foundation’s $2.5 million donation – the largest single donation to the Chancellor’s Emergency Relief Fund – will bring the Fund’s total to more than $8 million and will enable the University to award retention and completion grants to undergraduates who may otherwise not be able to continue their studies. Given the unprecedented public health and economic crisis posed by the COVID-19 public health emergency and the severe impact it has had on our community, this donation will provide a much-needed benefit to our students.

D. City University of New York - Authorize Amendment of The City University Of New York Policy on Sexual Misconduct - Policy 7.142 to Incorporate Required Changes Resulting from The United States Department of Education Adoption of New Regulations under Title IX of The Education Amendments of 1972, 20 U.S.C. Chapter 38:

WHEREAS, The City University of New York (the “University”) is committed to creating and maintaining a safe environment for University students, faculty, administrators, staff, and visitors so that they can learn, work and participate in the educational activities free from sexual harassment and sexual misconduct; and

WHEREAS, The current University Policy on Sexual Misconduct – Policy 7.142 (the “Policy”) was adopted by the Board of Trustees in June of 2018; and
WHEREAS, On May 19, 2020, the United States Department of Education promulgated new regulations ("Regulations") under Title IX of the Education Amendments of 1972, 20 U.S.C. Chapter 38 ("Title IX"), the statute that prohibits sex discrimination in education programs, with an effective date of August 14, 2020; and

WHEREAS, The Regulations are very different from the prior United States Department of Education guidance that the University relied on in drafting its current Policy, and, among other things, require different investigation and adjudicatory procedures in Title IX cases from those in the University's current Policy 7.142; and

WHEREAS, Significant changes to the current Policy are necessary in order to comply with the Regulations; and

WHEREAS, The University provided University administrators, faculty, staff and students with copies of the changes proposed by the University’s Office of General Counsel in conjunction with the University’s Office of Risk Audit and Compliance and requested comments; and

WHEREAS, The University incorporated as many of the comments and suggestions that were received from the administrators, faculty, staff and students prior to the date hereof and deemed to be reasonable and appropriate to incorporate into the revised Policy and; and

WHEREAS, The University is required to adopt and incorporate such investigatory and adjudicatory procedures by August 14, 2020 in order to remain in compliance with federal law; and

WHEREAS, The University has determined that it is in the best interest of the University to revise Policy 7.142 at this time; now therefore be it

RESOLVED, That the Board of Trustees authorizes amendment of the Policy on Sexual Misconduct - Policy 7.142 to reflect the required investigatory and adjudicatory procedures called for under the new federal Title IX Regulations, recently promulgated by the United States Departments of Education, and that such revision are hereby adopted, effective on Friday, August 14, 2020; and be it further

RESOLVED, That the newly amended Policy on Sexual Misconduct replace Policy 7.142 in the University's Manual of General Policy.

EXPLANATION: The Policy on Sexual Misconduct is being revised to comply with the Regulations recently promulgated by the U.S. Department of Education under Title IX. The United States Department of Education gave educational institutions less than three
(3) months to come into compliance with the Regulations (which include a 2000 page explanatory preamble). Notwithstanding this short time frame, a draft of the revised Policy was circulated to a wide variety of University constituencies, and all comments were reviewed and considered. The most significant changes include:

- The definitions have been changed to be clearer and to define “Title IX Sexual Harassment.” Under the Regulations, the conduct that constitutes Title IX Sexual Harassment is narrower than the conduct that constitutes sexual harassment under other laws applicable to CUNY (including New York Education Law 129-B, known as the “Enough is Enough” law) and requires such conduct to be investigated and adjudicated under a very specific process. Title IX Sexual Harassment must take place against a person in the United States and must constitute Sexual Assault, Dating Violence, Domestic Violence, stalking, quid pro quo harassment (i.e., an employee conditioning the provision of an aid, benefit or service on an individual’s participant in unwelcome sexual conduct) or harassment that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to CUNY’s educational program or activity.

- Under the revised Policy, there are two sets of procedures for investigating Sexual Misconduct: the procedures for matters that meet the definition of Title IX Sexual Harassment and the procedures for Sexual Misconduct cases that do not constitute Title IX Sexual Harassment, referred to in the Policy as Non-Title IX Sexual Misconduct matters. Allegations that include both Title IX Sexual Harassment and Non-Title IX Sexual Harassment are handled together under the Title IX procedures. There is also a section that describes the process for evaluating allegations to determine what process will apply.

- Under the revised Policy, as required by the Regulations, a Title IX Formal Complaint is required to initiate a Title IX Sexual Harassment matter. Title IX Formal Complaints must be investigated, resolved and adjudicated in accordance with the specified Title IX grievance procedures, unless the Title IX Formal Complaint is subject to mandatory or discretionary dismissal criteria. If a Title IX Formal Complaint is dismissed, the parties must be given a formal dismissal notice that is subject to appeal to the University Title IX Director. Individuals making Title IX allegations who do not file a Title IX Formal Complaint are still entitled to receive supportive measures and accommodations from the University.
Under the new process for Title IX Sexual Harassment matters, the Title IX Coordinator will continue to investigate complaints and prepare an investigative report. However, the revised Policy describes exactly what must be in the report, and the parties have additional rights to see all of the evidence gathered during the investigation and to respond in writing to the evidence and the final investigative report. The Title IX Coordinator does not have the authority to dismiss a Formal Title IX complaint regardless of the strength of the evidence, as this can only be done by the decision-maker after a live hearing.

Under the Regulations, the investigator and the decision-maker may not be the same person, and the decision-maker must hold a live hearing in which the witnesses are subject to cross-examination. The revised Policy therefore provides a hearing process before an Adjudication Committee for Title IX Sexual Harassment matters against both student and employee respondents. The three-person Adjudication Committee is drawn from members of a CUNY-wide Sexual Misconduct Panel, made up of faculty members, members of the Higher Education Officer series, and students from all the colleges. In the case where the respondent is a student, the Adjudication Committee will include a student.

Consistent with the Regulations, the hearing procedures set forth in the revised Policy for Title IX Sexual Harassment matters are extremely specific. They include a prescribed and detailed notice of charges and hearing, right to an advisor of choice (CUNY is required to appoint an advisor if either party does not have one for the hearing, for the limited purpose of conducting cross-examination), pre-hearing review of evidence, hearing process including relevancy determinations, provision that no statement of a party or witness who does not submit to cross-examination at the live hearing may be relied upon in reaching a determination, and a specific decision format. Hearings are facilitated by Student Affairs or Human Resources, depending on whether the respondent is a student or an employee. Both the complainant and the respondent have the right to appeal the Adjudication Committee’s decision on specified limited grounds to an Appeal Committee of three decision-makers drawn from the CUNY-wide Sexual Misconduct Panel.

Employees who are alleged to have committed Title IX Sexual Harassment are also subject to the hearing process required by the Title IX regulations, and if the employee is found responsible, the matter will be referred for discipline under applicable collective bargaining agreements, the Civil Service Law, or CUNY policies.
- The process for Non-Title IX Sexual Harassment matters has also been revised. As is the case under the current policy, the matter is investigated by the Title IX Coordinator who prepares an investigative report and provides it to the college President for appropriate action. However, if the complaint is found to be unsubstantiated, in whole or in part, the complainant has the right to appeal that determination to an Appeal Committee on specific limited grounds and the Appeal Committee can take appropriate action, such as remanding the matter for a new investigation, before the matter is considered by the President. If the President determines to initiate disciplinary action against a student, disciplinary charges are filed and the matter proceeds to a hearing before an Adjudication Committee, as is the case with Title IX Sexual Harassment matters. However, the extremely strict procedural rules required by the Regulations for Title IX Sexual Harassment matters do not apply. Both the complainant and the respondent have the same right to appeal the Adjudication Committee’s decision to an Appeal Committee that is provided in Title IX cases. For employees, as is currently the case, discipline is handled in accordance with applicable CUNY collective bargaining agreements, the Civil Service Law, or CUNY policies.

- Informal resolution is available for either Title IX Sexual Harassment matters or Non-Title IX Sexual Misconduct matters, except in cases involving Title IX Sexual Harassment allegations by a student against an employee. In the current policy (based on now rescinded U.S. Department of Education guidance), informal resolution was not permitted in cases alleging sexual assault.

- The list of “responsible employees” who are required to report Sexual Misconduct to the Title IX Coordinator has been amended to eliminate several categories of mandated reporters based on feedback from various stakeholders.

- In accordance with recent guidance from the U.S. Department of Education, Office for Civil Rights, the revised Policy will apply to Sexual Misconduct that allegedly occurred on or after its effective date of August 14, 2020.

- Due to the fact that there is pending litigation challenging the Regulations, the revised Policy provides that, should any portion of the Regulations be stayed or held invalid by a court of law, or should the Regulations be withdrawn or modified to not require elements of this Policy, the invalidated elements of this Policy will be deemed revoked as of the publication date of the judicial opinion or order.

**NOTE:** The City University of New York Amended Policy on Sexual Misconduct - Policy 7.142 is on file in the Office of the Secretary of the Board and at FINAL-Policy-on-Sexual-Misconduct-August-14-2020.pdf (cuny.edu)
E. City University of New York - Authorize the City University Of New York to Enter into Certain Supplemental Agreements with the Professional Staff Congress/CUNY to (i) Extend Tenure Deadlines for Certain College Laboratory Technicians, Senior College Laboratory Technicians and Chief College Laboratory Technicians; (ii) Extend the Time to Secure a Certificate of Continuous Employment for Certain Lecturers; and (iii) Permit an Extension of Time for the Use of Annual Leave Above the Contractual Cap from August 31, 2020, to December 31, 2020, Subject to Certain Conditions:

WHEREAS, The City University of New York (the “University”), announced effective March 19, 2020, in response to the threat presented by the spread of the coronavirus, also known as COVID-19, and in an effort to reduce the density of faculty, staff and students on the University campuses, that all University academic courses would be moved on-line or alternatively to a distance learning modality; and

WHEREAS, On March 20, 2020, Governor Andrew M. Cuomo announced Executive Order 202.6, or the "New York State on PAUSE" executive order, a 10-point policy directive, which Executive Order included a directive that all non-essential businesses statewide must close in-office personnel functions and temporarily ban all non-essential gatherings of individuals of any size for any reason; and

WHEREAS, During this period of time, the University transitioned from an in-person classroom teaching and learning format for its course offerings to an on-line digital platform and alternative distance learning modalities; and

WHEREAS, In light of this transition from in-person classroom teaching and learning model to an on-line digital platform and distance learning modality, the University entered into a Supplemental Agreement with the Professional Staff Congress/CUNY (the “PSC”) on April 18, 2020, in order to address certain matters and procedures for both faculty and staff that were affected by the COVID-19 public health emergency; and

WHEREAS, On May 18, 2020, the Board of Trustees ratified, confirmed and approved the Supplemental Agreement; and

WHEREAS, The COVID-19 public health emergency continues to impact the working conditions of faculty and staff, requiring the University to engage in negotiations and impact bargaining with the PSC, as well as with other unions representing employees of the University; and

WHEREAS, As a result of such recent negotiations and impact bargaining, the University believes that it is in the best interest of the University to enter in a supplemental agreement with the PSC to (i) permit college laboratory technicians, senior
college laboratory technicians and chief college laboratory technicians who are candidates for tenure effective September 1, 2021, to receive a one-year extension in their tenure review, if they so desire; (ii) to permit lecturers who are candidates for a Certificate of Continuous Employment (“CCE”), effective upon their reappointment for the 2021-2022 academic year may receive a one-year extension in their CCE review, if they so desire; and (iii) to permit an extension of time for the use of annual leave above the contractual cap from August 31, 2020, to December 31, 2020, provided that upon separation from University employment an employee shall not be paid for an amount greater than the maximum contractual amount; now therefore be it

RESOLVED, That the Board of Trustees authorizes the Chancellor to enter into a supplemental agreement with the PSC and other similarly situated union employees to (i) permit college laboratory technicians, senior college laboratory technicians and chief college laboratory technicians who are candidates for tenure effective September 1, 2021, to receive a one-year extension in their tenure review, if they so desire; (ii) to permit lecturers who are candidates for a Certificate of Continuous Employment (“CCE”), effective upon their reappointment for the 2021-2022 academic year may receive a one-year extension in their CCE review, if they so desire; and (iii) to permit an extension of time for the use of annual leave above the contractual cap from August 31, 2020, to December 31, 2020, provided that upon separation from University employment an employee shall not be paid for an amount greater than the maximum contractual amount.

EXPLANATION: The University, through this resolution approves agreements with the PSC concerning (i) the extension of the tenure clock for certain employees in the College Laboratory Technician series, (ii) the extension of the CCE clock for certain members of the Lecturer series, and (iii) an extension of the annual leave cap through December 31, 2020.

F. City University of New York - Authorizing The Chancellor to Engage, Negotiate and Enter into Certain Supplemental Agreements and Arrangements with the University’s Classified and Professional Staff during the Period of the COVID-19 Public Health Emergency:

WHEREAS, The City University of New York (the “University”), announced effective on March 19, 2020, in response to the threat presented by the spread of the coronavirus, also known as COVID-19, and in an effort to reduce the density of faculty, staff and students on the University campuses, that all University academic courses would be moved on-line or alternatively to a distance learning modality; and
WHEREAS, On March 20, 2020, Governor Andrew M. Cuomo announced Executive Order 202.6, or the "New York State on PAUSE" executive order, a 10-point policy directive, which Executive Order included a directive that all non-essential businesses statewide must close in-office personnel functions and temporarily ban all non-essential gatherings of individuals of any size for any reason; and

WHEREAS, During this period of time, the University transitioned from an in-person classroom teaching and learning format for its course offerings to an on-line digital platform and alternative distance learning modalities for the balance of the Spring 2020 and Summer 2020 academic periods; and

WHEREAS, On July 9, 2020, the Board of Trustees approved a resolution recognizing that by "(i) reducing the density of individuals on the University campuses; and (ii) offering classes and support services in a primarily online and remote format, the University can better ensure the continued health, safety and welfare of its students faculty and staff and further ensure a continuity of educational curricula and better outcomes for our students, and preserve the availability of its physical spaces for those academic programs and support services that require them;" and

WHEREAS, Based on the July 9, 2020 Board of Trustees resolution, the Chancellor announced that the University would prepare to offer a range of virtual, hybrid, and in-person academic modalities for the Fall 2020 academic term, with the vast majority of academic courses being offered online; and

WHEREAS, As a result of the continuing COVID-19 Public health emergency and the University’s transition to a largely on-line digital platform and distance learning modality, the University has been compelled to make a number of decisions and take various necessary actions, some of which effect the terms and conditions of employment of the classified and professional staff of the University, and therefore obligate the University to engage in negotiations and impact bargaining with such staff; and

WHEREAS, The negotiations and impact bargaining with the classified and professional staff of the University during this period of the COVID-19 public health emergency often requires the University’s immediate implementation or certain agreements with said staff; and

WHEREAS, the Board of Trustees must convene either an Executive Committee Meeting or a Special Meeting of the Board to accommodate and respond to the frequency of such labor matters and activities; and
WHEREAS, The Board of Trustees deems that during this COVID-19 public health emergency period, it would be in the best interest of the University to charge the University Chancellor with the authority to act on certain extensions, waivers and supplemental agreements and arrangements, resulting from negotiations with the classified and professional staff unions provided that the overall economic impact of such actions does not exceed $1 million during the 2020-2021 academic year; and

WHEREAS, The University Chancellor shall report to the Board of Trustees such actions taken during negotiations and impact bargaining in a report to the Board at the next regularly scheduled Board meeting; now therefore be it

RESOLVED, That during this COVID-19 public health emergency period, the Chancellor shall have the authority to engage, negotiate and enter into, in the name of and on behalf of the University, such supplemental agreements or arrangements, waivers and/or extensions of existing terms and conditions under existing agreements with classified and professional staff, that the Chancellor deems necessary and appropriate; and be it further

RESOLVED, That during this COVID-19 public health emergency period, the Chancellor shall have the authority to engage, negotiate and enter into any such supplemental agreements or arrangements, the subject matter of which shall be limited to impact bargaining and which matters would not have otherwise been contemplated by, or included in any existing agreement with the classified or professional staff, subject to the condition that any such supplemental agreement or arrangement shall not result in the University incurring a financial obligation or commitment in amount in excess of $1 million during the fiscal 2020-2021 academic period; and be it further

RESOLVED, That the Chancellor, shall report on and inform the Board of Trustees, in accordance with the regular practice of the Chancellor's deliverance of the Chancellor's report to the Board of Trustees, at any regular meeting of the Board of Trustees, or special meeting in lieu thereof (or any Executive Committee meeting), the details of any and all supplemental labor agreements and/or arrangements entered during such periods between such meetings of the Board of Trustees and in accordance with the foregoing resolutions.

EXPLANATION: Since the start of the COVID-19 public health emergency, The City University of New York (the "University") has been compelled to regularly engage in negotiations and impact bargaining with its various labor constituencies to address rapidly changing work-life conditions and changes in University operations. These negotiations frequently require immediate resolution and in turn frequent engagement of the University Board of Trustees outside of its regularly scheduled board of trustees.
meetings.

In an attempt to more efficiently and effectively address such labor and union issues in a timely manner, the Board of Trustees believes that it is in the best interest of the University to prescribe the conditions under which the University Chancellor can engage, negotiate and enter into supplemental agreements and/or arrangements with the University’s various classified and professional staff unions without the requirement of seeking Board of Trustee approval before finalizing any such agreement.

Moved by Chairperson Thompson, Jr. and seconded by Trustee Obergfell, the meeting was adjourned at 6:20 p.m.