

# Student Hand- book

LEHMAN COLLEGE/CITY UNIVERSITY OF NEW YORK  
POLICIES AND PROCEDURES



LEHMAN  
COLLEGE

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# LEHMAN COLLEGE/CITY UNIVERSITY OF NEW YORK POLICIES AND PROCEDURES

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## **1-A IMPORTANT NOTICE OF POSSIBLE CHANGES**

The City University of New York reserves the right, because of changing conditions, to make modifications of any nature in the academic programs and requirements of the University and its constituent colleges without notice. Tuition and fees set forth in this publication (or on this website) are similarly subject to change by the Board of Trustees of The City University of New York. The University regrets any inconvenience this may cause.

## **1-B NOTIFICATION UNDER FERPA OF STUDENT RIGHTS CONCERNING EDUCATION RECORDS AND DIRECTORY INFORMATION**

The Family Educational Rights and Privacy Act (FERPA) affords students certain rights with respect to their education records. See Section "6" below on your right to prevent the disclosure of directory information. The FERPA rights of students are:

- (1) The right to inspect and review your education records.

Students should submit to the registrar, dean, head of the academic department, or other appropriate official, written requests that identify the record(s) they wish to inspect. If the records are not maintained by the college official to whom the request was submitted, that official shall advise the student of the correct official to whom the request should be addressed.

All requests shall be granted or denied in writing within 45 days of receipt. If the request is granted, you will be notified of the time and place where the records may be inspected. If the request is denied or not responded to within 45 days, you may appeal to the college's FERPA appeals officer. Additional information regarding the appeal procedures will be provided to you if a request is denied.

- (2) The right to request the amendment of the student's education records that the student believes are inaccurate or misleading.

You may ask the college to amend a record that you believe is inaccurate or misleading. You should write to the college official responsible for the record, clearly identify the part of the record you want changed, and specify why it is inaccurate or misleading. If the college decides not to amend the record as requested by you, the college will notify you of the decision and advise you of your right to a hearing before the college's FERPA appeals officer regarding the request for amendment. Additional information regarding the hearing procedures will be provided to you when notified of your right to a hearing.

- (3) The right to consent to disclosure of personally identifiable information contained in your education records, except to the extent that FERPA authorizes disclosure without consent.

One exception which permits disclosure without consent is disclosure to college officials with legitimate educational interests. A college official is a person employed by the university in an administrative, supervisory, academic or research, or support staff position; a person or company with whom the University has contracted; a person serving on the Board of Trustees; or a student serving on an official committee, such as a disciplinary or grievance committee, or assisting another college official in performing his or her tasks.

A college official has a legitimate educational interest if access is reasonably necessary in order to perform his/her instructional, research, administrative or other duties and responsibilities.

Upon request, the college discloses education records without consent to officials of another college or school in which a student seeks or intends to enroll.

- (4) You may appeal the alleged denial of FERPA rights to the:  
General Counsel and Vice Chancellor for Legal Affairs  
The City University of New York, 535 East 80th Street, New York, NY 10021.
- (5) The right to file a complaint with the U.S. Department of Education concerning alleged failures by the college to comply with the requirements of FERPA. The name and address of the Office that administers FERPA are:

Family Policy Compliance Office  
U.S. Department of Education  
600 Independence Avenue, SW  
Washington, D.C. 20202-4605.

(6) The college will make the following “directory information” concerning current and former students available to those parties having a legitimate interest in the information: name, attendance dates (periods of enrollment), address, telephone number, date and place of birth, photograph, e-mail address, full or part-time status, enrollment status (undergraduate, graduate, etc.), level of education (credits) completed, major field of study, degree enrolled for, participation in officially recognized activities and sports, height and weight of athletic team members, previous school attended, and degrees, honors and awards received. By filing a form with the Registrar’s Office, you may request that any or all of this directory information not be released without your prior written consent. This form is available in the Registrar’s Office and may be filed, withdrawn, or modified at any time.

### **DIRECTORY INFORMATION NON-DISCLOSURE FORM**

This form must be filed with the Registrar’s Office if you do not wish any or all directory information disclosed without your prior consent. Directory information otherwise may be made available to any parties deemed to have a legitimate interest in the information. The instructions on this form may be changed at any time by filing a new form with the Registrar’s Office. You should initial the appropriate spaces.

Name of student: \_\_\_\_\_.  
Student ID number: \_\_\_\_\_.

A. \_\_\_\_\_ I DO NOT WANT ANY DIRECTORY INFORMATION DISCLOSED WITHOUT MY PRIOR CONSENT. (If you initial this space you do not have to fill out the rest of this form, but must date and sign below.)

B. \_\_\_\_\_ I do not want the following categories of directory information disclosed without my prior consent. (Initial those items which you do not want released.)

- \_\_\_\_\_ Name.
- \_\_\_\_\_ Attendance dates (periods of enrollment).
- \_\_\_\_\_ Address.
- \_\_\_\_\_ Telephone number.
- \_\_\_\_\_ Date of birth.
- \_\_\_\_\_ Place of birth.
- \_\_\_\_\_ Photograph.
- \_\_\_\_\_ E-mail address.
- \_\_\_\_\_ Full or part-time status.
- \_\_\_\_\_ Enrollment status (undergraduate, graduate, etc.).
- \_\_\_\_\_ Level of education (credits) completed.
- \_\_\_\_\_ Major field of study.
- \_\_\_\_\_ Degree enrolled for.
- \_\_\_\_\_ Participation in officially recognized activities other than sports.
- \_\_\_\_\_ Participation in sports (teams).
- \_\_\_\_\_ Height if member of athletic team.
- \_\_\_\_\_ Weight if member of athletic team.
- \_\_\_\_\_ Previous school attended.
- \_\_\_\_\_ Degrees received.
- \_\_\_\_\_ Honors and awards received.

C. \_\_\_\_\_ I want my prior instructions not to release directory information withdrawn. I now authorize the college to release all of my directory information to parties with a legitimate interest.

Dated: \_\_\_\_\_ Signed: \_\_\_\_\_

### **1-C NOTIFICATION OF STUDENT IMMUNIZATION REQUIREMENTS**

**Students who do not submit proof of measles, mumps and rubella (MMR) immunization or who fail to return the meningococcal meningitis response form within a statutory grace period shall be prohibited from attending the institution.** For additional information, you should contact the Student Health Center located at the T-3 Building, room 118 at the following phone number 718-960-8900.

**Public Health Law 2165 requires that post-secondary students be immunized against measles, mumps, and rubella (MMR).**

All registered full-time students and part-time students born on or after January 1, 1957 who are enrolled for at least six, but fewer than twelve semester hours (or equivalent) per semester in an approved degree program or registered certificate program must submit proof of MMR immunization. Students may be exempt from the required MMR immunizations for religious or medical reasons. To qualify for a religious exception, students must submit a signed statement, or in the event the student is a minor (under 18), a signed statement from their parent or guardian, that they hold sincere and genuine religious beliefs that prohibit immunization. To qualify for a medical exception, students must submit a written statement from a licensed physician or nurse practitioner indicating that such immunization may be detrimental to their health.

**Public Health Law 2167 requires that post-secondary institutions provide written information about meningococcal meningitis to its students and that students complete, sign, and return a meningococcal meningitis response form. Public Health Law 2167 does not require that students be immunized against meningitis,**

Public Health Law 2167 requires colleges to distribute written information about meningococcal meningitis disease and vaccination and students to complete, sign and return to the college, a meningococcal meningitis response form that: (a) confirms that the college has provided the information about meningococcal meningitis; and (b) indicates that either: (1) the student has received immunization against meningococcal meningitis within the 10 years preceding the date of the response form; or (2) the student has decided against receiving the vaccination. This law applies to students, who are enrolled in at least six semester hours (or the equivalent) per semester. No student may be exempt from receiving information or returning the response form.

## **1-D FREEDOM OF INFORMATION LAW NOTICE**

Requests to inspect public records at the college should be made to the Records Access Officer, Ms. Mary Rogan, Special Counsel to the President, who is located in Shuster Hall, room 376, 718-960-8559. Public records are available for inspection and copying by appointment only at a location to be designated. You have a right to appeal a denial of a request for access to records to the CUNY General Counsel and Vice Chancellor for Legal Affairs. Copies of the CUNY Procedures for Public Access to Public Records Pursuant to Article 6 of the Public Officers Law and the appeal form are available at the reference desk of the library and the college website.

## **THE CITY UNIVERSITY OF NEW YORK PROCEDURES FOR PUBLIC ACCESS TO PUBLIC RECORDS PURSUANT TO ARTICLE 6 OF THE PUBLIC OFFICERS LAW\***

### **Designation of Records Access Officer.**

Each president shall designate one or more persons as Records Access Officers by name or specific job title and location who shall have the duty of coordinating the response of the colleges to public requests for access in accordance with law and regulations promulgated there under.

The records access officer shall be responsible for assuring that the college:

- Maintains an up-to-date subject matter list in accordance with 5(e) herein.
- Assists the requester in identifying requested records, if necessary.
- Searches for the identified records to which access is requested.
- Upon locating the records, takes one of the following actions:
  - Makes records promptly available for inspection; or
  - Denies access to the records in whole or in part and explains in writing the reasons therefore.

Upon request for copies of records:

- Makes a copy available upon payment or offer to pay a fee of twenty five (25) cents per page; **or**,
  - Permits the requester to copy those records.
  - Upon request, certifies that a copy is a true copy of the records copied.
- Upon failure to locate records, certifies in writing that:
- The college is not the legal custodian for such records

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\* These procedures are distinct from the procedure for access to student records which are covered by Federal law and Board of Trustees policy. Nothing in these procedures requires the creation or compilation of records or the production of records which are not public records

-The records of which the college is legal custodian cannot be found.

If access is denied in whole or part advises the requester of the right to appeal to the General Counsel and Vice Chancellor for Legal Affairs by use of the prescribed appeal form.

**Location:** Each college shall designate the locations where access to records may be requested.

**Hours for Public Inspection:** Each college shall establish a written procedure by which a person may arrange an appointment to inspect and copy records. Such procedures shall include the name, position, address and phone number of the party to be contacted for the purpose of making an appointment.

### **Requests for Public Access to Records**

(a) Requests (i) may be oral or in writing, (ii) shall contain a description of the records sufficiently detailed to permit identification.

(b) If the request is made in person and is not complied with when made, or is made by mail, the requester shall supply a stamped self-addressed envelope. Postage for voluminous material must be paid by the requester, plus handling charges.

(c) Requests for access to records which have customarily been granted without written request shall continue to be so granted.

(d) The duly designated college official shall respond to a request for access to records within five working days after receipt of the request, provided that if more than five working days is required to produce records, the receipt of the request shall be acknowledged within five working days after the request is received, such acknowledgment to include a brief explanation of the reason for delay and an estimate of the date on which production or denial will be forthcoming.

(e) (1) Each college shall maintain and make available for public inspection and copying a current list, by subject matter, of all records produced, filed, or first kept or promulgated after September 1, 1974. The list shall be sufficiently detailed to permit the requester to identify the file category of the record sought.

(e) (2) The subject matter list shall be updated periodically and the date of the most recent updating shall appear on the first page. The subject matter list shall be updated not less than semiannually.

No records may be removed by the requester from the office where the record is located without the permission of the college.

### **Denial of Access to Records / Appeals**

1. Denial of access shall be in writing stating the reason there for and advising the requester of his right to appeal.

2. If the college fails to provide requested records within five working days after the receipt of the request or by the estimated date on which production or denial was to be forthcoming as provided in subdivision d of paragraph 5 hereof, such failure shall be deemed a denial of access by the college.

3. Appeals from a denial of written requests for access may be taken to the General Counsel and Vice Chancellor for Legal Affairs, 205 East 42<sup>nd</sup> Street, New York, NY, 10017, within thirty working days of the mailing by the college or a written denial in whole or in part of access, or after the estimated date of production if access is not granted within such time.

4. The appeal shall be taken by use of the form annexed to these procedures.

5. The General Counsel and Vice Chancellor for Legal Affairs shall inform the requester of the decision in writing within ten working days of receipt of an appeal.

6. A final denial of access to a requested record shall be subject to court review as provided for in article 78 of the Civil Practice Laws and Rules.

7. **Fees.** There shall be no fee charged for the following:
- Inspection of records.
  - Search for records.
  - Any certification.

8 **Public Notice.** Each college shall publicize by posting in a conspicuous location wherever records are kept or by publication in a local newspaper of general circulation:

- The location where public records shall be made available for inspection and copying.
- The name, title, business address and business telephone number of the designated Records Access Officer.
- The right to appeal by any requester denied access to a record for whatever reason and the location where the appeal form can be obtained.

The Senior Vice Chancellor and Chief Operating Officer shall implement these regulations for the Central Office in the same manner as is provided herein for the Presidents with respect to the Colleges.

**NEW YORK FREEDOM OF INFORMATION LAW APPEAL FORM WHEN A COLLEGE HAS DENIED A REQUEST FOR ACCESS TO ITS PUBLIC RECORDS**

You have a right to appeal to the General Counsel and Vice Chancellor for Legal Affairs if the college has not granted your request for access to its public records. To exercise this right you must (I) complete this form and (II) mail this form within thirty days after (A) you receive the denial of your request for access or (B) eight working days have passed since your request for access was received by the college and you have not received either a response to your request or a letter indicating the date by which the college will respond to your request or (C) the date by which the college has advised you it would comply with your request has passed and your request has not been complied with. The form must be mailed to:

General Counsel and Vice Chancellor For Legal Affairs  
The City University of New York  
205 East 42<sup>nd</sup> Street  
New York, NY 10017

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Specify the records which you requested and were denied access:

\_\_\_\_\_  
\_\_\_\_\_

Specify the date you requested access to these records:

\_\_\_\_\_



Specify the date or the circumstances under which your request for access was denied:

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Specify the name of the person who denied your request for access:

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State all the reasons why you believe your request for access should be granted.

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Attach copies of your request and the denial. Additional supporting documents may also be attached.

## **1-E SPECIAL PROVISION FOR STUDENTS IN THE MILITARY**

The following policies apply to students who leave CUNY to fulfill military obligations.

### **I. Students called up to the reserves or drafted before the end of the semester.**

- A. Grades. In order to obtain a grade, a student must attend 13 weeks (five weeks for summer session).
- B. Refunds. A student called up to the reserves or drafted who does not attend for a sufficient time to qualify for a grade is entitled to a 100% refund of tuition and all other fees except application fees.

### **II. Students who volunteer (enlist) for the military.**

- A. Grades. Same provision as for students called up to the reserves. In order to obtain a grade, a student must attend 13 weeks (five weeks for summer session).
- B. Refunds. The amount of the refund depends upon whether the withdrawal is before the 5th week of classes.
  - 1. Withdrawal before beginning of the 5th calendar week (3rd calendar week for summer session): 100% refund of tuition and all other fees except application fees.
  - 2. Withdrawal thereafter: 50% refund.

### **III. Other Provisions for Military Service:**

- A. Resident Tuition Rates. These lower rates are applicable to all members of the armed services, their spouses and their dependent children, on full-time active duty and stationed in the State of New York.
- B. Re-enrollment of Veterans. Veterans who are returning students are given preferred treatment in the following ways:
  - 1. Veterans who were former students with unsatisfactory scholastic records, may be readmitted with a probationary program.

2. Veterans, upon their return, may register even after normal registration periods, without late fees.

3. Granting of college credit for military service and armed forces instructional courses.

C. Late Admissions. Veterans with no previous college experience are permitted to file application up to the date of registration, and are allowed to begin classes pending completion of their application and provision of supporting documents.

D. Readmission Fee. Upon return from military service, a student will not be charged a Readmission fee to register at the same college.

E. Veterans Tuition Deferrals. Veterans are entitled to defer the payment of tuition pending receipt of veterans' benefits.

F. New York National Guard Tuition Waivers. Active members of the New York National Guard, who are legal residents of New York State and who do not have a baccalaureate degree, are eligible for a tuition waiver for undergraduate study.

## **1-F NEW YORK STATE EDUCATION LAW, ARTICLE 5**

### **S 224-a. Students unable because of religious beliefs to register or attend classes on certain days.**

1. No person shall be expelled from or be refused admission as a student to an institution of higher education for the reason that he or she is unable, because of his or her religious beliefs, to register or attend classes or to participate in any examination, study or work requirements on a particular day or days.

2. Any student in an institution of higher education who is unable, because of his or her religious beliefs, to attend classes on a particular day or days shall, because of such absence on the particular day or days, be excused from any examination or any study or work requirements.

3. It shall be the responsibility of the faculty and of the administrative officials of each institution of higher education to make available to each student who is absent from school, because of his or her religious beliefs, an equivalent opportunity to register for classes or make up any examination, study or work requirements which he or she may have missed because of such absence on any particular day or days. No fees of any kind shall be charged by the institution for making available to the said student such equivalent opportunity.

4. If registration, classes, examinations, study or work requirements are held on Friday after four o'clock post meridian or on Saturday, similar or make up classes, examinations, study or work requirements or opportunity to register shall be made available on other days, where it is possible and practicable to do so. No special fees shall be charged to the student for these classes, examinations, study or work requirements or registration held on other days.

5. In effectuating the provisions of this section, it shall be the duty of the faculty and of the administrative officials of each institution of higher education to exercise the fullest measure of good faith. No adverse or prejudicial effects shall result to any student because of his or her availing himself or herself of the provisions of this section. Any student, who is aggrieved by the alleged failure of any faculty or administrative officials to comply in good faith with the provisions of this section, shall be entitled to maintain an action or proceeding in the supreme court of the county in which such institution of higher education is located for the enforcement of his or her rights under this section.

6.-a. It shall be the responsibility of the administrative officials of each institution of higher education to give written notice to students of their rights under this section, informing them that each student who is absent from school, because of his or her religious beliefs, must be given an equivalent opportunity to register for classes or make up any examination, study or work requirements which he or she may have missed because of such absence on any particular day or days. No fees of any kind shall be charged by the institution for making available to such student such equivalent opportunity.

As used in this section, the term “institution of higher education” shall mean any institution of higher education, recognized and approved by the regents of the University of the State of New York, which provides a course of study leading to the granting of a post-secondary degree or diploma. Such term shall not include any institution which is operated, supervised or controlled by a church or by a religious or denominational organization whose educational programs are principally designed for the purpose of training ministers or other religious functionaries or for the purpose of propagating religious doctrines. As used in this section, the term “religious belief” shall mean beliefs associated with any corporation organized and operated exclusively for religious purposes, which is not disqualified for tax exemption under section 501 of the United States Code.

### **1-G CUNY POLICY ON WITHHOLDING STUDENT RECORDS:**

Students who are delinquent and/or in default in any of their financial accounts with the college, the university or an appropriate state or federal agency for which the university acts as either a distributing or certifying agent, and students who have not completed exit interviews as required by the federal Perkins Loan Program, the federal Family Education Loan Programs, the William D. Ford Federal Direct Loan Program, and the Nursing Student Loan Program, are not to be permitted to complete registration, or issued a copy of their grades, a transcript of academic record, certificate, or degree, nor are they to receive funds under the federal campus-based student assistance programs or the federal Pell Grant Program unless the designated officer, in exceptional hardship cases and consistent with federal and state regulations, waives in writing the application of this regulation.

### **1-F FERPA FORMS:**

#### THE CITY UNIVERSITY OF NEW YORK

#### FERPA RELEASE FORM

#### PERMISSION FOR ACCESS TO EDUCATIONAL RECORDS

This form allows students to grant third parties, including parents, access to their educational records maintained by the student’s college. The Family Educational Rights and Privacy Act of 1974 (Buckley Amendment) prohibits access to, or release of, educational records or personally identifiable information contained in such records (other than directory information) without the written consent of the student, with certain regulatory exceptions. A description of a student’s rights under FERPA is set forth in more detail in the college catalog.

Student Name (Please Print): \_\_\_\_\_

Social Security Number or University Identification Number \_\_\_\_\_

I, the undersigned, hereby authorize \_\_\_\_\_ College of The City University of New York, to release the following educational records and information (identify records or types of records below):

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These records should be released to the following person/agency (identify name and address of person/agency to receive information):

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These records are being released for the purpose stated below:

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\_\_\_\_\_  
Student's signature

\_\_\_\_\_  
Date

Please note that "directory information" can be given out without the student's written consent. The City University of New York defines directory information to include such information as a student's name, attendance dates, home and e-mail address, telephone number, date and place of birth, photograph, status (e.g., full/part-time, undergraduate/graduate), degree program, credits completed, major, student activities and sports, previous school attended, and degrees, honors and awards received. This information may be released to anyone, unless restricted by written authorization of the student. Contact the Registrar's Office at your campus if you wish to restrict this information.

CUNY Office of the General Counsel  
February 2014

Date: \_\_\_\_\_

Dear Student:

Your appeal for access to student records has been denied. You requested access to (state specific or general category of records).

The reason for the denial of your appeal is that (provide reasons, such as the records do not exist, the records have been discarded, you are not entitled to access because, e.g., cite exception such as confidential letters of reference, psychologist's records, etc.).

You may appeal within 30 days of the date of this letter to the:

Office of the General Counsel and Vice Chancellor for Legal Affairs  
The City University of New York  
205 East 42nd Street New York, New York 10017  
email: [ogc@cuny.edu](mailto:ogc@cuny.edu)

A form for appealing to the General Counsel and Vice Chancellor for Legal Affairs is attached (See Attachment C).

Yours truly,

FERPA Appeals Officer

**FERPA APPEAL TO THE GENERAL COUNSEL AND  
VICE CHANCELLOR FOR LEGAL AFFAIRS**

Use this form to appeal the denial of your college appeal for access to student records or other alleged denial of FERPA rights. You must appeal within 30 days of the date of the college's denial. Send this form to the address indicated below.

To:                   General Counsel and Vice Chancellor for Legal Affairs  
                          The City University of New York  
                          205 East 42nd Street New York, New York 10017  
                          email: ogc@cuny.edu

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
College: \_\_\_\_\_  
Email: \_\_\_\_\_

I write to appeal the College's denial of my appeal in a letter dated \_\_\_\_\_.

I enclose the following documents:

- \_\_\_\_\_ College's denial of my appeal
- \_\_\_\_\_ My appeal to the college
- \_\_\_\_\_ College's initial denial of access
- \_\_\_\_\_ My initial request for access to records
- \_\_\_\_\_ Additional documents (please itemize): \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Please provide the basis for your appeal (you may attach additional pages):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated: \_\_\_\_\_ Signed: \_\_\_\_\_

This form must be filed with the Registrar's Office if you do not wish any or all directory information disclosed without your prior consent. Directory information otherwise may be made available to any parties deemed to have a legitimate interest in the information. The instructions on this form may be changed at any time by filing a new form with the Registrar's Office. You should initial the appropriate spaces.

Name of student: \_\_\_\_\_.

Student ID number: \_\_\_\_\_.

A. \_\_\_\_\_ I DO NOT WANT ANY DIRECTORY INFORMATION DISCLOSED WITHOUT MY PRIOR CONSENT. (If you initial this space you do not have to fill out the rest of this form, but must date and sign below.)

B. \_\_\_\_\_ I do not want the following categories of directory information disclosed without my prior consent. (Initial those items which you do not want released.) \_\_\_\_\_

- Name.
- Attendance dates (periods of enrollment).
- Address.
- Telephone number.
- Date of birth.
- Place of birth.
- Photograph.
- E-mail address.
- Full or part-time status.
- Enrollment status (undergraduate, graduate, etc.).
- Level of education (credits) completed.
- Major field of study. \_\_\_\_\_
- Degree enrolled for. \_\_\_\_\_
- Participation in officially recognized activities other than sports. \_\_\_\_\_
- Participation in sports (teams). \_\_\_\_\_
- Height if member of athletic team. \_\_\_\_\_
- Weight if member of athletic team. \_\_\_\_\_
- Previous school attended. \_\_\_\_\_
- Degrees received. \_\_\_\_\_
- Honors and awards received.

C. \_\_\_\_\_ I want my prior instructions not to release directory information withdrawn. I now authorize the college to release all of my directory information to parties with a legitimate interest.

Dated: \_\_\_\_\_ Signed: \_\_\_\_\_

CUNY Office of the General Counsel February 2014

## NOTIFICATION UNDER FERPA OF STUDENT RIGHTS CONCERNING EDUCATION RECORDS AND DIRECTORY INFORMATION

The Family Educational Rights and Privacy Act (FERPA) affords students certain rights with respect to their education records. See Section "6" below on your right to prevent the disclosure of directory information. The FERPA rights of students are:

- (1) The right to inspect and review your education records.

Students should submit to the registrar, dean, head of the academic department, or other appropriate official, written requests that identify the record(s) they wish to inspect. If the records are not maintained by the college official to whom the request was submitted, that official shall advise the student of the correct official to whom the request should be addressed.

All requests shall be granted or denied in writing within 45 days of receipt. If the request is granted, you will be notified of the time and place where the records may be inspected. If the request is denied or not responded to within 45 days, you may appeal to the college's FERPA appeals officer. Additional information regarding the appeal procedures will be provided to you if a request is denied.

- (2) The right to request the amendment of the student's education records that the student believes are inaccurate, misleading or otherwise in violation of the student's privacy rights under FERPA. You may ask the college to amend a record that you believe is inaccurate, misleading or otherwise in violation of your privacy rights under FERPA.

You should write to the college official responsible for the record, clearly identify the part of the record you want changed, and specify why it is inaccurate or misleading.

If the college decides not to amend the record as requested by you, the college will notify you of the decision and advise you of your right to a hearing before the college's FERPA appeals officer regarding the request for amendment. Additional information regarding the hearing procedures will be provided to you when notified of your right to a hearing.

- (3) The right to consent to disclosure of personally identifiable information contained in your education records, except to the extent that FERPA authorizes disclosure without consent.

One exception which permits disclosure without consent is disclosure to college officials with legitimate educational interests. A college official is a person employed by the University in an administrative, supervisory, academic or research, or support staff position (including law enforcement unit personnel and health staff), a person or company with whom the University has 2 contracted as its agent to provide a service instead of using University employees or officials, a person serving on the Board of Trustees, or a student serving on an official committee, such as a disciplinary committee, or assisting another college official in performing his or her tasks.

A college official has a legitimate educational interest if access is reasonably necessary in order to fulfill his or her professional responsibilities for the University.

Upon request, the college discloses education records without consent to officials of another college or school in which a student seeks or intends to enroll.



(4) You may appeal the alleged denial of FERPA rights to the:

General Counsel and Vice Chancellor for Legal Affairs  
The City University of New York  
205 East 42nd Street  
New York, New York 10017  
email: [ogc@cuny.edu](mailto:ogc@cuny.edu)

(5) The right to file a complaint with the U.S. Department of Education concerning alleged failures by the college to comply with the requirements of FERPA. The name and address of the Office that administers FERPA are:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C., 20202-5920

(6)The college will make the following "directory information" concerning current and former students available to those parties having a legitimate interest in the information: name, attendance dates (periods of enrollment), address, telephone number, date and place of birth, photograph, e-mail address, full or part-time status, enrollment status (undergraduate, graduate, etc.), level of education (credits) completed, major field of study, degree enrolled for, participation in officially recognized activities and sports, height and weight of athletic team members, previous school attended, and degrees, honors and awards received. By filing a form with the Registrar's Office, you may request that any or all of this directory information not be released without your prior written consent. This form is available in the Registrar's Office and may be filed, withdrawn, or modified at any time.

# **1-G 1. MEDICAL WITHDRAWAL AND Re-entry Policy Procedures (Student Conduct)**

The City University of New York Medical Withdrawal and Re-entry Policy and Procedures Governing Student Behavior that Presents a Direct Threat of Harm to Self or Others or Substantially Disrupts the Learning or Working Environment of Others

## **I. Introduction**

The City University of New York (“CUNY”) is committed to the academic success and personal growth of its students. As part of that commitment, CUNY and its constituent campuses are responsible for providing a safe learning and working environment for students, faculty, staff and other members of the University community. Some students may, because of a medical condition, engage in behavior that presents a direct threat of harm to themselves or to others, or substantially disrupts the learning or working environment of others. In such situations, the safety and security of the campus community, including the individual student, is paramount. This policy does not replace or supersede reasonable and appropriate security and health and safety measures, such as calling 911 or taking other immediate action in case of imminent threat to life or limb.

In addition to taking action to protect the security and safety of the campus community, a college may address the student’s conduct to determine if action under this policy or under the student disciplinary process is appropriate. When a student’s conduct that directly threatens or substantially disrupts the learning or working environment of others appears to relate to a medical condition, the campus may, at its option, address the student’s conduct either in accordance with this policy, or through the student disciplinary process. If the student’s conduct constitutes a threat solely to him or herself, it should be addressed under this policy rather than the disciplinary process.

## **II. Policy**

A. As an alternative to disciplinary action that may be taken under Article XV of CUNY’s Bylaws, a college of CUNY may bring a proceeding to require a student to withdraw from the University, or, under some circumstances, the student’s home college and/or from residence in a college residence hall under this withdrawal policy and procedures when the student’s behavior evidences a direct threat of harm to others, or when the student’s behavior substantially disrupts the learning or working environment of others. A direct threat means a significant risk of harm to health or safety.

B. A student who threatens to commit or attempts to commit suicide, and who does not otherwise threaten direct harm to others or substantially disrupt the learning or working environment of others, shall not be subject to disciplinary action for that threat or attempt under Article XV of the CUNY’s Bylaws. If a college determines that withdrawal of the student or retention of the student subject to specified conditions is appropriate because the student’s behavior threatens direct harm to him or herself, the procedures outlined below shall apply instead of disciplinary procedures.

C. A student who withdraws or is withdrawn from the University, a college or college residence hall pursuant to this policy may apply for re-entry to the University, a college 2 and/or to a college residence hall. The application for re-entry shall be made to the student’s home college’s Chief Student Affairs Officer, who shall determine whether the student still presents a direct threat of harm to him or herself or others or still presents a significant risk to substantially disrupt the learning or working environment of others. If the Chief Student Affairs Officer or designee determines, based on the assessment of a qualified, licensed mental health

professional, that there is not a significant risk that the behavior that required withdrawal will be repeated, he or she shall approve the student's application for re-entry.

### III. Procedures

#### A. Emergency Interim Removal

1. If a student's behavior presents an immediate, severe and direct threat to him or herself or others (by evidencing a likelihood of harm to him or herself or others), or is substantially disrupting the learning or working environment of others, the Chief Student Affairs Officer or designee (if such Officer is not immediately available) may direct an emergency interim removal of the student that restricts the student's access to the College's campus or residence hall, as appropriate, for an interim period before a final determination of the matter. The Chief Student Affairs Officer or designee shall consult with the University's Office of the General Counsel prior to making any such direction.

2. The fact that a student has threatened to commit suicide or attempted suicide, by itself, does not allow the Chief Student Affairs Officer or designee to direct an emergency interim removal. In all cases involving such students, the Chief Student Affairs Officer or designee must attempt to have the student individually assessed by a mental health professional as outlined below in A.3. before deciding whether to direct an emergency interim removal.

3. Except as permitted in III A. 1. above, before determining whether to require an emergency interim removal, the Chief Student Affairs Officer or designee shall take the following steps:

a. exercise all reasonable efforts to meet with the student; and

b. in that meeting, offer the student the opportunity to be evaluated at the college's expense by a qualified, licensed mental health professional, who may be an employee of a college of CUNY or CUNY or on retainer to a college of CUNY or CUNY. Whenever possible, that professional shall have had no prior contact with the student. The professional shall assess whether the student's behavior presents an immediate, severe and direct threat to him or herself or others or presents a significant risk to repeat behavior that substantially disrupts the learning or working environment of others, and, if so, whether the student's behavior may be the result of a medical issue. That professional shall present his or her findings to the Chief Student Affairs Officer or designee, who shall determine based on those 3 findings and other evidence available whether emergency interim removal under these procedures is appropriate.

c. If the student refuses to meet, and/or refuses to undergo such assessment or to keep a scheduled appointment, the Chief Student Affairs Officer or designee may require emergency interim removal without a meeting and/or mental health assessment if he or she reasonably concludes on the basis of the available evidence that the student's behavior evidences an immediate, severe and direct threat of harm to the student or others or is substantially disrupting the working or learning environment of others and presents a significant risk to continue that substantial disruption. The Chief Student Affairs Officer or designee shall consult with the University's Office of the General Counsel before making such a determination.

4. The emergency interim removal from the College and/or residence hall shall remain in effect until a final decision has been made pursuant to the procedures below, unless, before a final decision is made, the Chief Student Affairs Officer or designee determines that the reasons for imposing the interim removal no longer exist.

#### B. Withdrawal after Emergency Interim Removal

1. If a student has been subjected to an emergency interim removal from the college and/or residence hall, the college shall request retention with conditions or voluntary withdrawal within 7 calendar days of such removal. Should the request for retention with conditions or voluntary withdrawal request be refused, the College shall determine within 7 calendar days of such refusal whether to take further action against the student, including whether to initiate involuntary withdrawal proceedings or, disciplinary proceedings under Article XV of the CUNY Bylaws, as applicable under II A. above, and shall send notice of either such proceeding in accordance with the notice requirements of the applicable procedure within that 7-day period. For students who have been subjected to an emergency interim removal without having undergone the assessment procedures outlined in III A. 3 above, the College shall follow the assessment procedures outlined below in B.2. a. prior to determining its course of action.

2. In cases where the student has been subjected to an emergency interim removal without assessment, the procedure for determining whether withdrawal is appropriate is as follows:

a. The Chief Student Affairs Officer or designee shall exercise best efforts to meet with the student to discuss the student's behavior and to hear the student's explanation of the alleged behavior. If, after hearing the explanation, the Officer or designee still wishes to consider the possibility of the student's withdrawal, he or she shall offer the student an opportunity to be evaluated, at the college's expense, by a qualified, licensed mental health professional, who may be an employee of a college of CUNY or CUNY, or on retainer to a college of CUNY or CUNY. Whenever possible, that professional shall have had no prior contact with the student. The professional shall make findings concerning whether the student's behavior presents a direct threat of harm to him or herself or others or presents a significant risk to repeat behavior that substantially disrupts the learning or working environment of others and if so, whether the student's behavior may be the result of a medical issue. The professional shall report such findings to the Chief Student Affairs Officer, who shall, based on those findings, and after consultation with the University's Office of the General Counsel, determine the appropriate action, including whether to request that the student withdraw from the University, the college and/or the college residence hall or whether to request that the student agree to specified conditions in lieu of withdrawal.

b. If the student refuses to undergo the requested assessment, or fails to keep the scheduled appointment, and the Chief Student Affairs Officer reasonably concludes on the basis of the available evidence that the student's behavior presents a direct threat of harm to him or herself or others or substantially disrupts the learning or working environment of others and presents a significant risk to repeat behavior that substantially disrupts the learning or working environment of others, the Chief Student Affairs Officer may request that the student voluntarily withdraw from the University, the college and/or the college residence hall. The Chief Student Affairs Officer shall consult with the University's Office of the General Counsel before making any such request.

c. If the student agrees to the request for voluntary withdrawal or to the specified conditions, the Chief Student Affairs officer or designee shall (i) discuss with the student the procedures for and consequences of voluntary withdrawal or the specified conditions, as applicable; (ii) discuss the circumstances with the student's parents or legal guardians as permissible by law and as appropriate; (iii) consult with the student's academic advisor or department, as appropriate; (iv) consult with the residence hall director, as appropriate; (v) refer the student to appropriate resources for treatment; and (vi) advise the student concerning the process for applying for re-entry, as well as on conditions for re-entry, if applicable and appropriate.

d. If the student does not agree to the request for voluntary withdrawal or to the specified conditions, the Chief Student Affairs Officer shall determine, in consultation with the University's Office of the General Counsel, whether to take further action against the student, including whether to initiate involuntary

withdrawal proceedings, or, in the case of students referenced in II A. above, whether to initiate disciplinary proceedings under Article XV of the CUNY Bylaws. 5

### C. Withdrawal of Students Without Emergency Interim Removal

#### 1. Students Who Present a Direct Threat of Harm to Others or Substantially Disrupt the Learning or Working Environment of Others

##### a. Voluntary Withdrawal or Retention with Conditions

(1) In situations where a student's behavior evidences a direct threat of harm to himself or others or substantially disrupts the learning or working environment of others and presents a significant risk to repeat behavior that substantially disrupts the learning or working environment of others and the Chief Student Affairs Officer reasonably believes that the student's behavior may be connected to a medical issue, the Chief Student Affairs Officer or designee may request that the student voluntarily withdraw or agree to retention under conditions.

(2) If the student agrees to the request for voluntary withdrawal or to the specified conditions, the Chief Student Affairs officer or designee shall (i) discuss with the student the procedures for and consequences of voluntary withdrawal or the specified conditions, as applicable; (ii) discuss the circumstances with the student's parents or legal guardians as permissible by law and as appropriate; (iii) consult with the student's academic advisor or department, as appropriate; (iv) consult with the residence hall director, as appropriate; (v) refer the student to appropriate resources for treatment; and (vi) advise the student concerning the process for applying for re-entry, as well as on conditions for re-entry, if applicable and appropriate.

##### b. Involuntary Withdrawal

(1) If the student does not agree to the request for voluntary withdrawal or to the specified conditions, the Chief Student Affairs Officer shall determine, in consultation with the University's Office of the General Counsel, whether to take further action against the student, including whether to initiate involuntary withdrawal proceedings or disciplinary proceedings under Article XV of the CUNY Bylaws.

(2) Before initiating involuntary withdrawal proceedings under this procedure, the Chief Student Affairs Officer shall follow the assessment procedures outlined above in B.2.

#### 2. Students Who Present a Direct Threat of Harm Solely To Themselves

a. The College shall follow the assessment and other procedures outlined above in B.2 a.-d. in order to determine the appropriate course of action. 6

### D. Involuntary Withdrawal Procedures

#### 1. The following shall be the procedures for involuntary withdrawal:

a. Notice of the involuntary withdrawal hearing and the time and place of the hearing shall be personally delivered or sent by the Chief Student Affairs Officer or designee of the student's home college to the student at the address appearing on the records of the College, by overnight or certified mail, by regular mail, and, for students who have a college e-mail address, to that e-mail address. Notice of at least five business days shall be given to the student in advance of the hearing unless the student consents to an earlier hearing.

b. The notice shall contain (i) a statement of the reasons involuntary withdrawal is sought (ii) the type of withdrawal sought (from the University, the college and/or from the college residence hall); and (iii) a statement that the student has a right to present his or her side of the story, to present witnesses and evidence on his or her behalf, to cross-examine witnesses presenting evidence against the student, to remain silent without assumption of guilt, and to be represented by legal counsel or an advisor at the student's expense.

c. CUNY shall constitute a Health Review Panel, comprised of qualified, licensed mental health professionals employed by a college of CUNY or by CUNY, or on retainer to a college of CUNY or CUNY. CUNY's Vice Chancellor for Student Development shall appoint the members of the Health Review Panel. Members of the Health Review Panel, in committees constituted separately for each hearing ("Health Review Committee"), shall be responsible for adjudicating all involuntary withdrawal hearings held according to these procedures. For each involuntary withdrawal hearing, the Vice Chancellor for Student Development or his designee shall constitute a three-person Health Review Committee from the Health Review Panel to adjudicate at that hearing. No member of the Health Review Committee shall have had prior contact with the student. All decisions of the Health Review Committee shall be made by majority vote.

d. The hearing shall be closed, unless the student requests an open hearing. However, the Health Review Committee may overrule a request for an open hearing if it determines that an open hearing would be inappropriate or disruptive in light of the nature of the evidence to be presented.

e. After the evidence is presented at the hearing, the Health Review Committee shall determine whether the College has proved, by a preponderance of the evidence, that the student's behavior presents a direct threat of harm to him or herself or others, or has substantially disrupted the learning or working environment of others and presents a significant risk of threatening further substantial disruption of the learning or working environment of others, and if so, what the appropriate remedy should be. The Health Review Committee may also set reasonable and appropriate conditions on re-entry. The decision of the Health Review Committee shall be made within five business days from the close of the hearing.

#### 7 E. Appeals

An appeal from the decision of the Health Review Committee may be made to the President of the student's home college or the President's designee within thirty calendar days after the delivery of the decision appealed from. The President or designee shall make his or her determination on the appeal within fifteen business days from receipt of the appeal. The President's decision may be appealed to the Chancellor of the University or his or her designee within thirty calendar days after the delivery of the President's decision on appeal. The Chancellor or designee's decision shall be made within fifteen business days from receipt of the appeal. The Chancellor (or designee's) decision shall be final. The bases overturning a decision of the Health Review Committee at both levels of review are limited to the following: (i) clearly erroneous factual findings; (ii) procedural irregularities; (iii) newly available evidence that would have affected the outcome; (iv) the remedy and/or conditions on re-entry were unreasonable or inappropriate.

#### F. Re-entry

1. A student who is withdrawn from the University, a student's home college and/or a college residence hall under this policy may be considered for re-entry.

2. A student wishing to be considered for re-entry should contact his or her home college's Chief Student Affairs Officer and provide appropriate documentation of behavioral change and resolution of the initial behavioral problem, including compliance with any conditions that may have been set for re-entry.

3. A student may apply for re-entry to the University, a college and/or a college residence hall no more than one time per term.

4. In assessing an application for re-entry, the Chief Student Affairs Officer or designee shall: (i) in cases in which he or she determines that an additional mental health assessment is necessary, refer the student for assessment to a qualified, licensed mental health professional, at the College's expense; (ii) receive, investigate, and examine appropriate relevant documentation, including assessments made by collegereferred mental health professionals, and, if applicable, licensed treating mental health professionals; (iii) consult with the Health Review Committee, in cases in which the student's withdrawal was adjudicated by such a Committee; (iv) contact the student's parents or legal guardians as permissible by law, if appropriate; (v) provide an opportunity for the student to meet with the Chief Student Affairs Officer or designee to discuss re-entry.

5. If the Chief Student Affairs Officer or designee determines, based on the evidence presented, that there is not a significant risk that the behavior that required withdrawal will be repeated, he or she shall approve the student's application for re-entry. In such cases, the Chief Student Affairs Officer or designee shall initiate the re-entry process, provide the student with written conditions for continued attendance, and inform any relevant administrators of the student's re-entry.

6. If the Chief Student Affairs Officer or designee determines that the application for reentry should be denied, he or she shall provide the student with a written explanation of the reasons for the denial and specify when the next request for re-entry may be considered.

7. A student may appeal the Chief Student Affairs Officer or designee's denial of reentry to the college President or designee within thirty calendar days after the delivery of the decision denying re-entry. The President or designee shall make his or her determination on the appeal within thirty calendar days from receipt of the appeal. The President's decision may be appealed to the Chancellor of the University or his or her designee within thirty calendar days after the delivery of the President's decision on appeal. The Chancellor or designee's decision shall be made within thirty calendar days from receipt of the appeal. The Chancellor (or designee's) decision shall be final. The basis for overturning a decision on appeal at either level shall be limited to a determination that the decision on re-entry was clearly erroneous.

#### G. Effect on Academic Status

In the event of a withdrawal pursuant to this policy, a notation of withdrawal shall appear on the student's transcript for all classes taken during that semester. The Chief Student Affairs Officer at a student's home college may grant a student request that, in lieu of withdrawal, a notation of incomplete shall appear on his or her transcript for classes taken during that semester if and only if there is a reasonable prospect that the student will eventually complete such classes, subject to faculty approval for each such class. Regardless of the notation that appears on a student's transcript, the Chief Student Affairs Officer of the student's home college shall inform the Vice Chancellor for Student Development of the student's withdrawal in order to effectuate a hold by the University Application Processing Center on the student's ability to transfer or otherwise seek admission to another college of CUNY.

#### H. Effect on Housing Status

If the student has been living in a college residence hall and will not be permitted to continue to do so, the student's contract will be canceled and fees refunded on a prorated basis.

#### I. Confidentiality

The results of examinations by mental health professionals to whom students are referred for assessment at any stage in the withdrawal or readmission process shall be confidential student records, except that if the results indicate that the student presents an imminent, severe, and direct threat of harm to him or herself or others, those results may be shared with the appropriate individuals in order to attempt to prevent the occurrence of such harm. The results of these examinations shall be admissible in involuntary 9 withdrawal hearings but shall not be admissible in disciplinary hearings, unless the student places his or her health, including mental health, at issue in a disciplinary hearing.

#### J. Board Review

During the fall 2009 semester, the Chancellery shall conduct a review of the experience of the colleges with these procedures and shall report the results of that review to the Board of Trustees, along with any recommended changes.



# The City University of New York Medical Withdrawal and Re-entry Policy and Procedures Governing Student Behavior that Presents a Direct Threat of Harm to Self or Others or Substantially Disrupts the Learning or Working Environment of Others

## I. Introduction

The City University of New York (“CUNY”) is committed to the academic success and personal growth of its students. As part of that commitment, CUNY and its constituent campuses are responsible for providing a safe learning and working environment for students, faculty, staff and other members of the University community. Some students may, because of a medical condition, engage in behavior that presents a direct threat of harm to themselves or to others, or substantially disrupts the learning or working environment of others. In such situations, the safety and security of the campus community, including the individual student, is paramount. This policy does not replace or supersede reasonable and appropriate security and health and safety measures, such as calling 911 or taking other immediate action in case of imminent threat to life or limb.

In addition to taking action to protect the security and safety of the campus community, a college may address the student’s conduct to determine if action under this policy or under the student disciplinary process is appropriate. When a student’s conduct that directly threatens or substantially disrupts the learning or working environment of others appears to relate to a medical condition, the campus may, at its option, address the student’s conduct either in accordance with this policy, or through the student disciplinary process. If the student’s conduct constitutes a threat solely to him or herself, it should be addressed under this policy rather than the disciplinary process.

## II. Policy

A. As an alternative to disciplinary action that may be taken under Article XV of CUNY’s Bylaws, a college of CUNY may bring a proceeding to require a student to withdraw from the University, or, under some circumstances, the student’s home college and/or from residence in a college residence hall under this withdrawal policy and procedures when the student’s behavior evidences a direct threat of harm to others, or when the student’s behavior substantially disrupts the learning or working environment of others. A direct threat means a significant risk of harm to health or safety.

B. A student who threatens to commit or attempts to commit suicide, and who does not otherwise threaten direct harm to others or substantially disrupt the learning or working environment of others, shall not be subject to disciplinary action for that threat or attempt under Article XV of the CUNY’s Bylaws. If a college determines that withdrawal of the student or retention of the student subject to specified conditions is appropriate because the student’s behavior threatens direct harm to him or herself, the procedures outlined below shall apply instead of disciplinary procedures.

C. A student who withdraws or is withdrawn from the University, a college or college residence hall pursuant to this policy may apply for re-entry to the University, a college 2 and/or to a college residence hall. The application for re-entry shall be made to the student’s home college’s Chief Student Affairs Officer, who shall determine whether the student still presents a direct threat of harm to him or herself or others or still presents a significant risk to substantially disrupt the learning or working environment of others. If the Chief Student Affairs Officer or designee determines, based on the assessment of a qualified, licensed mental health professional, that there is not a significant risk that the behavior that required withdrawal will be repeated, he or she shall approve the student’s application for re-entry.

## III. Procedures

## A. Emergency Interim Removal

1. If a student's behavior presents an immediate, severe and direct threat to him or herself or others (by evidencing a likelihood of harm to him or herself or others), or is substantially disrupting the learning or working environment of others, the Chief Student Affairs Officer or designee (if such Officer is not immediately available) may direct an emergency interim removal of the student that restricts the student's access to the College's campus or residence hall, as appropriate, for an interim period before a final determination of the matter. The Chief Student Affairs Officer or designee shall consult with the University's Office of the General Counsel prior to making any such direction.

2. The fact that a student has threatened to commit suicide or attempted suicide, by itself, does not allow the Chief Student Affairs Officer or designee to direct an emergency interim removal. In all cases involving such students, the Chief Student Affairs Officer or designee must attempt to have the student individually assessed by a mental health professional as outlined below in A.3. before deciding whether to direct an emergency interim removal.

3. Except as permitted in III A. 1. above, before determining whether to require an emergency interim removal, the Chief Student Affairs Officer or designee shall take the following steps:

a. exercise all reasonable efforts to meet with the student; and

b. in that meeting, offer the student the opportunity to be evaluated at the college's expense by a qualified, licensed mental health professional, who may be an employee of a college of CUNY or CUNY or on retainer to a college of CUNY or CUNY. Whenever possible, that professional shall have had no prior contact with the student. The professional shall assess whether the student's behavior presents an immediate, severe and direct threat to him or herself or others or presents a significant risk to repeat behavior that substantially disrupts the learning or working environment of others, and, if so, whether the student's behavior may be the result of a medical issue. That professional shall present his or her findings to the Chief Student Affairs Officer or designee, who shall determine based on those 3 findings and other evidence available whether emergency interim removal under these procedures is appropriate.

c. If the student refuses to meet, and/or refuses to undergo such assessment or to keep a scheduled appointment, the Chief Student Affairs Officer or designee may require emergency interim removal without a meeting and/or mental health assessment if he or she reasonably concludes on the basis of the available evidence that the student's behavior evidences an immediate, severe and direct threat of harm to the student or others or is substantially disrupting the working or learning environment of others and presents a significant risk to continue that substantial disruption. The Chief Student Affairs Officer or designee shall consult with the University's Office of the General Counsel before making such a determination.

4. The emergency interim removal from the College and/or residence hall shall remain in effect until a final decision has been made pursuant to the procedures below, unless, before a final decision is made, the Chief Student Affairs Officer or designee determines that the reasons for imposing the interim removal no longer exist.

## B. Withdrawal after Emergency Interim Removal

1. If a student has been subjected to an emergency interim removal from the college and/or residence hall, the college shall request retention with conditions or voluntary withdrawal within 7 calendar days of such removal. Should the request for retention with conditions or voluntary withdrawal request be refused, the College shall determine within 7 calendar days of such refusal whether to take further action against the

student, including whether to initiate involuntary withdrawal proceedings or, disciplinary proceedings under Article XV of the CUNY Bylaws, as applicable under II A. above, and shall send notice of either such proceeding in accordance with the notice requirements of the applicable procedure within that 7-day period. For students who have been subjected to an emergency interim removal without having undergone the assessment procedures outlined in III A. 3 above, the College shall follow the assessment procedures outlined below in B.2. a. prior to determining its course of action.

2. In cases where the student has been subjected to an emergency interim removal without assessment, the procedure for determining whether withdrawal is appropriate is as follows:

a. The Chief Student Affairs Officer or designee shall exercise best efforts to meet with the student to discuss the student's behavior and to hear the student's explanation of the alleged behavior. If, after hearing the explanation, the Officer or designee still wishes to consider the possibility of the student's withdrawal, he or she shall offer the student an opportunity to be evaluated, at the college's expense, by a qualified, licensed mental health professional, who may be an employee of a college of CUNY or CUNY, or on retainer to a college of CUNY or CUNY. Whenever possible, that professional shall have had no prior contact with the student. The professional shall make findings concerning whether the student's behavior presents a direct threat of harm to him or herself or others or presents a significant risk to repeat behavior that substantially disrupts the learning or working environment of others and if so, whether the student's behavior may be the result of a medical issue. The professional shall report such findings to the Chief Student Affairs Officer, who shall, based on those findings, and after consultation with the University's Office of the General Counsel, determine the appropriate action, including whether to request that the student withdraw from the University, the college and/or the college residence hall or whether to request that the student agree to specified conditions in lieu of withdrawal.

b. If the student refuses to undergo the requested assessment, or fails to keep the scheduled appointment, and the Chief Student Affairs Officer reasonably concludes on the basis of the available evidence that the student's behavior presents a direct threat of harm to him or herself or others or substantially disrupts the learning or working environment of others and presents a significant risk to repeat behavior that substantially disrupts the learning or working environment of others, the Chief Student Affairs Officer may request that the student voluntarily withdraw from the University, the college and/or the college residence hall. The Chief Student Affairs Officer shall consult with the University's Office of the General Counsel before making any such request.

c. If the student agrees to the request for voluntary withdrawal or to the specified conditions, the Chief Student Affairs officer or designee shall (i) discuss with the student the procedures for and consequences of voluntary withdrawal or the specified conditions, as applicable; (ii) discuss the circumstances with the student's parents or legal guardians as permissible by law and as appropriate; (iii) consult with the student's academic advisor or department, as appropriate; (iv) consult with the residence hall director, as appropriate; (v) refer the student to appropriate resources for treatment; and (vi) advise the student concerning the process for applying for re-entry, as well as on conditions for re-entry, if applicable and appropriate.

d. If the student does not agree to the request for voluntary withdrawal or to the specified conditions, the Chief Student Affairs Officer shall determine, in consultation with the University's Office of the General Counsel, whether to take further action against the student, including whether to initiate involuntary withdrawal proceedings, or, in the case of students referenced in II A. above, whether to initiate disciplinary proceedings under Article XV of the CUNY Bylaws. 5

### C. Withdrawal of Students Without Emergency Interim Removal

## 1. Students Who Present a Direct Threat of Harm to Others or Substantially Disrupt the Learning or Working Environment of Others

### a. Voluntary Withdrawal or Retention with Conditions

(1) In situations where a student's behavior evidences a direct threat of harm to himself or others or substantially disrupts the learning or working environment of others and presents a significant risk to repeat behavior that substantially disrupts the learning or working environment of others and the Chief Student Affairs Officer reasonably believes that the student's behavior may be connected to a medical issue, the Chief Student Affairs Officer or designee may request that the student voluntarily withdraw or agree to retention under conditions.

(2) If the student agrees to the request for voluntary withdrawal or to the specified conditions, the Chief Student Affairs officer or designee shall (i) discuss with the student the procedures for and consequences of voluntary withdrawal or the specified conditions, as applicable; (ii) discuss the circumstances with the student's parents or legal guardians as permissible by law and as appropriate; (iii) consult with the student's academic advisor or department, as appropriate; (iv) consult with the residence hall director, as appropriate; (v) refer the student to appropriate resources for treatment; and (vi) advise the student concerning the process for applying for re-entry, as well as on conditions for re-entry, if applicable and appropriate.

### b. Involuntary Withdrawal

(1) If the student does not agree to the request for voluntary withdrawal or to the specified conditions, the Chief Student Affairs Officer shall determine, in consultation with the University's Office of the General Counsel, whether to take further action against the student, including whether to initiate involuntary withdrawal proceedings or disciplinary proceedings under Article XV of the CUNY Bylaws.

(2) Before initiating involuntary withdrawal proceedings under this procedure, the Chief Student Affairs Officer shall follow the assessment procedures outlined above in B.2. 2.

## Students Who Present a Direct Threat of Harm Solely To Themselves

a. The College shall follow the assessment and other procedures outlined above in B.2 a.-d. in order to determine the appropriate course of action.

### D. Involuntary Withdrawal Procedures

1. The following shall be the procedures for involuntary withdrawal:

a. Notice of the involuntary withdrawal hearing and the time and place of the hearing shall be personally delivered or sent by the Chief Student Affairs Officer or designee of the student's home college to the student at the address appearing on the records of the College, by overnight or certified mail, by regular mail, and, for students who have a college e-mail address, to that e-mail address. Notice of at least five business days shall be given to the student in advance of the hearing unless the student consents to an earlier hearing.

b. The notice shall contain (i) a statement of the reasons involuntary withdrawal is sought (ii) the type of withdrawal sought (from the University, the college and/or from the college residence hall); and (iii) a statement that the student has a right to present his or her side of the story, to present witnesses and evidence on his or her behalf, to cross-examine witnesses presenting evidence against the student, to remain silent without assumption of guilt, and to be represented by legal counsel or an advisor at the student's expense.

c. CUNY shall constitute a Health Review Panel, comprised of qualified, licensed mental health professionals employed by a college of CUNY or by CUNY, or on retainer to a college of CUNY or CUNY. CUNY's Vice Chancellor for Student Development shall appoint the members of the Health Review Panel. Members of the Health Review Panel, in committees constituted separately for each hearing ("Health Review Committee"), shall be responsible for adjudicating all involuntary withdrawal hearings held according to these procedures. For each involuntary withdrawal hearing, the Vice Chancellor for Student Development or his designee shall constitute a three-person Health Review Committee from the Health Review Panel to adjudicate at that hearing. No member of the Health Review Committee shall have had prior contact with the student. All decisions of the Health Review Committee shall be made by majority vote.

d. The hearing shall be closed, unless the student requests an open hearing. However, the Health Review Committee may overrule a request for an open hearing if it determines that an open hearing would be inappropriate or disruptive in light of the nature of the evidence to be presented.

e. After the evidence is presented at the hearing, the Health Review Committee shall determine whether the College has proved, by a preponderance of the evidence, that the student's behavior presents a direct threat of harm to him or herself or others, or has substantially disrupted the learning or working environment of others and presents a significant risk of threatening further substantial disruption of the learning or working environment of others, and if so, what the appropriate remedy should be. The Health Review Committee may also set reasonable and appropriate conditions on re-entry. The decision of the Health Review Committee shall be made within five business days from the close of the hearing. 7

## E. Appeals

An appeal from the decision of the Health Review Committee may be made to the President of the student's home college or the President's designee within thirty calendar days after the delivery of the decision appealed from. The President or designee shall make his or her determination on the appeal within fifteen business days from receipt of the appeal. The President's decision may be appealed to the Chancellor of the University or his or her designee within thirty calendar days after the delivery of the President's decision on appeal. The Chancellor or designee's decision shall be made within fifteen business days from receipt of the appeal. The Chancellor (or designee's) decision shall be final. The bases overturning a decision of the Health Review Committee at both levels of review are limited to the following: (i) clearly erroneous factual findings; (ii) procedural irregularities; (iii) newly available evidence that would have affected the outcome; (iv) the remedy and/or conditions on re-entry were unreasonable or inappropriate.

## F. Re-entry

1. A student who is withdrawn from the University, a student's home college and/or a college residence hall under this policy may be considered for re-entry.

2. A student wishing to be considered for re-entry should contact his or her home college's Chief Student Affairs Officer and provide appropriate documentation of behavioral change and resolution of the initial behavioral problem, including compliance with any conditions that may have been set for re-entry.

3. A student may apply for re-entry to the University, a college and/or a college residence hall no more than one time per term.

4. In assessing an application for re-entry, the Chief Student Affairs Officer or designee shall: (i) in cases in which he or she determines that an additional mental health assessment is necessary, refer the student for

assessment to a qualified, licensed mental health professional, at the College's expense; (ii) receive, investigate, and examine appropriate relevant documentation, including assessments made by collegereferred mental health professionals, and, if applicable, licensed treating mental health professionals; (iii) consult with the Health Review Committee, in cases in which the student's withdrawal was adjudicated by such a Committee; (iv) contact the student's parents or legal guardians as permissible by law, if appropriate; (v) provide an opportunity for the student to meet with the Chief Student Affairs Officer or designee to discuss re-entry.

5. If the Chief Student Affairs Officer or designee determines, based on the evidence presented, that there is not a significant risk that the behavior that required withdrawal will be repeated, he or she shall approve the student's application for re-entry. In such cases, the Chief Student Affairs Officer or designee shall initiate the re-entry process, provide the student with written conditions for continued attendance, and inform any relevant administrators of the student's re-entry.

6. If the Chief Student Affairs Officer or designee determines that the application for reentry should be denied, he or she shall provide the student with a written explanation of the reasons for the denial and specify when the next request for re-entry may be considered.

7. A student may appeal the Chief Student Affairs Officer or designee's denial of reentry to the college President or designee within thirty calendar days after the delivery of the decision denying re-entry. The President or designee shall make his or her determination on the appeal within thirty calendar days from receipt of the appeal. The President's decision may be appealed to the Chancellor of the University or his or her designee within thirty calendar days after the delivery of the President's decision on appeal. The Chancellor or designee's decision shall be made within thirty calendar days from receipt of the appeal. The Chancellor (or designee's) decision shall be final. The basis for overturning a decision on appeal at either level shall be limited to a determination that the decision on re-entry was clearly erroneous.

#### G. Effect on Academic Status

In the event of a withdrawal pursuant to this policy, a notation of withdrawal shall appear on the student's transcript for all classes taken during that semester. The Chief Student Affairs Officer at a student's home college may grant a student request that, in lieu of withdrawal, a notation of incomplete shall appear on his or her transcript for classes taken during that semester if and only if there is a reasonable prospect that the student will eventually complete such classes, subject to faculty approval for each such class. Regardless of the notation that appears on a student's transcript, the Chief Student Affairs Officer of the student's home college shall inform the Vice Chancellor for Student Development of the student's withdrawal in order to effectuate a hold by the University Application Processing Center on the student's ability to transfer or otherwise seek admission to another college of CUNY.

#### H. Effect on Housing Status

If the student has been living in a college residence hall and will not be permitted to continue to do so, the student's contract will be canceled and fees refunded on a prorated basis.

#### I. Confidentiality

The results of examinations by mental health professionals to whom students are referred for assessment at any stage in the withdrawal or readmission process shall be confidential student records, except that if the results indicate that the student presents an imminent, severe, and direct threat of harm to him or herself or others, those results may be shared with the appropriate individuals in order to attempt to prevent the

occurrence of such harm. The results of these examinations shall be admissible in involuntary 9 withdrawal hearings but shall not be admissible in disciplinary hearings, unless the student places his or her health, including mental health, at issue in a disciplinary hearing.

#### J. Board Review

During the fall 2009 semester, the Chancellery shall conduct a review of the experience of the colleges with these procedures and shall report the results of that review to the Board of Trustees, along with any recommended changes.

## **II. Student Disciplinary**

### **II- CUNY POLICY ON ACADEMIC INTEGRITY**

Academic dishonesty is prohibited in The City University of New York. Penalties for academic dishonesty include academic sanctions, such as failing or otherwise reduced grades, and/or disciplinary sanctions, including suspension or expulsion.

#### **Definitions and examples of academic dishonesty**

**Cheating** is the unauthorized use or attempted use of material, information, notes, study aids, devices or communication during an academic exercise. Examples of cheating include:

- Copying from another student during an examination or allowing another to copy your work.
- Unauthorized collaboration on a take home assignment or examination.
- Using notes during a closed book examination.
- Taking an examination for another student, or asking or allowing another student to take an examination for you.
- Changing a graded exam and returning it for more credit.
- Submitting substantial portions of the same paper to more than one course without consulting with each instructor.
- Preparing answers or writing notes in a blue book (exam booklet) before an examination.
- Allowing others to research and write assigned papers or do assigned projects, including using commercial term paper services.
- Giving assistance to acts of academic misconduct/ dishonesty.
- Fabricating data (in whole or in part).
- Falsifying data (in whole or in part).
- Submitting someone else's work as your own.
- Unauthorized use during an examination of any electronic devices such as cell phones, computers or other technologies to retrieve or send information.

**Plagiarism** is the act of presenting another person's ideas, research or writings as your own. Examples of plagiarism include:

- Copying another person's actual words or images without the use of quotation marks and footnotes attributing the words to their source.
- Presenting another person's ideas or theories in your own words without acknowledging the source.

- Failing to acknowledge collaborators on homework and laboratory assignments.
- Internet plagiarism, including submitting downloaded term papers or parts of term papers, paraphrasing or copying information from the internet without citing the source, or "cutting & pasting" from various sources without proper attribution.

**Obtaining Unfair Advantage** is any action taken by a student that gives that student an unfair advantage in his/her academic work over another student, or an action taken by a student through which a student attempts to gain an unfair advantage in his or her academic work over another student. Examples of obtaining unfair advantage include:

- Stealing, reproducing, circulating or otherwise gaining advance access to examination materials.
- Depriving other students of access to library materials by stealing, destroying, defacing, or concealing them.
- Retaining, using or circulating examination materials which clearly indicate that they should be returned at the end of the exam.
- Intentionally obstructing or interfering with another student's work.

### **Falsification of Records and Official Documents**

Examples of falsification include:

- Forging signatures of authorization.
- Falsifying information on an official academic record.
- Falsifying information on an official document such as a grade report, letter of permission, drop/add form, ID card or other college document.

A faculty member who suspects that a student has committed a violation of the CUNY Academic Integrity Policy shall review with the student the facts and circumstances of the suspected violation whenever feasible.

Thereafter, a faculty member who concludes that there has been an incident of academic dishonesty sufficient to affect the student's final course grade shall report such incident on a Faculty Report Form which is attached to this Policy and shall submit the Form to the college's Academic Integrity Officer who is Mrs. Janelle Hill Confidential Executive Officer to the Vice President of Student Affairs Her office is in Shuster Hall room 204 and he can be reached at 718-960-8242 Janelle.Hill@lehman.cuny.edu

The Academic Integrity Officer shall update the Faculty Report Form after a suspected incident has been resolved to reflect that resolution. Unless the resolution exonerates the student, as described in Section 4.4, the Academic Integrity Officer shall place the Form in a confidential academic integrity file created for each student alleged to have violated the Academic Integrity Policy and shall retain each Form for the purposes of identifying repeat offenders, gathering data, and assessing and reviewing policies. Unless the student is exonerated, written decisions on academic integrity matters after adjudication also shall be placed in the student's academic integrity file. The Academic Integrity Officer shall be responsible for maintaining students' academic integrity files.



## **Procedures for Imposition of Sanctions**

### **Determination on academic vs. disciplinary sanction**

The Academic Integrity Officer shall determine whether to seek a disciplinary sanction in addition to an academic sanction. In making this determination, the Academic Integrity Officer shall consult with the faculty member who initiated the case and may consult with student affairs and/or academic affairs administrators as needed. Before determining which sanction(s) to seek, the Academic Integrity Officer also shall consult the student's confidential academic integrity file, if any, to determine whether the student has been found to have previously committed a violation of the Academic Integrity Policy, the nature of the infraction, and the sanction imposed or action taken. Prior violations include both violations at the student's current college and violations that occurred at any other CUNY college. In making the determination on prior violations, the Academic Integrity Officer shall determine whether the student previously attended any other CUNY colleges and, if so, shall request and be given access to the academic integrity files, if any, at such other CUNY colleges.

The Academic Integrity Officer should seek disciplinary sanctions only if (i) there is a substantial violation; or (ii) the student has previously violated the Policy; or (iii) academic sanctions are unable to be imposed because the student has timely withdrawn from the applicable course. Examples of substantial violations include but are not limited to forging a grade form or a transcript; stealing an examination from a professor or a university office; having a substitute take an examination or taking an examination for someone else; having someone else write a paper for the student or writing a paper for another student; sabotaging another student's work through actions that prevent or impede the other student from successfully completing an assignment; and violations committed by a graduate or professional student or a student who will seek professional licensure. The college also should consider any mitigating circumstances in making this determination.

## **Procedures in Cases Involving Only Academic Sanctions**

### **Student Admits to the Academic Dishonesty and Does Not Contest the Academic Sanction**

If a faculty member wishes to seek only an academic sanction (i.e., a reduced grade) and the student does not contest either his/her guilt or the particular reduced grade the faculty member has chosen, then the student shall be given the reduced grade, unless the Academic Integrity Officer decides to seek a disciplinary sanction. The reduced grade may apply to the particular assignment as to which the violation occurred or to the course grade, at the faculty member's discretion. A reduced grade may be an "F" or another grade that is lower than the grade that the student would have earned but for the violation.

The faculty member shall inform the Academic Integrity Officer of the resolution via email and the Officer shall update the applicable Faculty Report Form to reflect that resolution.

### **Student Admits to the Academic Dishonesty but Contests the Academic Sanction**

In a case where a student admits to the alleged academic dishonesty but contests the particular academic sanction imposed, the student may appeal the academic sanction through the college's grade appeal process. The student shall be allowed, at a minimum, an opportunity to present a written position with supporting evidence. The committee reviewing the appeal shall issue a written decision explaining the justification for the academic sanction imposed.

### **Student Denies the Academic Dishonesty**

In a case where a student denies the academic dishonesty, a fact-finding determination shall be made, by the Student-Faculty Disciplinary Committee established under Article XV of the CUNY Bylaws. The Student-Faculty Disciplinary Committee shall issue written decisions and send copies of their decisions to the college's Academic Integrity Officer. The Academic Integrity Officer may not serve on a college's Academic Integrity Committee.

**Procedures in Cases Involving Disciplinary Sanctions**

If the college decides to seek a disciplinary sanction, the case shall be processed under Article XV of the CUNY Bylaws. If the case is not resolved through mediation under Article XV, it shall be heard by the college's Faculty-Student Disciplinary Committee.

If the college seeks to have both a disciplinary and an academic sanction imposed, the college shall proceed first with the disciplinary proceeding and await its outcome before addressing the academic sanction. The student's grade shall be held in abeyance by using the PEN grade established for this purpose, pending the Committee's action. If the Faculty-Student Disciplinary Committee finds that the alleged violation occurred, then the faculty member may reflect that finding in the student's grade. The student may appeal the finding in accordance with Article XV procedures and/or may appeal the grade imposed by the faculty member in accordance with section 4.2.2. If the Faculty-Student Disciplinary Committee finds that the alleged violation did not occur, then no sanction of any kind may be imposed.

Where a matter proceeds to the Faculty-Student Disciplinary Committee, the Academic Integrity Officer shall promptly report its resolution to the faculty member and file a record of the resolution in the student's confidential academic integrity file, unless, as explained below, the suspected violation was held to be unfounded.

**Required Action in Cases of No Violation**

If the Faculty-Student Disciplinary Committee finds that no violation occurred, the Academic Integrity Officer shall remove all material relating to that incident from the student's confidential academic integrity. file and destroy the material.

**Faculty Report Form**

It is necessary to complete this form to report an incident of suspected and/or resolved academic dishonesty. Make a copy for your records and forward the original, along with copies of all available supporting documentation, to the:

**Office of the Vice President for Student Affairs - Ms Janelle Hill - Academic Integrity Officer –  
Shuster Hall room 204. Janelle.Hill@lehman.cuny.edu 718-960-8242**

Instructor Name: \_\_\_\_\_

Dept.: \_\_\_\_\_ Tel.No: \_\_\_\_\_

email: \_\_\_\_\_

Course: \_\_\_\_\_ Section: \_\_\_\_\_ Semester: \_\_\_\_\_

Student Name: \_\_\_\_\_

Student EMPL ID#: \_\_\_\_\_

Date of Incident:

Type of Incident: Cheating \_\_\_\_\_ Plagiarism \_\_\_\_\_ Other \_\_\_\_\_

Description of Incident:

Did the student admit to the charge of cheating, plagiarism or other act of academic dishonesty?

Yes \_\_\_ No \_\_\_ Student could not be contacted \_\_\_\_\_

Explanation

Explanation of recommended

sanction: \_\_\_\_\_

Signature of Faculty Member \_\_\_\_\_ Date \_\_\_\_\_

**Resolution of the Case after Adjudication**

Academic sanction

Disciplinary sanction

Signature of Academic Integrity Officer \_\_\_\_\_ Date \_\_\_\_\_

**II-B The City University of New York Policy on Acceptable Use of Computer Resources**

**I. INTRODUCTION**

CUNY’s computer resources are dedicated to the support of the University’s mission of education, research and public service. In furtherance of this mission, CUNY respects, upholds and endeavors to safeguard the principles of academic freedom, freedom of expression and freedom of inquiry. CUNY recognizes that there is a concern among the University community that because information created, used, transmitted or stored in electronic form is by its nature susceptible to disclosure, invasion, loss, and similar risks, electronic communications and transactions will be particularly vulnerable to infringements of academic freedom. CUNY’s commitment to the principles of academic freedom and freedom of expression includes electronic information. Therefore, whenever possible, CUNY will resolve doubts about the need to access CUNY Computer Resources in favor of a User’s privacy interest. However, the use of CUNY Computer Resources, including for electronic transactions and communications, like the use of other University-provided resources and activities, is subject to the requirements of legal and ethical behavior. This policy is intended to support the free exchange of ideas among members of the CUNY community and between the CUNY community and other communities, while recognizing the responsibilities and limitations associated with such exchange.

**II. APPLICABILITY**

This policy applies to all Users of CUNY Computer Resources, as defined in Article III below.

This policy supersedes the CUNY policy titled “CUNY Computer User Responsibilities” and any college policies that are inconsistent with this policy.

### **III. DEFINITIONS**

1. “CUNY Computer Resources” refers to all computer and information technology hardware, software, data, access and other resources owned, operated, or contracted by CUNY. This includes, but is not limited to, desktop and laptop computers, handheld devices that allow or are capable of storing and transmitting information (e.g., cellphones, tablets), mainframes, minicomputers, servers, network facilities, databases, memory, memory sticks, and associated peripherals and software, and the applications they support, such as e-mail, cloud computing applications, and access to the internet.
2. “E-mail” includes point-to-point messages, postings to newsgroups and listservs, and other electronic messages involving computers and computer networks.
3. “Faculty” includes full-time, part-time, and adjunct faculty.
4. “FOIL” is the New York State Freedom of Information Law.
5. “Non-Public University Information” has the meaning set forth in CUNY’s IT Security Policies and Procedures found at [security.cuny.edu](http://security.cuny.edu), namely: personally identifiable information (such as an individual’s Social Security Number; driver’s license number or non-driver identification card number; account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual’s financial account; personal electronic mail address; Internet identification name or password; and parent’s surname prior to marriage); information in student education records that is protected under the Family Educational Rights and Privacy Act of 1974 (FERPA) and the related regulations set forth in 34 CFR Part 99; other information relating to the administrative, business, and academic activities and operations of the University (including employee evaluations, employee home addresses and telephone numbers, and other employee records that should be treated confidentially); and any other information available in University files and systems that by its nature should be treated confidentially .
6. “User” means a user of CUNY Computer Resources, including all current and former users, whether affiliated with CUNY or not, and whether accessing those resources on a CUNY campus or remotely.

### **IV. RULES FOR USE OF CUNY COMPUTER RESOURCES**

#### **1. Authorization.**

- a. Users may not access a CUNY Computer Resource without authorization or use it for purposes beyond the scope of authorization. This includes attempting to circumvent CUNY Computer Resource system protection facilities by hacking, cracking or similar activities, accessing or using another person’s computer account, and allowing another person to access or use the User’s account.
- b. Notwithstanding subsection 1.a. above, a User may authorize a colleague or clerical assistant to access information under the User’s account on the User’s behalf while away from a CUNY campus or when the User is unable to efficiently access the information on the User’s own behalf (including as

a result of a disability), but delegated access will be subject to the rules of Section 10 – Security, below.

c. CUNY Computer Resources may not be used to gain unauthorized access to another computer system within or outside of CUNY. Users are responsible for all actions performed from their computer account that they permitted or failed to prevent by following ordinary security precautions. CUNY advisories and resources are available at [security.cuny.edu](http://security.cuny.edu).

## **2. Purpose.**

a. Use of CUNY Computer Resources is limited to activities relating to the performance by CUNY employees of their duties and responsibilities and by students in connection with their college courses and activities. For example, use of CUNY Computer Resources for private commercial or not-for-profit business purposes, for private advertising of products or services, or for any activity meant solely to foster personal gain, is prohibited. Similarly, use of CUNY Computer Resources for partisan political activity is also prohibited.

b. Except with respect to CUNY employees other than faculty, where a supervisor has prohibited it in writing, incidental personal use of CUNY Computer Resources is permitted so long as such use does not interfere with CUNY operations, does not compromise the functioning of CUNY Computer Resources, does not interfere with the User's employment or other obligations to CUNY, and is otherwise in compliance with this policy, including subsection 2.a. above.

Users should be aware that personal messages, data and other information sent or received through a User's CUNY account or otherwise residing in a CUNY Computer Resource are subject to CUNY review pursuant to Section 13 of this policy and may also be subject to public disclosure pursuant to FOIL.

## **3. Compliance with Law.**

a. CUNY Computer Resources may not be used for any purpose or in any manner that violates CUNY rules, regulations or policies, or federal, state or local law. Users who engage in electronic communications with persons in other states or countries or on other systems or networks may also be subject to the laws of those other states and countries, and the rules and policies of those other systems and networks. Users are responsible for ascertaining, understanding, and complying with the laws, rules, policies, contracts, and licenses applicable to their particular use.

b. Examples of applicable federal and state laws include those addressing defamation, invasion of privacy, obscenity and child pornography, and online gambling, as well as the following:

- Computer Fraud and Abuse Act
- Copyright Act of 1976
- Electronic Communications Privacy Act
- Export control regulations issued by the U.S. Departments of Commerce, State and Treasury
- Family Educational Rights and Privacy Act
- FOIL
- New York State Law with respect to the confidentiality of library records

c. Examples of applicable CUNY rules and policies include those listed below.

Other rules and policies may be found in the Manual of General Policy and on the CUNY Legal Affairs website:

- Gramm-Leach-Bliley Information Security Program
- IT Security Policies & Procedures
- Policy on Maintenance of Public Order (the "Henderson Rules")!!

- Sexual Harassment Policy
- University Policy on Academic Integrity
- Web Site Privacy Policy

#### **4. Licenses and Intellectual Property.**

a. Users may use only legally obtained, licensed data or software and must comply with applicable licenses or other contracts, as well as copyright, trademark and other intellectual property laws.

b. Much of what appears on the internet and/or is distributed via electronic communication is protected by copyright law, regardless of whether the copyright is expressly noted. Users should generally assume that material is copyrighted unless they know otherwise, and not copy, download or distribute copyrighted material without permission unless the use does not exceed fair use as defined by the federal Copyright Act of 1976. Protected material may include, among other things, text, photographs, audio, video, graphic illustrations, and computer software. Additional information regarding copyright and file sharing is available on the CUNY Legal Affairs website.

**5. False Identity and Harassment.** Users may not employ a false identity, mask the identity of an account or computer, or use CUNY Computer Resources to engage in abuse of others, such as sending harassing, obscene, threatening, abusive, deceptive, or anonymous messages within or outside CUNY.

#### **6. Confidentiality.**

a. Users may not invade the privacy of others by, among other things, viewing, copying, redistributing, posting such data to the Internet, modifying or destroying data or programs belonging to or containing personal or confidential information about others, without explicit permission to do so.

b. CUNY employees must take precautions by following all IT Security Policies and Procedures to protect the confidentiality of Non-Public University Information encountered in the performance of their duties or otherwise.

**7. Integrity of Computer Resources.** Users may not install, use or develop programs intended to infiltrate or damage a CUNY Computer Resource, or which could reasonably be expected to cause, directly or indirectly, excessive strain or theft of confidential data on any computing facility. This includes, but is not limited to, programs known as computer viruses, Trojan horses, and worms. Users should consult with the IT director at their college before installing any programs on CUNY Computer Resources that they are not sure are safe or may cause excess strain.

#### **8. Disruptive Activities.**

a. CUNY Computer Resources must not be used in a manner that could reasonably be expected to cause or does cause, directly or indirectly, unwarranted or unsolicited interference with the activity of other users, including:

- chain letters, virus hoaxes or other e-mail transmissions that potentially disrupt normal e-mail service;
- spamming, junk mail or other unsolicited mail that is not related to CUNY business and is sent without a reasonable expectation that the recipient would welcome receiving it;
- the inclusion on e-mail lists of individuals who have not requested membership on the lists, other than the inclusion of members of the CUNY community on lists related to CUNY business; and
- downloading of large videos, films or similar media files for personal use.

b. CUNY has the right to require Users to limit or refrain from other specific uses if, in the opinion of the IT director at the User's college, such use interferes with efficient operations of the system, subject to appeal to the President or, in the case of central office staff, to the Chancellor.

### **9. CUNY Names and Trademarks.**

a. CUNY names, trademarks and logos belong to the University and are protected by law. Users of CUNY Computer Resources may not state or imply that they speak on behalf of CUNY or use a CUNY name, trademark or logo without authorization to do so. Affiliation with CUNY does not, by itself, imply authorization to speak on behalf of CUNY.

b. Notwithstanding subsection 9.a. above, CUNY employees and students may indicate their CUNY affiliation on e-mail, other correspondence, and in academic or professionally-related research, publications or professional appearances, so long as they do not state or imply that they are speaking on behalf of the University.

### **10. Security.**

a. CUNY employs various measures to protect the security of its computer resources and of Users' accounts. However, CUNY cannot guarantee such security. Users are responsible for engaging in safe computing practices such as guarding and not sharing their passwords, changing passwords regularly, logging out of systems at the end of use, and protecting Non-Public University Information, as well as for following CUNY's IT Security Policies and Procedures.

b. Users must report incidents of non-compliance with IT Security Policies and Procedures or other security incidents to the University Chief Information Officer and Chief Information Security Officer, and the Chief Information Officer at the affected User's college.

**11. Filtering.** CUNY reserves the right to install spam, anti-malware, and spyware filters and similar devices if necessary in the judgment of CUNY's Office of Information Technology or a college IT director to protect the security and integrity of CUNY Computer Resources. CUNY will not install filters that restrict access to e-mail, instant messaging, chat rooms or websites based solely on content, unless such content is illegal, such as child pornography sites.

**12. Confidential Research Information.** Principal investigators and others who use CUNY Computer Resources to collect, examine, analyze, transmit or store research information that is required by law or regulation to be held confidential or for which a promise of confidentiality has been given are responsible for taking steps to protect such confidential research information from unauthorized access or modification. In general, this means storing the information on a computer or auxiliary hard drive that provides strong access controls (passwords) and encrypting files, documents, and messages for protection against inadvertent or unauthorized disclosure while in storage or in transit over data networks. Robust encryption and passwords must be used to protect Non-Public University Information, and is strongly recommended for information stored electronically on all computers, especially portable devices such as notebook computers, Personal Digital Assistants (PDAs), and portable data storage (e.g., auxiliary hard drives, memory sticks) that are vulnerable to theft or loss, as well as for information transmitted over public networks. Software and protocols used should be reviewed and approved by CUNY's Office of Information Technology. In addition, the steps taken to protect such confidential research information should be included in submissions to the CUNY Institutional Review Board reviewing the research protocol.

### **13. CUNY Access to Computer Resources.**

a. **Copying.** CUNY may copy a User's account and/or hard drive on a CUNY Computer Resource, without monitoring or inspecting the contents of such account and/or hard drive, at any time for preservation of data or evidence, without notice to the User.

b. **General Monitoring Practices.** CUNY does not routinely monitor, inspect, or disclose individual usage of CUNY Computer Resources without the User's consent. In most instances, if the University needs information located in a CUNY Computer Resource, it will simply request it from the author or custodian.

However, CUNY IT professionals and staff do regularly monitor general usage patterns as part of normal system operations and maintenance and might, in connection with these duties, observe the contents of web sites, e-mail or other electronic communications. Except as provided in this policy or by law, these individuals are not permitted to seek out contents or transactional information, or disclose or otherwise use what they have observed. Nevertheless, because of the inherent vulnerability of computer technology to unauthorized intrusions, Users have no guarantee of privacy during any use of CUNY computer resources or in any data in them, whether or not a password or other entry identification or encryption is used. Users may expect that the privacy of their electronic communications and of any materials stored in any CUNY Computer Resource dedicated to their use will not be intruded upon by CUNY except as outlined in this policy.

**c. Monitoring without Notice.**

i. Categories. CUNY may specifically monitor or inspect the activity and accounts of individual users of CUNY computer resources, including individual login sessions, e-mail and other communications, without notice, in the following circumstances:

A. when the User has voluntarily made them accessible to the public, as by posting to Usenet or a web page;

B. when it is reasonably necessary to do so to protect the integrity, security, or functionality of CUNY or other computer resources, as determined by the college chief information officer or his or her designee, after consultation with CUNY's chief information officer or his or her designee;

C. when it is reasonably necessary to diagnose and resolve technical problems involving system hardware, software, or communications, as determined by the college chief information officer or his or her designee, after consultation with CUNY's chief information officer or his or her designee;

D. when it is reasonably necessary to determine whether CUNY may be vulnerable to liability, or when failure to act might result in significant bodily harm, significant property loss or damage, or loss of evidence, as determined by the college president or a vice president designated by the president or, in the case of the Central Office by the Chancellor or his or her designee, after consultation with the Office of General Counsel and the Chair of the University Faculty Senate (if a current CUNY faculty member's account or activity is involved) or Vice Chair if the Chair is unavailable;

E. when there is a reasonable basis to believe that CUNY policy or federal, state or local law has been or is being violated, as determined by the college president or a vice president designated by the president or, in the case of the Central Office by the Chancellor or his or her designee, after consultation with the Office of General Counsel and the Chair of the University Faculty Senate (if a current CUNY faculty member's account or activity is involved) or Vice Chair if the Chair is unavailable;

F. when an account appears to be engaged in unusual or unusually excessive activity, as indicated by the monitoring of general activity and usage patterns, as determined by the college president or a vice



president designated by the president and the college chief information officer or his or her designee or, in the case of the Central Office by the Chancellor or his or her designee, after consultation with CUNY's chief information officer or his or her designee, the Office of General Counsel, and the Chair of the University Faculty Senate (if a current CUNY faculty member's account or activity is involved) or Vice Chair if the Chair is unavailable; or

G. as otherwise required by law.

ii. Procedures. In those situations in which the Chair of the University Faculty Senate is to be consulted prior to monitoring or inspecting an account or activity, the following procedures shall apply:

A. if the monitoring or inspection of an account or activity requires physical entry into a faculty member's office, the faculty member shall be advised prior thereto and shall be permitted to be present to observe, except where specifically forbidden by law; and

B. the college president or the Chancellor, as the case may be, shall report the completion of the monitoring or inspection to the Chair and the CUNY employee affected, who shall also be told the reason for the monitoring or inspection, except where specifically forbidden by law.

#### **Other Disclosure.**

A. CUNY, in its discretion, may disclose the results of any general or individual monitoring or inspection to appropriate CUNY personnel or agents, or law enforcement or other agencies. The results may be used in college disciplinary proceedings, discovery proceedings in legal actions, or otherwise as is necessary to protect the interests of the University.

B. In addition, users should be aware that CUNY may be required to disclose to the public under FOIL communications made by means of CUNY Computer Resources whether in conjunction with University business or as incidental personal use.

C. Any disclosures of activity of accounts of individual Users to persons or entities outside of CUNY, whether discretionary or required by law, shall be approved by the General Counsel and shall be conducted in accordance with any applicable law. Except where specifically forbidden by law, CUNY employees subject to such disclosures shall be informed promptly after the disclosure of the actions taken and the reasons for them.

iv. Annual Statement. The Office of General Counsel shall issue an annual statement of the instances of account monitoring or inspection that fall within categories D through G above. The statement shall indicate the number of such instances and the cause and result of each. No personally identifiable data shall be included in this statement.

v. Privacy Policy. See [CUNY's Web Site Privacy Policy](#) for additional information regarding data collected by CUNY from visitors to the CUNY website at [www.cuny.edu](http://www.cuny.edu).

#### **14. Waiver of Policy**

a. A CUNY employee or student may apply to the General Counsel for an exception or waiver from one or more of the provisions of this policy. Such application may be for a single use or for periodic or continuous uses, such as in connection with a course or program. Any application for a waiver should be made prior to using the CUNY Computer Resource for the purposes described in the application.

b. The written waiver application must state:

- i. the policy provision or provisions for which the User is seeking a waiver; ii. how the User plans to use CUNY Computer Resource to be covered by the waiver and the reasons why the User believes a waiver should be approved;
- iii. if the waiver involves confidential research information, what steps will be taken to protect such information;
- iv. the length of time for which the waiver is being requested; and
- v. if a student, how and by whom the student will be supervised.

c. The General Counsel shall consult with the CUNY's chief information officer and the president of the applicant's college (or, if the applicant is a Central Office employee, the Chancellor) or their designees, prior to making a determination regarding the application.

d. Users should be aware that CUNY cannot waive federal, state or local law; for example, the contents of CUNY Computer Resources (including confidential research information) may be subject to a valid subpoena regardless of the terms of any waiver.

### **15. Enforcement.**

a. Violation of this policy may result in suspension or termination of an individual's right of access to CUNY Computer Resources, disciplinary action by appropriate CUNY authorities, referral to law enforcement authorities for criminal prosecution, or other legal action, including action to recover civil damages and penalties.

b. Violations will normally be handled through the University disciplinary procedures applicable to the relevant User. For example, alleged violations by students will normally be investigated, and any penalties or other discipline will normally be imposed, by the Office of Student Affairs.

c. CUNY has the right to temporarily suspend computer use privileges and to remove from CUNY computer resources material it believes violates this policy, pending the outcome of an investigation of misuse or finding of violation. This power may be exercised only by the president of each college or the Chancellor.

### **16. Additional Rules.**

Additional rules, policies, guidelines and/or restrictions may be in effect for specific computers, systems, or networks, or at specific computer facilities at the discretion of the directors of those facilities. Any such rules which potentially limit the privacy or confidentiality of electronic communications or information contained in or delivered by or over CUNY Computer Resources will be subject to the substantive and procedural safeguards provided by this policy.

### **17. Disclaimer.**

a. CUNY shall not be responsible for any damages, costs or other liabilities of any nature whatsoever with regard to the use of CUNY Computer Resources. This includes, but is not limited to, damages caused by unauthorized access to CUNY Computer Resources, data loss, or other damages resulting from delays, no deliveries, or service interruptions, whether or not resulting from circumstances under the CUNY's control.

b. Users receive and use information obtained through CUNY Computer Resources at their own risk. CUNY makes no warranties (expressed or implied) with respect to the use of CUNY Computer Resources. CUNY accepts no responsibility for the content of web pages or graphics that are linked

from CUNY web pages, for any advice or information received by a user through use of CUNY Computer Resources, or for any costs or charges incurred by a user as a result of seeking or accepting such advice or information.

c. CUNY reserves the right to change this policy and other related policies at any time. CUNY reserves any rights and remedies that it may have under any applicable law, rule or regulation. Nothing contained in this policy will in anyway act as a waiver of such rights and remedies.

**Approved by the Board of Trustees on January 29, 2007, Cal. No. 4.D., with amendments approved on June 25, 2012, Cal. No. 5.A.**

## **II-C RULES AND REGULATIONS FOR THE MAINTENANCE OF PUBLIC ORDER PURSUANT TO ARTICLE 129-A OF THE EDUCATION LAW**

The tradition of the University as a sanctuary of academic freedom and center of informed discussion is an honored one, to be guarded vigilantly. The basic significance of that sanctuary lies in the protection of intellectual freedom: the rights of professors to teach, of scholars to engage in the advancement of knowledge, of students to learn and to express their views, free from external pressures or interference. These freedoms can nourish only in an atmosphere of mutual respect, civility, and trust among teachers and students, only when members of the University community are willing to accept self-restraint and reciprocity as the condition upon which they share in its intellectual autonomy.

Academic freedom and the sanctuary of the University campus extend to all who share these aims and responsibilities. They cannot be invoked by those who would subordinate intellectual freedom to political ends, or who violate the norms of conduct established to protect that freedom. Against such offenders the University has the right, and indeed the obligation, to defend itself. We accordingly announce the following rules and regulations to be in effect at each of our colleges which are to be administered in accordance with the requirements of due process as provided in the Bylaws of the Board of Higher Education. With respect to enforcement of these rules and regulations we note that the Bylaws of the Board of Higher Education provide that:

**"THE PRESIDENT"**. The president, with respect to his education unit, shall:

- a. Have the affirmative responsibility of conserving and enhancing the educational standards of the college and schools under his jurisdiction;
- b. Be the advisor and executive agent of the Board and of his respective College Committee and as such shall have the immediate supervision with full discretionary power in carrying into effect the Bylaws, resolutions, and policies of the Board, the lawful resolutions of the several faculties;
- c. Exercise general superintendence over the concerns, officers, employees, and students of his educational unit."

### **1. RULES**

1. A member of the academic community shall not intentionally obstruct and/or forcibly prevent others from the exercise of their rights. Nor shall he interfere with the institution's educational processes or

facilities, or the rights of those who wish to avail themselves of any of the institution's instructional, personal, administrative, recreational, and community services.

2. Individuals are liable for failure to comply with lawful directions issued by representatives of the University/college when they are acting in their official capacities. Members of the academic community are required to show their identification cards when requested to do so by an official of the college.

3. Unauthorized occupancy of University/college facilities or blocking access to or from such areas is prohibited. Permission from appropriate college authorities must be obtained for removal, relocation, and use of University/college equipment and/or supplies.

4. Theft from, or damage to University/college premises or property, or theft of or damage to property of any person on University/college premises is prohibited.

5. Each member of the academic community or an invited guest has the right to advocate his position without having to fear abuse, physical, verbal, or otherwise, from others supporting conflicting points of view. Members of the academic community and other persons on the college grounds shall not use language or take actions reasonably likely to provoke or encourage physical violence by demonstrators, those demonstrated against, or spectators.

6. Action may be taken against any and all persons who have no legitimate reason for their presence on any campus within the University/college, or whose presence on any such campus obstructs and/or forcibly prevents others from the exercise of the rights or interferes with the institution's educational processes or facilities, or the rights of those who wish to avail themselves of any of the institution's instructional, personal, administrative, recreational, and community services.

7. Disorderly or indecent conduct on University/college-owned or controlled property is prohibited.

8. No individual shall have in his possession a rifle, shotgun, or firearm or knowingly have in his possession any other dangerous instruments or material that can be used to inflict bodily harm on an individual or damage upon a building or the grounds of the University/college without the written authorization of such educational institution. Nor shall any individual have in his possession any other instrument or material which can be used and is intended to inflict bodily harm on any individual or damage upon a building or the grounds of the University/college.

9. Any action or situation which recklessly or intentionally endangers mental or physical health or involves the forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization is prohibited.

10. The unlawful manufacture, distribution, dispensation, possession, or use of illegal drugs or other controlled substances by University students or employees on University/college premises, or as part of any University/college activities is prohibited. Employees of the University must also notify the College Personnel Director of any criminal drug statute conviction for a violation occurring in the workplace not later than five (5) days after such conviction.

11. The unlawful possession, use, or distribution of alcohol by students or employees on University/college premises or as part of any University/college activities is prohibited.

## **2. PENALTIES**

1. Any student engaging in any manner in conduct prohibited under substantive Rules 1-11 shall be subject to the following range of sanctions as hereafter defined in the attached Appendix: admonition, warning, censure, disciplinary probation, restitution, suspension, expulsions, ejection, and/or arrest by the civil authorities.

2. Any tenured or non-tenured faculty member, or other member of the instructional staff, or member of the classified staff engaging in any manner in conduct prohibited under substantive Rules 1-11 shall be subject to the following range of penalties: warning, censure, restitution, fine not exceeding those permitted by law or by the Bylaws of The City University of New York or suspension with/without pay pending a hearing before an appropriate college authority, dismissal after a hearing, ejection, and/or arrest by the civil authorities, and, for engaging in any manner in conduct prohibited under substantive rule 10, may, in the alternative, be required to participate satisfactorily in an appropriately licensed drug treatment or rehabilitation program. A tenured or non-tenured faculty member, or other member of the instructional staff, or member of the classified staff charged with engaging in any manner in conduct prohibited under substantive Rules 1-11 shall be entitled to be treated in accordance with applicable provisions of the Education Law, or the Civil Service Law, or the applicable collective bargaining agreement, or the Bylaws or written policies of The City University of New York.

3. Any visitor, licensee, or invitee, engaging in any manner in conduct prohibited under substantive Rules 1-11. shall be subject to ejection, and/or arrest by the civil authorities.

4. Any organization which authorized the conduct prohibited under substantive rules 1-11 shall have its permission to operate on campus rescinded.

Penalties 1-4 shall be in addition to any other penalty provided by law or The City University Trustees.

### **SANCTIONS DEFINED:**

#### **A. Admonition.**

An oral statement to the offender that he has violated university rules.

#### **B. Warning.**

Notice to the offender, orally or in writing, that continuation or repetition of the wrongful conduct, within a period of time stated in the warning, may cause far more severe disciplinary action.

#### **C. Censure.**

Written reprimand for violation of specified regulation, including the possibility of more severe disciplinary sanction in the event of conviction for the violation of any University regulation within a period stated in the letter of reprimand.

#### **D. Disciplinary Probation.**

Exclusion from participation in privileges or extracurricular University activities as set forth in the notice of disciplinary probation for a specified period of time.

#### E. Restitution.

Reimbursement for damage to or misappropriation of property. Reimbursement may take the form of appropriate service to repair or otherwise compensate for damages.

#### F. Suspension.

Exclusion from classes and other privileges or activities as set forth in the notice of suspension for a definite period of time.

#### G. Expulsion.

Termination of student status for an indefinite period. The conditions of readmission, if any is permitted, shall be stated in the order of expulsion.

#### H. Complaint to Civil Authorities.

#### I. Ejection.

Adopted by the Board of Trustees of the City University of New York on June 23, 1969 as amended on October 27, 1980, May 22, 1989 and June 25, 1990.

## **II-D**

### **ARTICLE XV Student Organizations and Student Disciplinary Procedures.**

#### **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 policies. 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 and Sex Discrimination 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/he/it is the victim of a student's misconduct (hereinafter "complainant") may make a charge, accusation, or allegation against a student (hereinafter "respondent") which if proved, may subject the respondent to disciplinary action. Such charge, accusation, or allegation must be communicated to the chief student affairs officer of the college the respondent attends.

b. The chief student affairs officer of the college or her/his/its designee shall conduct an investigation in order to determine whether disciplinary charges should be preferred. The chief student affairs officer or her/ his/its designee shall advise the respondent of the allegation against her/ him/it, 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 complainant and the respondent will be allowed to provide names of potential witnesses as well as other possible evidence. The 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; (ii) said complaint involves a matter that is also under investigation by law enforcement authorities, in which case the investigation shall be completed within sixty (60) calendar days; or (iii) the matter has been previously investigated pursuant to the CUNY Policy on Sexual Misconduct and Sex Discrimination, in which case the chief student affairs officer shall rely on the report completed by the Title IX Coordinator. Following the completion of the investigation, the chief student affairs officer or designee shall provide the complainant and respondent with a copy of a written notice indicating whether any of the allegations were substantiated, and then 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 and Sex Discrimination, both the complainant and respondent may be accompanied by an advisor of their choice (including an attorney) who may assist and advice 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. (1) In the event that a respondent withdraws from the college after disciplinary charges have been filed, 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 issuance of formal charges, the college must place a notation on her/his/its transcript that she/he/it “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

(2) In the event that a respondent withdraws, or discontinues enrollment, from the college after a complaint or allegation against a respondent has been made, but before disciplinary charges have been filed, the respondent shall be barred from attending any other unit of the university until an investigation into the complaint or allegation is complete. If the respondent refuses to participate in the investigation after withdrawing, or discontinuing enrollment, the college will conclude the investigation without the respondent’s participation. If the college determines after the investigation is complete that disciplinary charges are not warranted, then the respondent will be permitted to attend CUNY again from the time that decision is made, subject to, and in accordance with readmission policies. However, if disciplinary charges are filed, then section 15.4(d)(1) applies.

#### **MEDIATION CONFERENCE:**

e. 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 respondent and complainant must be notified of her/his/its 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/its 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 (which, in cases involving CUNY’s Policy on Sexual Misconduct and Sex Discrimination is fifteen calendar days after the mediation begins, 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:**

f. 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 that the charges have been filed, and the time and place of the hearing, shall also be sent in a similar manner to the complainant to the extent the charges relate to her/him/it. The chief student affairs officer is also encouraged to send the notice of charges to any other e-mail address that he or she may have for the respondent and the complainant. The hearing shall be scheduled within a reasonable time following the filing of the charges or the mediation conference. Notice of at least ten (10) calendar days shall be given to the respondent in advance of the hearing unless the respondent consents to an earlier hearing. The respondent is permitted one (1) adjournment as of right. Additional requests for an adjournment must be made at least five (5) calendar days prior to the hearing date, and shall be granted or denied at the discretion of the chairperson of the faculty-student disciplinary committee. If the respondent fails to respond to the notice, appear on the adjourned date, or request an extension, the college may proceed in absentia, and any decision and sanction shall be binding.

g. 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/it 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/it at a non-college hearing.

**PRE-HEARING DOCUMENT INSPECTION:**

h. 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 Educational 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:**

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

and/or in writing. If a resolution is reached over the complainant's objection, the chief student affairs officer or designee shall provide the complainant with a written statement of the reasons supporting such resolution, and the complainant may appeal the decision to enter into the resolution to the president. If the appeal to the president is not successful, a complainant may appeal to the board committee on student affairs and special programs. The decision of the board committee shall be final.

**EMERGENCY SUSPENSION:**

j. The president or her/his/its designee may in emergency or extraordinary circumstances, temporarily suspend a student pending an early hearing to take place within 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/it and, if she/he/it 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/its explanation or theory of the matter. When a student's presence poses a continuing danger to person or property or an ongoing threat of disrupting the academic process, notice and opportunity for denial and explanation may follow suspension, but shall be given as soon as feasible thereafter. The complainant shall be notified in the event that an emergency suspension is imposed against a student, and/or when the suspension is subsequently lifted to the extent that the suspension involves the complainant in the same manner notice is given to the student.

**FACULTY-STUDENT DISCIPLINARY COMMITTEE STRUCTURE:**

k. Each faculty-student disciplinary committee shall consist of two (2) faculty members or one (1) faculty member and one (1) member of the Higher Education Officer series (HEO), and two (2) student members and a chairperson, who shall be a faculty member. A quorum shall consist of the chairperson and any two (2) members, one of whom must be a student. Hearings shall be scheduled promptly (including during the summers) at a convenient time and efforts shall be made to insure full student and faculty representation.

l. 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, CUNY School of Public Health and Health Policy; 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/its 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/it shall not be a voting member of the committee but shall vote in the event of a tie.

**m. Faculty-Student Disciplinary Committee Selection:**

1. 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, CUNY School of Public Health and Health Policy, Guttman Community College, CUNY School of Professional Studies, and the CUNY School of Journalism shall be required to select four (4) faculty members.

2. The HEO members shall be selected by lot from a panel of six (6) HEO appointed biennially by the president. CUNY School of Law, CUNY School of Public Health and Health Policy, Guttman Community College, CUNY School of Professional Studies, and the CUNY School of Journalism shall be required to select four (4) HEO's.

3. 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, CUNY School of Public Health and Health Policy, Guttman Community College, CUNY School of Professional Studies, and the CUNY School of Journalism shall be required to select four (4) students.

4. 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.

5. Notwithstanding the above, in cases of sexual assault, stalking and other forms of sexual violence, the president shall designate from the panels one (1) chairperson, two (2) faculty/HEO members, and two (2) students, who shall be specially trained on an annual basis, and who shall constitute the faculty-student disciplinary committee in all such cases.

n. If a chair is unable to serve a full term, the President will appoint a new chair to fulfill the remainder of the term. If a chair cannot continue during a hearing then the hearing is considered null and void and the matter is remanded with a new chair and committee assigned.

o. Each academic year, the chief student affairs officer, and her or his designee, shall appoint/identify one or more college employees to serve as presenters for the hearings. This list shall be forwarded to the Office of the Vice Chancellor for Student Affairs, and the Office of the General Counsel and Sr. Vice Chancellor for Legal Affairs prior to the first day of the academic year.

p. Persons who are to be participants in the hearings as witnesses or have been involved in preferring the charges or who may participate in the appeals procedures or any other person having a direct interest in the outcome of the hearing shall be disqualified from serving on the committee.

#### **FACULTY-STUDENT DISCIPLINARY COMMITTEE PROCEDURES:**

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

##### **Hearing:**

1. The hearing shall consist of a responsibility phase and a penalty phase. 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 committee will proceed to the penalty phase. 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. A copy of all exhibits introduced into evidence must be provided to all parties. 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. All hearing proceedings, including all evidence introduced, shall remain confidential.
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. Failure to provide such notice may result in adjournment of the hearing.
9. The chairperson of the faculty-student disciplinary committee retains discretion to limit the number of witnesses and the time of testimony for the presentations by any party and/or their representative.
10. In the event that the respondent is charged with a sexual assault, stalking or other forms of sexual violence, neither the respondent nor the complainant shall be permitted to cross-examine the other directly. Rather, if they wish to, the respondent and the complainant may cross-examine each other only through a representative. If either or both of them do not have a representative, the college shall work with them to find a representative to conduct such cross-examination. In the alternative, 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 and Sex Discrimination:

- 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 penalty phase of the hearing.

### **Responsibility Phase**

12. The committee shall deliberate in closed session after all the evidence with respect to the allegations has been submitted. The decision with respect to responsibility shall be determined by a majority vote of the committee members. In the event of a tie, the chair casts the deciding vote. If the committee determines that the respondent is responsible for some or all of the charges, the committee will notify the parties and proceed to the penalty phase.

### **Penalty Phase**

13. If the respondent has been found responsible, or has accepted responsibility at the hearing, then all parties may introduce evidence related to the respondent's character including any past findings of a respondent's responsibility for domestic violence, stalking, or sexual assault or any other sexual violence. The College may introduce a copy of the respondent's previous disciplinary record, including records from any CUNY institution the respondent has attended, where applicable, provided the respondent was shown a copy of the record prior to the commencement of the hearing. The previous disciplinary record shall be submitted to the committee in a sealed envelope, bearing the respondent's signature across the seal, and shall only be opened if the respondent has been found to have committed the conduct charged. The previous disciplinary records, as well as documents and character evidence introduced by the respondent, the complainant, and the college shall be opened and used by the committee for dispositional purposes, i.e., to determine an appropriate penalty if the charges are sustained. The complainant and respondent may also provide or make an impact statement. Such evidence and impact statements shall be used by the committee only for the purpose of determining an appropriate penalty if the charges are sustained. Penalties range from a warning to suspension, expulsion, or ejection from the University.

14. The decision with respect to the penalty shall be determined by a majority vote of the committee members. In the event of a tie, the chair casts the deciding vote.

### **Written Decision**

15. After the conclusion of the penalty phase of hearing, or, if the respondent is found not responsible, after the conclusion of the responsibility phase of the hearing, the committee shall issue a written decision, which shall be based solely on the testimony, evidence and statements presented at both phases of the hearing and any other submissions filed by the parties.

16. The respondent shall be sent a copy of the faculty-student disciplinary committee's decision, whether responsible or not responsible, within seven (7) calendar days of the conclusion of the penalty phase of hearing, or, if the respondent is found not responsible, within seven (7) calendar days of the conclusion

of the responsibility phase 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 outcome of the faculty-student disciplinary committee's decision, whether responsible or not responsible, as it relates to the alleged offense(s) committed against the complainant, in the same manner as notice is given to the respondent. 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**

17. 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/its functions with respect to an appeal shall be discharged by an official of the university to be appointed by the chancellor or her or his designee. If the penalty after appeal to the president is one of dismissal or suspension for one term or more, a respondent or a complainant may appeal to the board committee on student affairs and special programs. The board may dispose of the appeal in the same manner as the president. Appeals to the board committee on student affairs and special programs must be directed to: City University of New York, 205 East 42nd Street, New York, New York 10017. Attn: Board Committee on Student Affairs and Special Programs.

18. 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. The written notice shall specify the grounds for appeal ((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). 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. 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. Written notice of the outcome of the appeal to the president shall provide to the respondent and complainant, if any, within seven calendar days from the time the President's decision is issued. The board committee shall decide and issue a decision within five (5) calendar days of the meeting at which it hears the appeal. Written notice of the outcome of the appeal to the board committee shall be provided to the respondent and complainant, if any, within seven calendar days from the time committee's decision is issued.

## **Notations on Transcripts**

19. 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/its transcript stating that she/he/it 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(15) herein, or the decision on any appeal under subparagraphs q(17) – (19) herein expressly indicate otherwise.

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

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

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

### **SECTION 15.6. COLLEGE GOVERNANCE PLANS.**

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

(Amended: Board of Trustees Minutes, 2018, 6-25, 3\_)

## **II-E ARTICLE XVI - STUDENT ACTIVITY FEES AND AUXILIARY ENTERPRISES- CUNY BOARD of TRUSTEES BYLAWS**

### **Section 16.1. STUDENT ACTIVITY FEE.**

The student activity fee is the total of the fees for student government and other student activities. Student activity fees, including student government fees collected by a college of the university shall be deposited in a college central depository and, except where earmarked by the board, allocated by a college association budget committee subject to review by the college association as required in these bylaws.

### **Section 16.2. STUDENT ACTIVITY FEES USE - EXPENDITURE CATEGORIES.**

Student activity fee funds shall be allocated and expended only for the following purposes:

1. Extracurricular educational programs;
2. Cultural and social activities;
3. Recreational and athletic programs;



4. Student government;
5. Publications and other media;
6. Assistance to registered student organizations;
7. Community service programs;
8. Enhancement of the college and university environment;
9. Transportation, administration and insurance related to the implementation of these activities;
10. Student services to supplement or add to those provided by the university;
11. Stipends to student leaders.

**Section 16.3. STUDENT GOVERNMENT FEE.**

The student government fee is that portion of the student activity fee levied by resolution of the board which has been established for the support of student government activities. The existing student government fees now in effect shall continue until changed. Student government fees shall be allocated by the duly elected student government, or each student government where more than one duly elected student government exists, for its own use and for the use of student organizations, as specified in section 15.2. of these bylaws, provided, however, that the allocation is based on a budget approved by the duly elected student government after notice and hearing, subject to the review of the college association. Where more than one duly elected student government exists, the college association shall apportion the student government fees to each student government in direct proportion to the amount collected from members of each student government.

**Section 16.4. STUDENT GOVERNMENT ACTIVITY DEFINED.**

a. A student government activity is any activity operated by and for the students enrolled at any unit of the university provided, (1) such activity is for the direct benefit of students enrolled at the college, (2) that participation in the activity and the benefit thereof is available to all students enrolled in the unit or student government thereof, and (3) that the activity does not contravene the laws of the city, state or nation, or the published rules, regulations, and orders of the university or the duly established college authorities.

**Section 16.5. COLLEGE ASSOCIATION.**

a. The college association shall have responsibility for the supervision and review over college student activity fee supported budgets. All budgets of college student activity fees except where earmarked by the board to be allocated by another body, should be developed by a college association budget committee and recommended to the college association for review by the college association prior to expenditure. The college association shall review all college student activity fees, including student government fee allocations and expenditures for conformance with the expenditure categories defined in Section 16.2. of this article and the college association shall disapprove any allocation or expenditure it finds does not so conform, or is inappropriate, improper, or inequitable.

b. A college association shall be considered approved for purposes of this article if it consists of thirteen (13) members, its governing documents are approved by the college president and the following requirement are met:

1. The governing board of the college association is composed of:

(i) The college president or his/her designee as chair.

(ii) Two College administrators and one administrator alternate appointed by the College President. The College administrators shall be:

- The Vice President for Student Affairs of the College unless such Vice President is the College President's designee on the Board, in which case the College President shall appoint another College administrator for this seat ; and
- The Assistant Vice President for Financial Operations

(iii) Two tenured faculty members of the College and up to two tenured faculty alternates, each appointed by the College President from a panel whose size is twice the number of seats (including the alternates) to be filled and consists of faculty members elected by the faculty members of the College Senate;

(iv) Six students and up to three student alternates, consisting of the Student Government Association (SGA) president and other students elected by the SGA Executive Board from among the elected members of the SGA; and

(v) Two Independent Directors<sup>1</sup> appointed by the College President

2. The college association structure provides a budget committee composed of members of the governing board, at least a majority of whom are students selected in accordance with section 16.5.(b) (1)(iv) of these bylaws. The budget committee shall be empowered to receive and review student activity fee budget requests and to develop a budget subject to the review of the college association. The college association may choose to not approve the budget or portions of the budget if in their opinion such items are inappropriate, improper, or inequitable. The budget shall be returned to the budget committee with the specific concerns of the college association noted for further deliberation by the budget committee and subsequent re-submittal to the college association. If the budget is not approved within thirty (30) days those portions of the budget voted upon and approved by the college association board will be allocated. The remainder shall be held until the college association and the budget committee agree.

3. The governing documents of the college association have been reviewed by the board's general counsel and approved by the board.

## **Section 16.6. MANAGEMENT AND DISBURSEMENT OF FUNDS.**

The college and all student activity fee allocating bodies shall employ generally accepted accounting and investment procedures in the management of all funds. All funds for the support of student activities are to be disbursed only in accordance with approved budgets and be based on written documentation. A

requisition for disbursement of funds must contain two signatures; one, the signature of a person with responsibility for the program; the other the signature of an approved representative of the allocating body.

### **Section 16.7. REVENUES.**

All revenues generated by student activities funded through student activity fees shall be placed in a college central depository subject to the control of the allocating body. The application of such revenues to the account of the income generating organization shall require the specific authorization of the allocating body.

### **Section 16.8. FISCAL ACCOUNTABILITY HANDBOOK.**

The chancellor or his/her designee shall promulgate regulations in a fiscal accountability handbook, to regulate all aspects of the collection, deposit, financial disclosure, accounting procedures, financial payments, documentation, contracts, travel vouchers, investments and surpluses of student activity fees and all other procedural and documentary aspects necessary, as determined by the chancellor or his/her designee to protect the integrity and accountability of all student activity fee funds.

### **Section 16.9. COLLEGE PURPOSES FUND.**

a. A college purposes fund may be established at each college and shall be allocated by the college president. This fund may have up to twenty-five (25) percent of the unearmarked portion of the student activity fee earmarked to it by resolution of the board, upon the presentation to the board of a list of activities that may be properly funded by student activity fees that are deemed essential by the college president.

b. Expenditures from the college purposes fund shall be subject to full disclosure under section 16.13. of these bylaws.

c. Referenda of the student body with respect to the use and amount of the college purposes fund shall be permitted under the procedures and requirements of section 16.12. of these bylaws.

### **Section 16.10. AUXILIARY ENTERPRISE BOARD.**

a. The auxiliary enterprise board shall have responsibility for the oversight, supervision and review over college auxiliary enterprises. All budgets of auxiliary enterprise funds and all contracts for auxiliary enterprises shall be developed by the auxiliary enterprise budget and contract committee and reviewed by the auxiliary enterprise board prior to expenditure or execution.

## **ARTICLE II – BOARD OF DIRECTORS**

**Section 1 - Powers and Composition.** The property, affairs, business and concerns of the Corporation shall be vested in a Board of Directors consisting of seventeen (17) Directors. The composition of the Board of Directors shall be as follows:

- The College President or his/her designee;
- Six College administrators, including:
  - the Vice President of Administration and Finance

- the Vice President for Student Affairs
- the Senior Vice President for Academic Affairs
- the Assistant Vice President for Financial Operations
- two other College administrators designated by the College President

In the event that any of the foregoing named administrative positions does not exist at the College at any time or the College President appoints the individual in one of these positions as his or her designee, the College President shall designate another administrator to replace such position at the Corporation for all purposes of these By-laws.

- One tenured member of the College faculty appointed by the College President from a panel of two elected by the faculty members of the College Senate;
  - Seven students consisting of the Student Government Association (SGA) president and other students elected by the SGA Executive Board from among the elected members of the SGA; and
  - Two Independent Directors<sup>1</sup> appointed by the College President.
- Each Director shall have the right to vote.

**Section 16.11. THE REVIEW AUTHORITY OF COLLEGE PRESIDENTS OVER STUDENT ACTIVITY FEE ALLOCATING BODIES AND AUXILIARY ENTERPRISE BOARDS.**

a. The president of the college shall have the authority to disapprove any student activity fee, including student government fee, or auxiliary enterprise allocation or expenditure, which in his or her opinion contravenes the laws of the city, state, or nation or any bylaw or policy of the university or any policy, regulation, or order of the college. If the college president chooses to disapprove an allocation or expenditure, he or she shall consult with the general counsel and vice chancellor for legal affairs and thereafter communicate his/her decision to the allocating body or auxiliary enterprise board.

b. The president of the college shall have the authority to suspend and send back for further review any student activity fee, including student government fee, allocation or expenditure which in his or her opinion is not within the expenditure categories defined in section 16.2. of this article. The college association shall, within ten (10) days of receiving a proposed allocation or expenditure for further review, study it and make a recommendation to the president with respect to it. The college president shall thereafter consider the recommendation, shall consult with the general counsel and vice chancellor for legal affairs, and thereafter communicate his/her final decision to the allocating body as to whether the allocation or expenditure is disapproved.

c. The chancellor or his/her designee shall have the same review authority with respect to university student activity fees that the college president has with respect to college student activity fees.

d. All disapprovals exercised under this section shall be filed with the general counsel and vice chancellor for legal affairs.

e. Recipients of extramural student activity fees shall present an annual report to the chancellor for the appropriate board committee detailing the activities, benefits and finances of the extramural body as they pertain to the colleges where students are paying an extramural fee.

**Section 16.12. REFERENDA.**

A referendum proposing changes in the student activity fee shall be initiated by a petition of at least ten (10) percent of the appropriate student body and voted upon in conjunction with student government elections.

a. Where a referendum seeks to earmark student activity fees for a specific purpose or organization without changing the total student activity fee, the results of the referendum shall be sent to the college association for implementation.

- b. Where a referendum seeks to earmark student activity fees for a specific purpose or organization by changing the total student activity fee, the results of such referendum shall be sent to the board by the president of the college together with his/her recommendation.
- c. At the initiation of a petition of at least ten (10) percent of the appropriate student body, the college president may schedule a student referendum at a convenient time other than in conjunction with student government elections.
- d. Where the referendum seeks to affect the use or amount of student activity fees in the college purposes fund, the results of the referendum shall be sent to the board by the college president together with his/her recommendation.

### **Section 16.13. DISCLOSURE.**

- a. The college president shall be responsible for the full disclosure to each of the student governments of the college of all financial information with respect to student activity fees.
- b. The student governments shall be responsible for the full disclosure to their constituents of all financial information with respect to student government fees.
- c. The student activity fee allocating bodies shall be responsible for the full disclosure of all financial information to its membership, to the college and to the student governments with respect to all of its activities.
- d. The auxiliary enterprise board shall be responsible for the full disclosure of all financial information to its membership, to the college and to the student governments with respect to auxiliary enterprises.
- e. For purposes of the foregoing paragraphs, full disclosure shall mean the presentation each semester of written financial statements which shall include, but need not be limited to, the source of all fee income by constituency, income from other sources creditable to student activity fee accounts, disbursements, transfers, past reserves, surplus accounts, contingency and stabilization funds. Certified independent audits performed by a public auditing firm shall be conducted at least once each year.

### **Section 16.14. STIPENDS.**

The payment of stipends to student leaders is permitted only within those time limits and amounts authorized by the board.

## **III-A THE CITY UNIVERSITY OF NEW YORK WORKPLACE VIOLENCE POLICY & PROCEDURES**

The City University of New York has a long-standing commitment to promoting a safe and secure academic and work environment that promotes the achievement of its mission of teaching, research, scholarship and service. All members of the University community—students, faculty and staff—are expected to maintain a working and learning environment free from violence, threats of harassment, violence, intimidation or coercion. While these behaviors are not prevalent at the University, no organization is immune.

The purpose of this policy is to address the issue of potential workplace violence in our community, prevent workplace violence from occurring to the fullest extent possible, and set forth procedures to be followed when such violence has occurred.

### **Policy**

The City University of New York prohibits workplace violence. Violence, threats of violence, intimidation, harassment, coercion, or other threatening behavior towards people or property will not be tolerated.

Complaints involving workplace violence will not be ignored and will be given the serious attention they deserve. Individuals who violate this policy may be removed from University property and are subject to disciplinary and/or personnel action up to and including termination, consistent with University policies, rules and collective bargaining agreements, and/or referral to law enforcement authorities for criminal prosecution. Complaints of sexual harassment are covered under the University's Policy Against Sexual Harassment. The University, at the request of an employee or student, or at its own discretion, may prohibit members of the public, including family members, from seeing an employee or student on University property unless necessary to transact University-related business. This policy particularly applies in cases where the employee or student suspects that an act of violence will result from an encounter with said individual(s).

### **Scope**

All faculty, staff, students, vendors, contractors, consultants, and others who do business with the University, whether in a University facility or off-campus location where University business is conducted, are covered by this policy. This policy also applies to other persons not affiliated with the University, such as former employees, former students, and visitors. When students have complaints about other students, they should contact the Office of Student Affairs at their campus.

### **Definitions**

Workplace violence is any behavior that is violent, threatens violence, coerces, harasses or intimidates others, interferes with an individual's legal rights of movement or expression, or disrupts the workplace, the academic environment, or the University's ability to provide services to the public. Examples of workplace violence include, but are not limited to:

1. Disruptive behavior intended to disturb, interfere with or prevent normal work activities (such as yelling, using profanity, verbally abusing others, or waving arms and fists).
2. Intentional physical contact for the purpose of causing harm (such as slapping, stabbing, punching, striking, shoving, or other physical attack).
3. Menacing or threatening behavior (such as throwing objects, pounding on a desk or door, damaging property, stalking, or otherwise acting aggressively; or making oral or written statements specifically intended to frighten, coerce, or threaten) where a reasonable person would interrupt such behavior as constituting evidence of intent to cause harm to individuals or property.
4. Possessing firearms, imitation firearms, knives or other dangerous weapons, instruments or materials. No one within the University community, shall have in their possession a firearm or other dangerous weapon, instrument or material that can be used to inflict bodily harm on an individual or damage to University property without specific written authorization from the Chancellor or the college President regardless of whether the individual possesses a valid permit to carry the firearm or weapon.

### **Reporting of Incidents**

1. General Reporting Responsibilities

Incidents of workplace violence, threats of workplace violence, or observations of workplace violence are not be ignored by any member of the University community. Workplace violence should promptly be reported to the appropriate University official (see below). Additionally, faculty, staff and students are encouraged to report behavior that they reasonably believe poses a potential for workplace violence as defined above. It is important that all members of the University community take this responsibility seriously to effectively maintain a safe working and learning environment.

## 2. Imminent or Actual Violence

Any person experiencing or witnessing imminent danger or actual violence involving weapons or personal injury should call the Campus Public Safety Office immediately, or call 911.

## 3. Acts of Violence Not Involving Weapons or Injuries to Persons

Any person who is the subject of a suspected violation of this policy involving violence without weapons or personal injury, or is a witness to such suspected violation, should report the incident to his or her supervisor, or in lieu thereof, to their respective Campus Public Safety Office. Students should report such incidents to the Office of Student Affairs at their campus or in lieu thereof, their campus Public Safety Office. The Campus Public Safety Office will work with the Office of Human Resources and the supervisor or the Office of Student Affairs on an appropriate response.

## 4. Commission of a Crime

All individuals who believe a crime has been committed against them have the right, and are encouraged, to report the incident to the appropriate law enforcement agency.

## 5. False Reports

Members of the University community who make false and malicious complaints of workplace violence, as opposed to complaints which, even if erroneous, are made in good faith, will be subject to disciplinary action and/or referral to civil authorities as appropriate.

## 6. Incident Reports

The University will report incidents of workplace violence consistent with the College Policies for Incident Reporting Under the Campus Security Policy and Statistical Act (Cleary Act).

## **Responsibilities**

### 1. Presidents

The President of each constituent college of The City University of New York, the Chief Operating Officer at the Central Office, and the Deans of the Law School and the Sophie Davis School of Biomedical Education shall be responsible for the implementation of this policy on his or her respective campus. The responsibility includes dissemination of this policy to all members of the college community, ensuring appropriate investigation and follow-up of all alleged incidents of workplace violence, constituting a Workplace Violence Advisory Team (See #7. below), and ensuring that all administrators, managers, and supervisors are aware of their responsibilities under this policy through internal communications and training.



## 2. Campus Public Safety Office

The Campus Public Safety Office is responsible for responding to, intervening, and documenting all incidents of violence in the workplace. The Campus Public Safety Office will immediately log all incidents of workplace violence and will notify the respective supervisor of an incident with his/her employee, or notify the appropriate campus official of an incident with a student. All officers should be knowledgeable of when law enforcement action may be appropriate. Public Safety will maintain an internal tracking system of all threats and incidents of violence. Annual reports will be submitted to the President (at the same time as the report noted below) detailing the number and description of workplace violence incidents, the disposition of the incidents, and recommend policy, training issues, or security procedures that were or should be implemented to maintain a safe working and learning environment. These incidents will be reported in the Annual Report of the College Advisory Committee on Campus Security consistent with the reporting requirements of Article 129A Subsection 6450 of the NYS Education Law (Regulation by Colleges of Conduct on Campuses and Other College Property for Educational Purposes).

Officers will be trained in workplace violence awareness and prevention, non-violent crises intervention, conflict management, and dispute resolution.

Officers will work closely with Human Resources when the possibility of workplace violence is heightened, as well as on the appropriate response to workplace violence incidents consistent with CUNY policies, rules, procedures and applicable labor agreements, including appropriate disciplinary action up to and including termination.

When informed, Public Safety will maintain a record of any Orders of Protection for faculty, staff, and students. Public Safety will provide escort service to members of the college community within its geographical confines, when sufficient personnel are available. Such services are to be extended at the discretion of the Campus Public Safety Director or designee. Only the President, or designee, in his/her absence, can authorize escort service outside of the geographical confines of the college.

## 3. Supervisors

Each dean, director, department chairperson, executive officer, administrator, or other person with supervisory responsibility (hereinafter "supervisor") is responsible within his/her area of jurisdiction for the implementation of this policy. Supervisors must report to their respective Campus Public Safety Office any complaint of workplace violence made to him/her and any other incidents of workplace violence of which he/she becomes aware or reasonably believes to exist. Supervisors are expected to inform their immediate supervisor promptly about any complaints, acts, or threats of violence even if the situation has been addressed and resolved. After having reported such complaint or incident to the Campus Public Safety Director and immediate supervisor, the supervisor should keep it confidential and not disclose it further, except as necessary during the investigation process and/or subsequent proceedings.

Supervisors are required to contact the Campus Public Safety Office immediately in the event of imminent or actual violence involving weapons or potential physical injuries.

## 4. Faculty and Staff

Faculty and staff must report workplace violence, as defined above, to their supervisor. Faculty and staff who are advised by a student that a workplace violence incident has occurred or has been observed must report this

to the Campus Public Safety Director immediately. Recurring or persistent workplace violence that an employee reasonably believes is not being addressed satisfactorily, or violence that is, or has been, engaged in by the employee's supervisor should be brought to the attention of the Campus Public Safety Director.

Employees who have obtained Orders of Protection are expected to notify their supervisors and the Campus Public Safety Office of any orders that list CUNY locations as protected areas.

Victims of domestic violence who believe the violence may extend into the workplace, or employees who believe that domestic or other personal matters may result in their being subject to violence extending into the workplace, are encouraged to notify their supervisor, or the Campus Public Safety Office. Confidentiality will be maintained to the extent possible.

Upon hiring, and annually thereafter, faculty and staff will receive copies of this policy. Additionally, the policy will be posted throughout the campus and be placed on the CUNY website and on the college's website, as appropriate.

## 5. Office of Human Resources

The Office of Human Resources at each campus is responsible for assisting the Campus Public Safety Director and supervisors in responding to workplace violence; facilitating appropriate responses to reported incidents of workplace violence; notifying the Campus Public Safety Office of workplace violence incidents reported to that office; and consulting with, as necessary, counseling services to secure professional intervention.

The Office of Human Resources is responsible for providing new employees or employees transferred to the campus with a copy of the Workplace Violence Policy and Procedures and insuring that faculty and staff receive appropriate training. The Office of Human Resources will also be responsible for annually disseminating this policy to all faculty and staff at their campus, as well as posting the policy throughout the campus and on the college's website, as appropriate.

## 6. Students

Students who witness violence, learn of threats, or are victims of violence by employees, students or others should report the incident immediately to the Campus Public Safety Office. If there is no imminent danger, students should report threatening incidents by employees, students or others as soon as possible to the Campus Public Safety Office or Office of Student Affairs. Students will be provided with workplace violence awareness information (including information regarding available counseling services) upon registration each year.

## 7. Workplace Violence Advisory Team

A college President shall establish a Workplace Violence Advisory Team at his/her college. This Team, working with the College Advisory Committee on Campus Security, will assist the President in responding to workplace violence; facilitating appropriate responses to reported incidents of workplace violence; assessing the potential problem of workplace violence at its site; assessing the college's readiness for dealing with workplace violence; evaluating incidents to prevent future occurrences; and utilizing prevention, intervention, and interviewing techniques in responding to workplace violence. This Team will also develop workplace violence prevention tools (such as pamphlets, guidelines and handbooks) to further assist in recognizing and preventing workplace violence on campus. It is recommended that this Team include representatives from

Campus Public Safety, Human Resources, Labor Relations, Counseling Services, Occupational Health and Safety, Legal, and others, including faculty, staff and students, as deemed appropriate by the President.

In lieu of establishing the Workplace Violence Advisory Team, a President may opt to expand the College Advisory Committee on Campus Security with representatives from the areas recommended above to address workplace violence issues at the campus and perform the functions outlined above.

## 8. University Communications

All communications to the University community and outside entities regarding incidents of workplace violence will be made through the University Office of University Relations after consultation with the respective President or his/her designee.

### **Education**

Colleges are responsible for the dissemination and enforcement of this policy as described herein, as well as for providing opportunities for training in the prevention and awareness of workplace violence. The Office of Faculty and Staff Relations will provide assistance to the campuses in identifying available training opportunities, as well as other resources and tools, (such as reference materials detailing workplace violence warning signs) that can be incorporated into campus prevention materials for dissemination to the college community. Additionally, the Office of Faculty & Staff Relations will offer periodic training opportunities to supplement the college's training programs.

### **Confidentiality**

The University shall maintain the confidentiality of investigations of workplace violence to the extent possible. The University will act on the basis of anonymous complaints where it has a reasonable basis to believe that there has been a violation of this policy and that the safety and well being of members of the University community would be served by such action.

### **Retaliation**

Retaliation against anyone acting in good faith who has made a complaint of workplace violence, who has reported witnessing workplace violence, or who has been involved in reporting, investigating, or responding to workplace violence is a violation of this policy. Those found responsible for retaliatory action will be subject to discipline up to and including termination.

## **III-B NOTICE OF ACCESS TO CAMPUS CRIME STATISTICS, THE CAMPUS SECURITY REPORT AND INFORMATION ON REGISTERED SEX OFFENDERS**

The College Advisory Committee on Campus Safety will provide upon request all campus crime statistics as reported to the U.S. Department of Education, as well as the annual campus security report. The campus security report includes: (1) the campus crime statistics for the most recent calendar year and the two preceding calendar years; (2) campus policies regarding procedures and facilities to report criminal actions or other emergencies on campus; (3) policies concerning the security of and access to campus facilities; (4) policies on campus law enforcement; (5) a description of campus programs to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others; (6) campus crime prevention programs; (7) policy concerning the monitoring through the police of criminal activity at off-campus locations of students organizations officially recognized by the college; (8) policies on illegal drugs, alcohol, and underage drinking; (9) where information provided by the State on registered sex offenders may be obtained (also see below); and (10) policies on campus sexual assault programs aimed at the prevention of sex offenses and procedures to be followed when a sex offense occurs. This information is maintained pursuant to the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.

The campus crime statistics and the annual campus security report are available at the reference desk of the library and the college website at [www.lehman.cuny.edu](http://www.lehman.cuny.edu). If you wish to be mailed copies of the campus crime statistics and the annual campus security report, you should contact Mr. Domenick Laperuta, Associate Director of Public Safety, at 718-960-8593 and copies will be mailed to you within 10 days. The U.S. Department of Education's website address for campus crime statistics is:

[www.ed.gov/security/InstDetail.asp/lehmancollege](http://www.ed.gov/security/InstDetail.asp/lehmancollege)

In accordance with the federal Campus Sex Crimes Prevention Act, registered sex offenders now are required to register the name and address of any college at which he or she is a student or employee. The New York State Division of Criminal Justice maintains a registry of convicted sex offenders and informs the college's chief public safety officer of the presence on campus of a registered sex offender as a student or employee. You may contact the college's chief security officer Mr. Domenick Laperuta, Associate Director of Public Safety, APEX Building, room 119, tel. (718) 960-8593, to obtain information about Level 2 or Level 3 registered sex offenders on campus. To obtain information about Level 3 offenders, you may contact the Division's registry website at [www.criminaljustice.state.ny.us/nsor/sor\\_about.htm](http://www.criminaljustice.state.ny.us/nsor/sor_about.htm) and then click on "Search for Level 3 Sex Offenders" or access the directory at the college's public safety department or police precinct. To obtain information about Level 2 offenders, you need to contact the public safety department, local police precinct in which the offender resides or attends college, or the Division's sex offender registry at 800-262-3257. Dated: August 20, 2004

### **Criminal Classifications for Sexual Assault Crimes in New York State**

#### **Sexual Assault Offenses**

§ 130.20 Sexual misconduct

#### **Penalty**

Class A misdemeanor

Imprisonment up to one year

§ 130.25 Rape in the third degree

Class E felony

Imprisonment up to four years

§ 130.30 Rape in the second degree

Class D felony

Imprisonment up to seven years

§ 130.35 Rape in the first degree

Class B felony

Imprisonment up to twenty-five years

§ 130.40 Criminal sexual act in the third degree

Class E felony

Imprisonment up to four years

§ 130.45 Criminal sexual act in the second degree

Class D felony

Imprisonment up to seven years

§ 130.50 Criminal sexual act in the first degree

Class B felony

Imprisonment up to twenty-five years

§ 130.52 Forcible touching

Class A misdemeanor

Imprisonment up to one year

§ 130.53 Persistent sexual abuse

Class E felony

Imprisonment up to four years

§ 130.55 Sexual abuse in the third degree

Class B misdemeanor

	Imprisonment up to three months
§ 130.60 Sexual abuse in the second degree	Class A misdemeanor Imprisonment up to one year
§ 130.65 Sexual abuse in the first degree	Class D felony Imprisonment up to seven years
§ 130.65-a Aggravated sexual abuse	Class E felony in the fourth degree Imprisonment up to four years
§ 130.66 Aggravated sexual abuse in the third degree	Class D felony Imprisonment up to seven years
§ 130.67 Aggravated sexual abuse in the second degree	Class C felony Imprisonment up to fifteen years
§ 130.70 Aggravated sexual abuse in the first degree	Class B felony Imprisonment up to twenty-five years

### **III-C** The City University of New York Students' Bill of Rights

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

- i. To report the incident to your campus.
- ii. To report the incident to the University or campus public safety department and/or to file a criminal complaint with the NYPD, or to choose not to report.
- iii. To receive assistance from your campus or others in filing a criminal complaint, which may include seeking an Order of Protection.
- iv. To describe the incident only to those campus officials who need the information in order to properly respond and to repeat the description as few times as practicable.
- v. To request that the campus file conduct charges against the respondent(s). The decision on whether to bring charges rests with the campus.
- vi. To be protected by your campus from retaliation for reporting the incident, and to have any allegations of retaliation addressed by the campus.
- vii. To receive assistance and resources from your campus, including confidential and free on campus counseling, and to be notified of other available services on- and off-campus, including, among other resources, the New York State Office of Victim Services.
- viii. To receive assistance in seeking necessary medical services or treatment, including a Sexual Assault Forensic Examination (SAFE exam), on or off campus.

- ix. To obtain, where appropriate, changes with respect to campus academic and living arrangements, no-contact orders, and other interim remedial measures to enable you to continue your education without undue stress or trauma.
- x. To have your complaints handled respectfully by the campus, and to be informed about how the campus will protect your privacy and confidentiality.
- xi. To have your complaint investigated in a prompt, impartial and thorough manner by individuals who have received appropriate training in conducting investigations and the issues related to sexual harassment and sexual violence, and to be accompanied by a person of your choice at all meetings or hearings related to the process.
- xii. To have your complaint against a student adjudicated by individuals who have received appropriate training on issues related to sexual harassment and sexual violence.
- xiii. To report incidents of sexual harassment or sexual violence that you experience while under the influence of alcohol or drugs without receiving discipline for your alcohol or drug use.
- xiv. To have the same opportunity as the respondent(s) to participate in a student disciplinary hearing before a faculty-student disciplinary committee, including the right to be present, to be represented by a person of your choice, including an attorney, to present evidence, call witnesses, cross-examine witnesses, have your prior sexual history with persons other than the respondent(s) excluded from the hearing, have your prior mental health diagnosis and/or treatment excluded from the hearing, receive written notice of the outcome of the hearing, and to appeal from the decision.
- xv. To participate in the investigative and disciplinary processes of the campus without interference with your civil rights or practice of religion.

Questions about CUNY's sexual misconduct policy and procedures may be directed to [your campus Title IX Coordinator](#).

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

### **III-D THE CITY UNIVERSITY OF NEW YORK POLICY ON DRUGS AND ALCOHOL**

The City University of New York ("CUNY") is an institution committed to promoting the physical, intellectual, and social development of all individuals. As such, CUNY seeks to prevent the inappropriate use of drugs and alcohol, which can adversely impact performance and threaten the health and safety of students, employees, their families, and the general public. CUNY complies with all federal, state, and local laws concerning the unlawful possession, use, and distribution of drugs and alcohol.

Federal law requires that CUNY adopt and implement a program to prevent the use of illicit drugs and abuse of alcohol by students and employees. As part of its program, CUNY has adopted this policy, which sets forth the standards of conduct that students and employees are expected to follow, CUNY sanctions for the

violation of this policy, and responsibilities of the CUNY colleges/units in enforcing this policy. CUNY's program also (1) sets forth the procedures for disseminating this policy, as well as information about the health risks of illegal drug and alcohol use, criminal sanctions for such use, and available counseling, treatment, or rehabilitation programs, to students and employees; and (2) provides that each college conduct a biennial review of drug and alcohol use and prevention on its campus.

This policy applies to all CUNY students and employees when they are on CUNY property as well as when they are engaged in any CUNY-related activities off campus. It specifically prohibits CUNY employees from illegally providing drugs or alcohol to CUNY students and from permitting CUNY students to illegally use drugs or alcohol.

## **CUNY STANDARDS OF CONDUCT**

The unlawful manufacture, distribution, dispensation, possession, or use of drugs or alcohol by anyone, either on CUNY property or at CUNY-sponsored activities, is prohibited. In order to make informed choices about the use of drugs and alcohol, CUNY students and employees should educate themselves about the physiological, psychological, and social consequences of substance abuse.

## **CUNY SANCTIONS**

### **STUDENTS**

Students are expected to comply with the CUNY and relevant college policies with respect to drugs and alcohol. Any student found in violation may be subject to disciplinary action under Article 15 of the Bylaws of the Board of Trustees. Sanctions may include admonition, warning, censure, disciplinary probation, restitution, suspension, expulsion, ejection, and arrest by civil authorities.

In lieu of formal disciplinary action, the Chief Student Affairs Officer may, in appropriate cases, seek to resolve the matter through an agreement pursuant to which the student must see a counselor or successfully participate in a drug and alcohol treatment program.

In accordance with the Federal Educational Rights and Privacy Act ("FERPA"), CUNY may also choose—when appropriate—to contact parents or legal guardians of students who have violated the CUNY policy on drugs and alcohol.

The Chancellor or his designee may promulgate policies prohibiting the use of drugs and alcohol in residence halls operated either by CUNY or by a private management company on behalf of CUNY, which may include a schedule of sanctions for such use.

### **EMPLOYEES**

Any employee found to have violated this CUNY policy may be subject to disciplinary action, in accordance with the procedures set forth in applicable CUNY policies, rules, regulations, and collective bargaining agreements. Sanctions may include a reprimand, suspension without pay, or termination of employment. Sanctions may also include verified attendance and successful participation in an employee assistance program.

## **RESPONSIBILITIES OF CUNY COLLEGES/UNITS**

Each college or unit of the University should make its best efforts to educate employees and students about this policy and the risks associated with the unlawful possession, use, or distribution of illegal drugs and alcohol. The President or Dean of each college or unit may choose to ban alcohol at on-campus functions or at any particular function. This policy, together with information about the health risks of illegal drug and alcohol use, criminal sanctions for such use, and available counseling, treatment, or rehabilitation programs available to employees or students, must be distributed annually to all employees and students. The Chief Student Affairs Officer shall be responsible for the distribution of this material to students, and the Director of Human Resources shall be responsible for the distribution of the material to employees.

The Vice President for Administration, or person performing the equivalent function at each college or unit of CUNY, shall be responsible for conducting a biennial review to determine the effectiveness of CUNY's drug and alcohol program at its college or unit, and to ensure that sanctions for drug and alcohol violations are consistently enforced. Upon completion, the biennial review must be sent to the University's Executive Vice Chancellor and Chief Operating Officer. This biennial review must include the number of drug and alcohol-related violations and fatalities that occur on the college's campus or as part of the college's activities, as well as the number and type of sanctions imposed as a result of drug and alcohol-related violations and fatalities that occur at the college as part of its activities.

## **INFORMATION FOR THE CUNY COMMUNITY ON THE RISKS AND CONSEQUENCES OF DRUG AND ALCOHOL USE**

### **Background**

The City University of New York's Policy on Drugs and Alcohol, adopted by the Board of Trustees on June 22, 2009, prohibits the unlawful manufacture, distribution, dispensation, possession, or use of drugs or alcohol by employees, students or visitors, on CUNY property, in CUNY buses or vans, or at CUNY-sponsored activities. It prohibits all students (regardless of their age) from possessing or consuming alcoholic beverages in CUNY residence halls. It also prohibits CUNY employees from illegally providing drugs or alcohol to CUNY students. As the Policy states, sanctions for violation of the Policy, following appropriate disciplinary proceedings, may include, in the case of students, expulsion from the university, and in the case of employees, termination of employment.

This document sets forth additional information required to be provided under federal law, including the legal sanctions for drug and alcohol use, health risks of such use, and information regarding available counseling, treatment, or rehabilitation programs.

### **Legal Sanctions**

Federal and New York State laws make it a criminal offense to manufacture, distribute, dispense, possess with intent to distribute, or simply possess a controlled substance. Such substances include heroin, cocaine, methamphetamine, ecstasy, LSD, PCP, marijuana, and a number of common pharmaceutical drugs if unlawfully obtained. The sanctions for violation of these laws, ranging from community service and monetary fines to life imprisonment, depend upon the particular offense, the drug type, and the drug quantity. Students convicted under these statutes may also forfeit federal financial aid eligibility.

Note that an individual need not be in actual physical possession of a controlled substance to be guilty of a crime. The unlawful presence of a controlled substance in an automobile is presumptive evidence of knowing



possession of such substance by each passenger unless the substance is concealed on the person of one of the occupants. Similarly, the presence of certain substances in plain view in a room can sometimes be presumptive evidence of knowing possession of such substance by anyone in close proximity.

*Further, pursuant to New York State law:*

- Any person under age 21 who is found to be in possession of alcohol with the intent to consume it may be punished by a fine and/or required to complete an alcohol awareness program and/or to provide up to 30 hours of community service. Alcoholic Beverage Control Law, § 65-c.
- Giving or selling an alcoholic beverage to a person less than age 21 is a class A misdemeanor punishable by a sentence of imprisonment up to one year. Penal Law § 260.20
- Any person who operates a motor vehicle while intoxicated or while his ability to operate such vehicle is impaired by the consumption of alcohol or drugs, is subject to suspension or revocation of driving privileges in the State, monetary fines up to \$1,000, and imprisonment for up to one year. Vehicle and Traffic Law § 1192
- A person under 21 who presents false written evidence of age for the purpose of purchasing or attempting to purchase any alcoholic beverage may be punished by a fine, community service and/or completion of an alcohol awareness program. Alcoholic Beverage Control Law § 65-b(1). Possessing such false evidence may also be criminal possession of a forged instrument, which is a felony in New York, punishable by a fine of up to \$5000, imprisonment up to 7 years, or both. Penal Law § 170.25.
- Appearing in public under the influence of narcotics or a drug other than alcohol to the degree that a person may endanger him or herself or other persons or property, or annoy persons in his vicinity, is a violation, punishable by a fine and imprisonment up to 15 days. Penal Law § 240.40

## **Health Risks**

The following is a brief summary of some of the health risks and symptoms associated with use of many of the most-publicized drugs, including alcohol and tobacco. This information was obtained from the National Institute on Drug Abuse (part of the National Institutes of Health of the U.S. Department of Health and Human Services), and the Mayo Clinic. Please note that individuals experience such substances in different ways based on a variety of physical and psychological factors and circumstances.

### LSD (Acid)

LSD is one of the strongest mood-changing drugs, and has unpredictable psychological effects. With large enough doses, users experience delusions and visual hallucinations. Physical effects include increased body temperature, heart rate, and blood pressure; sleeplessness; and loss of appetite.

### Cocaine

Cocaine is a powerfully addictive drug. Common health effects include heart attacks, respiratory failure, strokes, and seizures. Large amounts can cause bizarre and violent behavior. In rare cases, sudden death can occur on the first use of cocaine or unexpectedly thereafter.

### MDMA (Ecstasy)

Ecstasy is a drug that has both stimulant and psychedelic properties. Adverse health effects can include nausea, chills, sweating, teeth clenching, muscle cramping, and blurred vision.

### Heroin

Heroin is an addictive drug. An overdose of heroin can be fatal, and use is associated – particularly for users who inject the drug – with infectious diseases such as HIV/AIDS and hepatitis.

### Marijuana

Effects of marijuana use include memory and learning problems, distorted perception, and difficulty thinking and solving problems.

### Methamphetamine

Methamphetamine is an addictive stimulant that is closely related to amphetamine but has long lasting and more toxic effects on the central nervous system. It has a high potential for abuse and addiction. Methamphetamine increases wakefulness and physical activity and decreases appetite. Chronic, long-term use can lead to psychotic behavior, hallucinations, and stroke.

### PCP/Phencyclidine

PCP causes intensely negative psychological effects in the user. People high on PCP often become violent or suicidal.

### Prescription Medications

Prescription drugs that are abused or used for nonmedical reasons can alter brain activity and lead to dependence. Commonly abused classes of prescription drugs include opioids (often prescribed to treat pain), central nervous system depressants (often prescribed to treat anxiety and sleep disorders), and stimulants (prescribed to treat narcolepsy, ADHD, and obesity). Long-term use of opioids or central nervous system depressants can lead to physical dependence and addiction. Taken in high doses, stimulants can lead to compulsive use, paranoia, dangerously high body temperatures and irregular heartbeat.

### Tobacco/Nicotine

Tobacco contains nicotine, which is highly addictive. The tar in cigarettes increases a smoker's risk of lung cancer, emphysema, and bronchial disorders. The carbon monoxide in smoke increases the chance of cardiovascular diseases. Secondhand smoke causes lung cancer in adults and greatly increases the risk of respiratory illnesses in children.

### Steroids

Adverse effects of steroid use in males may include shrinking of the testicles and breast development. In females, adverse effects may include growth of facial hair, menstrual changes, and deepened voice. Other adverse effects can include severe acne, high blood pressure and jaundice. In some rare cases liver and kidney tumors or even cancer may develop.

### Alcohol

Excessive alcohol consumption can lead to serious health problems, including cancer of the pancreas, mouth, pharynx, larynx, esophagus and liver, as well as breast cancer, pancreatitis, sudden death in people with cardiovascular disease, heart muscle damage leading to heart failure, stroke, high blood pressure, cirrhosis of the liver, miscarriage, fetal alcohol syndrome in an unborn child, injuries due to impaired motor skills, and suicide.

## **Substance Abuse**

You or someone you know may have a problem with drugs and alcohol if you/they are:

- Using drugs and/or alcohol on a regular basis.
- Losing control of the amount of drugs and/or alcohol used after being high or drunk.
- Constantly talking about using drugs and/or alcohol.
- Believing that drugs and/or alcohol are necessary in order to have fun.
- Using more drugs and/or alcohol to get the same effects as in the past.
- Avoiding people in order to get high or drunk.
- Pressuring others to use drugs and/or alcohol.
- Foregoing activities that were once priorities (i.e. work, sports, spending time with family and sober friends).
- Getting into trouble at school, at work, or with the law.
- Taking risks, including sexual promiscuity and driving while intoxicated.
- Lying about things, including the amount of drugs and/or alcohol used.
- Feeling hopeless, depressed, or even suicidal.

If you suspect that you or someone you know has a problem with drugs and/or alcohol, please utilize the resources listed below.

## **TOBACCO**

### **THE CITY UNIVERSITY OF NEW YORK – REVISED TOBACCO POLICY**

**RESOLVED**, That the Board of Trustees of The City University of New York adopt the attached tobacco policy, effective no later than September 4, 2012, prohibiting (i) the use of tobacco on all grounds and facilities under CUNY jurisdiction, including indoor locations and outdoor locations such as playing fields; entrances and exits to buildings; and parking lots; (ii) tobacco industry promotions, advertising, marketing, and distribution of marketing materials on campus properties; and (iii) tobacco industry sponsorship of athletic events and athletes.

**EXPLANATION**: This resolution updates, expands and supersedes the policy enacted by a Board of Trustees Resolution effective January 1, 1995, which prohibited smoking inside all facilities, including vehicles operated by the University. This revised tobacco policy must be implemented University-wide no later than September 4, 2012. As the nation's largest urban public university, as a source of thousands of health-professions graduates, and as the home of the new CUNY School of Public Health, CUNY has an opportunity—and a responsibility—to set appropriate standards as an example for universities seeking to protect the health of their students and employees

. In 2010, at the request of Chancellor Matthew Goldstein, Executive Vice Chancellor and University Provost Alexandra W. Logue convened a CUNY Tobacco Policy Advisory Committee to consider if—and how—the existing policy might be expanded to better protect the health of CUNY students, faculty, and staff. After extensive research, deliberations, and solicitation of community views, the Committee recommended that CUNY's policy be expanded as indicated in this resolution to accomplish that goal.

Across the United States, an ever-increasing number of colleges and universities are instituting tobacco-free policies: As of October 1, 2010, at least 446 colleges and universities had enacted smoke-free or tobacco-free policies for their entire campuses (indoors and out); about another 80 had enacted policies that include minor exemptions for remote outdoor areas. Other colleges and universities have not encountered significant problems enforcing tobacco-free policies.

The Central Office supports the new policy by providing training, information, and other resources across the system. Each college (and the Central Office) has submitted college specific implementation plans for review and approval by the Chancellery.

## Resources

### RESOURCES ON CAMPUS

For assistance and referrals, **students** should (1) consult the college website; or (2) contact the Lehman College Student Affairs Office 718-960-8241 and/or Counseling Center 718-960-8761.

For assistance and referrals, **employees** should consult with their Human Resources office. Assistance is also available through union employee assistance programs or through the CUNY Work/Life Program.

CUNY Work/Life Program (800) 833-8707  
<http://www.cuny.edu/worklife/>

### RESOURCES OFF CAMPUS

#### 12 Step Recovery Programs

Narcotics Anonymous (212) 929-6262  
<http://www.newyorkna.org/>

Cocaine Anonymous (212) 262-2463  
<http://www.ca-ny.org/>

Marijuana Anonymous (212) 459-4423  
<http://www.ma-newyork.org/>

Alcoholics Anonymous (212) 647-1680  
<http://www.nyintergroup.org/>

Nicotine Anonymous (631) 665-0527  
<http://www.nicotine-anonymous.org/>

Al-Anon/Alateen (888) 425-2666  
<http://www.al-anonny.org/>

### Detoxification and Outpatient/Inpatient Rehabilitation Facilities

#### **New York County**

Bellevue Hospital Center  
462 First Ave.  
New York, NY 10016  
(212) 562-4141

St. Luke's-Roosevelt Hospital Center

#### **Kings County**

Kings County Hospital Center  
606 Winthrop St.  
Brooklyn, NY 11203  
(718) 245-2630

Interfaith Medical Center

1000 Tenth Ave.  
New York, NY 10019  
(212) 523-6491

1545 Atlantic Ave.  
Brooklyn, NY 11213  
(718) 613-4330

Greenwich House, Inc.  
50B Cooper Square  
New York, NY 10003  
(212) 677-3400

Bridge Back to Life Center, Inc.  
175 Remsen St., 10<sup>th</sup> Floor  
Brooklyn, NY 11201  
(718) 852-5552

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### **Queens County**

### **Bronx County**

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Flushing Hospital Medical Center  
4500 Parsons Blvd.  
Flushing, NY 11355  
(718) 670-5078

St. Barnabas Hospital  
4535 East 183<sup>rd</sup> St.  
Bronx, NY 10457  
(718) 960-6636

Samaritan Village, Inc.  
144-10 Jamaica Ave.  
Jamaica, NY 11435  
(718) 206-1990

Montefiore Medical Center  
3550 Jerome Ave., 1<sup>st</sup> Floor  
Bronx, NY 10467  
(718) 920-4067

Daytop Village, Inc.  
316 Beach 65<sup>th</sup> St.  
Far Rockaway, NY 11692  
(718) 474-3800

Bronx-Lebanon Hospital Center  
1276 Fulton Ave., 7<sup>th</sup> Floor  
Bronx, NY 10456  
(718) 466-6095

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### **Richmond County**

### **Nassau County**

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Staten Island University Hospital  
375 Seguine Ave.  
Staten Island, NY 10309  
(718) 226-2790

Long Beach Medical Center  
455 East Bay Dr.  
Long Beach, NY 11561  
(516) 897-1250

Richmond University Medical Center  
427 Forest Ave.  
Staten Island, NY 10301  
(718) 818-5375

North Shore University Hospital  
400 Community Dr.  
Manhasset, NY 11030  
(516) 562-3010

Camelot of Staten Island, Inc.  
263 Port Richmond Ave.  
Staten Island, NY 10302  
(718) 981-8117

Nassau Health Care Corporation  
2201 Hempstead Tpke.  
East Meadow, NY 11554  
(516) 572-9402

### **Other Resources**

New York State Office of Alcoholism and Substance Abuse Services

Tel: (877) 846-7369  
<http://www.oasas.state.ny.us/>

New York State Smokers' Quitline  
Tel: (866) 697-8487  
<http://www.nysmokefree.com/>

## **Counseling Services available at Lehman College.**

If you are experiencing difficulty with alcohol or chemical dependency, Lehman College can help you find counseling services or rehabilitation programs that will help you with your problem.

The College has Counselors on staff who can direct you to appropriate services for alcohol and chemical dependency. Students may be referred to the or the Counseling Center Old Gymnasium room 114, 718-960- 8761 or the Office of the Vice President for Student Affairs in Shuster Hall room 206, 718-960-8241 by members of the instructional staff or may seek assistance directly.

## **Community Based Services**

**Alcoholics Anonymous**  
718- 520-5021

**Al-Anon**  
212-254-7230  
212-260-0407

**Focus on Recovery**  
800-234-1253

**NYS Drug Information Hotline**  
800-522-5353

**Children of Alcoholics**  
800-359-2623

**Stop Smoking Hotline**  
800- 227- 2345

**Cocaine Hotline**  
800-COCAINE (262-2463)

**Marijuana Hotline**  
888-MARIJUA (627-4582)

**Heroin Hotline**  
800-9 HEROIN (943-7646)

**Relapse Hotline**  
800-735-2773

### **III-E PENAL CODE TITLE Y HATE CRIMES ACT OF 2000, ARTICLE 485 HATE CRIMES**

Section 485.00 Legislative findings.

485.05 Hate crimes.

485.10 Sentencing.

#### **S 485.00 Legislative findings.**

The legislature finds and determines as follows: criminal acts involving violence, intimidation and destruction of property based upon bias and prejudice have become more prevalent in New York state in recent years. The intolerable truth is that in these crimes, commonly and justly referred to as "hate crimes", victims are intentionally selected, in whole or in part, because of their race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation. Hate crimes do more than threaten the safety and welfare of all citizens. They inflict on victims incalculable physical and emotional damage and tear at the very fabric of free society. Crimes motivated by invidious hatred toward particular groups not only harm individual victims but send a powerful message of intolerance and discrimination to all members of the group to which the victim belongs. Hate crimes can and do intimidate and disrupt entire communities and vitiate the civility that is essential to healthy democratic processes. In a democratic society, citizens cannot be required to approve of the beliefs and practices of others, but must never commit criminal acts on account of them. Current law does not adequately recognize the harm to public order and individual safety that hate crimes cause. Therefore, our laws must be strengthened to provide clear recognition of the gravity of hate crimes and the compelling importance of preventing their recurrence. Accordingly, the legislature finds and declares that hate crimes should be prosecuted and punished with appropriate severity.

#### **S 485.05 Hate crimes.**

1. A person commits a hate crime when he or she commits a specified offense and either:
  - (a) intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct, or
  - (b) intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct.
2. Proof of race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of the defendant, the victim or of both the defendant and the victim does not, by itself, constitute legally sufficient evidence satisfying the people's burden under paragraph (a) or (b) of subdivision one of this section.
3. A "specified offense" is an offense defined by any of the following provisions of this chapter: section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); section 120.10 (assault in the first degree); section 120.12 (aggravated assault upon a person less than eleven years old); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section 120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.25 (reckless endangerment in the first degree); subdivision one of section 125.15 (manslaughter in the second degree); subdivision one, two or four of section 125.20 (manslaughter in the first degree); section 125.25 (murder in the second degree); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section 120.55 (stalking in the second degree); section 120.60 (stalking in the first degree); subdivision one of section 130.35 (rape in the first degree);

subdivision one of section 130.50 (criminal sexual act in the first degree); subdivision one of section 130.65 (sexual abuse in the first degree); paragraph (a) of subdivision one of section 130.67 (aggravated sexual abuse in the second degree); paragraph (a) of subdivision one of section 130.70 (aggravated sexual abuse in the first degree); section 135.05 (unlawful imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.20 (kidnapping in the second degree); section 135.25 (kidnapping in the first degree); section 135.60 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.10 (criminal trespass in the third degree); section 140.15 (criminal trespass in the second degree); section 140.17 (criminal trespass in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 150.05 (arson in the fourth degree); section 150.10 (arson in the third degree); section 150.15 (arson in the second degree); section 150.20 (arson in the first degree); section 155.25 (petit larceny); section 155.30 (grand larceny in the fourth degree); section 155.35 (grand larceny in the third degree); section 155.40 (grand larceny in the second degree); section 155.42 (grand larceny in the first degree); section 160.05 (robbery in the third degree); section 160.10 (robbery in the second degree); section 160.15 (robbery in the first degree); section 240.25 (harassment in the first degree); subdivision one, two or four of section 240.30 (aggravated harassment in the second degree); or any attempt or conspiracy to commit any of the foregoing offenses.

4. For purposes of this section:

(a) the term "age" means sixty years old or more;

(b) the term "disability" means a physical or mental impairment that substantially limits a major life activity.

S 485.10 Sentencing.

1. When a person is convicted of a hate crime pursuant to this article, and the specified offense is a violent felony offense, as defined in section 70.02 of this chapter, the hate crime shall be deemed a violent felony offense.
2. When a person is convicted of a hate crime pursuant to this article and the specified offense is a misdemeanor or a class C, D or E felony, the hate crime shall be deemed to be one category higher than the specified offense the defendant committed, or one category higher than the offense level applicable to the defendant's conviction for an attempt or conspiracy to commit a specified offense, whichever is applicable.
3. Notwithstanding any other provision of law, when a person is convicted of a hate crime pursuant to this article and the specified offense is a class B felony:
4.
  - (a) the maximum term of the indeterminate sentence must be at least six years if the defendant is sentenced pursuant to section 70.00 of this chapter;
  - (b) the term of the determinate sentence must be at least eight years if the defendant is sentenced pursuant to section 70.02 of this chapter;
  - (c) the term of the determinate sentence must be at least twelve years if the defendant is sentenced pursuant to section 70.04 of this chapter;
  - (d) the maximum term of the indeterminate sentence must be at least four years if the defendant is sentenced pursuant to section 70.05 of this chapter; and
  - (e) the maximum term of the indeterminate sentence or the term of the determinate sentence must be at least ten years if the defendant is sentenced pursuant to section 70.06 of this chapter.
5. Notwithstanding any other provision of law, when a person is convicted of a hate crime pursuant to this article and the specified offense is a class A-1 felony, the minimum period of the indeterminate sentence shall be not less than twenty years.



## **The nature of and common circumstances relating to bias related crime on college campuses;**

Hate crime laws are designed to send the message that hate and bias motivated crimes will not be tolerated, because they are often attempts to silence and instill fear into entire groups. Reporting hate related incidents helps survivors take advantage of recovery services and enables our community to build up statistics and patterns of crime, providing an opportunity of catching offenders or preventing the violence altogether.

The key criterion in determining whether or not any crime or incident fits into the definition of a hate or bias related crime is the motivation behind the incident. A hate or bias related crime is one that is motivated, at least in part, because of someone's bias or hatred of a person's or group's perceived race, religion, ethnicity, sexual orientation, or other characteristic. Victims of hate and bias related crimes often have intense feelings of vulnerability, anger, depression, physical ailments, learning problems, and difficult interpersonal relations. Hate crimes also have a psychological and emotional impact that extends far beyond the victim. Attacks motivated on the basis of bias against a person's beliefs, values or identity undermine freedom of expression, association, and assembly and tear at the pluralistic fabric of our society.

Using slurs and epithets is a way of showing someone that you believe they are less than human and undeserving of respect. Hate crimes are a way to send a message to members of certain groups or individuals that they are unwelcome in a particular neighborhood, community, school or workplace. Calling someone a name, refusing to rent them an apartment, verbal threats, vandalism, abusive phone calls and Internet hate mail are all examples of hate crimes. The most common form of bias motivated incidents on college campuses are demeaning jokes or harassing or threatening phone calls or e-mails. However, bias related physical attacks and vandalism do also occur. You can make a difference by speaking out when jokes or comments are made that are hateful or demeaning and by asking yourself if you use derogatory, degrading or offensive terms in describing others.

Observing general safety tips may help you to avoid becoming the victim of a hate or bias related crime. Be alert to your surroundings, both inside and outside. Listen to and act upon your feelings and instincts. Notice people, the lighting, and access to phones and exits. Use elevators, stairs and restrooms in well-trafficked areas. Don't study alone in an empty classroom. Avoid deserted parking lots, empty laundry rooms and other poorly lit or poorly populated locations. When possible, walk with a friend instead of walking alone in secluded areas or at night. When riding the subways during less traveled times of day, ride in the middle car with the conductor or the first car with the engineer.

Carry a whistle and blow it for attention when necessary. If you feel threatened while walking, cross the street, change direction or run to a place where there are other people. If a car is following you, turn around and walk quickly in the opposite direction. Get the license plate number and a description if possible. If you are being followed on foot, turn around to let the person know you have seen them and then run to a place where a number of people will be.

Always keep your apartment and car doors locked. If you live in an apartment with a fire escape outside a back window, you should secure it with a fire department approved gate, an alarm, or some barrier system. A window lock is not enough. Always close your blinds/shades/curtains at night. If you decide to bring someone home, introduce him or her to a friend, acquaintance or bartender so that someone knows who you left with. When driving a friend home, establish a signal that the friend is in the home and safe before you drive away. If a stranger is at your door, do not give the impression that you are home alone. Shout over your shoulder or indicate in some way that there is another person present. Never open the door to strangers without verifying their identity by asking for an identification tag. Do not give out personal information over the phone or Internet.

Finally, report all incidents of violence or harassment. Contact campus security or call 911 as soon after the incident as possible. If you saw the perpetrator, try to remember gender, age, height, race, weight, build, clothes and other distinguishing characteristics. If anything was said, such as anti-gay epithets or threats, make a mental note about them and write them down as soon as possible. If you want the crime to be reported as a hate or bias-related crime, tell the officer to note that on the report. If the police do not assist you properly, file a complaint and contact the Office of Student Affairs or the City information number, 311.

## **The procedures in effect at the college for dealing with bias related crime;**

Students who have been a victim of a bias related crime should immediately report the incident to the following offices:

### **1. Student Affairs**

Jose Magdaleno, Vice President for Student Affairs  
Shuster Hall, Room 206. Tel. 718 960-8241

Stanley Bazile, Dean for Student Affairs  
Shuster Hall, Room 206. Tel. 718 960-8242

Janelle Hill, Confidential Executive Officer  
Shuster Hall, Room 204. Tel 718 960-8242

### **2. Public Safety/Security**

Fausto Ramirez, Director of Public Safety  
APEX Building, Room 109. Tel. 718 960-8593

## **The availability of counseling and other support services for the victims of bias related crime;**

Anyone who is a victim of a bias related crime is encouraged to seek counseling from a trained mental health professional. Experienced counselors, trained to assist with the consequences of bias related crime trauma, are on hand at the College's Counseling Center to provide crisis intervention, in-office counseling, referral to other support services and self-help groups. The center can also refer victims to community based support groups and professional organizations. The college will assist any student wishing to contact outside agencies, including local police, regarding charges and complaints of a bias related crime. The college can also assist in changing academic schedules after an alleged incident.

### **On-campus resources:**

1. Campus Safety/Security: APEX Building, Room 109. Tel. 718 960-8593
2. Counseling Center: Old Gym, Room 114. Tel. 718 960-8761
3. Health Center: T-3 Building, Room 118. Tel. 718 960-8903
4. Division of Student Affairs: Shuster Hall, Room 206. Tel. 718 960-8241

## Off Campus Resources:

1. New York City Police Department Detective Bureau; Hate Crimes Task Force; 1 Police Plaza (646) 610-5267
2. Manhattan District Attorney, Community Affairs Unit (212) 335-9082
3. Queens District Attorney, Anti-bias Unit (718) 286-7041
4. Bronx District Attorney, (718) 590-2427; or (718) 590-2715
5. Brooklyn District Attorney, Community Affairs Unit (718) 250-2241
6. Staten Island District Attorney, Special Investigations/Bias Unit (718) 876-6300 or (718) 556-7167
7. NYC Victims Services Agency (212) 577-7777. This service is open 24 hours, seven days a week and provides crises intervention for crime victims.
8. The Gay and Lesbian Anti-Violence Project (212) 807-0197 (24-hour hotline). This service is open 10:00 am through 8:00 pm Monday through Thursday and 10:00 am through 6:00 pm on Friday. It provides short term crisis counseling, advocacy services, and referrals for long term counseling.
9. National Hate Crimes Hotline (208) 246-2292.
10. <http://HateCrimeNet.org>
11. [http://www.lambda.org.safety\\_tips.htm](http://www.lambda.org.safety_tips.htm) You have the option of completing and submitting a hate crime incident report on this website.

<b>OFFENSES UNDER THE HATE CRIMES STATUTE</b>				
<b>Specific Offense</b>	<b>Penal Law Section</b>	<b>Degree</b>	<b>Class Of Felony or Misdemeanor</b>	<b>Imprisonment in years</b>
<b>Assault</b>	§120.10	1	B	6 - 25
	§120.05	2	C	1 - 15
	§120.00	3	E	1- 4
<b>Aggravated Assault Upon Person less than 11 years old</b>	§120.12		D	1 - 7
<b>Menacing</b>	§120.13	1	D	1 - 7
	§120.14	2	E	1-4
	§120.15	3	A*	To 1 year
<b>Reckless Endangerment</b>	§120.25	1	C	1 - 15
	§120.20	2	E	1- 4
<b>Manslaughter</b>	§125.20	1	B	6 - 25
	§125.15	2	C	1 - 15
<b>Murder</b>	§125.25	2	A - II	3 to life
<b>Stalking</b>	§120.60	1	C	1 - 15
	§120.55	2	D	1 - 7
	§120.50	3	E	1- 4
	§120.45	4	A*	To 1 year
<b>Rape</b>	§130.35	1	A-II	3 to life
<b>Criminal Sexual Act</b>	§130.50	1	A-II	3 to life
<b>Sexual Abuse</b>	§130.65	1	C	1 - 15
<b>Aggravated Sexual Abuse</b>	§130.70	1	A-II	3 to life
	§130.67	2	B	6 - 25
<b>Unlawful Imprisonment</b>	§135.10	1	D	1 - 7
	§135.05	2	E	1- 4
<b>Kidnapping</b>	§135.25	1	A-I	20 to life
	§135.20	2	A-II	3 to life
<b>Coercion</b>	§135.65	1	C	1 - 15

	§135.60	2	E	1- 4
<b>Criminal Trespass</b>	§140.17	1	C	1 - 15
	§140.15	2	E	1- 4
	§140.10	3	A*	To 1 year
	§140.30	1	A-II	3 to life
<b>Burglary</b>	§140.25	2	B	6 - 25
	§140.20	3	C	1 - 15
	§145.12	1	A-II	3 to life
<b>Criminal Mischief</b>	§145.10	2	C	1 - 15
	§145.05	3	D	1 - 7
	§145.00	4	E	1- 4
	§150.20	1	A-I	20 to life
<b>Arson</b>	§150.15	2	A-II	3 to life
	§150.10	3	B	6 - 25
	§150.05	4	D	1 - 7
	§155.25		E	1- 4
<b>Petit Larceny</b>				
<b>Grand Larceny</b>	§155.42	1	A-II	3 to life
	§155.40	2	B	6 -25
	§155.35	3	C	1 - 15
	§155.30	4	D	1 - 7
<b>Robbery</b>	§160.15	1	A-II	3 to life
	§160.10	2	B	6 25
	§160.05	3	C	1 - 15
<b>Harassment</b>	§240.25	1	A*	To 1 year
<b>Aggravated Harassment</b>	§240.30	2	E	1- 4

**THE CITY UNIVERSITY OF NEW YORK GUIDELINES FOR A UNIVERSITY-WIDE PROGRAM TO COMBAT BIGOTRY AND TO PROMOTE PLURALISM AND DIVERSITY:**

At the January 24, 1994, meeting of the Board of Trustees of The City University of New York, a resolution was recommended by the Committee on Public Affairs to promote University policy to combat bigotry and reaffirm our commitment to pluralism and diversity. Adopted unanimously by the Trustees, the resolution calls upon the Chancellor to report to the Board on steps taken by the University and the colleges in furtherance of the policy by October 31, 1994. The Chancellor was asked to develop guidelines, by the March Board meeting, in consultation with the Council of Presidents and the leadership of the University Faculty Senate and Student Senate. These guidelines are the result of the consultative process.

The adopted Board resolution includes six whereas sections which should be reflected in the development of appropriate plans:

The Board of Trustees of The City University of New York is committed to engendering values and implementing policies that enhance respect for individuals and their cultures.

- This commitment is manifested in the statement of principles and recommendations for action on pluralism and diversity in The City University of New York adopted by the Board on January 20, 1988.
- Our cultural and ethnic diversity – our pluralism – is one of our most valued, significant and important characteristics.

- The student body of The City University of New York now includes students who trace their ancestries to over 130 countries, as well as growing numbers of students who are of color, women, immigrants, older adults and disabled persons.
- We must be proactive in developing programs that both combat bigotry and other biases in all their forms, as well as build on the strengths that our multicultural, multiracial, multigenerational student body offers.
- Such programs should build upon successful models of curricular and co-curricular pursuits developed by both members of the CUNY community, as well as with the advice and assistance of the extended CUNY family of supporters and resource persons.

The development of appropriate plans should be consistent with the By-laws of The Board of Trustees, including but not limited to Article 15.0 Preamble which states:

\* 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 in freedom from discrimination based on racial, ethnic, religious, sex, political and economic differentiations.

\* 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.\*

By August 1, 1994, the Central Administration and the constituent colleges shall prepare such plans for submission to the Chancellor. Such plans should include a progress report on activities envisioned in the Board's statement on Pluralism and Diversity, University and college programs, schedule and projected, to combat bigotry, and measures taken to advance the January 24, 1994, Board policy resolution. The plans should address the following elements:

A description of curricular and extracurricular programs and projects directed at the elimination of bigotry, encouragement of inter-group harmony, tolerance and respect and increasing understanding among members of the higher education community. This may include orientation and training programs, professional development, role-playing sessions, leadership conferences and retreats, lectures and seminars, discussions of pertinent research and scholarship, and improvements in methods for cross-cultural communication.

A clear statement of the availability of procedures and channels developed by the college community to expeditiously address allegations of bigotry, as well as intervention and conflict resolution alternatives that may be utilized. This should include how the institution is organized and which offices or individuals are appropriately designated to be accessible.

Early communication, by college officials, as the facts warrant, of institutional aversion to acts of bigotry, including the issuance of appropriate and timely statements condemning prejudice or discrimination, consistent with the first amendment. This should be done while simultaneously reaffirming the positive message of the extraordinary importance of a collegiate environment where all participants are protected, regardless of their background or social characteristics.

The availability of additional options for dispute resolution, such as mediation and conciliation resources both on and off campus, as needed and where appropriate. This may include the identification of faculty and staff experts, experienced student leaders, alumni, or resource persons from the greater college and University community. Established offices, however, should remain on the front-line and serve as conduits to campus and external expertise, as deemed appropriate.

The dissemination of materials throughout the campus community in order to ensure maximum awareness and to provide visible evidence of an institutional commitment to an intellectually tolerant collegiate environment.

Efforts to combat bigotry and promote diversity should continue to be an inextricable part of the educational mission of the University, not an ancillary activity that is re-invigorated from time to time on ad-hoc basis. Our future efforts should build upon the excellent college and University-wide programs and activities that already exist, which were reviewed by the Board of Trustees, through its Committee on Public Affairs. This will permit CUNY to continue to rejoice in the cultural richness of its varied constituencies, unrivaled in American higher education, and reflective of the University's historic commitment to educate all those who seek upward social and economic mobility. At the same time, the University can continue to build bridges between those constituencies so that the most positive atmosphere for learning may be provided for generations to come.  
Board Minutes, March 21, 1994

### **III-F**

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

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

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

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

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

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

### **Prohibited Conduct Defined**

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

**Harassment** is a form of discrimination that consists of unwelcome conduct based on a protected characteristic that has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or abusive work or academic environment. Such conduct can be spoken, written, visual, and/or physical. This policy covers prohibited harassment based on all protected characteristics

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

Other than sex. Sex-based harassment and sexual violence are covered by CUNY's Policy on Sexual Misconduct.

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

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

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

## **III. Academic Freedom**

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

## **IV. Responsibility for Compliance**

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

Part of Policies and Procedures adopted and approved effective November 27, 2012, Cal.No.4; and revised policy amended and adopted December 1, 2014, Cal. No. C, with effective date of January 1, 2015; Cal. Item C.

## **COMPLAINT PROCEDURES UNDER THE CITY UNIVERSITY OF NEW YORK'S POLICY ON EQUAL OPPORTUNITY AND NONDISCRIMINATION<sup>1</sup>**

## **1. Reporting Discrimination and/or Retaliation**

The University is committed to addressing discrimination and/or retaliation complaints promptly, consistently and fairly.

Members of the University community, as well as visitors, may promptly report any allegations of discrimination or retaliation to the individuals set forth below:

A. Applicants, employees, visitors and students with discrimination complaints should raise their concerns with the Chief Diversity Officer at their location.

B. Applicants, employees, visitors and students with complaints of sexual harassment or sexual violence, including sexual assault, stalking, domestic and intimate violence, should follow the process outlined in CUNY's Policy on Sexual Misconduct (include link).

C. There are separate procedures under which applicants, employees, visitors and students may request and seek review of a decision concerning reasonable accommodations for a disability, which are set forth in CUNY's Procedures on Reasonable Accommodation, (include link)

## **2. Preliminary Review of Employee, Student, or Visitor Concerns**

Individuals who believe they have experienced discrimination and/or retaliation should promptly contact the Chief Diversity Officer at their location to discuss their concerns, with or without filing a complaint. Following the discussion, the Chief Diversity Officer will inform the complainant of the options available. These include seeking informal resolution of the issues the complainant has encountered or the college conducting a full investigation. Based on the facts of the complaint, the Chief Diversity Officer may also

These Procedures govern any complaint of discrimination and/or retaliation, except complaints of sexual harassment and sexual violence, which are covered by CUNY's Sexual Misconduct Policy. These procedures are applicable to all of the units and colleges of the University. The Hunter College Campus Schools may make modifications to these procedures, subject to approval by the University, as appropriate to address the special needs of their elementary and high school students.

These Procedures are intended to provide guidance for implementing the University Policy on Equal Opportunity and Non-Discrimination. These Procedures do not create any rights or privileges on the part of any others.

The University reserves the right to alter, change, add to, or delete any of these procedures at any time without notice.

advise the complainant that his or her situation is more suitable for resolution by another entity within the University.

## **3. Filing a Complaint**



Following the discussion with the Chief Diversity Officer, individuals who wish to pursue a complaint of discrimination and/or retaliation should be provided with a copy of the University's complaint form. Complaints should be made in writing whenever possible, including in cases where the complainant is seeking an informal resolution.

#### **4. Informal Resolution**

Individuals who believe they have been discriminated or retaliated against may choose to resolve their complaints informally. Informal resolution is a process whereby parties can participate in a search for fair and workable solutions. The parties may agree upon a variety of resolutions, including but not limited to modification of work assignment, training for a department, or an apology. The Chief Diversity Officer will determine if informal resolution is appropriate in light of the nature of the complaint. Informal resolution requires the consent of both the complainant and the respondent and suspends the complaint process for up to thirty (30) calendar days, which can be extended upon consent of both parties, at the discretion of the Chief Diversity Officer.

Resolutions should be agreed upon, signed by, and provided to both parties. Once both parties reach an informal agreement, it is final. Because informal resolution is voluntary, sanctions may be imposed against the parties only for a breach of the executed voluntary agreement.

The Chief Diversity Officer or either party may at any time, prior to the expiration of thirty (30) calendar days, declare that attempts at informal resolution have failed. Upon such notice, the Chief Diversity Officer may commence a full investigation.

If no informal resolution of a complaint is reached, the complainant may request that the Chief Diversity Officer conduct a full investigation of the complaint.

#### **5. Investigation**

A full investigation of a complaint may commence when it is warranted after a review of the complaint, or after informal resolution has failed.

It is recommended that the intake and investigation include the following, to the extent feasible:

- a. Interviewing the complainant. In addition to obtaining information from the complainant (including the names of any possible witnesses), the complainant should be informed that an investigation is being commenced, that interviews of the respondent and possibly other people will be conducted, and that the President<sup>2</sup> will determine what action, if any, to take after the investigation is completed.
- b. Interviewing the respondent. In addition to obtaining information from the respondent (including the names of any possible witnesses), the respondent should be informed that a complaint of discrimination has been received and should be provided a copy of the complaint unless circumstances warrant otherwise. Additionally, the respondent should be informed that an investigation has begun, which may include interviews with third parties, and that the President will determine what action, if any, to take after the investigation is completed. A respondent employee who is covered by a collective bargaining agreement may consult with, and have, a union representative present during the interview.

The respondent must be informed that retaliation against any person who files a complaint of discrimination, participates in an investigation, or opposes a discriminatory employment or educational practice or policy is prohibited under this policy and federal, state, and city laws. The respondent should be informed that if retaliatory behavior is engaged in by either the respondent or anyone acting on his/her behalf, the respondent may be subject to disciplinary charges, which, if sustained, may result in penalties up to and including termination of employment, or permanent dismissal from the University if the respondent is a student.

c. Reviewing other evidence. The Chief Diversity Officer should determine if, in addition to the complainant, the respondent, and those persons named by them, there are others who may have relevant information regarding the events in question, and speak with them. The Chief Diversity Officer should also review documentary evidence that may be relevant to the complaint.

## **6. Withdrawing a Complaint**

A complaint of discrimination may be withdrawn at any time during the informal resolution or investigation process. Only the complainant may withdraw a complaint. Requests for withdrawals must be submitted in writing to the Chief Diversity Officer. The University reserves the right to continue with an investigation if it is warranted. In a case where the University decides to continue with an investigation, it will inform the complainant.

In either event, the respondent must be notified in writing that the complainant has withdrawn the complaint and whether University officials have determined that continuation of the investigation is warranted for corrective purposes.

<sup>2</sup> References to the President in these Procedures refer to the Executive Vice Chancellor and Chief Operating Officer and the Deans of the Law School, Graduate School of Journalism, CUNY School of Public Health, School of Professional Studies and Macaulay Honors College, wherever those units are involved, rather than a college.

## **7. Timeframe**

While some complaints may require extensive investigation, whenever possible, the investigation of a complaint should be completed within sixty (60) calendar days of the receipt of the complaint.

## **8. Action Following Investigation of a Complaint**

a. Promptly following the completion of the investigation, the Chief Diversity Officer will report his or her findings to the President. In the event that the respondent or complainant is a student, the Chief Diversity Officer will also report his or her findings to the Chief Student Affairs Officer.

b. Following such report, the President will review the complaint investigation report and, when warranted by the facts, authorize such action as he or she deems necessary to properly correct the effects of or to prevent further harm to an affected party or others similarly situated. This can include commencing action to discipline the respondent under applicable University Bylaws or collective bargaining agreements.

c. The complainant and the respondent should be apprised in writing of the outcome and action, if any, taken as a result of the complaint.

d. The President will sign a form that will go into each investigation file, stating what, if any, action will be taken pursuant to the investigation.

e. If the President is the respondent, the Vice Chancellor of Human Resources Management will appoint an investigator who will report his/her findings to the Chancellor. The Chancellor will determine what action will be taken. The Chancellor's decision will be final.

## **9. Immediate Preventive Action**

The President may take whatever action is appropriate to protect the college community in accordance with applicable Bylaws and collective bargaining agreements.

## **10. False and Malicious Accusations**

Members of the University community who make false and malicious complaints of discrimination, as opposed to complaints which, even if erroneous, are made in good faith, will be subject to disciplinary action.

## **11. Anonymous Complaints**

All complaints will be taken seriously, including anonymous complaints. In the event that a complaint is anonymous, the complaint should be investigated as thoroughly as possible under the circumstances.

## **12. Responsibilities**

### **a. Responsibilities of the President:**

- Appoint a Chief Diversity Officer responsible for addressing complaints under this Policy
- Ensure that the Chief Diversity Officer is fully trained and equipped to carry out his/her responsibilities.
- Ensure that managers receive training on the Policy.
- Annually disseminate the Policy and these Procedures to the entire college community and include the names, titles and contact information of all appropriate resources at the college, t Such information should be widely disseminated, including placement on the college website.

### **b. Responsibilities of Managers:**

Managers must take steps to create a workplace free of discrimination, harassment and retaliation, and must take each and every complaint seriously. Managers must promptly consult with the Chief Diversity Officer if they become aware of conduct that may violate the Policy.

For purposes of this policy, managers are employees who either (a) have the authority to make tangible employment decisions with regard to other employees, including the authority to hire, fire, promote, compensate or assign significantly different responsibilities; or (b) have the authority to make recommendations on tangible employment

decisions that are given particular weight. Managers include vice presidents, deans, directors, or other persons with managerial responsibility, including, for purposes of this policy, department chairpersons and executive officers.

c. Responsibilities of the University Community-at-Large:

- Members of the University community who become aware of allegations of discrimination or retaliation should encourage the aggrieved individual to report the alleged behavior.
- All employees and students are required to cooperate in any investigation.

**Some Relevant Laws Concerning Non-discrimination and Equal Opportunity**

***Section 1324b of the Immigration and Nationality Act* prohibits employers from intentional employment discrimination based upon citizenship or immigration status, national origin, and unfair documentary practices or "document abuse" relating to the employment eligibility verification or Form 1-9 process. Document abuse prohibited by the statute includes improperly requesting that an employee produce more documents than required by the 1-9 form, or a particular document, such as a "green card", to establish the employee's identity and employment authorization; improperly rejecting documents that reasonably appear to be genuine during the 1-9 process; and improperly treating groups of applicants differently when completing the 1-9 form.**

***Executive Order 11246*, as amended, prohibits discrimination in employment by all institutions with federal contracts and requires affirmative action to ensure equal employment opportunities.**

***Title VII of the Civil Rights Act of 1964*, as amended, prohibits discrimination in employment (including hiring, upgrading, salaries, fringe benefits, training, and other terms, conditions, and privileges of employment) on the basis of race, color, religion, national origin, or sex.**

***Title VI of the Civil Rights Act of 1964* prohibits discrimination or the denial of benefits because of race, color, or national origin in any program or activity receiving federal financial assistance.**

***Equal Pay Act of 1963*, as amended, requires that men and women performing substantially equal jobs in the same workplace receive equal pay.**

***Title IX of the Education Amendments of 1972* prohibits discrimination or the denial of benefits based on sex in any educational program or activity receiving federal financial assistance.**

***Age Discrimination in Employment Act*, as amended, prohibits discrimination against individuals who are age 40 or older.**

***Section 504 of the Rehabilitation Act of 1973* defines and forbids acts of discrimination against qualified individuals with disabilities in employment and in the operation of programs and activities receiving federal financial assistance.**

***Section 503 of the Rehabilitation Act of 1973* requires federal contractors and subcontractors to take affirmative action to employ and advance in employment qualified individuals with disabilities.**

***Vietnam Era Veterans' Readjustment Act of 1974*, as amended, requires government contractors and subcontractors to take affirmative action to employ and advance in employment disabled and other protected veterans.**

***Uniformed Services Employment and Reemployment Rights Act of 1994***, as amended, prohibits employment discrimination based on military status and requires reemployment following military service in some circumstances.

***Americans with Disabilities Act of 1990***, as amended, prohibits discrimination on the basis of disability.

***Genetic Information Nondiscrimination Act of 2008*** prohibits employment discrimination based on genetic information.

***New York City Human Rights Law*** prohibits discrimination based on age (18 and older), race, creed, color, national origin, gender (including gender identity and expression), disability, marital status, partnership status, sexual orientation, alienage or citizenship status, arrest or conviction record, unemployment status, or status of an individual as a victim of domestic violence, sex offenses or stalking.

***New York City Workplace Religious Freedom Act*** requires an employer to make accommodation for an employee's religious needs.

***New York State Education Law Section 224-a*** requires institutions of higher education to make accommodations for students who are unable to attend classes or take examinations due to their religious beliefs.

***New York State Human Rights Law*** prohibits discrimination based on race, creed, color, national origin, sexual orientation, military status, sex, age (18 and older), marital status, domestic violence victim status, disability, predisposing genetic characteristics or prior arrest or conviction record.

### **III G.- ADMISION OF STUDENTS WHO POSE RISK**

The college reserves the right to deny admission to any student if in its judgment, the presence of that student on campus poses an undue risk to the safety or security of the college or the college community. That judgment will be based on an individualized determination taking into account any information the college has about the crime committed by the student and the particular circumstances of the college, including the presence of a child care center, summer camp, public school or public school students on the campus. In addition, the college may consider factors such as the amount of time since the crime was committed, the amount of jail time served by the student, the number of years the student was on probation or parole, whether the student has satisfied probation or parole requirements at the time of the student's application, whether the student has completed drug, alcohol, sex offender or other treatment, and what work or educational experience the student has had after the conviction. Finally, if the student is known to have been assisted by a CUNY-sponsored or other re-entry program or initiative, the college will consult with a counselor or representative from said program.

### **III – H Hazing**

Any action or situation, which recklessly or intentionally endangers mental or physical health, or involves the forced consumption of liquor or drugs for the purpose of initiation with any organization,

is prohibited. Any organization, which authorizes such conduct, shall be penalized by being denied permission to operate on campus property in addition to any penalty pursuant to the penal law

### **III - I MISSING PERSONS PROCEDURES**

#### **I. Introduction**

The purpose of The City University of New York Procedures on Missing Persons ("CUNY Missing Persons Procedures") is to establish official notification procedures for missing students who reside in on-campus housing and to ensure that a student who resides in on-campus housing is informed of his or her options and rights under section 485(j) of the Higher Education Act.'

#### **II. Definition of Missing Person**

For the purposes of these Procedures, a student is deemed a "missing person" when the student is a current on-campus housing-resident and he or she has been unreachable for more than 24 hours without any known reason.

#### **III. Definition of On-Campus Housing**

For the purposes of these Procedures, "on-campus housing" is defined as student housing in residence halls operated by CUNY or operated by a private management company on behalf of CUNY.

#### **IV. Designation of Emergency Contact**

Each CUNY student who resides in on-campus housing must identify a contact individual ("emergency contact") who will be contacted no later than 24 hours from the time the student is determined missing. A student may designate his or her emergency contact on the application for residence in on-campus housing. The student's designated emergency contact information will be kept confidential and will be retained by *the* campus Residence Life Office and the Department of Public Safety. The emergency contact information will be used only when the student is determined to be a missing person or in other emergency situations.

Students who are under the age of 18 and who are not emancipated must designate an emergency contact. However, in the event that such a student is determined to be a missing person, the Campus must in addition to providing notice to the emergency contact also notify the student's custodial parent or legal guardian, if the parent or guardian is not listed as the emergency contact, no later than 24 hours after the student is determined missing.

A student's designation of an emergency contact will remain in effect until changed or revoked by the student.

#### **V. Notification**

##### **A. Generally**

Any individual on campus who has information that a student who is an on-campus housing resident may be missing must notify the campus Department of Public Safety as quickly as possible. After receipt of such notification, the Department of Public Safety must contact appropriate campus staff (e.g. the Campus Director of Residence Life) to aid in the search for the student.

If, after investigation, the campus Department of Public Safety determines that the student is missing, it must, after consultation with the campus Office of Student Services/Affairs, designate a campus official to contact the missing student's emergency contact. This contact must be initiated no later than 24 hours after the time the student is determined missing.

### **B. Missing Persons Under the Age of 18**

If the student who is determined to be a missing person is under 18 and not emancipated, the designated campus official must, in addition to contacting the emergency contact, immediately contact the missing student's parent or legal guardian, if the parent or guardian is not listed as the emergency contact.

### **C. Missing Persons Without a Reachable Designated Emergency Contact**

If the missing student's emergency contact is not reasonably reachable, the designated campus official must inform the New York City Police Department that the student is missing. Such notification must be done no later than 24 hours after the time the student is determined missing.

<sup>1</sup> Higher Education Opportunity Act § 485(f), Pub. L. No. J10-315 (2008).

## **III-J Title IX - Combating Sexual Assault and Other Unwelcome Sexual Behavior**

Anyone – of any gender, sexual orientation, religious affiliation, citizenship status, race, class or educational level – can suffer from sexual harassment, including sexual violence. The goal of this website is to help you understand what sexual harassment means and let you know that there are people at CUNY and in the community who can help if you or others experience it. We want to make sure you understand your rights as a student, CUNY's policies, and other issues related to sexual harassment and assault.

On every CUNY campus there is a person who has special training in helping students who are facing issues related to sexual harassment and assault. We urge you to contact this person (who is known as the "Title IX Coordinator") for guidance or information.

### **Key Campus Contacts**

#### **Title IX Coordinator**

- Dawn Ewing-Morgan
- 718-960-8111
- dawn.ewing-morgan@lehman.cuny.edu

#### **Public Safety Director**

- Fausto Ramirez 718-960-8593
- 718-960-8228
- domenick.laperuta@lehman.cuny.edu

#### **Chief Student Affairs Officer**

- Jose Magdaleno
- 718-960-8241
- Joseph.magdaleno@lehman.cuny.edu

#### **Counseling Center**

- Website
- <http://www.lehman.edu/counseling-center/index.php>

## **If You Recently Were Sexually Assaulted:**

- **If the incident occurred on-campus**, call Public Safety 718-960-7777 or 911;
- **If the incident occurred off-campus**, call 911 or go to the local NYPD precinct. Contacting the police does not require you to file charges.
- **Seek medical attention as soon as possible.** *Campus Public Safety or the police can help you get medical care or you can go on your own (or with a friend) to an emergency room.*  
[http://www.svfreenyc.org/survivors\\_emergency.html](http://www.svfreenyc.org/survivors_emergency.html)
- **Preserve evidence.** *You do not need to decide immediately whether to take action against the person who assaulted you. But if you might want to do this, it is important to preserve evidence of the assault. Go to an emergency room and ask for a SAFE or rape exam. (Do not bathe or brush your teeth prior to going.) For a list of hospitals in New York City with this service, go to:*  
[http://www.svfreenyc.org/survivors\\_emergency.html](http://www.svfreenyc.org/survivors_emergency.html)  
*Retain the clothing you were wearing in a paper (not plastic) bag. If the assault took place in your home or dorm room, do not rearrange furniture and/or clean up.*
- **If you are uncertain about your options and rights, contact the Title IX Coordinator.**

**Title IX:** *Title IX of the Education Amendments of 1972 (“Title IX”) is a federal civil rights law that prohibits discrimination on the basis of sex in education programs and activities at universities receiving federal funds. Under Title IX, discrimination on the basis of sex can include sexual harassment or sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion*

## **Getting Help:**

### Frequently Asked Questions

#### **I was sexually assaulted. What should I do first?**

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If you were just assaulted, call 911 or Public Safety 718-960-7777. If the assault was within the last four days, we recommend contacting Public Safety. If the assault took place more than four days ago, we recommend contacting the Title IX Coordinator as soon as possible. You also can contact the New York City Police Department at any time.

#### **What will happen when I contact Public Safety?**

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CUNY’s Public Safety Officers have received special training in helping students who have experienced a sexual assault or other forms of relationship violence. A Public Safety Officer will meet with you (at a convenient location) and help you determine what steps you should take next. These may include getting medical care at a hospital or reporting the incident to the New York City Police Department (NYPD.) If you want, the Public Safety Officer (or someone from Student Services or Counseling) will go with you to the hospital or the police. The Public Safety Officer also will let you know of other options you have, such as filing a campus complaint alleging a violation of CUNY’s *Policy on Sexual Assault, Stalking and Domestic Violence against Students* and seeing a counselor. If you are concerned about future on-campus contact with the person who assaulted (or harassed) you, the Public Safety Officer will put you in contact with campus officials who will take steps to address your concerns.

#### **What will happen when I contact the Title IX Coordinator?**

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The Title IX Coordinator will listen to your concerns and discuss ways to address them—including filing a complaint with CUNY, the police, or the Office of Civil Rights. The Title IX Coordinator will fully explain CUNY’s policies against sexual harassment, sexual assault, and retaliation. CUNY’s complaint process—steps, timing, and consequences—will also be fully explained. Importantly, the Title IX Coordinator will provide you resources and support to help you feel safe and secure.

### **How quickly must I decide what to do?**

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- **Hospital** – It is best to go to the hospital no more than four days (or 96 hours) after the assault because certain medications (for STDs) and emergency contraception are most effective if taken quickly. If you think you may have been given a “date rape” drug, you should go to the hospital within 12 hours of the assault and be tested. The hospital also can preserve other evidence of the assault until you decide what you want to do. (Most hospitals preserve the evidence for 30 days.) Many hospitals in New York have people who are specially trained to give medical exams to people who have been sexually assaulted. They will allow you to stop a medical exam at any time if you are not comfortable. You do not need health insurance to be treated for a sexual assault.
- **Notifying Public Safety or NYPD** – If you notify Public Safety or NYPD promptly, they can help you get the care you need and/or start investigating your allegations before evidence disappears and memories dim. Although you can contact them any time after the assault to discuss your options or file a complaint, we recommend waiting no more than 30 days after the assault.
- **Filing a complaint with CUNY** – *As with Public Safety and the NYPD, the sooner you notify the Title IX coordinator, the better. However, you can notify the Title IX Coordinator any time but we recommend waiting no more than 30 days.*
- **Seeing a Counselor** – *You can see a counselor at any time.*

### **What is the statute of limitations for sexual assault?**

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The statute of limitations (the amount of time the government has to bring a criminal action against the person who committed a crime) varies depending on the type of assault involved. For a misdemeanor sexual assault, it is two years; for many felony assaults, it is five years; and for other felony sexual assaults there is no time limit.

### **What is Title IX?**

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Title IX of the Education Amendments of 1972 protects people from sex discrimination in educational programs and activities at institutions that receive federal financial assistance. Sexual harassment of students, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX.

### **What is a Title IX Coordinator and what does the Title IX Coordinator do?**

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- Each CUNY campus has a Title IX coordinator whose responsibilities include guiding students on how to file complaints alleging gender-based discrimination and sexual misconduct at that campus and responding effectively to these complaints.
- The Title IX Coordinator coordinates and leads investigations of gender-based discrimination and sexual misconduct. As part of this role, the Title IX Coordinator will inform and obtain consent from a complainant to conduct an investigation and will inform the complainant of the option of filing a criminal complaint.
- The Title IX Coordinator will take prompt and effective steps reasonably calculated to end any harassment or violence, including interim measures and to prevent/redress retaliation;
- The Title IX Coordinator will provide both the complainant and the accused with periodic status updates and notice of outcome of the complaint.

## **How do I file a complaint on campus against a person who assaulted me or engaged in other unwelcome sexual behavior towards me?**

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The Title IX coordinator who will walk you through the process of filing a complaint against the CUNY person (student, faculty, staff) who you believe violated CUNY policy.

## **What is the difference between filing a complaint with CUNY and filing a complaint with the police?**

- CUNY will investigate a complaint to determine whether a student or other member of the CUNY community violated CUNY policies against sexual assault and harassment and/or whether there is a hostile discriminatory environment on campus. As a result of the investigation, CUNY may bring internal disciplinary charges against the person, which could result in sanctions such as expulsion from campus.
- The police will investigate to determine whether the person has committed a crime and there is sufficient evidence to bring criminal charges against the person. As a result, the person could go to jail or be subjected to other penalties.
- You can file a complaint with both the police and with CUNY or with one and not the other.

## **What do I do if I am being harassed at my on-campus job?**

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Tell the Title IX Coordinator. It is important for us to know about it as soon as possible after it occurs so we can keep the campus or residence hall safe.

## **Does it matter if the person who assaulted me (or in engaged in the other types of unwelcome sexual behavior described in the policy) was neither a CUNY student nor a CUNY employee?**

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CUNY is here to help you regardless of who was involved. If the person was not a member of the CUNY community, we cannot bring disciplinary charges against the person. But we can advise you, among other things, on getting medical care and determining whether to report the incident to the police. If the incident by the non-CUNY person took place on campus or in a residence hall, it is important for us to know about it as soon as possible after it occurs.

## **If I speak with the Title IX coordinator, Public Safety or a counselor, will it be kept confidential?**

- Your conversations with a counselor, provided s/he is licensed, are privileged, which means they are strictly confidential. (Exception: If you tell the counselor about a risk of serious and imminent harm against someone, the counselor may need to disclose it.)
- The Title IX Coordinator and Public Safety will respect your request for confidentiality but may need to share the information with others who have a need to know it. They will let you know what information they may need to share with others.
- If you request confidentiality, please understand that CUNY's ability to investigate and address your complaint may be limited.

## **If I file a complaint against the student who assaulted me, what will happen to the student?**

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The student will be notified of the complaint and instructed not to contact you. S/he will also be advised of how the grievance procedures work. CUNY is committed to making the disciplinary procedure as transparent and fair as possible for both parties.

## **The person who assaulted me lives in my residence hall and we are both in the same Chemistry class. Is there anything that can be done?**

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Yes. If you make a complaint to the Title IX Coordinator, the College can take steps to address your concerns. These may include room assignments or class changes.

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**I don't want to file a complaint but no longer feel safe. What can I do?**

Contact the Title IX Coordinator. S/he will discuss ways to help you feel safer on campus.

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**I filed a complaint and now the friends of the person who assaulted me are taunting me for "having ratted" on their friend. What can I do?**

Retaliatory conduct is illegal and will not be tolerated. Persons who engage in it are subject to disciplinary action. Inform the Title IX Coordinator as soon as possible. S/he will discuss possible remedies with you. We want you to feel safe.

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**I think I was sexually assaulted but was drunk at the time. I don't remember saying "no" and did not put up a fight. Does that mean I consented?**

No. You do not need to say "no" to indicate you do not consent. Consent cannot be inferred from the absence of a "no." If you were drunk, you may not have had the capacity to consent.

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**I was using drugs at the time I was assaulted. If CUNY finds out, will I be disciplined for the drug use?**

CUNY's primary concern is student health and safety. Accordingly, when conducting such an investigation, our primary focus will be on the allegations of sexual violence and not drug use. Even if you were using drugs, it is not your fault you were assaulted.

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**I told my RA about being assaulted and she discouraged me from telling anyone about it, let alone going to the police. What should I do?**

Please let the Title IX Coordinator know about your experience. Your RA should not discourage you from speaking about your experience, let alone reporting it. The Title IX Coordinator can help you determine whether you should report the assault and arrange for you to speak to a professional counselor about your experience.

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**If I file a complaint, will my sexual history with other people be questioned or examined?**

No. Your prior sexual history with other people is not relevant.

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**If there were no witnesses, will my complaint be addressed?**

Yes. There often are no witnesses to sexual assaults. CUNY's Title IX Coordinators and the police both are trained to investigate these types of cases.

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**I previously had consensual sex with the person who sexually assaulted me. How will I be able to prove I did not consent this time?**

This is a common concern amongst persons who experience sexual assault. Please remember that having consensual sex with a person once (or even multiple times) does not mean that you consent to having sex with that person forever. CUNY's Title IX Coordinators and the police have a great deal of experience addressing these situations.

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**I have a question that is not addressed here. Who can I ask?**

Title IX Coordinator

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**Common Feelings after Being Sexually Assaulted**

Sexual assault is a traumatic event, and we all handle traumatic events in different ways. Though each person and situation is unique, the following list summarizes a range of reactions to sexual assault that many people feel. This list may help you know what to expect.

- Emotional shock: I feel so numb. Why am I so calm? Why can't I cry?
  - Confusion or denial: Did it really happen? Why me? Maybe I imagined it. It wasn't really a sexual assault. I don't really need help.
  - Embarrassment: What will people think? I can't tell my family or friends.
  - Shame: I feel so dirty, like there is something wrong with me. I want to wash my hands or shower all the time. I feel like I have brought shame to my family.
  - Guilt: I should have known better. I must have caused this to happen in some way. If only I had done something differently.
  - Depression: How am I going to get through this semester? I'm so tired. All I want to do is cry and hide. I feel so helpless.
  - Suicidal thoughts: Maybe I'd be better off dead.
  - Powerlessness: Will I ever feel in control again?
  - Disorientation: I don't even know what day it is, or what class I'm supposed to be in. I can't remember my appointments. I keep forgetting things.
  - Triggers and flashbacks: I'm still re-living it. I keep seeing that face all the time.
  - Fear: I'm scared of everything. What if I'm pregnant? Could I get a sexually transmitted infection (STI), or even HIV? How can I ever feel safe again? Do people realize there's anything wrong? I can't sleep because I know I'll have nightmares. I'm afraid I'm going crazy. I'm afraid to go outside. I'm afraid to be alone.
  - Anxiety: I'm having panic attacks. I can't breathe! I just can't stop shaking. I can't sit still in class anymore. I feel overwhelmed.
  - Anger: I want to harm the person who attacked me!
- Physical stress: My stomach (or head or back) aches all the time. I feel jittery and don't feel like eating.

**Remember, you are not to blame, even if...**

- The perpetrator was an acquaintance, date, friend, or spouse.
- You had been sexually intimate with the perpetrator or with others before.
- You were drinking or using drugs.
- You froze and did not or could not say "no," or were unable to fight back physically.
- You were wearing clothes that others could perceive as seductive.

**Regardless of the circumstances, sexual assault is not your fault.**

**Recovering from Sexual Assault**

**Getting back on track**

It is important for you to know that any of the feelings after being sexually assaulted are normal and temporary reactions to a traumatic event. Fear and confusion will lessen with time, but the trauma may disrupt your life for a while. Reactions might be triggered by people, places, or things connected to the assault, or they might seem to come from "out of the blue."

Talking about the assault can help you feel better, but it may be really hard to do. In fact, it's common to want to avoid conversations and situations that may remind you of the assault. You may have a sense of wanting to "get on with life" and "let the past be the past." This is a normal part of the recovery process and may last for weeks or months.

Eventually you will need to deal with fears and feelings in order to heal and regain a sense of control over your life. Talking with someone who can listen in an understanding and affirming ways —

whether it's a friend, member of your place of worship or community, family member, hotline-staff member, or counselor — is a key part of the healing process.

Recovering from a sexual assault is a gradual process that is different for everyone. Victims/survivors may have different needs and coping strategies, so there is not a set timeline for healing. There are many decisions to be made and many feelings to be expressed. Not all of the decisions or feelings will need to be handled at once, but rather as recovery progresses. This is a brief outline of the recovery process that many, but not necessarily all, victims/survivors go through.

### **I just want to forget what happened.**

You may go from feeling emotionally drained, confused, and out of control to trying to forget what happened. You may begin distancing yourself from the sexual assault and outwardly appear “recovered,” but friends and family members’ support is still needed.

### **I’m so angry and depressed. I can’t seem to get control of my emotions.**

Regardless of how hard you may try to keep the sexual assault from impacting your life, no matter how much you may deny its importance, the experience has had a profound influence. You may experience anger, depression, shame, anxiety, and feel that everything is falling apart. Recurring nightmares and flashbacks are common during this time.

Depression may cause a change in sleeping or eating patterns, and anger may be directed at the perpetrator, loved ones, or yourself. It may be difficult, at first, to feel comfortable with intimacy, including trusting people, exploring new relationships, and enjoying sexual activity, if you choose to be sexually active. Understand that this may take time. Resist being pressured to be sexually active before you are ready.

Many victims/survivors seek assistance from trained professionals who can help to put their lives back together and recover from stress related to the assault.

### **Life goes on and I can handle it.**

You have resolved a lot of the anger and depression. The sexual assault may have changed your life, but it now plays a smaller role. You feel more in control.

### **Ways to take care of yourself**

- Get support from friends, family, and community members. Try to identify people you trust who will validate your feelings and affirm your strengths.
- Talk about the assault and express feelings. Choose when, where, and with whom to talk about the assault, and only disclose information that feels safe for you to reveal.
- Use stress-reduction techniques. Exercise by jogging, doing aerobics, walking and practice relaxation techniques such as doing yoga, listening to music, and meditating.
- Maintain a balanced diet and a normal sleep cycle as much as possible and avoid overusing stimulants like caffeine, sugar, nicotine, or alcohol or other drugs.
- Discover your playful and creative self. Playing and creativity are important for healing from hurt.
- Take “time outs.” Give yourself permission to take quiet moments to reflect, relax, and rejuvenate, especially during times you feel stressed or unsafe.
- Try reading. Reading can be a relaxing and healing activity.
- Consider writing or journaling as a way of expressing your thoughts and feelings.
- Consider counseling.

## **How to Help a Friend who has been Sexually Assaulted**

When someone has been sexually assaulted, chances are that they will turn to a friend for help. You are an important person to the survivor; this is why the survivor shared this experience with you. Knowing how to respond will be very helpful in your friend’s recovery. This page offers

guidance on how to best support your friend. When a person is sexually assaulted, keep in mind that their power has been taken away from them. As you are helping, allow your friend to maintain control over what happens next. Offer information, and then let your friend make their own decisions including who they talk to, what services they access, and what actions they decide to take or not take. Even if you disagree with your friend, supporting them in making their decisions will help them feel more in control. When your friend remains in control, they will be better able to regain a sense of strength, power, and safety.

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### **What if the sexual assault happened in the past few days?**

There are some time sensitive decisions your friend may have to make. If your friend is female, she can prevent pregnancy by taking emergency contraception within 120 hours (5 days) of the assault. Emergency contraception is most effective when taken as soon as possible. Collecting physical evidence must occur within 96 hours (4 days). Medications to prevent the development of some sexually transmitted infections and HIV can be provided by a doctor. HIV prophylaxis treatment needs to be started within 72 hours. Screening for date rape drugs may be done up to 72 hours after the incident, but is optimally done within 12 hours. Since many of these drugs clear the system quickly, a negative test result does not necessarily mean that no drug was involved. It is helpful to inform your friend of this information, provide the options, and then let them decide what to do or not do next.

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### **What should I do if my friend doesn't feel safe?**

There may be times when your friend is physically or emotionally unsafe. If your friend needs immediate medical attention, is suicidal, or at risk of hurting themselves or others you should call Campus Public Safety or 911.

If your friend is not in immediate danger, help them think about what changes, if any, they would like to make that will help them feel safer, whether related to their physical surroundings or how they interact with people. There is support available to help your friend think about ways to feel safer and decide if they want a restraining order or a University no-contact order. Your friend can speak, to the Title IX Coordinator.

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### **Should my friend report the sexual assault to the police?**

Whether the assault happened recently or a long time ago, your friend may consider reporting the assault to the police. Reporting the incident is a personal, difficult decision. This decision can only be made by the person who has been assaulted. It is best to avoid pressuring your friend to report the incident. You or your friend can confidentially discuss reporting options, and what it may be like to report, with the Title IX Coordinator. If your friend wants to report the crime, they can notify Public Safety. For some, reporting the crime can help regain a sense of personal power and control.

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### **What are some of the tactics that offenders use?**

It's very difficult to recognize someone who would commit sexual assault. They can be male, female, or transgender, queer or straight, and they live in all communities and on all college campuses. They are a very small percentage of the population but they will typically commit multiple sexual assaults. They can seem very friendly and charismatic; but behind closed doors, they act very differently and may use force, coercion or manipulation against a victim.

Common tactics include:

- Planning and preparation, including establishing trust with a potential victim
- Assessing someone's vulnerability as a means of identifying a potential victim. (i.e. seeking out a first year student or someone who appears socially isolated, and testing a person's boundaries)
- Using only the amount of force that is necessary. Body weight is frequently used as a means of

force.

- Using alcohol or other drugs to create vulnerability
- Afterwards, denying the harm caused by calling the assault consensual and/or by continuing to contact the victim
- An offender often counts on the “hook up” culture to normalize what they have done.

### **What if my friend is male?**

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Gender stereotypes about men and boys make it particularly difficult for men to seek support. If your male friend has shared with you that he has been sexually assaulted it's important that you believe him, avoid reinforcing gender stereotypes about men and boys, and understand how he may react to the incident. Many people believe that only women are victims of sexual assault. The fact is that 1 out of every 10 men is sexually assaulted. Although most perpetrators of sexual assault against men are male, women are offenders as well. A male assaulted by another male may question his sexuality and struggle with internalized homophobia. Research has consistently found that male and female victims experience similar effects: fear, anger, shame, isolation, substance abuse, low self-esteem, depression and issues with sexuality. Men may be more likely to outwardly express their anger and use substances to cope with difficult emotions; but, like all survivors, individual reactions will vary and can depend on many things such as personal history and support from family and friends. The stereotype that men and boys are supposed to be tough, in control, and unemotional minimizes the trauma that male survivors experience.

### **How can I help a friend who has been sexually assaulted?**

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- **Validate and believe**

If your friend feels ashamed or guilty, reassure them that the incident was not their fault and that their feelings are normal. Often survivors feel that others will question or minimize what has happened. Let your friend know that you believe them. Your friend may not disclose the sexual assault for days, months, or years after it occurred. Limit the number of questions you ask as this can make a person feel as if you doubt them or that they need to prove what happened. Avoid questions that could imply blame such as “Why did you go back their room?” “Why didn't you tell me sooner?” “Why didn't you fight them off?” You can be supportive without knowing the details of the incident. Use open-ended questions such as “How are you feeling?” or “What can I do to help?” Give your friend time and space to share with you as they are ready to do so.

- **Listen**

One of the greatest gifts you can give a friend is your ability to listen. Avoid judgment, giving advice, and sharing your opinions. Just listen. Some survivors will want to talk more than others. Let your friend know that you are available to listen when they are ready to talk.

- **Do not confront an alleged offender**

While it is normal to be angry at the person accused of hurting your friend, confronting this person can result in the offender escalating behavior (ie, stalking) against the victim.

- **Protect your friend's privacy**

When someone is sexually assaulted they may feel like everyone knows what happened to them. It's important that you get permission from your friend before you talk to anyone about what they have shared with you. Your friend has confided in you because they trust you. If you talk to another person about the incident, your friend may feel betrayed. At the same time, you may find it difficult to maintain your friend's privacy because the incident is upsetting to you. You can seek support from the resources on this website without identifying who your friend is.

- **Take care of yourself**

When someone you care about is hurt, it is normal to feel angry, sad and powerless. As a friend, it is also common to experience many of the same reactions a survivor does. Consider getting support with how you are feeling. Processing your feelings with the person who has been sexually assaulted can be overwhelming to them and may exacerbate how they are feeling.

- **Believe in the possibility of healing**

Let your friend know that you believe that they have the strength and the capacity to heal. People are resilient; they can and do recover from the trauma of sexual assault.

## **Understanding and Preventing Sexual Assault and Sexual Harassment**

### **Common Misconceptions/Myths about Sexual Assault**

**Myth: Once an individual begins engaging in a sexual act, they cannot change their mind.**

**Fact:** According to New York State Law, consent for sexual contact can be withdrawn at any time, including after penetration. Sexual contact without consent is a crime. It is that simple.

**Myth: Rape is a spontaneous act of passion.**

**Fact:** Rape is committed to control, degrade, humiliate or harm another person. Studies show that most rapes are planned or premeditated. While passion, lust, and arousal may be present, they are not uncontrollable urges. Rape is an act of violence, not an act of passion.

**Myth: Sometimes the victim is to blame. A victim's dress, appearance, or actions caused the sexual assault or rape**

**Fact:** How a victim dresses, looks, or acts does not justify the act of sexual violence against them. The victim did not cause the assault and is not responsible for the assault. Individuals who commit acts of sexual assault do so out of a need to control, dominate, or humiliate another person.

**Myth: If you have consented to sexual relations with your partner in the past, you cannot refuse to have sex with them in the future.**

**Fact:** One out of every five women is assaulted by their partner each year. Just because you have consented to sexual relations with an individual in the past, does not mean you have given up your right say to "no." Every sexual encounter is different and you have the right to say "no" each and every time.

**Myth: Sexual assault or rape could never happen to me.**

**Fact:** One out of every eight women nationwide is a victim of rape in their lifetime (National Center for Victims of Crime and the Crime Research and Treatment Center 1992). The National Crime Victim's Unit reports that students are the fastest growing population of rape victims in the United States. One in six college women will experience rape or attempted rape during their college career. One in four college women will become the target of some type of sexual assault. Men are assaulted, too. 10% of sexual assaults on college campuses are perpetrated against men.

**Myth: If you don't say "no" or don't fight back, it is not a rape or a sexual assault.**

**Fact:** Sexual assault victims may not say "no" or fight back for a variety of reasons – fear, confusion, feeling intimidated. Victims often report feeling "frozen" by fear and panic, preventing them from fighting back or from saying "no". Victims may not actively resist being assaulted for fear of angering their perpetrator who may retaliate with greater force/cause greater injury.

**Myth: The majority of all acts of rape and sexual assault occur in public places or in dark isolated areas.**

**Fact:** Most rapes occur in peoples' homes, dorm rooms, or places that are familiar to them.

**Myth: It cannot be considered rape or assault if the victim was drunk or high.**



**Fact:** According to New York State Law, a person who is intoxicated is considered mentally incapacitated and therefore unable to consent to sexual relations. Having sex with a person who is mentally incapacitated or intoxicated is a sexual offense per New York State Penal Code and is a criminal act.

**Myth: Men aren't raped.**

**Fact:** Men, as well as women, are the targets of sexual assault and rape. At least 10% of men are victims of sexual assault. Like women, men who have experienced a sexual assault can suffer from depression, PTSD, substance abuse, or other emotional problems. Men are less likely to report an assault and/or seek help. This is due largely to feelings of embarrassment, stigmatization and a fear of not being taken seriously. Some men who are raped get an erection while being attacked. This is a physiological response to physical contact or stress and is not a sign of consent, pleasure, or sexual orientation.

**Myth: Individuals with disabilities aren't affected by rape or sexual assault.**

**Fact:** Victimization rates for disabled adults are 4-10 times higher than for those without disabilities. The majority of perpetrators of these crimes are males known to the victims (e.g. caregivers, healthcare workers, family members). These crimes usually occur in the victim's home or in hospitals.

**Myth: Individuals are more likely to be raped by a stranger than by someone they know.**

**Fact:** The National Center for Victims of Crime and the Crime Victims Research and Treatment Center report that 4 out of every 5 reported sexual assaults are committed among acquaintances. College women are far more likely to be raped by a friend or fellow student than by a stranger.

**Myth: There are no serious emotional or psychological consequences of forced sexual contact.**

**Fact:** Sexual assault can result in serious and intense emotional and physical reactions for victims (depression, thoughts of suicide, headaches, anxiety) which can have lasting consequences and may significantly interfere with daily functioning. Social consequences include strained relationships with family, friends, and intimate partners. Nearly one third of all rape victims will develop Rape-Related Posttraumatic Stress Disorder (RR-PTSD). Symptoms of RR-PTSD include social withdrawal, avoidance behaviors and hyper vigilance.

**Myth: Perpetrators are abusive in all of their relationships.**

**Fact:** Perpetrators of violence and abuse are not typically abusive in the context of every one of their relationships. A perpetrator of sexual violence may present themselves as pleasant and charming in social contexts.

**Myth: The best way for a survivor of sexual assault or rape to recover is to pretend or ignore that the assault or rape ever occurred.**

**Fact:** The effects of sexual violence can be very traumatic. Survivors often find that engaging in counseling is essential in helping to manage the intense symptoms and complex feelings that result from an assault. An attempt to ignore the assault or pretend it never occurred will not alleviate the impact of the assault and, instead, is likely to impede the recovery process.

**Myth: Getting prompt medical attention following a rape or assault is not a priority.**

**Fact:** If you have been sexually assaulted, you should seek immediate medical assistance and support at the nearest **SAFE Center**. You may decide to report the assault to law enforcement, in which case it is crucial that you do *not*: shower, bathe or douche; discard the clothing you wore during the assault; brush your hair or teeth; use the bathroom, put on makeup, or eat or drink anything, as these actions can interfere with the collection of evidence.

**Myth: Individuals often lie about being raped or sexually assaulted**

**Fact:** The overall majority of reported encounters are legitimate. The FBI reports that false accusations account for only 2% of all reported sexual assaults.

**Myth: A rapist or individual who engages in sexual assault is identifiable and fits a certain profile.**

**Fact:** While there is no identifiable profile for a rapist, research has shown that if a perpetrator gets away with it, the individual is likely to continue to commit sexual offenses.

**Myth: If a woman or man is being abused by their partner, it can't be all that bad if they decide to stay.**

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**Fact:** While some victims are able to successfully leave their abusers, many find it particularly challenging. There are many reasons why. Victims may be afraid to leave because they have been threatened. Others feel ashamed. Some are financially dependent on their abuser. An individual's decision to stay is not an indication of their level of suffering. Deciding to leave is a complex and difficult process.

### **Preventing Sexual Assault**

Sexual assault and rape can happen to anyone at any time. Perpetrators, not survivors, are responsible for sexual assaults. Only a perpetrator can prevent a sexual assault, but we can all take steps to reduce the risk. Some prevention strategies for everyone include:

#### ***Respect the rights of others.***

- Listen to the messages your partner is giving. Be sensitive to both verbal and nonverbal communication. Ask. Double check that you both are doing what you want.
- The absence of the word “no” does not constitute consent. Make sure you have consent by asking your partner what they want to do. If your partner seems confused or unsure, it's time to stop.
- Remember that having done something sexual previously is not a blanket “yes” for the future.
- Remember that your partner can change “yes” to “no” at any time. Respect their choice.
- Know which behaviors constitute rape and sexual assault, and understand that most incidents happen between people who know each other.
- If you choose to drink, be responsible. Alcohol consumption greatly increases the risk of sexual assault.
- Never slip anyone any type of drug. Not only is this illegal, but you don't know what effect a drug can have on someone.

#### ***Increase your safety.***

- Think about what you really want from a partner before a possibly uncomfortable or dangerous situation occurs.
- Communicate clearly. You have the right to say “no” or “I'm not sure.”
- Go to a party with friends, not alone. Keep track of your friends and leave with them. Don't leave alone or with someone you don't know well.
- If you choose to drink, be careful. Offenders often take advantage of people who have been drinking.
- Know what's in your drink, whether it's non-alcoholic or contains alcohol. Open the can yourself, make your drink yourself or watch it being made, and don't leave your drink unattended. Avoid punch bowls—there is no way to know how much alcohol is in them, and since date rape drugs are odorless, colorless and tasteless they can be added to punch without anyone knowing. Date rape drugs can cause dizziness, disorientation, loss of inhibition, blackouts, and loss of consciousness. If you feel any strange symptoms, tell someone you trust right away.
- Know which behaviors constitute sexual assault and rape. Understand that most incidents occur between people who know each other.
- If something happens, it wasn't your fault. You have the right to get anonymous or confidential support from resources on campus and off campus.

### ***Look out for the safety of friends.***

- When going to a party with friends, keep track of each other while you're there. Plan to leave together and don't let anyone leave alone.
- If a friend decides to leave a party with someone else, talk to them about their safety. If you are worried about someone, it's ok to try to protect them from harm.
- Learn more about sexual assault and rape and how to help a friend who may have been assaulted.
- If a friend discloses to you that they have been sexually assaulted, don't take it all on yourself. Use CUNY or off campus resources for advice and support for your friend and for yourself.

### **Sexual Assault in the LGBTQ Community**

Members of the Lesbian Gay Bisexual Transgender and Queer/Questioning (LGBTQ) community are, like anyone else, at risk of acquaintance, date and partner rape. In addition, we are at risk of being the target of hate crimes, that is, of being sexually assaulted because of our sexual orientation or identity. We also face additional challenges when it comes to reporting sexual assault:

- We may be reluctant to report abuse to a therapist, police officer or medical provider for fear that these persons will be homophobic, insensitive or may not take our complaints seriously.
- We may fear causing a rift and losing friends and support within the LGBTQ communities.
- Very limited services exist that are tailored specifically for those who identify as LGBTQ.
- Seeking medical treatment can be difficult. Medical providers may assume that we are heterosexual and may not understand the physical and emotional harm of the assault.

**CUNY is committed to ensuring that support services are accessible for all students, regardless of sexual orientation or gender identity. We encourage students to seek help from their campus' Title IX coordinator or from one of the resources below.**

### **Resources for Combating Sexual Violence**

If you or someone you know has experienced violence, the following organizations, hotlines, and websites provide resources and information to help. Many hotlines are confidential and many organizations provide their resources free of charge. All of the resources listed below are LGBTQ friendly and many of them are specifically focused on helping the LGBTQ community.

#### **Hotlines/Chat lines:**

- Call (212) 714-1141 for the New York City Gay & Lesbian Anti-Violence Project Hotline
- Call 1-800-832-1901 for the Gay Man's Domestic Violence Project or go to [www.gmdvp.org](http://www.gmdvp.org) (also provides legal advocacy and court accompaniment; crisis intervention and safety planning; housing and employment advocacy; emergency safe home; emotional support and support groups; first/last month's rent program; counseling services.)
- Call 1-800-621-HOPE (4673) for the New York City Domestic Violence Hotline
- Call 1-800-799-SAFE for the National Domestic Violence Hotline
- Call 1-800-656-4673 for the National Sex Abuse Hotline
- Call 1-800-246-4646 for the NYC Youth line
- GLBT National Help Center – The National Help Center provides free and confidential telephone and internet peer-counseling, information, and local resources for GLBT and questioning callers in the United States.
- Hotline: 1-888-843-4564

- Youth Talk line (Under 25): 1-800-246-PRIDE (7743)
- Online Peer Support Chat: [www.glnh.org/](http://www.glnh.org/)

### **Counseling and other Services:**

- *New York City Gay & Lesbian Anti-Violence Project – The Anti-Violence Project:* <http://avp.org/about-avp> is a victims' services agency providing free counseling, crisis-intervention, and advocacy for survivors of trauma, crime and violence in the New York City's LGBTQ and HIV-affected communities. It is located at: 240 West 35th Street, Suite 200

New York, NY 10001

24-Hour Bilingual Hotline: (212) 714-1141

Office: (212) 714-1184

- *New York Family Justice Center (Bronx, Brooklyn, Queens)* <http://www.nyc.gov/html/ocdv/html/fjc/fjc.shtml> – Provides information and services for domestic violence victims in one location. Clients may walk in and choose which services they want, services are free and available to all victims regardless of sex, age, nationality, religion, or sexual orientation. Language interpretation is also available. Check website for hours. 198 East 161st Street, 2nd Floor

Bronx, New York 10451

(718) 508-1222350 Jay Street, 15th Floor

Brooklyn, New York 11201

(718) 250-511126-02 82nd Avenue

Kew Gardens, New York 11415

(718) 575-4500

- *Day One:* [http://www.dayoneny.org/dayone/get\\_help/](http://www.dayoneny.org/dayone/get_help/) Day One provides support for teens and youth, including LGBTQ, up to age 24 who are living in NYC and have been or are currently in an abusive relationship with a dating or intimate partner, including emotional, sexual, technological and/or physical abuse.

- *Good Shepherd Services Safe Homes*

*Project:* <http://www.goodshepherds.org/programs/community/shp.html> A community-based domestic violence advocacy and service program which provides a hotline, counseling, safety-planning and advocacy for survivors of domestic violence and runs a 20-bed shelter. The Safe Homes Project provides targeted services for special populations, including Spanish-speakers, youth, and LGBTQ survivors of partner violence. Hotline: 718-499-2151 (Available in English and Spanish)

## **LGBT Community Resources**

Connecting with other members of the LGBTQ community is important and can provide a valuable support network regardless of whether you have experienced violence. Below are resources that provide community events and services for the LGBTQ community throughout New York City and nationally.

### **LGBT Community Center (Manhattan)**

Provides quality health and wellness programs in a welcoming space that fosters connections and celebrates our cultural contributions.

208 West 13th Street

New York, NY 10011

Telephone: 212-620-7310

[www.gaycenter.org](http://www.gaycenter.org)

### **Callen Lorde Community Health Center (Manhattan)**

Provides sensitive, quality health care and related services targeted to New York's lesbian, gay, bisexual, and transgender communities — in all their diversity — regardless of ability to pay

356 W 18th St  
New York, NY 10011  
For Appointments: (212) 271-7200  
Health Outreach to Teens (HOTT): (212) 271-7212  
<http://callen-lorde.org/>

### **The Audre Lorde Project (Manhattan, Brooklyn)**

A Lesbian, Gay, Bisexual, Two Spirit, Trans and Gender Non-Conforming People of Color center for community organizing, focusing on the New York City area.

*Manhattan:*

147 West 24th Street, 3rd Floor  
New York, New York 10011  
Telephone: 212.463.0342

*Brooklyn:*

85 South Oxford Street  
Brooklyn, NY, 11217-1607  
Telephone: 718.596.0342

<http://alp.org>

## **Understanding Consent**

### **What is consent**

Consent is an agreement that each person makes if they want to engage in sexual activity. The issue of consent can be a complicated and ambiguous area that needs to be addressed with clear, open, and honest communication. Keep these points in mind if you are not sure consent has been established:

- **Each person needs to be fully conscious and aware.**

The use of alcohol or other substances can interfere with someone's ability to make clear decisions about the level of intimacy they are comfortable with. The more intoxicated a person is, the less they are able to give conscious consent.

- **Each person is equally free to act.**

The decision to be sexually intimate must be without coercion. Each person must have the option to choose to be intimate or not. Each person should be free to change "yes" to "no" at any time. Factors such as body size, previous victimization, threats to "out" someone, and other fears can prevent an individual from freely consenting.

- **Each person clearly communicates their willingness and permission.**

Willingness and permission must be communicated clearly and unambiguously. Just because a person fails to resist sexual advances does not mean that they are willing. Consent is not the absence of the word "no."

- **Each person is positive and sincere in their desires.**

It is important to be honest in communicating feelings about consent. If one person states their desires, the other person can make informed decisions about the encounter.

### **Why is consent important?**

- Communication, respect, and honesty are fundamental to great sex and relationships.
- Without knowing if you have consent, you may be committing sexual assault.
- Asking for and obtaining consent shows that you have respect for both yourself and your partner.
- Positive views on sex and sexuality are empowering.
- It eliminates the entitlement that one partner may feel over the other. Neither your body nor your sexuality belongs to someone else.

### **How do you ask for consent?**

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Show your partner that you respect them enough to ask about their sexual needs and desires. If you are not accustomed to communicating with your partner about sex and sexual activity, the first few times may feel awkward. But, practice makes perfect. Be creative and spontaneous. Don't give up. The more times you have these conversations with your partner, the more comfortable you will become communicating about sex and sexual activity. Your partner may also find the situation awkward at first, but conversations about consent will build trust and respect for one another.

- **When do you ask? *Before you act.*** It is the responsibility of the person initiating a sex act to obtain clear consent. Whenever you are unsure if consent has been given, ask. Check-in throughout. Giving consent ahead of time does not waive a person's right to change their mind or say no later.
- **What words should your partner say to show consent?** Consent is not just about getting a yes or no answer, but about understanding what a partner is feeling. Ask open-ended questions. Listen to and respect your partner's response, whether you hear yes or no: "I'd really like to . . . how does that sound?" "How does this feel?" "What would you like to do?"
- **Before you have sex, ask yourself...** Have I expressed what I want? Do I know what my partner wants? Am I certain that consent has been given? Is my potential partner sober enough to decide whether or not to have sex? Am I sober enough to know that I've correctly gauged consent?

### **How does alcohol affect someone's ability to give consent?**

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Alcohol lowers inhibitions and impairs judgment. In small amounts, it can make someone feel more relaxed. However, because intoxication is affected by weight, gender, time, medication and other factors, a small amount for one person could be a lot for someone else. In addition, people may not count their drinks accurately or they may not realize how much alcohol is in a drink.

It may be difficult to tell if someone is too intoxicated to give consent. It is especially difficult to gauge if you have been drinking, since your judgment will be impaired. Some potential signs that someone cannot consent include slurred speech, problems with balance and impaired motor skills. However, you will not be able to gauge many factors: Is the person's blood alcohol level continuing to rise? Did they have drinks that you don't know about? Did they drink high proof alcohol (such as Everclear or 151 rum) without knowing it? Is the person taking medication or other drugs that will interact with the alcohol? Is the person fatigued, dehydrated and/or hungry and could have a stronger reaction to the alcohol? Because of these and other factors, the safest, healthiest thing to do is to engage in sexual activity when both/all persons involved are sober.

Being too intoxicated to gauge consent will not absolve you of the responsibility of obtaining consent if you are initiating sex. You can be held accountable for sexual assault by law and the student code of conduct.

### **How do drugs affect someone's ability to give consent?**

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Illegal drugs or medications can also impair someone's ability to consent. As with alcohol, there are always many factors involved in each individual's response to a drug. With illegal drugs, there are often added substances that make the effects even more unpredictable.

### **How do you know you have consent?**

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- **Red: Signs You Should Stop**
- Your partner is too intoxicated to give consent. (This is difficult to know, but some potential signs include slurred speech, problems with balance and impaired motor skills.)
- You are too intoxicated to gauge consent.
- Your partner is asleep.
- Your partner is unconscious or for any other reason is physically or mentally unable to communicate consent.
- You are using physical force or size to have sex.

- You hope your partner will say nothing and go with the flow.
- You don't think they would agree to have sex if they were sober.
- You have had sex before but they have said they're not interested tonight.
- You have coerced your partner in any way (asking repeatedly, putting pressure on your partner, physically intimidating them, etc.).
- You intend to have sex by any means necessary.
- **Yellow: Signs You Should Pause and Talk**
- You are not sure what the other person wants.
- You feel like you are getting mixed signals.
- You have not talked about what you want to do.
- You assume that you will do the same thing as before.
- Your partner stops or is not responsive.
- **Green: Keep Communicating**
- Partners come to a mutual decision about how far to go.
- Partners clearly express their comfort with the situation.
- You feel comfortable and safe stopping at any time.
- Partners are excited!

Adapted from American College Health Association, Shifting the Paradigm: Primary Prevention of Sexual Violence Toolkit.

### **What if I am confused about a sexual experience I've had?**

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If you are confused about an experience you've had or not sure if your partner respected your boundaries, contact the Title IX Coordinator.

### **Definitions**

*Regardless of the definitions below, if you have faced or are facing unwanted sexual behavior, please contact the Title IX Coordinator for assistance and guidance.*

**Sexual Harassment** is unwelcome conduct of a sexual nature that limits a student's ability to participate in or benefit from an educational program. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature on or off campus.

**Sexual Assault or Sexual Violence** is a form of sexual harassment. It encompasses not only forced sexual intercourse (vaginal, oral, or anal) but unwanted touching, fondling, or groping of sexual body parts. It can be committed by the use of threats or force or when someone takes advantage of circumstances that render a person incapable of giving consent, such as intoxication.

### **Community Resources**

#### **Hotlines and websites:**

- New York City Alliance Against Sexual Assault (*provides a listing of hotlines as well as a great deal of other information about sexual assault*)  
[http://www.svfreenyc.org/survivors\\_hotline.html](http://www.svfreenyc.org/survivors_hotline.html)
- Rape, Abuse & Incest National Network (RAINN)

<http://www.rainn.org/get-help/national-sexual-assault-online-hotline>

- New York State Domestic Violence Website and Hotline information  
<http://www.opdv.state.ny.us/help/dvhotlines.html>
- New York City Domestic Violence Hotline: 1-800-621-HOPE (4673)
- **United States Department of Education, Office of Civil Rights**  
32 Old Slip, 26th Floor, New York, NY 10005-2500  
Phone: (646) 428-3800  
Email: [OCR.NewYork@ed.gov](mailto:OCR.NewYork@ed.gov)
- **Other**  
Know Your IX  
<http://knowyourix.org/>

### **III- K Student Sexual Misconduct Complainants' Bill of Rights**

#### LEHMAN COLLEGE The City University of New York Student Sexual Misconduct Complainants' Bill of Rights

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

- To be provided with confidential on-campus counseling, and to be notified of other available services on- and off-campus.
- To obtain, where appropriate, changes with respect to campus academic and living arrangements, no-contact orders, and other interim remedial measures to enable them to continue their education without undue stress or trauma.
- To have their complaints handled respectfully by the campus, to be informed about how the campus will protect their privacy and confidentiality, and to have any allegations of retaliation addressed by the campus.
- To file a criminal complaint and to seek an Order of Protection, with the assistance of the college, if they so choose.
- To make a formal complaint at the campus as the first step in the disciplinary process against the respondent(s).
- To have their complaint investigated in a prompt, impartial and thorough manner by individuals who have received appropriate training in conducting investigations and the issues related to sexual harassment and sexual violence.



- To report incidents of sexual harassment or sexual violence that they experience while under the influence of alcohol or drugs without receiving discipline for their alcohol or drug use, if they agree to complete appropriate education or treatment as the circumstances warrant.
- To have the same opportunity as the respondent(s) to participate in a student disciplinary hearing before a faculty-student disciplinary committee, including the right to be present, to be represented by a person of their choice, including an attorney, to present evidence, call witnesses, cross-examine witnesses, receive notice of the outcome of the hearing, and to appeal from the decision.

Questions about sexual misconduct policy and procedures may be directed to: **Title IX Coordinator, Dawn Ewing-Morgan 718-960-8111, VP for Student Affairs, José Magdaleno 718-960-8241**

## **IV. Consumer Information**

### **IV- A STUDENT RIGHT-TO-KNOW INFORMATION**

In compliance with the federal Student Right-to-Know Act, the college provides information to current and prospective students describing the College's graduation rate for degree seeking full-time undergraduate students. This information may be obtained by contacting the Office of Institutional Research, Shuster Hall room 306, 718-960-7246.

### **IV- B ATHLETIC PROGRAM PARTICIPATION NOTICE**

The College files an annual report with the U.S. Secretary of Education on intercollegiate athletics which includes information on the participation of males and females on its teams, and the expenditures and revenues of those teams. Copies of the annual report on intercollegiate athletics are available at the reference desk of the library and the college varsity athletics website at [www.lehman.edu](http://www.lehman.edu).

### **IV- C CUNY POLICY ON THE SUBMISSION OF FRAUDULENT DOCUMENTS IN SUPPORT OF AN APPLICATION FOR ADMISSION:**

The submission of documents in support of applications for admission such as transcripts, diplomas, test scores, references, or the applications themselves, that are forged, fraudulent, altered from the original, materially incomplete, obtained under false pretenses, or *otherwise* deceptive (collectively referred to as fraudulent documents) is prohibited by The City University of New York (CUNY) and may be punishable by: a bar on applying for admission, suspension, and/or expulsion. The term "applications for admission" includes transfer applications.

Materially incomplete applications include applications that fail to include all prior post-high school college level courses, regardless of whether (i) the courses were taken at a post-secondary institution in the United States or outside the United States, (ii) the applicant received a degree at the post-secondary institution (iii) the applicant is seeking credit for such courses, or (iv) the applicant is changing majors/careers.

## **PROCEDURES FOR IMPOSITION OF SANCTIONS**

## **I. Pre-Enrollment**

Whenever an applicant for admission to any college of CUNY submits, as part of an admission application, a document that is found to be fraudulent before an admission decision is made or before the applicant has enrolled, the applicant shall be barred from enrolling in any college of CUNY the year of the application and for a period of five years after the year of the application that contained the fraudulent material. If done a second time, there shall be a lifetime ban on admission to any college of CUNY. In the event of the submission of fraudulent documents, CUNY will notify the applicant in writing of this prohibited act and the penalty, and advise the applicant of the opportunity to appeal the decision in writing to the Vice Chancellor for Student Development. The applicant may then submit a written statement and evidence demonstrating that the document is not fraudulent or advancing some other defense. The Vice Chancellor may reduce or withdraw the penalty, if he or she finds the document to be authentic, that the submission of the document was not the fault of the applicant, or otherwise deems it appropriate.

## **II. Post-Enrollment**

If, after a student has completed registration or begun classes in a CUNY college, it is found that the student had submitted a fraudulent document in support of an application for admission, the student shall be suspended from CUNY for five years. A second offense shall result in expulsion. The suspension or expulsion shall apply to all colleges of CUNY. The accused student shall be notified of such suspension or expulsion in writing and shall be entitled to appeal within 30 days of receiving notification and request a hearing pursuant to Article XV of the CUNY Bylaws, at which the college faculty-student disciplinary committee shall determine the facts, based upon which the disciplinary committee may, if persuaded that the document is authentic or that another defense is demonstrated, withdraw or a reduce the penalty. The penalty shall not take effect until after the period to appeal has expired or upon the completion of the hearing. An adverse decision of the disciplinary committee shall be appealable by the accused student to the college president and a Board committee pursuant to Article XV of the CUNY Bylaws.

## **III. Post-Graduation.**

If, after a student has graduated, it is found that the graduate submitted a fraudulent document in support of an application for admission, then he or she shall be notified in writing. The accused graduate shall be entitled to a hearing pursuant to Article XV of the CUNY Bylaws, at which the college faculty-student disciplinary committee shall determine the facts, based upon which the disciplinary committee may make a decision to impose a penalty of suspension from CUNY for five years, and may also recommend the revocation of the degree or certificate that had been awarded to the student. A second offense shall result in expulsion. The suspension or expulsion shall apply to all colleges of CUNY. An adverse decision of the disciplinary committee imposing a suspension or expulsion shall be appealable to the college president and a Board committee pursuant to Article XV of the Bylaws. In the event the disciplinary committee recommends the revocation of a degree or certificate the degree or certificate shall be revoked upon approval by the Board of Trustees after considering the recommendation of the faculty of the college.

## **IV. NOTIFICATION TO THE VICE CHANCELLOR**

The Vice Chancellor for Student Development shall be notified of all bars from applying for admission, suspensions, and expulsions under this policy and shall implement them on a University-wide basis.

## **V. DISSEMINATION**

CUNY officials shall publicize this policy and its penalties. Where appropriate, CUNY officials shall share the decisions, findings and supporting evidence on specific cases with civil and criminal authorities.

Effective Date: October 1, 2006

#### **IV- D FREEDOM OF SPEECH**

Freedom of speech is an essential tradition of any academic community. All members of the Lehman community must be vigilant in exercising their rights of expression so as not to preclude other persons' guaranteed right to give and receive expression as part of the deliberative process of the academic community. Preservation of this right on campus requires the scrupulous use of means of communication. Public-address systems and all other amplification devices are prohibited.

#### **IV- E IDENTIFICATION CARDS**

Identification cards, issued by the College, must be carried at all times. Students are required to present their I.D. cards upon the request of any College official. Failure to do so is a violation of University policy and may subject students to disciplinary charges. Any guest of a student visiting the campus must obtain a pass from Campus Security (The APEX, Room 109) and must present it upon request.

#### **IV- F ATTENDANCE AND ABSENCES**

Students are expected to attend classes regularly, and instructors are required to record attendance for grading and counseling purposes. Individual instructors, as well as departments or degree programs, may establish specific attendance requirements. Instructors have the right to weigh attendance and class participation in determining grades. It is the student's responsibility to ascertain the effect attendance may have on the grade in a course. Students receiving financial aid must be certified as attending classes regularly for continuing eligibility.

#### **IV- G PETITIONING**

For a petition to be circulated by any student or student group, two copies shall be filed with the Office of Student Activities. All copies of the petition must bear the name of the group or groups circulating the petition.

#### **IV- H SOLICITATION ON CAMPUS**

No student or non-student may use any part of the College buildings and grounds (including Bulletin boards) for soliciting or selling any merchandise or service without the express permission of the Vice President of Student Affairs. Lehman College and the City University of New York do not sponsor any products, merchandising schemes, or tours. Advertising appearing in student publications does not imply the sponsorship of the College.

#### **IV- I REPRESENTING THE COLLEGE**

No faculty member, staff member, student or student organization may be a self-appointed representative of Lehman College or any division thereof, nor of The City University of New York.

#### **IV- J Policy on Guest Speakers**

Student groups have the right to hear speakers of their choice in accordance with the rules set by the College. It may not, however, be assumed that speakers invited by students represent the views of the College.

#### **IV- K Student Government**

Student government consists of The Student Government Association (SGA) which plans and administers programs and allocates funds for student groups, and the Student Legislative Assembly which represents students' interests in the Lehman College Academic Senate.

#### **IV- L Participation in College Governance**

Students shall comprise a permanent one-third of the total membership of the Senate, based upon combining the total number of voting faculty and voting administration representatives. Senate meetings are open to all students and staff at the College. Students are also represented on College committees. The student senators comprise the Student Legislative Assembly

#### **IV- M The City University of New York – Student Complaint Procedure regarding faculty conduct in academic settings:**

**RESOLVED**, that the procedures for handling student complaints about faculty conduct in formal academic settings be adopted, effective February 1, 2007.

**EXPLANATION:** Although the University and its Colleges have a variety of procedures for dealing with student-related issues, those procedures generally have not covered student complaints about faculty conduct in the classroom or other formal academic settings. The University respects the academic freedom of the faculty and will not interfere with it as it relates to the content or style of teaching activities. At the same time, however, the University recognizes its responsibility to establish procedures for addressing student complaints about faculty conduct that is not protected by academic freedom and not addressed in other procedures. The proposed procedures will accomplish this goal.

### **PROCEDURES FOR HANDLING STUDENT COMPLAINTS ABOUT FACULTY CONDUCT IN ACADEMIC SETTINGS**

**I. Introduction.** The University and its Colleges have a variety of procedures for dealing with student-related issues, including grade appeals, academic integrity violations, student discipline, disclosure of student records, student elections, sexual harassment complaints, disability accommodations, and discrimination. One area not generally covered by other procedures concerns student complaints about faculty conduct in the classroom or other formal academic settings. The University respects the academic freedom of the faculty and will not interfere with it as it relates to the content or style of teaching activities. Indeed, academic freedom is and should be of paramount importance. At the same time the University recognizes its responsibility to provide students with a procedure for addressing complaints about faculty treatment of students that are not protected by academic freedom and are not covered by other procedures. Examples might include incompetent or inefficient service, neglect of duty, physical or mental incapacity and conduct unbecoming a member of the staff.

**II. Determination of Appropriate Procedure.** If students have any question about the applicable procedure to follow for a particular complaint, they should consult with the chief student affairs

officer. In particular, the chief student affairs officer should advise a student if some other procedure is applicable to the type of complaint the student has.

**III. Informal Resolution.** Students are encouraged to attempt to resolve complaints informally with the faculty member or to seek the assistance of the department chairperson or campus ombudsman to facilitate informal resolution.

**IV. Formal Complaint.** If the student does not pursue informal resolution, or if informal resolution is unsuccessful, the student may file a written complaint with the department chairperson or, if the chairperson is the subject of the complaint, with the academic dean or a senior faculty member designated by the college president. (This person will be referred to below as the “Fact Finder.”)

A. The complaint shall be filed within 30 calendar days of the alleged conduct unless there is good cause shown for delay, including but not limited to delay caused by an attempt at informal resolution. The complaint shall be as specific as possible in describing the conduct complained of.

B. The Fact Finder shall promptly send a copy to the faculty member about whom the complaint is made, along with a letter stating that the filing of the complaint does not imply that any wrongdoing has occurred and that a faculty member must not retaliate in any way against a student for having made a complaint. If either the student or the faculty member has reason to believe that the department chairperson may be biased or otherwise unable to deal with the complaint in a fair and objective manner, he or she may submit to the academic dean or the senior faculty member designated by the college president a written request stating the reasons for that belief; if the request appears to have merit, that person may, in his or her sole discretion, replace the department chairperson as the Fact Finder.

C. The Fact Finder shall meet with the complaining student and faculty member, either separately or together, to discuss the complaint and to try to resolve it. The Fact Finder may seek the assistance of the campus ombudsman or other appropriate person to facilitate informal resolution.

D. If resolution is not possible, and the Fact Finder concludes that the facts alleged by the student, taken as true and viewed in the light most favorable to the student, establish that the conduct complained of is clearly protected by academic freedom, he or she shall issue a written report dismissing the complaint and setting forth the reasons for dismissal and send a copy to the complaining student, the faculty member, the chief academic officer and the chief student affairs officer. Otherwise, the Fact Finder shall conduct an investigation. The Fact Finder shall separately interview the complaining student, the faculty member and other persons with relevant knowledge and information and shall also consult with the chief student affairs officer and, if appropriate, the college ombudsman. The Fact Finder shall not reveal the identity of the complaining student and the faculty member to others except to the extent necessary to conduct the investigation. If the Fact Finder believes it would be helpful, he or she may meet again with the student and faculty member after completing the investigation in an effort to resolve the matter. The complaining student and the faculty member shall have the right to have a representative (including a union representative, student government representative or attorney) present during the initial meeting, the interview and any post-investigation meeting.

E. At the end of the investigation, the Fact Finder shall issue a written report setting forth his or her findings and recommendations, with particular focus on whether the conduct in question is protected by academic freedom, and send a copy to the complaining student, the faculty member, the chief

academic officer and the chief student affairs officer. In ordinary cases, it is expected that the investigation and written report should be completed within 30 calendar days of the date the complaint was filed.

**V. Appeals Procedure.** If either the student or the faculty member is not satisfied with the report of the Fact Finder, the student or faculty member may file a written appeal to the chief academic officer within 10 calendar days of receiving the report. The chief academic officer shall convene and serve as the chairperson of an Appeals Committee, which shall also include the chief student affairs officer, two faculty members elected annually by the faculty council or senate and one student elected annually by the student senate. The Appeals Committee shall review the findings and recommendations of the report, with particular focus on whether the conduct in question is protected by academic freedom. The Appeals Committee shall not conduct a new factual investigation or overturn any factual findings contained in the report unless they are clearly erroneous. If the Appeals Committee decides to reverse the Fact Finder in a case where there has not been an investigation because the Fact Finder erroneously found that the alleged conduct was protected by academic freedom, it may remand to the Fact Finder for further proceedings. The committee shall issue a written decision within 20 calendar days of receiving the appeal. A copy of the decision shall be sent to the student, the faculty member, the department chairperson and the president.

**VI. Subsequent Action.** Following the completion of these procedures, the appropriate college official shall decide the appropriate action, if any, to take. For example, the department chairperson may decide to place a report in the faculty member's personnel file or the president may bring disciplinary charges against the faculty member. Disciplinary charges may also be brought in extremely serious cases even though the college has not completed the entire investigative process described above; in that case, the bringing of disciplinary charges shall automatically suspend that process. Any action taken by a college must comply with the bylaws of the University and the collective bargaining agreement between the University and the Professional Staff Congress.

**VII. Campus Implementation.** Each campus shall implement these procedures and shall distribute them widely to administrators, faculty members and students and post them on the college website.

**VIII. Board Review.** During the spring 2009 semester, the Chancellery shall conduct a review of the experience of the colleges with these procedures, including consultation with administrators, faculty and students, and shall report the results of that review to the Board of Trustees, along with any recommended changes.

#### **IV - N Non-Discrimination of Students on the basis of pregnancy, childbirth and related conditions.**

Lehman College does not discriminate against any student on the basis of pregnancy or related conditions. Absences due to medical conditions relating to pregnancy will be excused for as long as deemed medically necessary by a student's doctor and students will be given the opportunity to make up missed work. Students needing assistance can seek accommodations from the Office of Student Disability Services – Director - Ms. Merrill Parra Shuster Hall room 238 - 718-960-8441 or Title IX Coordinator Ms. Dawn Ewing – Morgan in Shuster Hall room 350 - 718-960-8111.

## P. -Requirements of the Open Meeting Law (Other Student-Related Policies)

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### THE CITY UNIVERSITY OF NEW YORK POLICIES AND PROCEDURES ON EQUAL OPPORTUNITY, NON-DISCRIMINATION, AND AGAINST SEXUAL HARASSMENT

Policies on Equal Opportunity and Non-Discrimination, and Against Sexual Harassment Procedures for Reporting Discrimination, Harassment and/or Retaliation Charge of Discrimination Form

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

It is the policy of the University to recruit, employ, retain, promote, and provide benefits to employees and to admit and provide services for students without regard to race, color, creed, national origin, ethnicity, ancestry, religion, age, sex, sexual orientation, gender, gender identity, marital status, partnership status, disability, genetic information, alienage, citizenship, military or veteran status, pregnancy, or status as a victim of domestic violence/stalking/sex offenses, or any other legally prohibited basis in accordance with federal, state and city laws.

1 It is also the University’s Policy to provide reasonable accommodations when appropriate to individuals with disabilities, individuals observing religious practices, or employees who are victims of domestic violence/stalking/sex offenses.

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

#### . Prohibited Conduct Defined

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

**Harassment** is unwelcome conduct based on a protected characteristic that has the purpose or effect of unreasonably interfering with an individual’s work or academic performance or creating an intimidating, hostile or abusive work or academic environment. Such conduct can be verbal, written, visual, or physical.

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

1 As a public university system, CUNY adheres to federal, state and city laws and regulations regarding non-discrimination and affirmative action. Should any federal, state or city law or regulation be adopted that prohibits discrimination based on grounds or characteristics not Page 2 of 13 included in this Policy, discrimination on those additional bases will also be prohibited by this Policy.

## **II. Policy Against Sexual Harassment**

Sexual harassment, a form of sex discrimination, is illegal under federal, state, and city laws, and will not be tolerated within the University. Members of the University community who believe they have been sexually harassed are strongly encouraged to report the allegations as promptly as possible. Delay in making a complaint of sexual harassment may make it more difficult to investigate the allegations.

### **Sexual Harassment Defined**

Sexual harassment consists of unwelcome sexual advances or requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing;
- submission to or rejection of such conduct by an individual is used as a basis for employment or academic decisions affecting such individual; or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or abusive work or academic environment.

Sexual harassment can occur between individuals of different sexes or of the same sex. Although sexual harassment most often exploits a relationship between individuals of unequal power (such as between a faculty member and student, supervisor and employee, or tenured and untenured faculty members), it may also occur between individuals of equal power (such as between fellow students or co-workers), or in some circumstances even where it appears that the harasser has less power than the individual harassed (such as a student sexually harassing a faculty member).

### **Examples of Sexual Harassment**

Sexual harassment may take different forms. Using a person's response to a request for sexual favors as a basis for an academic or employment decision is one form of sexual harassment. Examples of this type of sexual harassment include, but are not limited to, the following:

- requesting or demanding sexual favors in exchange for employment or academic opportunities (such as hiring, promotions, favorable grades, or recommendations);
  - submitting unfair or inaccurate job or academic evaluations or grades, or denying training, promotion, or access to any other employment or academic opportunity, because sexual advances have been rejected.
- Page 3 of 13 Other types of unwelcome conduct of a sexual nature can also constitute sexual harassment, if sufficiently severe or pervasive that the target finds, and a reasonable person would find, that an intimidating, hostile or abusive work or academic environment has been created. Examples of this kind of sexual harassment include, but are not limited to, the following:

- sexual comments, teasing, or jokes;
- sexual slurs, demeaning epithets, derogatory statements, or other verbal abuse of a sexual nature;



- graphic or sexually suggestive comments about an individual's attire or body;
- graphic or sexually suggestive gestures;
- inquiries or discussions about sexual activities;
- pressure to accept social invitations, to meet privately, to date, or to have sexual relations;
- sexual touching, brushing up against another in a sexual manner, cornering, pinching, grabbing, kissing, or fondling;
- coerced sexual intercourse or sexual assault.

## **Consensual, Intimate Relationships**

### 1. Relationships between faculty or employees and students.

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

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

For purposes of this section, professional responsibility for a student means responsibility over academic matters, including teaching, counseling, grading, advising for a formal project such as Page 4 of 13 a thesis or research, evaluating, hiring, supervising, coaching, making decisions or recommendations that confer benefits such as admissions, registration, financial aid, other awards, remuneration, or fellowships, or performing any other function that might affect teaching, research, or other academic opportunities.

### 2. Relationships between supervisors and employees

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

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

**Retaliation**

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

**III. Discrimination, Sexual Harassment and Retaliation Complaints**

The City University of New York is committed to addressing discrimination and sexual harassment complaints promptly, consistently and fairly. There shall be procedures for making and investigating such complaints, which shall be applicable at each unit of the University.

**IV. Academic Freedom**

These policies shall not be interpreted so as to constitute interference with academic freedom. V. Responsibility for Compliance The President of each college of the University, the CUNY Executive Vice Chancellor and Chief Operating Officer, and the Deans of the Law School and Graduate School of Journalism will have ultimate responsibility for overseeing compliance with these policies at their respective units of the University. In addition, each dean, director, department chairperson, executive officer, administrator, or other person with supervisory responsibility must promptly consult with the Chief Diversity Officer if they become aware of conduct that may violate this policy.

All members of the University community are required to cooperate in any investigation of a Page 5 of 13 discrimination, sexual harassment, or retaliation complaint.

*Policies adopted by CUNY Board of Trustees on November 26, 2012. These Policies supersede CUNY’s prior non-discrimination and sexual harassment policies and became effective upon adoption.*

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**PROCEDURES IMPLEMENTING THE CITY UNIVERSITY OF NEW YORK’S POLICIES ON EQUAL OPPORTUNITY, NON-DISCRIMINATION AND AGAINST SEXUAL HARASSMENT**

1. Reporting Discrimination, Harassment and/or Retaliation

The University is committed to addressing discrimination, including harassment, and retaliation complaints promptly, consistently and objectively.

Members of the University community may promptly report any allegations of discrimination, including sexual harassment, or retaliation as specified below:

- Applicants, employees, and students with discrimination complaints should raise their concerns with the Chief Diversity Officer 3 at their location.

- Applicants, employees, and students with sexual harassment complaints should raise their concerns with the Sexual Harassment Coordinator or Deputy Coordinator at their location.

- Students with complaints of sexual assault, stalking, domestic and intimate violence should follow the Policy and Procedures Concerning Sexual Assault, Stalking and Domestic and Intimate Partner Violence Against Students.

2 These Procedures govern any complaint of discrimination, sexual harassment, and/or retaliation whether addressed by the Chief Diversity Officer, Title IX Coordinator, Sexual Harassment Coordinator or Deputy Coordinator, or 504/ADA Coordinator. Additionally, these procedures are applicable to all of the units and colleges of the University. The Hunter College Campus Schools may make modifications to these procedures, subject to approval by the University, as appropriate to address the special needs of their elementary and high school students.

These Procedures are intended to provide guidance for implementing the University Policies on Equal Opportunity, Non-discrimination, and Against Sexual Harassment. These Procedures do not create any rights or privileges on the part of any others.

The University reserves the right to alter, change, add to, or delete any of these procedures at any time without notice.

3 Depending on the campus or location, the Chief Diversity Officer often serves the additional roles of 504/ADA Coordinator, addressing disability reasonable accommodation concerns, Title IX Coordinator, addressing sex discrimination allegations of students, and Sexual Harassment Coordinator or Deputy Coordinator.

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- There are separate procedures under which applicants, employees, and students may appeal a decision concerning reasonable accommodations for a disability, which are set forth in CUNY's Procedures on Reasonable Accommodation.

## 2. Preliminary Review of Employee, Student, or Visitor Concerns

Individuals who believe they have experienced discrimination, harassment, and/or retaliation should promptly contact the Chief Diversity Officer at their location to discuss the issues, with or without filing a complaint. Following the discussion, the Chief Diversity Officer will inform the complainant of the options available. These include seeking informal resolution of the issues the complainant has encountered or asking that a full investigation be conducted. Based on the facts of the complaint, the Chief Diversity Officer may also advise the complainant that his or her situation is more suitable for resolution by another entity within the University.

3. Filing a Complaint Following the discussion with the Chief Diversity Officer, individuals who wish to pursue a complaint of discrimination, harassment, and/or retaliation should be provided with a copy of the complaint form. Complaints should be in writing whenever possible, including in cases where the complainant is seeking an informal resolution.

#### 4. Informal Resolution

Individuals who believe they have been discriminated or retaliated against may choose to resolve their complaints informally. Informal resolution is a process whereby parties can participate in a search for fair and workable solutions. The parties may agree upon a variety of resolutions, including, but not limited to, modification of a work assignment, training for a department, or an apology. The Chief Diversity Officer will determine if informal resolution is appropriate in light of the nature of the complaint. Informal resolution requires the consent of both the complainant and the accused and suspends the complaint process for up to thirty (30) working days, which can be extended, at the discretion of the Chief Diversity Officer, upon consent of both parties.

Resolutions should be agreed upon, signed by, and provided to both parties. Once both parties reach an informal agreement, it is final. Because informal resolution is voluntary, sanctions may be imposed against the parties only for a breach of the executed voluntary agreement.

The Chief Diversity Officer or either party may at any time, prior to the expiration of thirty (30) working days, declare that attempts at informal resolution have failed. Upon such notice, the Chief Diversity Officer may commence a full investigation.

If no informal resolution of a complaint is achieved, the complainant may request that the Chief Diversity Officer conduct a full investigation of the complaint.

#### Page 8 of 13 5. Investigation

A full investigation of a complaint may commence when it is warranted after a review of the complaint, or after informal resolution has failed. It is recommended that the intake and investigation include the following, to the extent feasible:

- a. Interviewing the complainant. The complainant should be informed that an investigation is being commenced, that interviews of the accused and possibly other people will be conducted, and that the President 4 will determine what action, if any, to take after the investigation is completed.
- b. Interviewing the accused. The accused should be advised that a complaint of discrimination has been received and should be provided a copy of the complaint unless circumstances warrant otherwise. Additionally, the accused should be advised that an investigation has begun, which may include interviews with third parties, and that the President will determine what action, if any, to take after the investigation is completed. An accused employee who is covered by a collective bargaining agreement may consult with, and have, a union representative present during the interview. The accused must be informed that retaliation against any person who files a complaint of discrimination, participates in an investigation, or opposes a discriminatory employment or educational practice or policy is prohibited under these policies and federal, state, and city laws. The accused should be informed that if retaliatory behavior is engaged in, he/she may be subject to disciplinary charges, which, if sustained, may result in penalties up to and including termination of employment, or permanent dismissal from the University if the accused is a student.
- c. Interviewing witnesses. The Chief Diversity Officer should determine if, in addition to the complainant, the accused, and those persons named by them, there are others who may have relevant information regarding the events in question and whether there is documentary evidence that may be

relevant to the complaint. Persons interviewed should be advised to maintain confidentiality over discussions had during the investigative interview.

## 6. Withdrawing a Complaint

A complaint of discrimination may be withdrawn at any time during the informal resolution or investigation process. Only the complainant may withdraw a complaint. Requests for withdrawals must be submitted in writing to the Chief Diversity Officer. The University reserves the right to continue with an investigation if it is warranted. In a case where the University decides to continue with an investigation, it will inform the complainant.

4 References to the President in these Procedures refer to the Executive Vice Chancellor and Chief Operating Officer and the Deans of the Law School and Graduate School of Journalism wherever those units are involved, rather than a college.

Page 9 of 13 In either event, the accused will be notified in writing that the complainant has withdrawn the complaint and whether University officials determined that continuation of the investigation is warranted for corrective purposes.

## 7. Timeframe

While some complaints may require extensive investigation, whenever possible, the investigation of complaints should be completed within sixty days of the receipt of the complaint. If there is an undue delay in completing the investigation, the Chief Diversity Officer should send the parties the Delay Notification Letter.

## 8. Action Following Investigation of a Complaint

a. Promptly following the completion of the investigation, the Chief Diversity Officer will report his or her findings to the President, and in the event that the accused or complainant is a student, also to the Chief Student Affairs Officer.

b. Following such report, the President will review the complaint investigation report and, when warranted by the facts, authorize such action as he or she deems necessary to properly correct the effects of or to prevent further harm to an affected party or others similarly situated. This can include commencing action to discipline the accused under applicable University Bylaws, policies or collective bargaining agreements.

c. The complainant and accused should be apprised in writing of the outcome and action taken as a result of the complaint.

d. For each investigation, the President will sign a form that will go into the investigation file, stating what, if any, action will be taken pursuant to the investigation.

e. If the President is the accused, the Vice Chancellor of Human Resources Management will appoint an investigator who will report his/her findings to the Chancellor or his/her designee, who will determine what action will be taken and whose decision will be final.

#### 9. Immediate Preventive Action

The President may take whatever action is appropriate to protect the college community.

#### 10. False and Malicious Accusations

Members of the University community who make false and malicious complaints of discrimination, as opposed to complaints which, even if erroneous, are made in good faith, will be subject to disciplinary action.

#### Page 10 of 13 11. Anonymous Complaints

In the event that a complaint is anonymous, the complaint should be investigated as thoroughly as possible under the circumstances.

#### 12. Responsibilities a. Responsibilities of the President:

1. Appoint a Chief Diversity Officer, a Sexual Harassment Coordinator and at least one Deputy Coordinator, a Sexual Harassment Awareness and Intake Committee, a 504/ADA Compliance Coordinator, and a Title IX Coordinator. The Chief Diversity Officer may be appointed to serve in multiple roles, such as Sexual Harassment Coordinator or Title IX Coordinator.

2. Ensure that the individuals appointed to handle allegations of discrimination, including sexual harassment and retaliation, are fully trained and equipped to carry out their responsibilities.

3. Ensure that supervisors receive training on these Policies.

4. Annually disseminate these Policies to the entire college community and include the names, titles and contact information of all appropriate resources at its location. Such information should be widely disseminated, including placement on the college website.

#### b. Responsibilities of Supervisors

Supervisory personnel exercise authority on behalf of the University. They include deans, directors, department chairpersons, executive officers, administrators, or other persons with supervisory responsibility. They must take steps to create a workplace free of discrimination, harassment and retaliation, and must take each and every complaint seriously. Supervisors must promptly consult with the Chief Diversity Officer if they become aware of conduct that may violate these Policies.

#### c. Responsibilities of the University Community-at-Large

1. Members of the University community who become aware of allegations of discrimination, including sexual harassment or retaliation should encourage the aggrieved individual to report the alleged behavior.

5 It is recommended that a Sexual Harassment Awareness and Intake Committee consist of a minimum of five (5) persons, all of whom will be appointed by and serve at the pleasure of the President. Further, it

is strongly recommended that the Committee reflect the diversity of the college and be composed of faculty members, staff, and students.

Page 11 of 13 2. All employees and students are required to cooperate in any investigation.

d. Responsibilities of the Chief Diversity Officer

As the President’s designee, the Chief Diversity Officer is responsible for providing consultation, informal complaint resolution, and investigation of all internal complaints of discrimination, harassment, and/or retaliation.

e. Responsibilities of the Sexual Harassment Coordinator, Deputy Coordinator and Sexual Harassment Awareness and Intake Committee (“S H A I C”)

1. As the President’s designee, the Sexual Harassment Coordinator is responsible for reviewing all complaints of sexual harassment from any member of the college community and for making efforts to resolve those complaints informally, if possible. When informal resolution is not possible, the Sexual Harassment Coordinator will investigate the complaint in accordance with these complaint procedures. The Sexual Harassment Coordinator will report to the President (and the Chief Student Affairs Officer, if the accused/complainant is a student) the results of the investigation. A Deputy Coordinator may also assume responsibility for the informal resolution or investigation of complaints, as assigned by the Sexual Harassment Coordinator.

2. SHAIC is responsible for educating employees about sexual harassment and its potential consequences to the University community, and for overseeing the sexual harassment training.

3. SHAIC members may explain the University complaint procedures and receive complaints and report them to the Sexual Harassment Coordinator or Deputy Coordinator , but not conduct any investigation. SHAIC members have an obligation to maintain confidentiality to the fullest extent possible.

13. Some Relevant Laws Concerning Non-discrimination and Equal Opportunity

The CUNY community should be aware of the following laws relating to nondiscrimination and equal opportunity:

Section 1324b of the Immigration and Nationality Act prohibits employers from intentional employment discrimination based upon citizenship or immigration status, national origin, and unfair documentary practices or “document abuse” relating to the employment eligibility verification or Form I-9 process. Document abuse prohibited by the statute includes improperly requesting that an employee produce more documents than required by the I-9 form, or a particular document, such as a “green card”, to establish the employee’s identity and employment authorization; improperly rejecting documents that reasonably appear to be genuine during the I-9 process; and improperly treating groups of applicants differently when completing the I-9 form.

Page 12 of 13 Executive Order 11246, as amended, prohibits discrimination in employment by all institutions with federal contracts and requires affirmative action to ensure equal employment opportunities.

Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination in employment (including hiring, upgrading, salaries, fringe benefits, training, and other terms, conditions, and privileges of employment) on the basis of race, color, religion, national origin, or sex.

Title VI of the Civil Rights Act of 1964 prohibits discrimination or the denial of benefits because of race, color, or national origin in any program or activity receiving federal financial assistance. Equal Pay Act of 1963, as amended, prohibits discrimination in compensation on the basis of sex.

Title IX of the Education Amendments of 1972 prohibits discrimination or the denial of benefits based on sex in any educational program or activity receiving federal financial assistance.

Age Discrimination in Employment Act, as amended, prohibits discrimination against individuals who are age 40 or older.

Section 504 of the Rehabilitation Act of 1973 defines and forbids acts of discrimination against qualified individuals with disabilities in employment and in the operation of programs and activities receiving federal financial assistance.

Section 503 of the Rehabilitation Act of 1973 requires government contractors and subcontractors to take affirmative action to employ and advance in employment qualified individuals with disabilities. Vietnam Era Veterans' Readjustment Act of 1972, as amended, requires government contractors to take affirmative action to employ and advance in employment disabled and other protected veterans.

Uniformed Services Employment and Reemployment Rights Act of 1994, as amended, prohibits employment discrimination based on military status.

Americans with Disabilities Act of 1990, as amended, prohibits discrimination on the basis of disability.

Genetic Information Nondiscrimination Act of 2008 prohibits employment discrimination based on genetic information.

New York City Human Rights Law prohibits discrimination based on age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage or citizenship status, arrest or conviction record, or status of an individual as a victim of domestic violence, sex offenses or stalking.

Page 13 of 13 - New York City Workplace Religious Freedom Act clarifies the employer's obligation to provide religious accommodation.

New York State Human Rights Law prohibits discrimination based on race, creed, color, national origin, sexual orientation, military status, sex, age, marital status, domestic violence victim status, disability, predisposing genetic characteristics or prior arrest or conviction record.

These Procedures became effective on November 27, 2012 and supersede prior procedures.

#### THE CITY UNIVERSITY OF NEW YORK Charge of Discrimination Form

This form is to be used to file a complaint of discrimination based on race, color, creed, national origin, ethnicity, ancestry, religion, age, sex, sexual orientation, gender, gender identity, marital status,



partnership status, disability, genetic information, alienage, citizenship, military or veteran status, pregnancy, or status as a victim of domestic violence/stalking/sex offenses, or for retaliation, or any other legally prohibited basis in accordance with federal, state and city laws.

Campus  
Received by

Date

**PART A (PLEASE PRINT OR TYPE)**

Name Phone No.  
Email address Mobile No.  
Status (Faculty, Staff, Graduate Student, Undergraduate Student)  
Campus Address (Bldg, dept, etc)  
Home Address  
City State Zip Code

**PART B**

1. ALLEGED DISCRIMINATION IS BASED ON (please check all that apply):  
Race or color National or Ethnic Origin Religion/Creed Age Sex Document Abuse Gender Identity  
Gender Sexual Orientation Sexual Harassment Disability Retaliation Pregnancy Genetic Information  
Marital or Partnership Status Ancestry Alienage or Citizenship Status Military or Veteran Status Status as  
Victim of Domestic Violence, Sex Offenses, or Stalking

2. Alleged discrimination took place on or about: Month Day \_ Year  
Is alleged discrimination continuing? Yes No

3. Accused Name(s) Title (if known)

**PART C**

1. Please check the appropriate box:

Have you previously filed a complaint? Yes No If yes, when? (Date) With whom?

2. Have you filed this charge with a federal, state or local government agency/court? Yes No If yes, with which agency/court? When?

3. Briefly summarize the events, facts or other bases for your complaint. (Attach extra sheets if necessary).

4. Please identify any witnesses or other individuals with information regarding about your allegations.

5. Please identify any documents or evidence that would support your allegations.

6. I affirm that the above allegation is true to the best of my knowledge, information and belief.

Signature: Date