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September 11, 2020

Kenneth Adams
President
Fiorello H. LaGuardia Community College
31-10 Thomson Avenue
Long Island City, New York 11101

Audit Status:
Evaluation of Sexual Harassment Prevention and Response Practices for Audit
Period January 1, 2018 to December 31, 2019.
Determination: **PRELIMINARY**

Dear President Adams:

On behalf of the members of the Equal Employment Practices Commission (EEPC), thank you and your agency for the cooperation extended to our staff thus far. This letter contains the EEPC's evaluation and preliminary determinations pursuant to the Fiorello H. LaGuardia Community College's Sexual Harassment Prevention and Response Practices for the period covering January 1, 2018 to December 31, 2019.

Purpose

Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter) authorize the EEPC to audit, review, evaluate, and monitor the employment practices, procedures, and programs of city agencies and other municipal entities, hereinafter "entities," and their efforts to ensure fair and effective equal employment opportunity (EEO) for women and minority employees and applicants. Charter Sections 831(d)(2) and 832(c) authorize the EEPC to make a determination that any plan, program, procedure, approach, measure, or standard does not provide equal employment opportunity, require appropriate corrective action, and monitor the implementation of the corrective action prescribed.

The Fiorello H. LaGuardia Community College, hereinafter simply termed "agency" or "entity," falls within the EEPC's purview under Chapter 36, Sections 830(a) and 831(a) of the Charter, to review, evaluate, and monitor the coordination and implementation of affirmative employment programs of equal employment opportunity for any "city, county, borough or other office, administration, board, department, division, commission, bureau, corporation, authority, or other agency of government where the majority of the board members of such agency are appointed by the mayor or serve by virtue of being city officers or the expenses of which are paid in whole or in part from the city treasury..."

The purpose of this audit and analysis is to evaluate the subject matter referenced, not to issue findings of discrimination pursuant to the New York City Human Rights Law.

Scope

The EEPC has adopted uniform standards for auditing municipal entities¹ and minimum standards for auditing Community Boards (collectively “Standards”) to review, evaluate, and monitor entities’ employment and EEO-related practices, procedures, approaches, measures, standards, and programs. These standards are founded upon, and consistent with federal, state, and local laws and regulations, and policies and procedures to increase equal opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination. Corrective actions prescribed are consistent with the aforementioned parameters including, but not limited to, the City of New York’s *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies 2014*, as amended (Citywide EEO Policy); the New York City Human Rights Law (New York City Administrative Code Title 8); New York State Human Rights Law (New York Executive Law, Article 15); the New York State Civil Service Law §55-a; and the equal employment opportunity requirements of the New York City Charter.

Policy and Plan Requirements

The aforementioned Standards require, at minimum, that mayoral entities distribute the Citywide EEO Policy; non-mayoral entities establish or adopt a comprehensive EEO policy; and Community Boards, which are comprised of members appointed by the respective Borough Presidents, adopt and distribute the corresponding Borough President’s EEO Policy.

Because the EEPC is authorized to review and recommend actions that each entity should consider including in its annual plan of measures and programs to provide equal employment opportunity, or Annual EEO Plan, entities are also required to incorporate the EEPC’s corrective actions in prospective Annual EEO Plans and programs.

Methodology

The EEPC communicates with EEO professionals (including, but not limited to, past or current EEO Officers, Deputy or Co-EEO Officers, EEO Counselors, EEO Trainers, EEO Investigators, Disability Rights Coordinators, Career Counselors, and 55-a Program Coordinators) and other employees identified as having involvement in EEO program administration such as the Principal Human Resources Professional and relevant Counsel.

The EEPC’s audit methodology includes review of the agency’s Annual EEO Plans and Quarterly EEO Reports; analysis of workforce and utilization data; and the collection and analysis of documents, records, and data an entity and its representatives provide in response to the Sexual Harassment Prevention and Response Preliminary Interview Questionnaires (PIQs). All PIQs contain requests to attach supporting documentation for the answer options selected.

EEO Professionals designated for online interviews are assigned a three-week deadline to complete and return the PIQs. The EEPC’s PIQ(s)/requests were sent to the Fiorello H. LaGuardia Community College on January 3, 2020; the completed PIQ(s) were returned on January 24, 2020. Supporting documentation was attached. Additional requests were not necessary.

The following determination indicates where the Fiorello H. LaGuardia Community College has or has not complied, in whole or in part, with the established Standards.

¹ Corresponding audit/analysis standards are numbered throughout the document.

Description of the Agency

The Fiorello H. LaGuardia Community College (LaGuardia) is one of the seven (7) community colleges of The City University of New York -- the nation's leading urban public university serving more than 500,000 students at 24 colleges. LaGuardia was founded in response to the City University of New York's query: "What if we made CUNY's founding principle - opening the doors of higher education to all - a reality?" The burgeoning Civil Rights movement of the 1960s drove nationwide protests that spilled from college campuses to the streets, as disenfranchised groups demanded social and economic equality and CUNY instituted an open admissions policy for all graduates of New York City high schools in 1970. LaGuardia opened its doors in 1971.

LaGuardia, located in Long Island City, Queens, the nation's fastest-growing neighborhood, educates and supports more than 50,000 New Yorkers annually. As a nationally recognized expert at pioneering innovative programs and initiatives that are quickly adopted by four-year institutions and small businesses alike, LaGuardia is changing the thinking about two-year colleges, their place in higher education and their role in strengthening the nation's economy. LaGuardia's 50,000 students come from over 150 countries and speak 90 languages; many are foreign-born, and many are first generation college students. (Source: The LaGuardia website, 3/2019) The *Workforce Summary*² included in LaGuardia's *2017-2018 Affirmative Action Plan*, from September 1, 2017 to August 31, 2018, indicated that the total number of employees was 1,164: 745 were employed in non-pedagogical titles and fall under the EEPC's jurisdiction.

PRELIMINARY DETERMINATIONS AFTER AUDIT AND ANALYSIS

Following are the corresponding audit standards for each subject area along with the EEPC's findings and required corrective actions, where appropriate:

I. Issuance, Distribution and Posting of EEO Policies

Determination: The agency is in partial-compliance with the standards for this subject area.

1. Issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually.

✓ On September 11, 2018 and September 9, 2019, LaGuardia's President issued policy statements to all employees via email, which included the following, "*I write to strongly reaffirm LaGuardia's commitment, and my own commitment, to the principles of affirmative action, equal opportunity, and diversity... Sexual Harassment, a form of sex discrimination, is also prohibited.*"

2. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies -- or an agency Policy that conforms to city, state and federal laws against sexual harassment-- for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

² The *Workforce Summary* from LaGuardia's *2017-2018 Affirmative Action Plan* is attached as Appendix 1.

✓ LaGuardia reported that during the period in review *The City University of New York Policy on Sexual Misconduct*³ (CUNY Policy on Sexual Misconduct), *The City University of New York Policy on Equal Opportunity and Non-Discrimination*⁴ (CUNY EEO Policy), and *Notice of Non-Discrimination* were posted on LaGuardia’s website, where they were accessible to all employees. The CUNY Policy on Sexual Misconduct conforms to city, state, and federal laws against sexual harassment; and included responsive procedures for investigating sexual harassment complaints. The CUNY EEO Policy contained a section on sexual harassment prevention that referenced and linked to the CUNY Policy on Sexual Misconduct; and included the section entitled, *Complaint Procedures Under the City University of New York’s Policy on Equal Opportunity and Non-Discrimination*. The CUNY EEO Policy section *Complaint Procedures Under the City University of New York’s Policy on Equal Opportunity and Non-Discrimination* provided procedures for the investigation of complaints of discrimination and/or retaliation, excluding complaints of sexual harassment and sexual violence (which are covered under the CUNY Policy on Sexual Misconduct). The CUNY Policy on Sexual Misconduct, CUNY EEO Policy, and *Notice of Non-Discrimination* contained the contact information (web addresses) for the federal, state, and local agencies that enforce laws against discrimination; and a link to the current contact information for LaGuardia’s EEO professionals.

LaGuardia reported that during the period in review “newly hired employees must sign and submit documentation to the Office of Human Resources... acknowledging that they have received links to the CUNY Policy on Sexual Misconduct, the CUNY Policy on Equal Opportunity and Non-Discrimination, and the Disability Accommodation Procedure.”

NOTE: Subsequent to the period in review, in January 2020, the CUNY Policy on Sexual Misconduct, CUNY EEO Policy, and *Notice of Non-Discrimination* were posted to LaGuardia’s website.

➤ The CUNY Policy on Sexual Misconduct did not include the following as part of its procedures for investigating complaints: a requirement that in rare circumstances where a complaint investigation cannot commence immediately, or where an investigative report cannot be issued within 90 days, to specify in the complaint file the reason for the delay and a projected timeframe for completion of the report; and a requirement that the complainant and respondent be notified in writing when the investigation by the EEO Professional has been transferred because of the filing of an external complaint.

The CUNY EEO Policy did not include the following as part of its procedures for investigating complaints: a requirement that in rare circumstances where a complaint investigation cannot commence immediately, or where an investigative report cannot be issued within 90 days, to specify in the complaint file the reason for the delay and a projected timeframe for completion of the report, and to notify the complainant and respondent of the delay; and a requirement that the complainant and respondent be notified in writing when the investigation by the EEO Professional has been transferred because of the filing of an external complaint. **Corrective Action Required.**

Corrective Action #1: Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies -- or an agency Policy that conforms to city, state and federal laws against sexual harassment-- for use by managers, supervisors, and legal,

³ *The City University of New York Policy on Sexual Misconduct* is attached as Appendix 2.

⁴ *The City University of New York Policy on Equal Opportunity and Non-Discrimination* is attached as Appendix 3.

human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

II. Training for the Agency

Determination: The agency is in compliance with the standards for this subject area.

3. Establish and implement a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.

✓ LaGuardia's 2017-2018 *Affirmative Action Plan* (ending August 31, 2018) outlined its plan to train employees in specific departments via in-person *Title IX Training*. A representative email sent to a new employee by the principal EEO Professional in September 2019 outlined LaGuardia's plan to train all employees, including managers, supervisors, and new hires, on the prevention of sexual harassment and the complaint procedures, by stating, "[e]mployees are required to complete the *Employee Sexual and Interpersonal Violence Prevention and Response Course ("ESPARC")* provided by The City University of New York by October 9, 2019 and then at least annually thereafter."

The curriculum for CUNY's ESPARC training indicated that the training covered the definitions of sexual misconduct, sexual harassment, gender-based harassment and sexual violence (including sexual assault, dating/intimate partner/domestic violence, and stalking), CUNY's EEO-related policies (including the CUNY Policy on Sexual Misconduct and CUNY EEO Policy), reporting incidents of sexual misconduct, sexual misconduct awareness and prevention, interim and supportive measures, the responsibilities of the Title IX Coordinator⁵, the responsibilities of managers and supervisors, retaliation, the external complaint process, and LaGuardia's EEO-related resources. The *Title IX Training* PowerPoint slides used for the in-person sexual harassment prevention training included sections on the following topics: CUNY Policy on Sexual Misconduct, CUNY EEO Policy, the definitions for different areas covered under sexual misconduct (including sexual harassment, gender-based harassment, sexual violence, sexual assault, domestic/intimate partner/dating violence, and stalking), how to report a sexual misconduct complaint, the supportive measures available to employees, responsible employees (mandated reporters), confidentiality, the investigative process, the external complaint process, employee disciplinary processes, retaliation, affirmative consent, and LaGuardia's EEO-related resources.

LaGuardia's 2018-2019 ESPARC records⁶ indicated that 789 non-pedagogical employees (approximately 106% of LaGuardia's non-pedagogical workforce headcount as of the 2017-2018 *Affirmative Action Plan*) completed the ESPARC training.

⁵ The Chief Diversity Officer, LaGuardia's principal EEO Professional, was responsible for overseeing LaGuardia's policies and procedures related to discrimination. This individual also served as LaGuardia's Title IX coordinator, a role responsible for overseeing LaGuardia's policies and procedures related to Title IX, which addresses Sexual Misconduct, including sexual harassment.

⁶ LaGuardia's ESPARC training numbers included part-time employees, interns, and other employees not included as part of the total number of employees identified in LaGuardia's 2017-2018 *Affirmative Action Plan*.

Sign-in sheets documented that during the period in review 493 non-pedagogical employees (approximately 66% of LaGuardia's non-pedagogical workforce headcount as of the 2017-2018 Affirmative Action Plan) completed in-person Title IX Training.

NOTE: LaGuardia's training records indicated that 1,282 non-pedagogical employees (approximately 110% of LaGuardia's non-pedagogical workforce headcount as of the 2017-2018 Affirmative Action Plan) completed training on the prevention of sexual harassment and LaGuardia's complaint and investigation procedures between 2018 and 2019. LaGuardia's training records did not distinguish if there was overlap between the non-pedagogical employees who completed ESPARC training and the non-pedagogical employees who completed the in-person sexual harassment prevention training.

III. Complaint and Investigation Procedures

Summary of Complaint Activity: The agency reported 7 internal and 0 external complaints were filed during the period in review.⁷

Determination: The agency is in partial-compliance with the standards for this subject area.

4. Include in the complaint file a completed Complaint Intake Form, or a written complaint that captures facts (including pertinent dates) that identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the complaint.

✓ EEO complaint files Nos. 1, 2, 4, and 5 each contained a completed *Charge of Discrimination Form*, or a written complaint that captured facts, identified the respondents with reasonable specificity, indicated the alleged basis of the discrimination, and provided the essence of the circumstances which gave rise to the complaint.

5. Provide the option to file a complaint anonymously.

✓ The option to file a complaint anonymously was communicated to employees via the CUNY Policy on Sexual Misconduct which stated, "[a]fter a report of an alleged incident of sexual misconduct is made to the Title IX Coordinator, a complainant may request (a) that the matter be investigated only to the extent possible without further revealing her/his identity or any details regarding the incident being divulged further... [i]n all such cases, the Title IX Coordinator will weigh the complainant's request against the college's obligation to provide a safe, non-discriminatory environment for all students, employees and visitors, including the complainant." The CUNY EEO Policy reiterated, "[a]ll 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." Additionally, the curriculum utilized for in-person Title IX Training indicated that employees were made aware of the option to file a complaint anonymously.

⁷ LaGuardia's EEO complaint file No. 3 (of its 5 submitted EEO complaint files) and its response to the PIQs indicated the investigation was not closed. As such EEO complaint file No. 3 was not assessed.

6. Serve the respondent with a notice of the complaint that includes the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice. Maintain in the complaint file documentation regarding the service of notice on the respondent.

✓ The respondents of EEO complaint Nos. 1, 2, 4, and 5 were each served with a notice of complaint that included the respondent's right to respond to the allegations, and right to be accompanied by a representative of his/her choice. Additionally, the files for EEO complaint Nos. 1, 2, 4, and 5 each contained documentation regarding the service of the notice of the complaint on the respondents.

7. Issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office.

✓ EEO complaint file No. 4 contained complaint termination notification letters that documented its termination by the EEO Office. Additionally, the CUNY Policy on Sexual Misconduct stated, "[b]oth the complainant and respondent have the right to end the informal resolution process at any time. Any informal resolution must be acceptable to the complainant, the respondent, and the Title IX Coordinator. Even if both the respondent and complainant agree to a resolution, the Title IX Coordinator must also agree with the resolution for it to be final. If a resolution is reached, the complainant and the respondent shall be notified in writing" and "[w]ithin 30 calendar days following the termination of an investigation that has not been completed (for example, because it was resolved by informal resolution or the complainant withdrew cooperation); the Title IX Coordinator will summarize for the file the actions taken in response to the complaint and the basis on which the investigation was closed." The CUNY EEO Policy reiterated, "[i]ndividuals who believe they have been discriminated or retaliated against may choose to resolve their complaints informally... [i]nformal resolution requires the consent of both the complainant and the respondent... [r]esolutions should be agreed upon, signed by, and provided to both parties" and "[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."

NOTE: EEO complaint Nos. 1, 2, and 5 were not terminated, withdrawn or resolved by agreement of the parties or EEO Office.

8. Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.

✓ EEO complaint files Nos. 1, 2, and 5 each contained a *Confidential Report of Findings* that included notes of the words spoken and facts provided during each interview conducted in the course of the respective complaint investigation. EEO complaint file No. 4 contained a written statement that included notes of the words spoken and facts provided during the intake interview.

9. Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.

✓ EEO complaint files Nos. 1, 2, 4, and 5 indicated that each investigation was initiated within 5 days of the date the complaint was filed.

➤ The *Confidential Report of Findings* for EEO complaint Nos. 1, 2, and 5 were issued more than 90 days after the date the complaint was filed. **Corrective Action Required.**

NOTE: EEO complaint No. 4 was terminated, which rendered the issuance of a conclusive report unnecessary. EEO complaint file No. 4 contained written confirmation of its termination that was issued more than 90 days after the date the complaint was filed.

Corrective Action #2: Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.

10. In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

✓ EEO complaint file No. 1 specified the reason the *Confidential Report of Findings* was issued more than 90 days after the date the complaint was filed. Additionally, the CUNY Policy on Sexual Misconduct stated, “[i]f there is a delay in completing the investigation, the Title IX Coordinator shall notify the complainant and the respondent in writing.”

➤ The *Confidential Report of Findings* for EEO complaint files Nos. 1, 2 and 5 were issued more than 90 days after the date the complaints were filed. EEO complaint files Nos. 2 and 5 did not specify the reason for the delay. EEO complaint files Nos. 1, 2 and 5 did not contain a projected time frame for completion of the investigations, or documentation that demonstrated the complainants and respondents were notified of the delay. **Corrective Action Required.**

NOTE: EEO complaint No. 4 was terminated, which rendered the issuance of a conclusive report unnecessary. EEO complaint file No. 4 contained written confirmation of its termination that was issued more than 90 days after the date the complaint was filed, and indicated the reason for the delay.

The CUNY Policy on Sexual Misconduct and the CUNY EEO Policy did not require, in rare circumstances where a complaint investigation cannot commence immediately, or where an investigative report cannot be issued within the time period specified, that the complaint file contain the reason for the delay and a projected time frame for completion of the report. In addition, the CUNY EEO Policy did not include a requirement to notify the complainant and respondent of the delay. (**See section I.2 for associated corrective action.**)

Corrective Action #3: In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

11. Generate at the end of each complaint investigation, a conclusive confidential report which includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head’s Review.

✓ The files for EEO complaint Nos. 1, 2, and 5 each contained a *Confidential Report of Findings* generated at the end of the complaint investigation. The *Confidential Report of Findings* included a summary of the allegations and responses and a summary of the procedural history of the investigation

(via the “*Initial Complaint*”, “*Issues Investigated*”, “*Interim and Supportive Measures Taken*” and “*Interviews*” sections); a statement of the relevant facts gathered (via the “*Evidence Considered*”, and “*Interviews*” sections); a determination, and a recommendation (via the “*Analysis of the Evidence*” and “*Conclusions*” sections); and documentation of the LaGuardia President’s review (via the attached *Action Taken In Response To Complaint Form*).

NOTE: EEO complaint No. 4 was terminated, which rendered the issuance of an investigative report unnecessary. EEO complaint file No. 4 contained written confirmation of its termination.

12. Maintain complaint files in a secure area and ensure that they can be located and reviewed by the agency head, agency general counsel, and other appropriate staff identified by the agency head.

✓ LaGuardia reported that hard copy complaint files were maintained in a secured file cabinet in the principal EEO Professional’s office where they were accessible to the LaGuardia President and General Counsel upon request.

13. Establish and implement a policy whereby the agency head (or an approved direct report other than the General Counsel) reviews the principal investigator’s conclusive report; issues a written/electronic determination adopting, rejecting, or modifying the recommended action; and signs each determination, via writing or electronically, to indicate it has been reviewed and adopted.

✓ The CUNY Policy on Sexual Misconduct established, “[f]ollowing receipt of the Report of Findings, the College President shall, when warranted by the facts, authorize such action as she/he deems necessary to address the issues raised in the Report of Findings, including action to correct the effects of the conduct investigated to prevent further harm to an affected party or others similarly situated. This may include a recommendation that disciplinary action be commenced against a respondent.” The CUNY EEO Policy reiterated, “[p]romptly following the completion of the investigation, the Chief Diversity Officer will report his or her findings to the President... 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.”

An *Action Taken In Response To Discrimination Complaint* form was included in EEO complaint file No. 1. An *Action Taken In Response To Complaint* form was included in EEO complaint files Nos. 2 and 5. The forms were signed by LaGuardia’s President and captured their review of the *Confidential Report of Findings* and authorized actions for EEO complaint Nos. 1, 2, and 5.

NOTE: EEO complaint No. 4 was terminated, which rendered the issuance of a conclusive report and documentation of the LaGuardia President’s review thereof unnecessary. EEO complaint file No. 4 contained written confirmation of its termination.

14. Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency’s complaint procedure.

✓ The complainants and respondents of EEO complaint Nos. 1, 2, and 5 each received determination letters notifying them of the conclusion and outcome of their respective complaint investigations. The complainant and respondent of EEO complaint No. 4 received complaint termination letters notifying them of the conclusion of the complaint investigation. Additionally, the CUNY Policy on Sexual

Misconduct stated, “[w]henver an investigation takes place, the complainant and respondent shall have... simultaneous notice of the outcome of proceedings.” The CUNY EEO Policy reiterated, “[t]he complainant and the respondent should be apprised in writing of the outcome and action, if any, taken as a result of the complaint.”

15. Ensure each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result.

✓ EEO complaint files Nos. 1, 2, and 5 each contained determination letters that documented the outcomes and corrective actions taken as a result of the respective complaint investigations. EEO complaint file No. 1 contained an *Action Taken In Response To Discrimination Complaint* form, and EEO complaint files Nos. 2 and 5 contained *Action Taken In Response To Complaint* forms that also documented the outcomes and corrective actions taken as a result of the respective complaint investigations. EEO complaint No. 4 was terminated and the file contained documentation of the outcome.

16. Notify the complainant and respondent in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint.

NOTE: Because EEO complaint Nos. 1, 2, 4, and 5 were not transferred because of the filing of an external complaint, LaGuardia’s EEO policies and discrimination complaint procedures were used to measure compliance with this standard. The CUNY Policy on Sexual Misconduct nor the CUNY EEO Policy required the complainant and respondent be notified in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint. **(See section I.2 for associated corrective action.)**

17. Establish and utilize a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, the aggrieved individuals, and other information necessary to analyze complaint activity to identify trends.

✓ LaGuardia’s unnamed complaint log indicated that the college utilized an internal complaint tracking and monitoring system that permitted it to identify the location (via the field “*Location/unit/department*”), the status (via the field “*Date resolved*”), the length of time elapsed in the complaint investigation process (via the fields “*Date filed*” “*Length of time elapsed in the EEO complaint process*” and “*Date resolved*”), the issues and bases of the complaints (via the field “*Basis of the complaint*”), the aggrieved individuals (via the fields “*Complainant name*” and “*Respondent name*”), and other information necessary to analyze complaint activity (via the “*Determination/Disposition*” field).

18. Ensure that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment; works with the principal EEO Professional in the implementation of the City’s policies and procedures pertaining to sexual harassment; informs the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; is available to consult on internal sexual harassment complaint investigations; and is responsible for the investigation of, and response to, external sexual harassment complaints.

✓ LaGuardia reported that the General Counsel collaborated with the principal EEO Professional on the creation of sexual harassment prevention procedures, policies and programs; and internal sexual harassment complaint investigation.

NOTE: LaGuardia reported no external complaints were filed during the period in review. The General Counsel's responsibility of informing the principal EEO Professional when external complaints or litigation was brought against LaGuardia and the General Counsel's responsibility of investigating and responding to external complaints could not be meaningfully measured.

➤ LaGuardia did not demonstrate that during the period in review the General Counsel assisted the College President in identifying and determining appropriate responses to sexual harassment; worked with the principal EEO Professional in the implementation of LaGuardia's policies and procedures pertaining to sexual harassment; or was available to consult on internal complaint investigations. **Corrective Action Required.**

Corrective Action #4: Ensure that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment; works with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment; informs the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; is available to consult on internal sexual harassment complaint investigations; and is responsible for the investigation of, and response to, external sexual harassment complaints.

IV. Annual Review of Practices, Policies and Programs

Determination: The agency is in partial-compliance with the standards for this subject area.

19. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.

✓ LaGuardia reported that the principal EEO Professional reviewed its internal complaint activity. More specifically, LaGuardia stated that "[t]he College's EEO Professional does review all sexual harassment and discrimination cases involving all employees (pedagogical and non-pedagogical)... annually."

➤ LaGuardia did not demonstrate that the principal EEO Professional, HR Professional, and General Counsel reviewed the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies. **Corrective Action Required.**

Corrective Action #5: Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment

opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.

V. Responsibility for Implementation - EEO Professionals

Determination: The agency is in partial-compliance with the standards for this subject area.

20. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state, federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.

✓ All employees were reminded of the name and contact information of the principal EEO Professional in the policy statements issued by LaGuardia's President via email in September 2018 and September 2019. Training records demonstrated that the principal EEO Professional completed the CUNY *Title IX Table Top Training* (2019). Certificates of attendance demonstrated that during the period in review the principal EEO Professional obtained continuing legal education credits for completing the following: the New York City Law Department's *Promoting Inclusion for LGBTQI Community Members: Transgender 101* (2018); the Practising Law Institute's *Employment Law Institute 2017* (2018), *Understanding Employment Law 2017* (2018), *Employment Discrimination Law & Litigation 2018* (2018), and *Diversity & Inclusion in Law Practice 2019* (2019); the New York City Bar's *Creating a More Inclusive Work Environment* (2019); and the New York Law School's *Mediating Emotionally Charged Disputes* (2019).

The training agenda for CUNY's *Title IX Table Top Training* indicated that the training covered EEO laws and procedures, and the prevention, investigation, and resolution of discrimination and sexual harassment complaints. Additionally, LaGuardia reported that the aforementioned continuing legal education trainings covered the following topics: "[t]rauma Informed Response to Sexual Misconduct; Compliance/ Sexual Misconduct Policy /Discussion of possible changes under Title IX; Best practices for conducting internal investigations to minimize risk; Emerging gender and transgender issues in the workplace; E-SPARC/Employee Issues; Mediating emotionally charged disputes including discrimination and sexual harassment incidents; Choosing between an "adversarial" or "problem-solving" approach; Recent legal developments that impact diversity; Emerging trends and innovations to reset and refocus how law thinks and acts about diversity and inclusion; Practical steps and candid evaluation of practices and programs that work to advance recruitment, retention and leadership; Latest research on the business case for diversity; Using metrics and accountability to drive inclusion strategies; The impact of current events and the media on the workplace; The EEOC's perspective on key discrimination hot topics; Discrimination trends and the experts' future predictions; What is unconscious bias and how does it operate in the workplace?; EEOC and DOL's current priorities; Equal pay and pay equity issues in employment Law; Implications of new the NLRB composition, including revisiting prior NLRB rulings; Preventing and responding to violence in the workplace."

21. Ensure that the responsibilities of the principal EEO Professional are competently discharged by providing adequate resources such as opportunities for continuing education and professional development, and/or support staff to meet EEO obligations.

✓ During the period in review, the principal EEO Professional received support to address EEO responsibilities from an Administrative Coordinator and a College Assistant. LaGuardia reported that the Administrative Coordinator and College Assistant were not EEO professionals and supported the principal EEO Professional with clerical and administrative tasks.

Certificates of attendance demonstrated that during the period in review the principal EEO Professional had access to continuing legal education opportunities (see section V.20 for continuing education participation details). Sample agendas, sign-in sheets, and meeting materials from the period in review indicated the principal EEO Professional attended Chief Diversity Officer meetings and Title IX Coordinator meetings provided by the CUNY Central Office that covered the CUNY Policy on Sexual Misconduct, CUNY EEO Policy, Title IX, sexual harassment prevention training, complaint investigation training, mediation, training for managerial and supervisory staff on their EEO-related responsibilities, and *Affirmative Action Plans*.

22. Where the agency's organizational structure necessitates multiple EEO professionals, select such individuals from different office locations and, where possible, from a variety of levels within the organizational structure. Appoint EEO professionals who are trained in EEO laws and procedures, and their responsibilities under the EEO Policy.

✓ LaGuardia's *2017-2018 Affirmative Action Plan* (ending August 31, 2018) indicated a workforce of 1,164 employees at several office locations. LaGuardia appointed a Chief Diversity Officer/Title IX Coordinator (the principal EEO Professional) who was trained in EEO laws and procedures, and their EEO-related responsibilities (see section V.20 for training details); and received support from an Administrative Coordinator and College Assistant. The LaGuardia President's policy statements that were distributed to all employees in 2018 and 2019 indicated that the principal EEO Professional was accessible to employees at all LaGuardia locations.

23. Ensure that the principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment.

NOTE: LaGuardia did not demonstrate that the principal EEO Professional worked cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment. **(See section III.18 for associated corrective action.)**

24. Assign the principal EEO Professional (or EEO-related designee) the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.

✓ The job description for the principal EEO Professional's title (Chief Diversity Officer) outlined responsibilities that included: "[o]versees programs, activities, and initiatives designed to foster a climate that respects pluralism and diversity; Develops effective strategies to promote diversity in faculty and staff hiring and actively participates in building strong networks and recruitment sources; Serves as a key recruiting team member, coordinating recruitment plans, advertising, and selection processes; Implements the College's Affirmative Action and Equal Opportunity policies and ensures

compliance with relevant city, state, and federal statutes such as Title VII, Title IX, Section 504, and the Americans with Disabilities Act, responding to and conducting investigations of non-compliance complaints; Collects and analyzes data for College and University reports; Develops and presents training programs and disseminates information related to Diversity, EEO, and other compliance at the College; Coordinates with University offices to assure consistency of University-wide policies; Maintains current knowledge and materials related to laws, rules, regulations, and best practices for advancing EEO/Diversity; Performs related duties as assigned."

During the period in review, the principal EEO Professional ensured that LaGuardia's policies against sexual harassment and discrimination complaint procedures were distributed and posted (see section I.2 for further details); and coordinated with Human Resources to ensure that employees received sexual harassment prevention training (see section II.3 for training details). LaGuardia's *Department of Compliance and Diversity Organizational Chart* illustrated that the Administrative Coordinator and College Assistant reported to the principal EEO Professional for EEO-related activities. LaGuardia reported that its EEO-related policies would be provided in alternative formats (large print, audio recording and/or Braille) upon request to the principal EEO Professional. The CUNY EEO Policy on Sexual Misconduct established, "[t]he [principal EEO Professional] is responsible for conducting any investigation in a prompt, thorough, an impartial manner" and the CUNY EEO Policy reiterated, "[t]he University is committed to addressing discrimination and/or retaliation complaints promptly, consistently and fairly."

25. Ensure that the principal EEO Professional reports directly to the agency head (or a direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.

✓ The LaGuardia *President's Office Organizational Chart* (dated September 2019) identified the principal EEO Professional by name and title (Chief Diversity Officer) and illustrated a direct reporting relationship between the principal EEO Professional and the LaGuardia President.

26. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

➤ LaGuardia did not demonstrate that documentation was maintained regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment. **Corrective Action Required.**

Corrective Action #6: Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

VI. Responsibility for Implementation – Supervisors/Managers

Determination: The agency is in compliance with the standards for this subject area.

27. Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.

✓ The expectation that managers and supervisors were held accountable for enforcing LaGuardia's sexual harassment prevention policies and complaint procedures was documented in the CUNY Policy on Sexual Misconduct which stated, "*CUNY has designated the following individuals as "responsible" employees... Employees who are Managers or Supervisors*" and specified that responsible employees "*have a duty to report incidents of sexual misconduct, including all relevant details, to the Title IX Coordinator... and other people responsible for handling the college's response to the report. To the extent possible, before a complainant reveals any information to a responsible employee, the employee shall advise the complainant of the employee's reporting obligations and if the complainant wants to maintain confidentiality, [and] direct the complainant to confidential resources.*" The CUNY EEO Policy reiterated, "*[m]anagers 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.*" Additionally, the training curriculum used for in-person sexual harassment prevention training indicated that the expectation for the enforcement of LaGuardia's sexual harassment prevention policies and complaint procedures was communicated to managers and supervisors during training sessions conducted throughout the period in review.

LaGuardia documented managers and supervisors accountability for enforcing LaGuardia's sexual harassment prevention policies and complaint procedures via performance evaluations where managers and supervisors were rated on core competencies that included the following: "*[c]onsiders & promotes workforce diversity and equal opportunity in all established practices. Establishes standards of responsibility & behavior for self & subordinates in relation to diversity. Recognizes & promptly refers complaints or violations to appropriate officials.*"

28. Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

✓ LaGuardia's managerial performance evaluation form included a section entitled, *Inclusiveness – Diversity*, where managers were rated on the following: "*[s]hows respect for people and their differences; promotes fairness and equity; engages the talents, experiences, and capabilities of others; fosters a sense of belonging; works to understand the perspectives of others; creates opportunities for access and success.*"

VII. Reporting Standard for Agency Head

Determination: The agency is required to comply with the standards for this subject area.

29. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports on efforts to implement the Plan within 30 days following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.

✓ During the period in review, LaGuardia submitted to the EEPC its *2017-2018 Affirmative Action Plan* (which included LaGuardia's measures and programs to provide equal employment opportunity and covered the period of September 1, 2017 to August 31, 2018). LaGuardia's annual *Affirmative Action Plan* set forth its equal employment opportunity measures and programs in four parts: part one, entitled, *Introduction and Background*, provided the relevant policies addressed by the plan (which included the CUNY Policy on Sexual Misconduct and CUNY EEO Policy) and outlined the individuals responsible for implementation of the plan (which included a section on the responsibilities of the principal EEO Professional); part two, entitled, *Data and Analysis*, included LaGuardia's annual workforce and utilization analyses; part three, entitled, *Action-Oriented Programs*, included LaGuardia's review of its employment practices, policies and programs, and LaGuardia's identified goals and planned activities for the upcoming year; part four, entitled, *Individuals with Disabilities and Protected Veterans*, covered many of the areas outlined in the previous parts but focused on LaGuardia's hiring and advancement of individuals with disabilities and veterans.

➤ LaGuardia did not submit to the EEPC its *2018-2019 Affirmative Action Plan* (which covered the period of September 1, 2018 to August 31, 2019); or its *2019-2020 Affirmative Action Plan* (which covered the period the period of September 1, 2019 to August 31, 2020). **Corrective Action Required.**

Corrective Action #7: Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports on efforts to implement the Plan within 30 days following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.

30. Upon the EEPC's determination that the entity does not require further review or monitoring: Distribute a memorandum signed by the agency head that re-emphasizes the commitment of agency administrators to the EEO program, including the prevention of sexual harassment, and informs employees of any changes to the agency's employment practices as a result of the EEPC's audit/monitoring. This final action is required to conclude the audit and monitoring process.

Final Action: Upon the EEPC's determination that the entity does not require further review or monitoring: Distribute a memorandum signed by the agency head that re-emphasizes the commitment of agency administrators to the EEO program, including the prevention of sexual harassment, and informs employees of any changes to the agency's employment practices as a result of the EEPC's audit/monitoring. This final action is required to conclude the audit and monitoring process.

Summary of Corrective Actions:

The Fiorello H. LaGuardia Community College has 8 required corrective action(s) at this time. This includes the aforementioned final action.

Conclusion

Pursuant to Charter Chapter 36, the Fiorello H. LaGuardia Community College has the *option* to respond to this Preliminary Determination, but must respond to our Final Determination if corrective action is required. **Any response must be signed by the agency head and submitted to the EEPC's Executive Director.**

Optional Response to Preliminary Determination: If submitted, the Fiorello H. LaGuardia Community College's optional response to the EEPC's Executive Director should indicate, with attached documentation, what steps have been or will be taken to correct outstanding areas of non-compliance, and must be received in our office within 14 days from the date of this letter. No extensions will be granted for the *option* to respond to the Preliminary Determination.

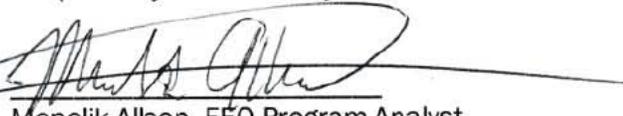
(Optional Conference) If requested, at the Optional Conference the EEPC will discuss the immediate steps that should be taken to correct outstanding areas of non-compliance and address questions regarding the Fiorello H. LaGuardia Community College's implementation of the prescribed corrective action(s).

(No Response Option) If the Fiorello H. LaGuardia Community College does not respond to this Preliminary Determination within 14 days, it will become the EEPC's Final Determination.

Mandatory Response to Final Determination: Following this Preliminary Determination, the EEPC will issue a Final Determination where we may modify or eliminate the corrective action(s) based on verified information submitted as part of the response to the Preliminary Determination; identify remaining corrective action(s) that require further monitoring to ensure implementation; and assign a mandatory compliance-monitoring period of up to 6 months for this purpose. Pursuant to Charter Chapter 36, upon receipt, the Fiorello H. LaGuardia Community College must submit a response, signed by the agency head, to our Final Determination within 30 days. Your response to the Final Determination will initiate the compliance-monitoring period.

In closing, we want to thank you and your staff for the cooperation extended to the Equal Employment Practices Commission's EEO Program Analysts during the course of our audit and analysis.

Respectfully Submitted by,



Menelik Allsop, EEO Program Analyst

Approved by,



Charise L. Terry
Executive Director

c: Christopher Carozza, Esq., Principal EEO Professional, LaGuardia
William B. Peterson, Manager, Labor Relations Analysis and Audit Unit, EEPC

Appendix 1

Fiorello H. LaGuardia Community College

Fiorello H. LaGuardia Community College 2017-2018 Affirmative Action Plan:

Workforce Summary

Roster of applicable College job groups with college staffing, 6/1/17

Category	Group	Total Staffing	Females	Minorities
Executive/Administrative/Managerial	Administration 1 (Executives)	23	9	8
	Administration 2 (Managers)	146	94	86
	Facility Manager	3	0	2
	IT Computer Manager	4	1	2
	Security Manager	3	1	3
Professional - Faculty	Faculty-Developmental	26	19	9
	Faculty-Instructor	5	4	2
	Faculty-Lecturer	46	24	27
	Faculty-Professorial	342	194	147
Professional – Non-Faculty	Accountant	9	7	8
	Administration 3 (General Admin)	213	157	165
	Administration 5 (Engineers/Architects)	6	1	4
	IT Computer Professional	53	14	41
	Nurse	1	1	1
Administrative Support Workers	Accountant Assistant	6	6	5
	Administrative Assistant	20	20	14
	Office Assistant	69	57	60
	Mail Services Worker	12	8	9
Craft Workers and Related	Basic Crafts-Buildings and Grounds	1	0	0
Technicians	Administration 4	41	21	26
	Broadcast/Media	4	1	4
	Engineering Technician	3	0	3
	IT Support Technician	21	6	18
	Print Shop	2	0	1
Service Workers	CPO Level 1	56	14	52
	CPO Level 2	2	1	1
	CPO Sergeant	10	2	8
	Custodial	34	17	33
	Custodial Supervisor	3	2	3

Table 2
Changes in Job Group Structure, 2016-2017

Title	Change
Senior Registrar, Registrar, Architectural Intern, Engineering Intern, Elevator Starter, CUNY Technical Support Aide, Multi Color Press Camera Operator, College Computer Photo Typesetter, CUNY Secretarial Assistant, CUNY Technical Support Aide, Office Aide, Campus Security Officer Level 2, Campus Peace Officer Level 3	Removed titles retired from CUNY system or marked "incumbent only" with no remaining incumbents

Appendix 2

Fiorello H. LaGuardia Community College

The City University of New York Policy on Sexual Misconduct

2018

THE CITY UNIVERSITY OF NEW YORK
POLICY ON SEXUAL MISCONDUCT

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I. POLICY STATEMENT

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

- 1) Defining conduct that constitutes prohibited Sexual Misconduct;
- 2) Providing clear guidelines for students, employees and visitors on how to report incidents of Sexual Misconduct and a commitment that any complaints will be handled respectfully;
- 3) Promptly responding to and investigating allegations of Sexual Misconduct, pursuing disciplinary action when appropriate, referring the incident to local law enforcement when appropriate, and taking action to investigate and address any allegations of retaliation;
- 4) Providing ongoing assistance and support to students and employees who make allegations of Sexual Misconduct;
- 5) Providing awareness and prevention information on Sexual Misconduct, including widely disseminating this policy, as well as a “students’ bill of rights” and implementing training and educational programs on Sexual Misconduct to college constituencies; and
- 6) Gathering and analyzing information and data that will be reviewed in order to improve safety, reporting, responsiveness and the resolution of incidents.

This is the sole policy at CUNY addressing Sexual Misconduct and is applicable at all college and units at the University. It will be interpreted in accordance with the principles of academic freedom adopted by CUNY’s Board of Trustees.

The CUNY community should also be aware of the following CUNY policies:

- [The CUNY Policy on Equal Opportunity and Nondiscrimination](#) prohibits discrimination on the basis of numerous protected characteristics in accordance with federal, state and local law. That policy addresses sex discrimination other than Sexual Misconduct covered by this policy.
- [The CUNY Campus and Workplace Violence Prevention Policy](#) addresses workplace violence.
- [The CUNY Domestic Violence and the Workplace Policy](#) addresses domestic violence in or affecting employees in the workplace.
- [The CUNY Procedures for Implementing Reasonable Accommodations and Academic Adjustments](#) addresses the procedures CUNY will follow when there is a request for a reasonable accommodation and or academic adjustment.

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

II. SCOPE OF THIS POLICY

This policy governs the conduct of (i) all the members of CUNY's community, including employees and students, and (ii) non-members of CUNY's community who interact with members of the CUNY community (hereinafter "visitors"). Visitors are both protected by and subject to this policy. A non-member may make a complaint of or report a violation of this policy committed by a member of CUNY's community. A non-member may also be subject to restrictions for failing to comply with this policy. This policy applies to conduct that occurs on and off CUNY property.

III. DEFINITIONS

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

Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.

In order to give consent, one must be of legal age (17 years or older).

Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.

Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by lack of consciousness or being asleep, being involuntarily restrained, or if the individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.

Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.

Consent may be initially given but withdrawn at any time. When consent is withdrawn or no can longer be given, sexual activity must stop.

- b. **Complainant** refers to the individual who alleges that she/he has been the subject of Sexual Misconduct, and can be a CUNY student, employee (including all full-time and part-time faculty and staff), or visitor. Under this policy, the alleged incident(s) may have been brought to the college's attention by someone other than the complainant.
- c. **Complaint** is an allegation of Sexual Misconduct made under this policy.

- d. **Confidentiality** is the commitment not to share any identifying information with others, except as required by law in emergency circumstances (such as risk of death or serious bodily harm). Confidentiality may only be offered by individuals who are not legally required to report known incidents of Sexual Misconduct to college officials. Licensed mental health counselors, medical providers & pastoral counselors may offer confidentiality.
- e. **Dating Violence** is violence or sexual assault committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship is determined based on the reporting party's statement and with consideration of the length of the relationship and the frequency of the interaction between the persons involved in the relationship. Dating violence can be a single act or a pattern of behavior, based on the frequency, nature, and severity of the conduct. A relationship may be romantic or intimate regardless of whether the relationship was sexual in nature. Dating violence includes the threat of sexual or physical abuse.
- f. **Domestic Violence** is any violence or sexual assault committed by (i) a current or former spouse or intimate partner of the victim; (ii) a person with whom the victim shares a child; (iii) a person who cohabits or cohabited with the victim as a spouse or intimate partner; or (iv) anyone else covered by applicable domestic violence laws. Domestic violence can be a single act or a pattern of behavior, based on the frequency, nature, and severity of the conduct.
- g. **Forcible Touching/Fondling** is intentionally touching the sexual or other intimate parts of another person without the latter's consent for the purpose of degrading or abusing such person, or for the purpose of gratifying the actor's sexual desire.
- h. **Gender-Based Harassment** is unwelcome conduct of a nonsexual nature based on an individual's actual or perceived sex, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes that is sufficiently serious to adversely affect an individual's participation in employment, education or other CUNY activities. The effect will be evaluated based on the perspective of a reasonable person in the position of the complainant. An example of gender-based harassment would be persistent mocking or disparagement of a person based on a perceived lack of stereotypical masculinity or femininity.
- i. **Intimate Partner Violence ("IPV")** includes both Domestic Violence and Dating Violence.
- j. **Managers** are employees who have authority to make tangible employment decisions with regard to other employees, including the authority to hire, fire, promote, compensate or assign significantly different responsibilities.

- k. **Pastoral counselor**. A person who is associated with a religious order or denomination, recognized by that order or denomination as someone who provides confidential counseling, and functioning within the scope of that recognition.
- l. **Privacy** is the assurance that the college will only reveal information about a report of Sexual Misconduct to those who need to know the information in order to carry out their duties or responsibilities or as otherwise required by law. Individuals who are unable to offer the higher standard of confidentiality under law, but who are still committed to not disclose information more than necessary, may offer privacy.
- m. **Rape and Attempted Rape** is the penetration or attempted penetration, no matter how slight, of any body part by a sex organ of another person, without the consent of that person.
- n. **Respondent** refers to the individual who is alleged to have committed Sexual Misconduct against a CUNY student, employee, or visitor.
- o. **Retaliation** is adverse treatment of an individual as a result of that individual's reporting Sexual Misconduct, assisting someone with a report of Sexual Misconduct, opposing in a reasonable manner an act or policy believed to constitute Sexual Misconduct, or participating in any manner in an investigation or resolution of a Sexual Misconduct report. Adverse treatment includes threats, intimidation and reprisals by either a complainant or respondent or by others such as friends or relatives of either a complainant or respondent.
- p. **Sexual Activity** is:
- contact between the penis and the vulva or the penis and the anus;
 - contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
 - penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- q. **Sexual Assault** is any form of sexual activity that occurs without consent.
- r. **Sex Discrimination** is treating an individual differently or less favorably because of sex, including sexual orientation, gender or gender identity (including transgender status), as well as pregnancy, childbirth and related medical conditions. Examples of sex discrimination include giving a student a lower grade, or failing to hire or promote an employee, based on their sex.

- s. **Sexual Harassment** is unwelcome conduct of a sexual nature, including but not limited to unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic and electronic communications or physical conduct of a sexual nature when:
 - i. submission to or rejection of such conduct is made either explicitly or implicitly a condition of an individual's employment or academic standing or is used as the basis for employment decisions or for academic evaluation, grades, or advancement (quid pro quo); or
 - ii. such conduct is sufficiently serious that it alters the conditions of, or has the effect of substantially interfering with, an individual's educational or work experience by creating an intimidating, hostile, or offensive environment (hostile environment). The effect will be evaluated based on the perspective of a reasonable person in the position of a complainant.

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

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

- i. Inappropriate or unwelcome physical contact or suggestive body language, such as touching, groping, patting, pinching, hugging, kissing, or brushing against an individual's body;
 - ii. Verbal abuse or offensive comments of a sexual nature, including sexual slurs, persistent or pervasive sexually explicit statements, questions, jokes or anecdotes, degrading words regarding sexuality or gender, suggestive or obscene letters, notes, or invitations;
 - iii. Visual displays or distribution of sexually explicit drawings, pictures, or written materials; or
 - iv. Undue and unwanted attention, such as repeated inappropriate flirting, staring, or making sexually suggestive gestures.
- t. **Sexual Misconduct** is sexual harassment, gender-based harassment or sexual violence, as defined in this policy.
 - u. **Sexual Violence** includes: (1) sexual activity without affirmative consent, such as sexual assault rape/attempted rape, and forcible touching/fondling; (2) dating, domestic and intimate partner violence; (3) stalking as defined below; and (4) voyeurism, as defined below.
 - v. **Stalking** is intentionally engaging in a course of conduct directed at a specific person that:
 - 1. is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted; or

2. is likely to cause such person to reasonably fear that her/his employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

Where stalking is directed at an individual with whom the perpetrator has, had, or sought some form of sexual or romantic relationship, it will be addressed under this Policy. Stalking that lacks a sexual or gender-based nexus may be addressed under the Code of Conduct.

- w. **Supervisors** are employees who are not managers, but have a sufficient degree of control over the working conditions of one or more employees, which might include evaluating their performance and making recommendations for changes in employment status that are given particular weight.
- x. **Visitor** is an individual who is present at a CUNY campus or unit but is not a student or an employee.
- y. **Voyeurism** is unlawful surveillance and includes acts that violate an individual's right to privacy in connection with her/his body and/or sexual activity such as:
 - i. Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent.
 - ii. Recording images (e.g. video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent;
 - iii. Disseminating images (e.g. video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure;
 - iv. Using or installing, or permitting the use or installation of a device for the purpose of recording another person's sexual activity, intimate body parts or nakedness in a place where the person would have a reasonable expectation of privacy without that person's consent.
- z. **Writing**. Whenever this policy requires in "writing," electronic mail satisfies the writing requirement.

IV. **PROHIBITED CONDUCT**

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

This policy prohibits sexual harassment, gender-based harassment and sexual violence (together "Sexual Misconduct") against any CUNY student, employee or visitor.

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

Sexual harassment is considered a form of employee misconduct and an employee who engages in such conduct, or, managerial and supervisory personnel who knowingly allow such behavior to continue, shall be subject to discipline in accordance with applicable rules, policies and collective bargaining agreements.

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

Sexual violence is an umbrella term that includes: (1) sexual activity without affirmative consent, sexual assault, rape/attempted rape, and forcible touching/fondling; (2) dating, domestic and intimate partner violence; (3) stalking/cyberstalking ("stalking"), and (4) voyeurism.

The complete definitions of these terms, as well as other key terms used in this policy, are in Section III above.

B. Retaliation

This policy prohibits retaliation against any person who reports Sexual Misconduct, assists someone making such a report, participates in any manner in an investigation or resolution of a Sexual Misconduct complaint, including testifying or assisting in a legal proceeding, or opposes in a reasonable manner an act or policy believed to constitute Sexual Misconduct. Federal, state, and local laws also prohibit retaliation.

C. Certain Intimate Relationships

This policy also prohibits certain intimate relationships when they occur between a faculty member or employee and any student for whom he or she has a professional responsibility as set forth in Section XIII below.

V. TITLE IX COORDINATOR

Each college or unit of CUNY has an employee who has been designated as the Title IX Coordinator. This employee is responsible for compliance with Title IX of the Education Amendments of 1972, which prohibits sex discrimination, including Sexual Misconduct, in education programs, and with New York State Law Article 129B, commonly referred to as Enough is Enough, Combating Sexual Assault and Domestic Violence on College Campuses (hereafter "Enough is Enough"). The Title IX Coordinator has overall responsibility for implementing this policy, including overseeing the investigation of complaints at her/his college or unit and carrying out the other functions of that position set forth in this policy. All Title IX Coordinators shall receive annual training on Sexual Misconduct as required by Title IX, the Clery Act, Enough is

Enough, and other civil rights law. The name and contact information for all Title IX Coordinators at CUNY can be found on the university's dedicated [Title IX website](#).

VI. ASSISTANCE IN CASES OF SEXUAL VIOLENCE

A. Reporting to Law Enforcement

Students, employees and other community members who experience any form of sexual violence on or off-campus (including CUNY-sponsored trips and events) and visitors who experience sexual violence on a CUNY campus may, but are not required to, report to local law enforcement, and/or state police. CUNY does not require a complainant to report sexual misconduct to law enforcement; however, if a student, employee, or other community member does wish to report to law enforcement, CUNY will provide assistance. Each college public safety office shall have an appropriately trained employee available at all times to provide the complainant with information regarding options to proceed, including information regarding the criminal justice process and the preservation of evidence. Campus public safety officers can also assist the complainant with filing a complaint both on and off-campus, and in obtaining immediate medical attention and other services.

Additional information is available on the university's [Title IX website](#).

B. Relationship of CUNY's Investigation to the Action of Outside Law Enforcement

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

Students, employees and other community members should be aware that CUNY procedures and standards differ from those of criminal procedures. When CUNY investigates allegations of sexual misconduct or brings disciplinary proceedings for violations of this policy, the issue is whether the respondent violated CUNY policy. The standard applied in making this determination is whether the preponderance of the evidence substantiates the complaint, or, stated another way, whether it is more likely than not that the alleged conduct occurred. An individual found to have violated this policy may be sanctioned by the college and CUNY. In the criminal justice system, on the other hand, the issue is whether the accused violated state criminal law. The standard applied is proof beyond a reasonable doubt and an individual found *guilty* of a crime is subject to *criminal penalties*, such as incarceration, probation and fines. More information about relevant criminal laws is available in '[A Plain Language Explanation of Distinction Between the New York Penal Law and the College Disciplinary Processes](#)'.

C. Obtaining Immediate Medical Attention and Emotional Support

CUNY encourages anyone who has experienced sexual assault or domestic, dating or intimate partner violence to seek medical attention as soon as possible. Medical resources can provide treatment for injuries, preventative treatment for sexually transmitted diseases, emergency contraception, and other health services. They can also assist in preserving evidence or documenting any injuries. Taking these steps promptly after an incident can be very helpful if an individual later decides to seek criminal proceedings or a protective order.

Individuals who have experienced or witnessed sexual violence are also encouraged to seek emotional support, either on or off-campus.

D. On-campus resources

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

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

VII. IMPORTANT INFORMATION ABOUT CONFIDENTIALTY, PRIVACY and REQUIRED REFERRALS

CUNY values the privacy of its students, employees, and visitors. They should be able to seek the assistance they need without fear that the information they provide will be shared more broadly. Some individuals who serve as resources on campus are **confidential** resources and will not share any identifying information with others, except as required by law in emergency circumstances. Other individuals are not permitted to maintain confidentiality but will protect **privacy** to the greatest extent possible and share information with other staff only on a need-to-know basis.

Confidential resources. Individuals considered confidential resources include counselors and health care providers at the college counseling centers and health offices, pastoral counselors, and designated staff members at women's or men's centers, if they exist on campus. *Students may use these resources even if they decide not to make a report or participate in University disciplinary proceedings or the criminal justice process.*

Private but non-confidential resources. Many college employees are required by federal and state law to provide information about possible sexual misconduct to the Title IX Coordinator. Individuals designated as non-confidential but private resources will protect **privacy** to the greatest extent possible, but must share relevant information about sexual misconduct with the Title IX Coordinator.

More information about confidential and private but non-confidential resources is provided in Section IX, below.

Under the Clery Act, the College is required to maintain records, advise the government about reports of certain crimes, and issue timely warnings when there is a serious, continuing threat to the community. Such reports and warnings do not disclose the names of reporting individuals.

VIII. REPORTING SEXUAL MISCONDUCT TO THE COLLEGE

In order for the University to address allegations of sexual misconduct, it has to learn about them. Accordingly, CUNY strongly encourages individuals who have experienced sexual misconduct to file a complaint with a designated campus official, as outlined below. The designated officials are trained to accept complaints, to ensure they are investigated in accordance with this policy, and to help complainants get necessary assistance.

Students, faculty, staff and visitors are encouraged to report incidents of sexual misconduct to campus officials, even if they have reported the incident to outside law enforcement authorities, and regardless of whether the incident took place on or off-campus (including “study abroad” programs). Such reporting will enable complainants to get the support they need and provide the college with the information it needs to take appropriate action.

A. Complainant’s Rights

Individuals who have experienced sexual misconduct have the right to file a complaint with the college or to decide not to do so. (The decision on whether to bring disciplinary charges, however, rests with the campus.) Students who report sexual misconduct have all of the rights contained in the Students Bill of Rights (copy attached).

Complainants also have these rights:

- To notify campus public safety, local law enforcement, and/or the state police; or to choose not to report.
- To have emergency access to a college official trained to interview victims of sexual assault and able to provide certain information, including reporting options and information about confidentiality and privacy. The official will, where appropriate, advise the reporting individual about the importance of preserving evidence and obtaining a sexual assault forensic examination (“SAFE”) as soon as possible. The official will also explain that the criminal process uses different standards of proof, evidence, and that any questions about whether an incident violated criminal law should be addressed to a law enforcement official or a district attorney’s office.
- To disclose the incident to a college representative who can offer confidentiality or privacy and assist in obtaining services for reporting individuals. See Section IX, below.
- To describe the incident only to those campus officials who need the information in order to properly respond and to repeat the description as few times as practicable.
- To have complaints investigated in accordance with CUNY policy.
- To have privacy preserved to the extent possible.
- To receive assistance and resources on campus, including confidential and free on-campus counseling, and to be notified of other services available on- and off-campus, including the New York State Office of Victim Services.

- To disclose the incident to the college’s Human Resources Director or designee (if the accused is a college employee) or request that a confidential or private resource assist in doing so.
- To disclose the incident confidentially and obtain services from state and local governments.
- To receive assistance from the campus or others in filing a criminal complaint, initiating legal proceedings in family court or civil court, and /or seeking an Order of Protection or the equivalent. In New York City, this assistance is provided by Family Justice Centers located in each borough: <http://www1.nyc.gov/site/ocdv/programs/family-justice-centers.page>.
- To receive assistance with effecting an arrest when an individual violates an Order of Protection, which may be provided by assisting local law enforcement in effecting such an arrest.
- To withdraw a complaint or involvement from the process at any time.

Students can speak with confidential resources on a strictly confidential basis before determining whether to make a report to college authorities. See Section IX, below. Students also have the right to consult confidentially with state, local and private resources who can provide other assistance.

B. Where to File a Complaint on Campus

Students, employees and visitors who experience sexual misconduct should bring their complaints to one of these campus officials/offices:

- Title IX Coordinator;
- Office of Public Safety;
- Office of Vice President for Student Affairs or Dean of Students (students only);
- Residence Life staff in CUNY owned or operated housing (students and residence visitors only); and
- Human Resources Director (employees only).

Contact information for these officials can be found at <https://www1.cuny.edu/sites/title-ix/campus-websites/>.

There is no prescribed method for filing a complaint of sexual misconduct and the college will respond to complaints whether they are oral or written. Complainants may, but are not required to, fill out the CUNY Sexual Misconduct Complaint form (see page 38). After the form is filled out, it should be brought to one of the offices listed above.

Once any of the officials or offices above is notified of an incident of sexual misconduct, she/he will provide a copy of this Policy to the Complainant and coordinate with appropriate college offices to address the matter in accordance with this policy, including taking appropriate interim and supportive measures. These officials and offices will maintain a complainant’s privacy to the greatest extent possible, and all information in connection with the complaint, including the identities of the complainant and the respondent, will be shared only with those who have a legitimate need for the information.

Visitors: CUNY strongly encourages visitors to report all incidents of sexual misconduct that they observe or experience while on a CUNY campus or at a CUNY sponsored event to the Office of Public Safety, Residence Life staff, or other appropriate college officials listed above. In certain instances, CUNY may be able to offer those visitors who have experienced sexual misconduct with resources and assistance. For more information on such assistance, please visit <http://www1.cuny.edu/sites/title-ix/>.

C. Request that the College Maintain a Complainant's Confidentiality or Not Conduct an Investigation

After a report of an alleged incident of sexual misconduct is made to the Title IX Coordinator, a complainant may request (a) that the matter be investigated only to the extent possible without further revealing her/his identity or any details regarding the incident being divulged further (b) that no investigation into a particular incident be conducted, or (c) that an incident not be reported to outside law enforcement.

In all such cases, the Title IX Coordinator will weigh the complainant's request against the college's obligation to provide a safe, non-discriminatory environment for all students, employees and visitors, including the complainant. Factors used to determine whether to honor such a request include, but are not limited to: (a) whether the respondent has a history of violent behavior or is a repeat offender; (b) whether the incident represents escalation of unlawful conduct by the accused from previously noted behavior; (c) any increased risk that the accused will commit additional acts of violence, (d) whether the accused used a weapon or force; (e) whether the complainant is a minor; (f) whether the college possesses other means to obtain evidence such as security footage; and (g) whether available information reveals pattern of misconduct at a given location or by particular group.

A decision to maintain confidentiality does not mean that confidentiality can be absolutely guaranteed in all circumstances, but that reasonable efforts will be made to keep information confidential consistent with law. Notwithstanding the decision of the Title IX Coordinator regarding the scope of any investigation, the college will provide the complainant with ongoing assistance and support, including, where appropriate, the interim and supportive measures set forth in Section X of this policy.

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

D. Filing External Complaints

Complainants who feel that they have been subjected to unlawful sexual harassment and/or violence have the right to avail themselves of any and all of their rights under law, including but not limited to filing complaints with one or more of the outside agencies listed below.

- U.S. Department of Education, Office for Civil Rights
<http://www2.ed.gov/about/offices/list/ocr/complaintprocess.html>

- U.S. Equal Employment Opportunity Commission
https://www.eeoc.gov/federal/fed_employees/filing_complaint.cfm
- New York State Division of Human Rights
<https://dhr.ny.gov/complaint>
- New York City Commission on Human Rights
<http://www1.nyc.gov/site/cchr/about/resources.page>

E. Action by Bystanders and Other Community Members

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

In addition, CUNY encourages all community members to report any incident of sexual misconduct that they observe or become aware of to the Title IX Coordinator, or the offices of Public Safety, Vice President of Students Affairs (students), Dean of Students (students) or Human Resources (employees) at their college. Community members who take action in accordance with this paragraph will be supported by the college, and anyone who retaliates against them will be subject to disciplinary charges.

F. Amnesty for Drug and Alcohol Use

The health and safety of every student at CUNY is of the utmost importance. CUNY recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at a time that violence (including but not limited to sexual violence) occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. CUNY strongly encourages students to report sexual violence to college officials. A bystander or complainant acting in good faith who discloses any incident of sexual violence to college officials or law enforcement will not be subject to discipline under [CUNY’s Policy Against Drugs and Alcohol](#) for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the sexual violence.

This policy does not provide amnesty for drug dealers or those who use drugs or alcohol as a weapon or to facilitate assault. Under CUNY’s Amnesty for Drug and Alcohol Policy, personal drug use and possession, whether it is intentional or accidental, will not form the basis of faculty student disciplinary charges.

G. Reporting Suspected Child Abuse

Certain members of the CUNY community who interact with, supervise, chaperone, or otherwise oversee minors in programs or activities at CUNY or sponsored by CUNY are required to report immediately to the New York State Maltreatment Hotline if they have reasonable cause to suspect

abuse or maltreatment of individuals under the age of 18. Information regarding mandated child abuse reporting is available on the [Office of the General Counsel web page](#). If anyone other than New York State mandated reporters has reasonable cause to believe that a minor is being or has been abused or maltreated on campus, she/he should notify either the Title IX Coordinator or Director of Public Safety. If any CUNY community member witnesses child abuse while it is happening, she/he should immediately call 911.

H. Reporting Retaliation

An individual may file a complaint with the Title IX Coordinator if the individual has been retaliated against for reporting sexual misconduct, opposing in a reasonable manner an act or policy believed to constitute sexual misconduct, assisting someone making such a report, or participating in any manner in an investigation or resolution of a sexual misconduct complaint. All retaliation complaints will be investigated in accordance with the investigation procedures set forth in Section XI of this policy, and individuals who are found to have engaged in retaliation will be subject to disciplinary action.

IX. REPORTING/CONFIDENTIALITY OBLIGATIONS OF COLLEGE AND UNIVERSITY EMPLOYEES

An individual who speaks to a college or CUNY employee about sexual misconduct should be aware that employees fall into three categories:

- “confidential” employees, who have an obligation to maintain a complainant’s confidentiality regarding the incident(s);
- “responsible” employees, who are required to report the incident(s) to the Title IX Coordinator
- all other employees, who are strongly encouraged but not required to report the incident(s).

A. Confidential Employees

- i. **For Students.** Students at CUNY who wish to speak to someone who will keep all of the communications confidential should speak to one of the following:
 - Counselor or other staff member at their college counseling center;
 - Nurse, nurse practitioner or other college health office staff member;
 - Pastoral counselor, if available at the college; or
 - Designated staff member in a women’s or men’s center, if one exists at their college.

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

If a student speaks solely to a “confidential” employee, the college will rarely be able to conduct an investigation into the particular incident or pursue disciplinary action against

the alleged perpetrator. Confidential employees will assist students in obtaining other necessary support. A student who first requests confidentiality may later decide to file a complaint with the college or with local law enforcement.

- ii. **For Employees.** Although CUNY does not directly employ individuals to whom CUNY employees can speak on a confidential basis regarding sexual misconduct, free confidential support services are available through [CUNY's Work/Life Program](#), which is administered by an outside company. Confidential community counseling resources are also available [throughout New York City](#).

B. “Responsible” Employees – Private, but not confidential.

“Responsible” employees have a duty to report incidents of sexual misconduct, including all relevant details, to the Title IX Coordinator. Such employees are not permitted to maintain a complainant’s confidentiality, except that the Title IX Coordinator may honor a request for confidentiality under the circumstances described in Section VII above. However, these employees will maintain a complainant’s privacy to the greatest extent possible, and information reported to them will be shared only with the Title IX Coordinator and other people responsible for handling the college’s response to the report.

To the extent possible, before a complainant reveals any information to a responsible employee, the employee shall advise the complainant of the employee’s reporting obligations—and if the complainant wants to maintain confidentiality, direct the complainant to confidential resources identified above.

CUNY has designated the following individuals as “responsible” employees. Complainants who wish to report sexual violence are encouraged to speak with one of the responsible employees marked: *

- i. Title IX Coordinator and her/his staff
- ii. * Office of Public Safety employees (all)
- iii. * Vice President for Student Affairs or Dean of Students and all staff housed in those offices
- iv. * Residence Life staff in CUNY owned or operated housing, including Resident Assistants (all) (for students and housing visitors)
- v. * Human Resources staff (all) (for employees)
- vi. College President, Vice Presidents and Deans
- vii. Athletics Staff (all)
- viii. Faculty Athletics Representatives
- ix. Department Chairpersons/Executive Officers
- x. University Office of the General Counsel employees (all)
- xi. College/unit attorney and her/his staff
- xii. College/unit labor designee and her/his staff

- xiii. International Education Liaisons/Study Abroad Campus Directors and Field Directors
- xiv. Faculty and staff members at times when they are leading or supervising student on off-campus trips
- xv. Faculty or staff advisors to student groups
- xvi. Employees who are Managers or Supervisors (all)
- xvii. SEEK/College Discovery staff (all)
- xviii. College Childcare Center staff (all)
- xix. Directors of “Educational Opportunity Centers” affiliated with CUNY colleges
- xx. Faculty or staff academic advisors

C. All Other Employees

Employees other than those identified in subsections “A” and “B” above are strongly encouraged but not required to report any possible sexual misconduct to the Title IX Coordinator. They are also strongly encouraged to maintain individual privacy to the greatest extent possible by sharing information, including the identities of the complainant and the respondent, only with the Title IX coordinator.

It is important to emphasize that faculty members other than those specifically identified in sub-Section “B” above have not been designated as “responsible” employees and do not have an obligation to report the matter to the Title IX Coordinator, although they are strongly encouraged to do so. An individual who wishes to ensure that the Title IX Coordinator is notified of an incident is strongly encouraged to speak with the Title IX Coordinator or one of the other individuals identified above.

D. Special Rules Concerning Public Awareness and Advocacy Events

CUNY supports public awareness events that help provide its community with information about sexual misconduct and how it can be addressed and prevented. In order to preserve the ability to participate freely in public awareness and advocacy events, if an individual discloses information about sexual misconduct at such event (for example, Take Back the Night gatherings, candlelight vigils, or protests) the college will not treat the disclosure as triggering an obligation to commence an investigation based on that information. Such individuals are encouraged to report sexual misconduct to college officials so that the college can provide resources and assistance.

X. NO CONTACT ORDERS AND OTHER INTERIM AND SUPPORTIVE MEASURES

When a college becomes aware of an allegation of sexual misconduct and the complainant or other affected parties request interim or supportive measures, the college will take appropriate interim and supportive measures to protect the complainant and other affected parties, to assist the parties, and to protect against retaliation. Appropriate interim and supportive measures may also be available to respondents. The college may also take interim measures to protect the college community at large.

The college's Title IX Coordinator is responsible for coordinating interim and supportive measures, which are available even if the complainant chooses not to file or continue to pursue a complaint. Requests for interim and supportive measures should be made to the Title IX Coordinator.

The Title IX Coordinator will work with the Chief Student Affairs Officer to identify a trained staff member to assist students to obtain interim and supporting measures. The Title IX Coordinator will work with the Human Resources Director to assist employee complainants to obtain interim and supporting measures.

A. No Contact Orders

When respondent is a student, the complainant has the right to a college-issued "no contact order" under which continued intentional contact with the complainant would violate this policy. No contact orders may be issued for both the complainant and the respondent, as well as other individuals as appropriate.

B. Types of Interim and Supportive Measures

Possible interim and supportive measures include:

- i. Making appropriate changes to academic programs, including changes in class schedule, accommodations to permit the complainant to take an incomplete or drop a course or courses without penalty, permitting complainant or respondent to attend a class via skype or other alternative means, providing an academic tutor, or extending deadlines for assignments;
- ii. Making appropriate changes to residential housing situations or providing assistance in finding alternate housing;
- iii. Changing an employee's work assignment or schedule;
- iv. Providing the complainant with an escort to and from class or campus work location;
- v. Arranging appropriate transportation services to ensure safety;
- vi. Offering counseling services through the college Counseling Center or other appropriate office, or referral to an off-campus agency;
- vii. Assisting the complainant in obtaining medical and other services, including access to rape crisis centers;
- viii. Assisting the complainant with filing a criminal complaint and/or seeking an order of protection;
- ix. Enforcing an order of protection;
- x. Obtaining a copy and/or explaining the terms of an order of protection and the consequences of violating it;
- xi. Addressing situations in which it appears that a complainant's academic progress is affected by the alleged incident;
- xii. In exceptional circumstances, where a respondent is determined to present a continuing threat to the health and safety of the community, the college may seek an emergency interim suspension of a student or take similar emergency measures against an employee, consistent with applicable CUNY Bylaws, rules, policies and collective bargaining agreements. The Office of Public Safety will, in cooperation with the Title IX Coordinator

and appropriate other campus officials, determine whether a respondent presents a continuing threat to the health and safety of the campus, including (a) whether the respondent has a history of violent behavior or is a repeat offender; (b) whether the incident represents escalation in unlawful conduct by the accused; and (c) any increased risk that the accused will commit additional acts of violence.

C. Interim Emergency Student Suspensions

The president or her/his designee may in emergency or extraordinary circumstances, temporarily suspend a student pending an early hearing for not more than twelve (12) calendar days, unless the student requests an adjournment. See Section B above.

Prior to the commencement of a temporary suspension of a student, the college shall give the student respondent oral notice (which shall be confirmed via email to the address appearing on the records of the college) or written notice of the charges. If the respondent denies them, the college shall forthwith give the respondent an informal oral explanation of the evidence supporting the charges and the student may present informally her/his explanation or theory of the matter.

Both complainant and the respondent will be notified of the suspension and if or when it the suspension is lifted at the same time and in the same manner.

D. Process for Review of Interim Measures, including “No Contact” Orders and Interim Suspensions.

Upon request, the complainant and the respondent shall each be afforded a prompt review of the need for and terms of restrictive interim measures, including “no contact” orders and interim suspensions. Issues that may be raised include possible modification or discontinuance of a “no contact” order. Complainants and respondents shall be allowed to submit evidence to support their request. The request shall be made to the college’s Chief Student Affairs Officer, if either the complainant or the respondent is a student, or to the college’s Human Resources Director, if neither the complainant nor the respondent are students. If a request is made in a case involving both a student and an employee, the Chief Student Affairs Officer shall consult with the Human Resources Director. The Chief Student Affairs Officer or Human Resources Director may consult with the Title IX Coordinator and other relevant officials regarding the request. If appropriate and possible, the college may establish an appropriate schedule for the complainant and the respondent to access college facilities when they are not being used by the other party to enable both parties to use college facilities to the maximum extent feasible, without violation of the “no contact” order.

Requests for accommodations that were made under CUNY’s Procedures for Implementing Reasonable Accommodations and Academic Adjustments and do not directly affect the other party are governed by the appeals provisions set forth in those Procedures.

XI. INVESTIGATING COMPLAINTS OF SEXUAL MISCONDUCT

The college will conduct an investigation when it becomes aware, from any source (including third-parties not connected to the college or university), that sexual misconduct may have been committed against a student, employee or visitor, unless the information provided is insufficient to permit an investigation or the complainant has requested that the college refrain from such an investigation and the college has determined that refraining from an investigation will not result in a continuing threat to the college community. See Section VIII, above.

A. Rights of the Complainant and Respondent.

Whenever an investigation takes place, the complainant and respondent shall have these rights:

- to an investigation and process that is fair, impartial, timely and thorough and provides a meaningful opportunity to be heard;
- to have the complaint investigated and/or adjudicated by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, and the rights of the respondent, including the right to a presumption that the respondent is "not responsible" until any finding of responsibility;
- to have the college's judicial or conduct process run concurrently with any criminal justice investigation and proceeding, except for temporary delays requested by external municipal entities while law enforcement gathers evidence;
- to receive reasonable advance written or electronic notice of any meeting they are required to or eligible to attend, of the specific rule or law alleged to have been violated and in what manner;
- to exclude their own prior sexual history with persons other than the other party in the conduct process or their own mental health diagnosis and/or treatment from admittance in the stage that determines responsibility. (Past findings of sexual misconduct may be admissible in the stage that determines sanction.)
- to offer evidence during the investigation;
- to review documents and tangible evidence, consistent with FERPA and other law;
- to be accompanied by an attorney or other advisor of their choice, who may assist and advise the complainant or respondent throughout the process including during all related meetings and hearings. Such attorneys or advisors must comply with the CUNY policies and procedures; and
- to simultaneous notice of the outcome of proceedings.

B. The Investigation

The college Title IX Coordinator is responsible for conducting any investigation in a prompt, thorough, and impartial manner and may designate another appropriately trained administrator to conduct all or part of the investigation. Whenever an investigation is conducted, the Title IX Coordinator shall:

- coordinate investigative efforts with other appropriate offices;
- inform the complainant that an investigation is being commenced and that the respondent will receive a written summary of the allegations;
- inform the respondent that an investigation is being commenced and provide the respondent with a written summary of the allegations of the complaint. A respondent employee who is covered by a collective bargaining agreement may consult with and have a union representative present at any interview of that employee conducted as part of such investigation;
- interview witnesses who might reasonably be expected to provide information relevant to the allegations, and review relevant documents and evidence. Both the complainant and respondent shall be informed that they have the right to provide relevant documents and to propose for interview witnesses whom they reasonably believe can provide relevant information.

Neither the complainant nor the respondent is restricted from discussing and sharing information related to the complaint with others who may support or assist them. This does not, however, permit unreasonable sharing of private information in a manner intended to harm or embarrass another, or in a manner that would recklessly do so regardless of intention. Such unreasonable sharing may constitute retaliation under this Policy.

The college Title IX Coordinator shall maintain all documents of the investigation in accordance with the [CUNY Records Retention and Disposition Policy](#).

The college shall make reasonable efforts to ensure that the investigation and resolution of a complaint are carried out as timely and efficiently as possible. However, the college may need to temporarily delay the fact-finding portion of its investigation during the evidence-gathering phase of a law enforcement investigation. Temporary delays will generally not last more than ten days except when law enforcement specifically requests and justifies a longer delay. While some complaints may require more extensive investigation, when possible, the investigation of complaints should be completed within sixty (60) calendar days of the receipt of the complaint. If there is a delay in completing the investigation, the Title IX Coordinator shall notify the complainant and the respondent in writing.

i. Role of the Advisor

In cases involving this Policy, both the complainant and respondent may be accompanied by an advisor of their choice (including an attorney) who may advise throughout the entire process, including all meetings and hearings. While advisors may represent a party and fully participate at a hearing, they may not speak during the meetings that proceed the hearing nor give testimony as a witness at the hearing.

C. Conflicts

If a complainant or respondent believes that any individual involved in the investigatory or adjudication process has a conflict of interest, he or she may make a request to the Chief Student Affairs Officer (or, if no students are involved, to the Legal or Labor Designee) to have that conflicted individual removed from the process. The request for removal must be in writing within five days of the complaint or respondent's notification that the individual is to be involved and include a detailed description of the conflict. If the Chief Student Affairs Officer (or Legal or Labor Designee) determines that a conflict does exist, he or she will take immediate steps to address the conflict in order to ensure an impartial and fair process.

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

D. Informal Resolution

Except in instances involving sexual assault, the Title IX Coordinator, in his or her discretion, may offer the respondent and the complainant the opportunity to participate in the informal resolution process. Informal resolution may take place after the Title IX Coordinator has completed the investigation, but before the Title IX report has been completed, in an effort to resolve the matter by mutual agreement. The informal resolution process shall be conducted by the Title IX Coordinator, or by a qualified staff or faculty member designated by Title IX Coordinator, in coordination with the Chief Student Affairs Officer.

Both the complainant and the respondent have the right to end the informal resolution process at any time. Any informal resolution must be acceptable to the complainant, the respondent, and the Title IX Coordinator. Even if both the respondent and complainant agree to a resolution, the Title IX Coordinator must also agree with the resolution for it to be final.

If a resolution is reached, the complainant and the respondent shall be notified in writing, and the Title IX Coordinator will confer with the Chief Student Affairs Officer when creating a written memorandum memorializing the agreed upon resolution and consequences for non-compliance. This memorandum will be included in the respondent's student record.

If no agreement is reached within a reasonable time, the Title IX Coordinator shall complete the Title IX report and take action in accordance with subsection E below. Information learned during and directly from the informal resolution process will not be documented in the Title IX report.

E. Action Following the Investigation or Closure of a Complaint.

- i. Within 30 days following the completion of an investigation, the Title IX Coordinator shall report her/his findings to the College President in writing ("Report of Findings"). In the event the complainant or the respondent is a student, the report shall also be sent to the

Chief Student Affairs Officer. A copy of the report shall be maintained in the files of the Title IX Coordinator.

- ii. In making findings regarding the allegations, the Title IX Coordinator shall use the “preponderance of the evidence” standard.
- iii. Following receipt of the Report of Findings, the College President shall, when warranted by the facts, authorize such action as she/he deems necessary to address the issues raised in the Report of Findings, including action to correct the effects of the conduct investigated or prevent further harm to an affected party or others similarly situated. This may include a recommendation that disciplinary action be commenced against a respondent, as set forth in Section XII below.
- iv. Within 30 calendar days following the termination of an investigation that has not been completed (for example, because it was resolved by informal resolution or the complainant withdrew cooperation); the Title IX Coordinator will summarize for the file the actions taken in response to the complaint and the basis on which the investigation was closed.

F. Malicious Allegations

Members of the CUNY community who make false and malicious complaints of violations of this policy of as opposed to complaints which, even if erroneous, are made in good faith, may be subject to disciplinary action.

XII. DISCIPLINARY PROCESS AND PROCEDURES

A. Disciplinary Action

If the College President recommends that disciplinary action be commenced against a respondent student or employee for violations of this Policy, the following procedures shall apply:

Discipline Against Students:

- a. In cases where a College President recommends discipline against a student for violations of this Policy, the matter shall be referred to the college’s Office of Student Affairs and action shall be taken in accordance with Section 11.A-C of this Policy, below. This Section provides for, among other things, a Faculty-Student Disciplinary Committee consisting of faculty members, students and in some cases staff members specially trained to hear and decide charges of violation of this Policy.
- b. As described in Sections XI above, complainants have the same rights as respondents:
 - to receive notice of the charges, including the date, time, location and factual allegations, concerning alleged violation of this Policy;
 - to receive notice of the specific provisions alleged to have been violated and possible sanctions;
 - to present evidence and testimony at any hearing, where appropriate;
 - to be represented by an attorney or advisor of their choice;

- to receive access to a full and fair record of any hearing;
 - to receive written notice of the decision of the faculty-student disciplinary committee, specifically whether the allegations were substantiated and what, if any, penalty was imposed;
 - to make an impact statement at the point when the decision maker is deliberating on appropriate sanctions;
 - To written notice of findings of fact, decisions and sanctions if any, as well as the rationale for the decision and any sanction;
 - to choose whether to or discuss the outcome of a conduct or judicial process;
 - to appeal to a decision maker that is fair and impartial and does not include individuals with conflicts of interest;
 - to have all information obtained during the conduct process protected from public release until a decision maker on appeal makes a final determination, unless otherwise required by law.
- c. Penalties for students instituted after a hearing before the faculty-student disciplinary committee range from a warning to suspension or expulsion from the University. Students accused of crimes of violence are also subject to the university's policy on transcript notations which is discussed in this Section below.

Discipline Against Employees

In cases where the college President recommends discipline against an employee, the matter shall be referred for disciplinary action in accordance with the applicable CUNY policies, rules and collective bargaining agreements. Penalties for employees include, depending on the employee's title, reprimand, suspension, demotion, fine, or termination of employment following applicable disciplinary procedures. For many respondent employees, these procedures may include a hearing before a non-CUNY fact-finder, as required by the particular collective bargaining agreement.

For additional information on the disciplinary process in specific cases, complainants should consult their campus Title IX Coordinator, who will work with campus Human Resources Director to provide information. Respondents should consult their union representative, if any, or campus Human Resources Director.

Action Against Visitors

In cases where the person accused of sexual misconduct is not a CUNY student or employee, the college's ability to take action against the accused is usually extremely limited. However, the college shall take all appropriate actions within its control, such as restricting the visitor's access to campus. In addition, subject to Section VI, above, the matter may be referred to local law enforcement for legal action, including seeking Orders of Protection and/or reporting to local law

enforcement, where appropriate. College Public Safety will assist both students and employees in enforcing Orders of Protection on the campus.

No Disciplinary Action

In cases where a determination is made not to bring disciplinary action, the Title IX Coordinator shall inform the complainant and respondent of that decision at the same time, in writing, and shall offer any appropriate support services, including counseling, to both.

B. Student Disciplinary Procedures

Referral of Violation for Disciplinary Action

If the President decides that discipline is warranted, the President will refer the matter to the Chief Student Affairs Officer for further action. The chief student affairs officer may rely on the investigation and determination of the Title IX Coordinator and prefer disciplinary charges.

In instances where a respondent is alleged to have violated this Policy as well as other CUNY policies, rules or bylaws, the entire matter will be heard before the Faculty Student Disciplinary Committee and will follow the rules and procedures outlined in this Policy.

Respondent Withdrawal Before Completion of the Process

In the event that a respondent withdraws from the college before a decision is rendered on the charges, the respondent is required to participate in the disciplinary hearing or otherwise to resolve the pending charges and shall be barred from attending any other unit of the university until a decision on the charges is made, or the charges are otherwise resolved.

Immediately following such withdrawal, the college shall place a notation on the respondent's transcript that the respondent "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.

Issuance of Charges & Notice of Hearing

Notice of the charge(s) and of the time and place of the hearing shall be sent to the respondent by both first-class mail and email to the address appearing on the records of the college. Notice shall also be sent in a similar manner to the complainant to the extent that charges relate to the complainant. The Chief Student Affairs Officer is also encouraged to send the notice of charges to any other e-mail address that he or she may have for the respondent and the complainant.

The hearing shall be scheduled within a reasonable time following the filing of the charges or the mediation conference. Notice of at least seven (7) calendar days shall be given to the respondent in advance of the hearing unless the respondent consents to an earlier hearing. The respondent is permitted one (1) adjournment, for a reasonable amount of time under the circumstances, without specifying a reason. 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 without the respondent present, and any decision and sanction shall be binding.

Content of Notice of Charges and Hearing

The notice shall contain the following:

- A. A complete and itemized statement of the charge(s) being brought against the respondent including the policy, rule and/or bylaw the respondent is charged with violating, and the possible penalties for such violation.
- B. 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, the exception being that the complainant and respondent may not cross-examine each other as discussed below;
 - iv. for the respondent to remain silent without assumption of guilt; and
 - v. to be represented by an advisor or legal counsel at their expense; if the respondent or the complainant requests it, the college shall assist in finding a legal counsel or advisor.
 - vi. A warning that anything the respondent says may be used against the respondent at a non-college hearing.

Review of Evidence before Hearing:

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 documents or other tangible evidence that the college intends to use at the disciplinary hearing, consistent with the restrictions imposed by the Family Educational Rights and Privacy Act ("FERPA"). Should the college seek to introduce additional documents or other tangible evidence during 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, adjournment of the hearing as necessary in the interest of fairness, to permit the requesting party time to review the newly produced evidence.

Admission & Acceptance of Penalty

After the charges have been preferred by the chief student affairs officer, 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. If required by this Policy, the agreed-upon penalty

shall be placed on the respondent's transcript consistent with CUNY's policy on Transcript Notations (see below). Before resolving a complaint in this manner, the chief student affairs officer, or designee, shall first consult with the complainant and provide the complainant with 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 statement of the reasons supporting such resolution, and the complainant may appeal the resolution to the college President.

C. Faculty Student Disciplinary Committee Structure:

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.

The president shall select in consultation with the head of the appropriate campus governance body or where the president is the head of the governance body, its executive committee, three (3) members of the faculty of that college to receive training upon appointment and to serve in rotation as chairperson of the disciplinary committee. The following schools shall be required to select two (2) chairpersons: CUNY School of Law, Guttman Community College, CUNY School of Professional Studies, and the CUNY School of Journalism. If none of the chairpersons appointed from the campus can serve, the president, at her/his discretion, may request that a chairperson be selected by lottery from the entire group of chairpersons appointed by other colleges. The chairperson shall preside at all meetings of the faculty-student disciplinary committee and decide and make all rulings for the committee. She/he shall not be a voting member of the committee but shall vote in the event of a tie.

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. Members of the panel shall be trained on an annual basis in compliance with the law and this Policy. CUNY School of Law, Guttman Community College, CUNY School of Professional Studies, and the CUNY School of Journalism shall be required to select four (4) faculty members. The HEO members shall be selected by lot from a panel of six (6) HEO appointed biennially by the president. CUNY School of Law, Guttman Community College, CUNY School of Professional Studies, and the CUNY School of Journalism shall be required to select four (4) HEO's. The student members shall be selected by lot from a panel of six (6) elected annually in an election in which all students registered at the college shall be eligible to vote. CUNY School of Law, Guttman Community College, CUNY School of Professional Studies, and the CUNY School of Journalism shall be required to select four (4) students. In the event that the student or faculty panel or both are not elected, or if more panel members are needed, the president shall have the duty to select the panel or panels which have not been elected.

In the event that the chairperson cannot continue, the president shall appoint another chairperson. In the event that a seat becomes vacant and it is necessary to fill the seat to

continue the hearing, the seat shall be filled from the respective faculty, HEO, or student panel by lottery

Each academic year, the chief student affairs officer, 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

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

Roles and Responsibilities of Individuals during the Hearing

a. Role and Responsibilities of Panel Chairperson:

The chairperson shall preside at the hearing. The parties to the hearing are the college, the respondent, and if the complainant chooses to participate, the complainant. At the commencement of the hearing, the chairperson shall inform the respondent of the charges, the hearing procedures, and her or his rights. After informing the respondent of the charges, the hearing procedures, and respondent's rights, the chairperson shall ask the respondent to state whether he or she is responsible or not responsible for the conduct. 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 shall rule on any motions regarding the admissibility of evidence and may exclude irrelevant, unreliable or unduly repetitive evidence. The chairperson shall exclude from the hearing room all persons who are to appear as witnesses, except the respondent and the complainant.

The chairperson shall preside at all hearing sessions and meetings and make all rulings for the panel. The chairperson has discretion to limit the number of witnesses and the length of testimony for the presentations by any party and/or their representative. All hearings pursuant to this Policy shall be closed hearings. The chairperson shall not be a voting member of the panel but shall vote in the event of a tie. In the event that the chairperson cannot continue, the President, or his or his designee, shall appoint another chairperson from the committee. In the event that a seat on the panel becomes vacant and it is necessary to fill the seat to continue the hearing, the seat shall be filled from the respective faculty, HEO, or student committee members by lot.

b. Presenters:

Each academic year, the chief student affairs officer at each College or designee shall identify one or more college employees to serve as presenters for the hearings. This list will be forwarded to the Offices of the Vice Chancellor for Student Affairs and General Counsel and Vice Chancellor for Legal Affairs prior to the first day of the academic year. The employee who serves as presenter during the hearing shall be from the same institution as the respondent.

c. Recording of Proceeding

The college shall make a recording of each fact-finding hearing by some means such as a stenographic transcript, an audio recording or the equivalent. No other recording of the proceedings shall 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 advisor. 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 advisors.

Basic Hearing Rules:

If, at the commencement of the hearing, the respondent admits the conduct charged, the respondent shall be given an opportunity to explain her/his actions before the hearing panel and the college shall be given an opportunity to respond and present evidence regarding the appropriate penalty. If the respondent denies the conduct charged, the college shall present its evidence. At the conclusion of the college's presentation, the respondent may move to dismiss the charges. If the motion is denied by the committee, the complainant, if the complainant chooses to participate, shall be given an opportunity to make a presentation. After the college's, and, if complainant chooses to participate, complainant's presentation, the Respondent shall be given an opportunity to make a presentation.

The college bears the burden of proving the charge(s) by a preponderance of the evidence. The role of the hearing panel 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 make a decision as to responsibility. In the event the respondent is found responsible for the conduct, the committee shall then determine the penalty to be imposed.

The college, the respondent and the complainant are permitted to have advisors act on their behalf during the pendency of a hearing, which shall include the calling and examining of witnesses, and presenting evidence. Any party intending to appear with an attorney shall give the other party five (5) calendar days' notice of such representation.

Neither the respondent nor the complainant shall be permitted to cross-examine the other directly. Rather, if they choose to, the respondent and the complainant shall cross-examine each other only through an advisor. If either or both of them do not have an advisor, the college shall assist them to find an advisor 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, in the chairperson's discretion.

Responsibility Phase

The following rules apply to the introduction of evidence at the hearing: Evidence of the mental health diagnosis and/or treatment of a complainant, respondent, or witness may not be introduced; and b) evidence of either party's prior sexual history may not be introduced except that (i) evidence of prior sexual history between complainant and respondent is admissible at any stage of the hearing, and (ii) past findings of domestic

violence, dating violence, stalking, or sexual assault may be admissible in the stage of that hearing related to penalty.

Penalty Phase

If the panel has found the Respondent responsible for the conduct, then the complainant, respondent, and college, will have the opportunity to introduce evidence and make arguments related what the appropriate penalty should be. The complainant, respondent and college will also have the opportunity to introduce evidence of and comment on the respondent's character, including any past findings of a respondent's responsibility for domestic violence, stalking, or sexual assault or any other sexual misconduct, and submit a statement regarding the impact of the conduct.

The College may also introduce a copy of the respondent's previous disciplinary records, if any, from any CUNY institution the respondent has attended, provided the respondent was shown a copy of the records prior to the commencement of the hearing. The previous disciplinary record shall be submitted to the panel in a sealed envelope, bearing the respondent's signature across the seal, and shall only be opened if the respondent has been found responsible for the conduct charged. The hearing panel, to determine an appropriate penalty, shall use the disciplinary records, as well as any documents or character evidence introduced by the respondent, the complainant, or the college.

If either the complainant or the respondent chose not to participate in the hearing, they still have the opportunity to introduce evidence and make arguments related what the appropriate penalty should be and to provide or make an impact statement.

ii. Decision

The panel shall issue a written decision, which shall be based solely on the testimony and evidence presented at the hearing, including the penalty phase. The college shall send to the respondent a copy of the panel's decision within seven (7) calendar days of the conclusion of the hearing, by regular mail and e-mail to the address appearing on the records of the college. In cases involving two or more complainants or respondents, the college has fourteen (14) calendar days of the conclusion of the hearing to send the panel's decision. The college is also encouraged to send the decision to any other e-mail address that it 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, the complainant shall simultaneously receive notice of the outcome of the faculty-student disciplinary committee's decision as it relates to the offense(s) committed against the complainant, in the same manner as notice is given to the respondent.

When a disciplinary hearing results in a penalty of dismissal or suspension for one term or more, the decision is a faculty-student disciplinary committee 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.

iii. Appeals/Review

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

If the penalty after appeal to the president is one of dismissal or suspension for one term or more, a respondent or a complainant may appeal to the board committee on student affairs and special programs. The board may dispose of the appeal in the same manner as the president

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

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

iv. Transcript Notation(s)

In cases in which the panel finds the respondent responsible and the penalty is either suspension or expulsion, the college shall place a notation on the respondent's transcript stating that respondent was suspended or expelled after a finding of responsibility for a code of conduct violation. In cases where a student has been expelled as a result of a Clery Act crime of violence, the notation will not be removed.

For all other cases, after four years from the date of the conclusion of the disciplinary proceeding, or one year after the conclusion of any suspension, whichever is later, the Respondent has the right to request that a transcript notation from a finding of responsibility be removed. If a finding of responsibility for any violation is vacated for any reason, the notation shall be removed.

XIII. COLLEGE OBLIGATIONS UNDER THIS POLICY

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

a. Dissemination of Policies, Procedures and Notices

The college Title IX Coordinator, in coordination with the Office of Student Affairs, Office of Public Safety, Human Resources Department and other appropriate offices, is responsible for the wide dissemination of the following on her/his campus: (i) this Policy; (ii) CUNY's Notice of Non-Discrimination; (iii) the Title IX Coordinator's name, phone number, office location, and email address; and (iv) contact information for the campus Public Safety Office. Such dissemination shall include posting the documents and information on the college website, and including it in residence life materials and training and educational materials. In addition, the Students' Bill of Rights, which is appended to and made a part of this policy, must be distributed to any individual reporting an incident of sexual misconduct at the time the report is made. It must also be distributed annually to all students, made available on the college's website and posted in college campus centers and in CUNY owned and operated housing.

b. Training and Educational Programming

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

i. Training For Responsible and Confidential Employees

The college shall provide training to all employees who are required to report incidents of sexual misconduct under this policy, as well as those employees who have been designated as confidential employees.

ii. Training For Title IX Coordinator and other investigators

CUNY shall provide at least annual training to Title IX Coordinators and other investigators in conducting investigations of sexual misconduct, including

- the effects of trauma;
- impartiality;
- the rights of the respondent, include the right to a presumption that the respondent is "not responsible" until any finding of responsibility is made;

- relevant CUNY policies and procedures; and
- other issues including what constitutes crimes of sexual misconduct.

iii. Student Onboarding and Ongoing Education

Each college shall adopt a comprehensive student onboarding and ongoing education campaign to educate students about sexual misconduct, including domestic violence, dating violence, stalking, and sexual assault. During the student onboarding process, all new first-year and transfer students shall receive training on this policy and on a variety of topics relating to sexual misconduct. In addition, each college shall offer and administer appropriate educational programming to residence hall students, athletes, and student leaders. Each college shall also provide such educational programming to any other student groups which the college determines could benefit from education in the area of sexual misconduct. The college shall also share information on domestic violence, dating violence, stalking and sexual assault prevention with parents of enrolling students. This may be done by linking to <http://www1.cuny.edu/sites/title-ix/information-for-parents-and-families/campus/university/>

c. Campus Climate Assessments

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

XIV. Rules Regarding Intimate Relationships

d. 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 misconduct.

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

e. Relationships between Supervisors and Employees

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

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

The City University of New York
Students' Bill of Rights

For CUNY students who experience Sexual Violence, including sexual assault; domestic, dating or, intimate partner violence, stalking or voyeurism

All students have the right to

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institutional representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Have access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

This *Student Bill of Rights* was established by the “Enough is Enough” Law, New York State Education Law Article 129-B, effective October 7, 2015.

For more information about preventing and addressing Sexual Violence at CUNY see <http://www1.cuny.edu/sites/title-ix/campus-websites>.

Information about filing a report, seeking a response, and options for confidential disclosure is available also available [CUNY's Title IX web page](#).

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

Policy adopted by the Board of Trustees on 12/1/2014 Cal. 4.C., with effective date of 1/1/2015.
Amended by the Board of Trustees on 10/1/2015. Cal. 6.B. Adopted as revised by BOT on
6/25/2018. Cal.9.A.

Appendix 3

Fiorello H. LaGuardia Community College

The City University of New York Policy on Equal Opportunity and Non-Discrimination

2016

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.¹

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

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 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 NON- DISCRIMINATION¹

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](#).

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](#).

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

¹ 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.

investigation. 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 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 President² 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 with a written summary 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.

² 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. 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 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.

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.

New York City Pregnant Workers Fairness Act provides that employers provide pregnant employees with reasonable accommodations for the employee's pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.



DARE TO DO MORE

Community College

September 24, 2020

VIA ELECTRONIC MAIL

Charise Terry, Executive Director

New York City Equal Employment Practices Commission

253 Broadway, Suite 602

New York, NY 10007

Re: Audit: Evaluation of Sexual Harassment Prevention and Response Practices- Audit Period- January 1, 2018 to December 31, 2019
Optional Response to Preliminary Determination

Dear Charise:

Fiorello H. LaGuardia Community College (the College) is writing in response to the New York City Equal Employment Practices Commission (the Commission) Preliminary Determination: Audit Evaluation of Sexual Harassment Prevention and Response Practices- Audit Period- January 1, 2018 to December 31, 2019 (Preliminary Determination) received by College's President and Principal EEO Professional on September 11, 2020. The College appreciates the efforts of the Commission to ensure that the College continues building on its commitment to diversity, equal employment, and affirmative action. Please find the College's response to the Commission's Preliminary Determination below:

1. **Response to Corrective Action #1:**

- a. Please find attached to this response as Exhibit A an email sent by the College's Chief Diversity Officer/Title IX Coordinator to [REDACTED], the City University of New York's Director of Talent Acquisition. This email, dated September 24, 2020, requests that the *CUNY Policy on Equal Opportunity and Non-Discrimination* be revised to include the provisions noted in Corrective Action #1 as it relates to the *CUNY Policy on Equal Opportunity and Non-Discrimination*.
- b. Please find attached to this response as Exhibit B an email sent by the College's Chief Diversity Officer/Title IX Coordinator to [REDACTED], the City University of New York's Title IX Coordinator. This email, dated September 24, 2020, requests that the *CUNY Policy on Sexual Misconduct* be revised

include the provisions noted in Corrective Action #1 as it relates to the *CUNY Policy Sexual Misconduct*.

- c. Please find attached to this response as Exhibit C the newly revised (August 14, 2020) *CUNY Policy on Sexual Misconduct*. The newly revised policy addresses many of the deficiencies noted in Notes section leading to Corrective Action #1, specifically the requirement that the complainant and respondent be notified in writing when the investigation by the EEO Professional has been transferred because of the filing of an external complaint and the requirement to specify in the complaint file the reason for the delay and a projected timeframe for completion of the report. The revised policy is already on the Compliance/Diversity/Title IX website, and the pertinent parts of Exhibit C are highlighted for your convenience.
2. **Response to Corrective Action #2:**
 - a. Please find attached to this response as Exhibit D the email tickler system utilized by the College's Chief Diversity Officer/Title IX Coordinator as of September 24, 2020, to ensure, moving forward, that 30 day reminders will be sent regarding each new complaint received.
3. **Response to Corrective Action #3:**
 - a. The College's Chief Diversity Officer/Title IX Coordinator will work with his supervisor, the Executive Counsel to the President/Labor Designee, to ensure that all discrimination and sexual misconduct complaints that go passed 90 days will include a reason and expected time frame completion in the case file and that all parties will be notified of the delay.
 - b. Please find attached to this response as Exhibit C the revised *CUNY Policy on Sexual Misconduct*, which requires that complaint parties be made aware of delays in their investigations.
4. **Response to Corrective Action #4:**
 - a. Please find attached to this response as Exhibit E the Executive Counsel to the President's job description at the time of hire. Exhibit E includes the responsibility of providing legal advice regarding labor and employment law, the responsibility to provide guidance on the implementation of College policies (including but not limited to the *CUNY Policy on Sexual Misconduct*), and the responsibility to respond to a variety of requests such as employment

discrimination complaints from the Equal Employment Opportunities Commission and the New York State Division on Human Rights. The pertinent sections of Exhibit E are highlighted for your convenience.

5. **Response to Corrective Action #5:**

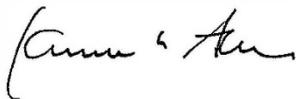
- a. The College's Chief Diversity Officer/Title IX Coordinator will work to ensure that they, the College's Executive Director of Human Resources, and the College's Executive Counsel to the President will meet biannually to review the number of sexual harassment complaints, and the College's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies, and that the College will keep a log of these meetings in the Office of the Chief Diversity Officer/Title IX Coordinator. These meetings will occur in the months of November and May.
- b. I note that the College is currently preparing a job posting to replace the Executive Director of Human Resources, who left the College on September 11, 2020.

6. **Response to Corrective Action #6:**

- a. The College's Chief Diversity Officer/Title IX Coordinator and the newly selected President of the College are scheduled to meet October 8, November 11, and December 11, 2020, to discuss, among other topics, the newly revised *CUNY Policy on Sexual Misconduct*, case load and case management, and the potential for a Sexual Harassment Advisory Council for the College.
- b. Please be advised that the College had an interim-president from the dates of August 2, 2019 to August 16, 2020.

Please contact my office with any additional questions or concerns regarding the documentation provided, or with any need for further clarification or documentation.

Sincerely,



Kenneth Adams
President
LaGuardia Community College



Sasha Neha Ahuja
Chair

Angela Cabrera
Elaine S. Reiss, Esq.
Arva R. Rice
Commissioners

Charise L. Terry
Executive Director

Jennifer Shaw, Esq.
Executive Agency Counsel/
Director of Compliance

253 Broadway
Suite 602
New York, NY 10007

212. 615. 8939 tel.
212. 676.2724 fax

BY EMAIL

September 30, 2020

Kenneth Adams
President
Fiorello H. LaGuardia Community College
31-10 Thomson Avenue
Long Island City, NY 11101

Audit Status:

Evaluation of Sexual Harassment Prevention and Response Practices for Audit
Period January 1, 2018 to December 31, 2019.

Determination: FINAL

Resolution #: 2020AP/243-469-(2020)

Dear President Adams:

On behalf of the members of the Equal Employment Practices Commission (EEPC), thank you for the continued cooperation extended to our staff. This document serves as a follow-up evaluation and Final Determination to the following:

Preliminary Determination Issued on: September 11, 2020

Response Received: September 24, 2020

Purpose

Chapter 35, Sections 815(a)(15) and (19) of the New York City Charter (Charter) calls for agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity (EEO) for minority group members and women.

Charter Chapter 36, Sections 830(a) and 831(d)(2) and (5) authorize the EEPC to audit, review, evaluate, and monitor the employment practices, procedures, and programs of city agencies and other municipal entities, hereinafter "entities," and their efforts to ensure fair and effective EEO for women and minority employees and applicants. Charter Sections 831(d)(2) and 832(c) authorize the EEPC to make a determination that any plan, program, procedure, approach, measure, or standard does not provide

equal employment opportunity, require appropriate corrective action, and monitor the implementation of the corrective action prescribed. The attachment contains the EEPC's final determination regarding the audit, review, and evaluation of the Fiorello H. LaGuardia Community College's Sexual Harassment Prevention and Response Practices.

As the Fiorello H. LaGuardia Community College (LaGuardia) falls within the EEPC's purview under Charter Chapter 36, Section 831(a), the EEPC is authorized to review, evaluate, and monitor the coordination and implementation of its affirmative employment programs of EEO and related practices. As indicated in our Preliminary Determination, the EEPC has adopted uniform standards¹ to this end. The purpose of this Final Determination, as authorized by Charter Chapter 36, Section 832(c), is to determine the sufficiency of the Fiorello H. LaGuardia Community College's actions taken or planned thus far to correct areas of non-compliance identified in the EEPC's Preliminary Determination. Further, Chapter 36, Section 832(c) requires that: (1) the EEPC assign a compliance-monitoring period of up to six (6) months to monitor efforts taken to eliminate areas of non-compliance, if any; and (2) the agency respond in thirty (30) days and submit a report each month during this period on the progress of efforts taken to correct outstanding areas of non-compliance.

Next Steps

The assigned compliance-monitoring period is: October 1, 2020 to March 31, 2021. Correcting all outstanding areas of non-compliance without delay is highly encouraged and will serve to shorten this period.

If corrective actions remain: Corrective actions will be listed under the *Monitoring Required* section of the attached Final Determination. The EEPC requires that the agency head submit a signed response to this Final Determination. The signed response should indicate what steps the Fiorello H. LaGuardia Community College has taken, or will take, to correct outstanding areas of non-compliance during the designated compliance-monitoring period. The Fiorello H. LaGuardia Community College will be monitored monthly until all outstanding areas of non-compliance have been sufficiently corrected. The Fiorello H. LaGuardia Community College is required to submit documentation that supports the implementation of each corrective action via TeamCentral, the EEPC's Automated Compliance-Monitoring System. Instruction on how to access and navigate TeamCentral is attached.

Final Memorandum: Upon the Fiorello H. LaGuardia Community College's implementation of the final corrective action, if any, the EEPC requires that the Fiorello H. LaGuardia Community College submit a final memorandum, signed by the agency head, that recognizes the EEPC's audit and reiterates commitment to equal employment practices. **Upon receipt of this final memorandum, the EEPC will issue a *Determination of Compliance*.**

If no corrective actions remain: In lieu of a response to this Final Determination, the Fiorello H. LaGuardia Community College must submit a final memorandum (See Next Steps, Final Memorandum). Upon the EEPC's receipt of the final memorandum, the Fiorello H. LaGuardia Community College will be exempt from the abovementioned compliance-monitoring period.

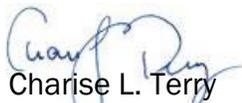
¹ The EEPC's uniform standards for auditing municipal entities and minimum standards for auditing community boards (collectively "Standards") are founded upon, and consistent with, federal, state, and local laws and regulations, and policies and procedures, including, but not limited to, the City of New York's *Equal Employment Opportunity Policy, Standards and Procedures to be Utilized by City Agencies 2014*; New York City Human Rights Law (NYC Administrative Code 8); New York State Human Rights Law (New York Executive Law, Article 15); New York State Civil Service Law §55-a; and the equal employment opportunity requirements of the New York City Charter.

Conclusion

This is the EEPCC's Final Determination. Questions regarding next steps may be addressed to Jennifer Shaw, Esq., Executive Agency Counsel/Director of Compliance at jshaw@eepc.nyc.gov or 212-615-8942.

Thank you and your staff for your continued cooperation.

Sincerely,



Charise L. Terry
Executive Director

c: Christopher Carozza, Esq., Principal EEO Professional, LaGuardia

Enclosed: TeamCentral Agency Manual

FINAL DETERMINATION

A response indicating progress of the Fiorello H. LaGuardia Community College's efforts to correct outstanding areas of non-compliance, with supporting documentation, is due within 30 days.

The Equal Employment Practices Commission's findings and corrective actions required to remedy areas of non-compliance are based on the audit methodology, which included collection and analysis of the documents, records, and data provided; the EEPCC's *Preliminary Interview Questionnaires* (PIQs) for EEO professionals and others involved in EEO program administration; and, if applicable, the *EEPC Employee Survey*, the *EEPC Supervisor/Manager Survey*, the *Annual EEO Plans* and *Quarterly EEO Reports* of the audited entity; and workforce data from the *Citywide Equal Employment Database System*. Additional research and follow-up discussions or interviews were conducted as appropriate.

After reviewing the optional response² (if applicable) to the EEPCC's Preliminary Determination, our Final Determination is as follows:

Agree

Regarding your responses to the following EEPCC required corrective actions, we *Agree* based on documentation that is attached to your response.

Corrective Action #1:

Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

Agency Response:

"a. Please find attached to this response as Exhibit A an email sent by the College's Chief Diversity Officer/Title IX Coordinator to... the City University of New York's Director of Talent Acquisition. This email, dated September 24, 2020, requests that the CUNY Policy on Equal Opportunity and Non-Discrimination be revised to include the provisions noted in Corrective Action #1 as it relates to the CUNY Policy on Equal Opportunity and Non-Discrimination.

b. Please find attached to this response as Exhibit B an email sent by the College's Chief Diversity Officer/Title IX Coordinator to... the City University of New York's Title IX Coordinator. This email, dated September 24, 2020, requests that the CUNY Policy on Sexual Misconduct be revised to include the provisions noted in Corrective Action #1 as it relates to the CUNY Policy Sexual Misconduct.

c. Please find attached to this response as Exhibit C the newly revised (August 14, 2020) CUNY Policy on Sexual Misconduct. The newly revised policy addresses many of the deficiencies noted in [the] Notes section leading to Corrective Action #1, specifically the requirement that the complainant and respondent be notified in writing when the investigation by the EEO Professional has been transferred because of the filing of an external complaint and the requirement to specify in the complaint file the reason for the delay and a

² Excerpts are italicized.

projected timeframe for completion of the report. The revised policy is already on the Compliance/Diversity/Title IX website, and the pertinent parts of Exhibit C are highlighted for your convenience.”

EEPC Response:

The EEPC accepts LaGuardia’s response and communication to CUNY Central informing them of the necessity to update its policies in the manners highlighted in EEPC’s Preliminary Determination; and the revised *CUNY Policy on Sexual Misconduct* that has been updated to include the provisions outlined in the EEPC’s Preliminary Determination and posted on LaGuardia’s website, as confirmation that corrective action #1 has been implemented.

Corrective Action #4:

Ensure that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment; works with the principal EEO Professional in the implementation of the City’s policies and procedures pertaining to sexual harassment; informs the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; is available to consult on internal sexual harassment complaint investigations; and is responsible for the investigation of, and response to, external sexual harassment complaints.

Agency Response:

“a. Please find attached to this response as Exhibit E the Executive Counsel to the President’s job description at the time of hire. Exhibit E includes the responsibility of providing legal advice regarding labor and employment law, the responsibility to provide guidance on the implementation of College policies (including but not limited to the CUNY Policy on Sexual Misconduct), and the responsibility to respond to a variety of requests such as employment discrimination complaints from the Equal Employment Opportunities (sic) Commission and the New York State Division on (sic) Human Rights. The pertinent sections of Exhibit E are highlighted for your convenience.”

EEPC Response:

The EEPC accepts LaGuardia’s response and the Executive Counsel to the President/Labor Designee’s (General Counsel) job description which stated, “[t]he Executive Counsel to the President/Labor Designee is the legal advisor to the President and... provides legal advice and prepares effective and persuasive legal correspondence and documents on... issues including, but not limited to: litigation, employment and labor law, compliance and contractual agreements, governance, fundraising, and immigration... Provides guidance on the implementation of and compliance with CUNY Board of Trustees Bylaws, CUNY and college policies, college governance plans, laws, regulations and other procedures and rules affecting the college... Responds to a variety of requests, such as employment discrimination complaints from the Equal Employment Opportunity Commission (EEOC) and the New York State Division of Human Rights”, as confirmation that corrective action #4 is implemented.

Monitoring Required

The agency’s implementation of the following required corrective actions will be monitored during the assigned compliance-monitoring period.

Corrective Action #2:

Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.

Agency Response:

"Please find attached to this response as Exhibit D the email tickler system utilized by the College's Chief Diversity Officer/Title IX Coordinator as of September 24, 2020, to ensure, moving forward, that 30 day reminders will be sent regarding each new complaint received."

EEPC Response:

The EEPC recognizes LaGuardia's commitment to implementing corrective action #2. LaGuardia provided a screenshot of its email system to be utilized to help ensure complaint investigations are completed within 90 days. To demonstrate compliance with this standard, please provide a redacted conclusive report dated within 90 days of the date the complaint was filed for a complaint investigated subsequent to the period in review.

Corrective Action #3:

In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

Agency Response:

"a. The College's Chief Diversity Officer/Title IX Coordinator will work with his supervisor... to ensure that all discrimination and sexual misconduct complaints that go passed (sic) 90 days will include a reason and expected time frame completion in the case file and that all parties will be notified of the delay.

b. Please find attached to this response as Exhibit C the revised CUNY Policy on Sexual Misconduct, which requires that complaint parties be made aware of delays in their investigations."

EEPC Response:

The EEPC recognizes LaGuardia's commitment to implementing corrective action #3. LaGuardia provided the revised *CUNY Policy on Sexual Misconduct* that has been updated to include the provisions outlined in the EEPC's Preliminary Determination. To demonstrate compliance with this standard, for a complaint investigated subsequent to the period in review where the conclusive report was issued more than 90 days after the date the complaint was filed, please provide a redacted completed complaint file that contains the reason for the delay, a projected time frame for completion of the report, and the delay notification letters issued to the complainant and respondent.

Corrective Action #5:

Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.

Agency Response:

"a. The College's Chief Diversity Officer/Title IX Coordinator will work to ensure that they, the College's Executive Director of Human Resources, and the College's Executive Counsel to the President will meet biannually to review the number of sexual harassment complaints, and the College's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies, and that the College will keep a log of these meetings in the Office of the Chief Diversity Officer/Title IX Coordinator. These meetings will occur in the months of November and May.

b. I note that the College is currently preparing a job posting to replace the Executive Director of Human Resources, who left the College on September 11, 2020.”

EEPC Response:

The EEPC recognizes LaGuardia’s commitment to implementing corrective action #5. LaGuardia provided a statement that outlined an upcoming date for a meeting between the principal EEO Professional, HR Professional, and General Counsel to review the number of sexual harassment complaints, and LaGuardia’s employment practices, policies and programs. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

Corrective Action #6:

Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

Agency Response:

“a. The College’s Chief Diversity Officer/Title IX Coordinator and the newly selected President of the College are scheduled to meet October 8, November 11, and December 11, 2020, to discuss, among other topics, the newly revised CUNY Policy on Sexual Misconduct, case load and case management, and the potential for a Sexual Harassment Advisory Council for the College.

b. Please be advised that the College had an interim-president from the dates of August 2, 2019 to August 16, 2020.”

EEPC Response:

The EEPC recognizes LaGuardia’s commitment to implementing corrective action #6. LaGuardia provided upcoming dates for meetings between the principal EEO Professional and LaGuardia’s President with agenda items that impact the administration and operation of its programs, policies and procedures concerning sexual harassment. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

Corrective Action #7:

Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports on efforts to implement the Plan within 30 days following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.

Agency Response:

“The College appreciates the efforts of the Commission to ensure that the College continues building on its commitment to diversity, equal employment, and affirmative action.”

EEPC Response:

The EEPC recognizes LaGuardia’s commitment to implementing corrective action #7. To demonstrate compliance with this standard, please submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity. Please also submit any Annual Plans that overlap with the audit period.

Final Action: Upon the EEPC’s determination that the entity does not require further review or monitoring: Distribute a memorandum signed by the agency head that re-emphasizes the commitment of agency



administrators to the EEO program, including the prevention of sexual harassment, and informs employees of any changes to the agency's employment practices as a result of the EEPC's audit/monitoring. This final action is required to conclude the audit and monitoring process.

The EEPC thanks you and your staff for your continued cooperation.



**RESOLUTION NO.
2020AP/243-469-(2020)
Fiorello H. LaGuardia Community College
President Kenneth Adams
Sexual Harassment Prevention and Response Practices
DETERMINATION: FINAL**

S Y N O P S I S

Corrective Action(s):	Total: 7		
Period Audit Covered:	January 1, 2018 to December 31, 2019		
Preliminary Determination Issued:	September 11, 2020	Response Received	September 24, 2020
Final Determination Issued:	September 30, 2020	Response Due	October 30, 2020
Compliance-Monitoring:	Required	October 1, 2020 to March 31, 2021	

Whereas, pursuant to Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter), the Equal Employment Practices Commission (EEOC) is authorized to audit, review, evaluate, and monitor the employment procedures, practices and programs of city agencies and other municipal entities (hereinafter “entities”) and their efforts to ensure fair and effective equal employment opportunity (EEO) for minority group members and women who are employed or seek employment, and to recommend practices, procedures, approaches, measures, standards, and programs to be utilized by such entities in these efforts; and

Whereas, pursuant to Charter Chapter 36, Sections 830(a) and 831(d)(2) and (5), the EEOC has adopted uniform standards for auditing agencies and municipal entities, and minimum standards for auditing community boards, to review, evaluate, and monitor entities’ practices, procedures, approaches, measures, standards, and programs for compliance with federal, state, and local laws and regulations, and policies and procedures to increase equal opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), the EEOC may make a determination pursuant to Charter Section 831(d) whether any plan, program, procedure, approach, measure, or standard adopted or utilized by any municipal entity does not provide equal employment opportunity, and the EEOC’s determinations of compliance or non-compliance and prescribed corrective action are required by, or consistent with federal, state, and local laws and regulations, and policies and procedures to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

Whereas, the EEOC conducted an audit, review, and evaluation of the Fiorello H. LaGuardia Community College’s Sexual Harassment Prevention and Response Practices; and

Whereas, pursuant to the audit, review, and evaluation of the Fiorello H. LaGuardia Community College’s Sexual Harassment Prevention and Response Practices, the EEOC issued a Preliminary Determination, dated September 11, 2020, setting forth findings and the following corrective actions required to remedy areas of non-compliance:

1. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy,

Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency’s EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

2. Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.
3. In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.
4. Ensure that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment; works with the principal EEO Professional in the implementation of the City’s policies and procedures pertaining to sexual harassment; informs the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; is available to consult on internal sexual harassment complaint investigations; and is responsible for the investigation of, and response to, external sexual harassment complaints.
5. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency’s employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.
6. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.
7. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports on efforts to implement the Plan within 30 days following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.

Whereas, within a two-week deadline following the EEPC’s Preliminary Determination, the entity submitted a preliminary response; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), after consideration, the EEPC issued a Final Determination on September 30, 2020, which indicated that the following areas required corrective action: no(s). 2, 3, 5, 6, and 7; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), in the Final Determination, the EEPC assigned a monitoring period from October 1, 2020 to March 31, 2021, to determine whether the entity eliminated areas of non-compliance, if any; and

Whereas, in accordance with Charter Chapter 36, Section 832(c) the entity was required to respond in 30 days, and make monthly reports thereafter for a period not to exceed six months, on the progress of its efforts to correct outstanding areas of non-compliance; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), on September 30, 2020, the entity was required to issue a response to the EEPC's Final Determination; Now Therefore,

Be It Resolved, that pursuant to Charter Chapter 35, Sections 815(a)(15) and (19), which requires agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity for minority group members and women, the EEPC approves the issuance of this Final Determination to President Kenneth Adams to assign compliance-monitoring.

Approved unanimously on October 22, 2020.

/s/Sasha Neha Ahuja
Sasha Neha Ahuja
Chair

/s/Angela Cabrera
Angela Cabrera
Commissioner

/s/Arva R. Rice
Arva R. Rice
Commissioner

/s/Elaine S. Reiss
Elaine S. Reiss, Esq.
Commissioner

On behalf all Commissioners in attendance,


Charise L Terry
Executive Director



DARE TO DO MORE

Community College

October 30, 2020

VIA ELECTRONIC MAIL

Charise Terry, Executive Director
New York City Equal Employment Practices Commission
253 Broadway, Suite 602
New York, NY 10007

**Re: Audit: Evaluation of Sexual Harassment Prevention and Response Practices- Audit Period- January 1, 2018 to December 31, 2019
Monthly Compliance Monitoring Report- October 2020**

Dear Charise:

Fiorello H. LaGuardia Community College (the College) is writing in response to the New York City Equal Employment Practices Commission (the Commission) Final Determination received by the College on September 30, 2020. Please consider this the College's Monthly Compliance Monitoring Report for the month of October 2020. Please find the College's response below:

1. **Monitoring Response to Corrective Action #2-** Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.
 - a. The College has not received a sexual misconduct or discrimination complaint from one staff member against another staff member for the period from December 31, 2019, through October 30, 2020. The College will continue to receive and investigate allegations of sexual misconduct pursuant to the CUNY Policy on Sexual Misconduct and allegations of discrimination pursuant to the CUNY Policy on Equal Opportunity and Non-Discrimination. The College will advise the Commission if it receives a complaint from a staff member of the College against another staff member, and if possible will confirm that the Report of Findings was submitted to the President of the College (agency head for the College) within 90 days of the date of the filing of the complaint.
2. **Monitoring Response to Corrective Action #3-** In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued

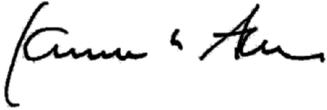
within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

- a. The College has not received a sexual misconduct or discrimination complaint from one staff member against another staff member for the period from December 31, 2019, through October 30, 2020. The College will continue to receive and investigate allegations of sexual misconduct pursuant to the CUNY Policy on Sexual Misconduct and allegations of discrimination pursuant to the CUNY Policy on Equal Opportunity and Non-Discrimination. The College will advise the Commission if it receives a complaint from a staff member of the College against another staff member, and in the rare circumstance an investigation cannot commence immediately or where a conclusive report cannot be issued in 90 days the EEO Professional will specify in the complaint file the reason for the delay and project a time frame for completion of the report. The EEO Professional will also notify the complainant and respondent of the delay.
3. **Response to Corrective Action #5-** Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.
 - a. The College will work to ensure that a meeting is scheduled during the compliance period that involves the three parties mentioned in the corrective action and that the topics mentioned in Corrective Action # 5 are addressed. The College will also endeavor to ensure that this meeting occurs semi-annually moving forward. The College also reiterates the fact that there is an active search on-going for the Executive Director of Human Resources (principal HR Professional).
 4. **Response to Corrective Action #6-** Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.
 - a. The College's EEO Professional is scheduled to have a meeting with the College's agency head on December 11, 2020. That meeting will discuss the items indicated in Corrective Action #6.
 5. **Response to Corrective Action #7-** Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports on efforts to implement the Plan within 30 days following each quarter. Include breakout of sexual harassment complaint activity in each quarterly report.

- a. The College will provide the annual plan during the monitoring period. The College will provide quarterly reports during the monitoring period.

Please contact my office with any additional questions or concerns regarding the need for further clarification or documentation.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth Adams". The signature is written in a cursive, flowing style.

Kenneth Adams – President/Agency Head – LaGuardia Community College



DARE TO DO MORE

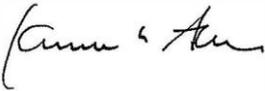
Community College

Office of the President

PHONE: 718-482-5050

FAX: 718-609-2009

MEMORANDUM

To: All Employees
From: Kenneth Adams, President 
Date: July 1, 2021
Re: Audit Review, Evaluation, and Monitoring of Sexual Harassment Prevention and Response Practices by the Equal Employment Practices Commission of LaGuardia Community College

The New York City Charter requires the Equal Employment Practices Commission (EEPC) to conduct an audit once every four years to ensure each city agency or municipal entity complies with federal, state, and local laws and regulations, and policies and procedures that increase equal opportunity for non-pedagogical employees and applicants.¹

The EEPC recently concluded an audit and evaluation of LaGuardia Community College's (LaGuardia), an educational unit of the City University of New York (CUNY), practices and procedures for compliance with city, state, and federal equal employment opportunity laws and regulations, and as a result of the audit, LaGuardia shall implement or continue the following practices:

- commence an investigation into allegations of sexual harassment between non-pedagogical employees immediately, if allegations raised sufficiently warrant an investigation;
- complete an investigation involving non-pedagogical employees within the period of time designated in CUNY's Policy on Sexual Misconduct and the CUNY's Policy on Equal

¹ Pedagogical employees are not subject to EEPC's audit, evaluation and monitoring pursuant to Chapter 36 of the City Charter.



Community College

DARE TO DO MORE

Office of the President

PHONE: 718-482-5050

FAX: 718-609-2009

Opportunity and Non-Discrimination Policy or within ninety (90) days of the date the complaint was filed;

- in circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, record in the investigative file the reason for the delay and notify the complainant and respondent of the delay;
- the Chief Diversity Officer/Title IX Coordinator shall identify and determine appropriate responses to sexual harassment;
- the Chief Diversity Officer/Title IX Coordinator, Executive Director of Human Resources and Executive Counsel shall review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on a bi-annual basis to identify whether there are barriers to employment opportunities that maybe related to sexual harassment and determine what, if any, actions are required to correct deficiencies; and
- maintain documentation regarding directives or decisions between the Executive Counsel and the Chief Diversity Officer/Title IX Coordinator that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

I am committed to ensuring that LaGuardia's employment practices encourage and maintain a workplace free from unlawful discrimination and sexual harassment, and that all employees are aware of their rights and obligations under the agency's equal employment opportunity policies.

ADDRESS: 31-10 Thomson Avenue
Long Island City, NY 11101

PHONE: 718-482-7200
WEB: www.laguardia.edu

**CU
NY** The City
University
of
New York

NYC
**Equal Employment
Practices Commission**

Aldrin Rafael Bonilla
Chair

Minosca Alcantara
Elaine S. Reiss, Esq.
Commissioners

Jeanne M. Victor
Executive Director

Jennifer Shaw, Esq.
Executive Agency Counsel/
Director of Compliance

253 Broadway
Suite 602
New York, NY 10007

212. 615. 8939 tel.
212. 676. 2724 fax

BY EMAIL

July 22, 2021

Kenneth Adams
President
Fiorello H. LaGuardia Community College
31-10 Thomson Avenue
Long Island City, NY 11101

Re: Resolution #2020AP/250-469-(2021)C42
DETERMINATION: Compliance

Dear President Adams:

On behalf of the members of the Equal Employment Practices Commission (EEPC), I write to inform you that pursuant to New York City Charter Chapter 35, Sections 815(a)(15) and (19), which requires agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity (EEO) for minority group members and women, the EEPC's Board of Commissioners has approved the attached Determination.

Thank you and Principal EEO Professional Ronald Edwards for the cooperation extended to the EEPC during the course of our review, evaluation, and monitoring of your agency's employment and EEO-related practices.

Sincerely,



Aldrin Rafael Bonilla
Chair

c: Ronald Edwards, Principal EEO Professional, LaGuardia
Taejong Kim, Legal Counsel & Labor Relations Manager,
LaGuardia



Monitoring of Sexual Harassment Prevention and Response Practices
RESOLUTION NO.

2020AP/250-469-(2021)C42

Fiorello H. LaGuardia Community College

President Kenneth Adams

DETERMINATION: COMPLIANCE

SYNOPSIS

Corrective Action(s):	Total: 7		
Period Audit Covered:	January 1, 2018 to December 31, 2019		
Preliminary Determination Issued:	September 11, 2020	Response Received	September 24, 2020
Final Determination Issued:	September 30, 2020	Response Received	October 30, 2020
Compliance-Monitoring:	Required	October 1, 2020 to May 31, 2021 with extension	

Whereas, pursuant to Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter), the Equal Employment Practices Commission (EEPC) is authorized to audit, review, evaluate, and monitor the employment procedures, practices and programs of city agencies and other municipal entities (hereinafter "entities") and their efforts to ensure fair and effective equal employment opportunity (EEO) for minority group members and women who are employed or seek employment, and to recommend practices, procedures, approaches, measures, standards, and programs to be utilized by such entities in these efforts; and

Whereas, pursuant to Charter Chapter 36, Sections 830(a) and 831(d)(2) and (5), the EEPC has adopted uniform standards for auditing agencies and municipal entities, and minimum standards for auditing community boards, to review, evaluate, and monitor entities' practices, procedures, approaches, measures, standards, and programs for compliance with federal, state, and local laws and regulations, and policies and procedures to increase equal opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), the EEPC may make a determination pursuant to Charter Section 831(d) whether any plan, program, procedure, approach, measure, or standard adopted or utilized by any municipal entity does not provide equal employment opportunity, and the EEPC's determinations of compliance or non-compliance and prescribed corrective action are required by, or consistent with federal, state, and local laws and regulations, and policies and procedures to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

Whereas, the EEPC conducted an audit, review, and evaluation of the Fiorello H. LaGuardia Community College's Sexual Harassment Prevention and Response Practices; and

Whereas, pursuant to the audit, review, and evaluation of the Fiorello H. LaGuardia Community College's Sexual Harassment Prevention and Response Practices, the EEPC issued a Preliminary Determination, dated September 11, 2020, setting forth findings and the following corrective actions required to remedy areas of non-compliance:

1. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.
2. Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.
3. In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.
4. Ensure that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment; works with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment; informs the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; is available to consult on internal sexual harassment complaint investigations; and is responsible for the investigation of, and response to, external sexual harassment complaints.
5. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.
6. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.
7. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports on efforts to implement the Plan within 30 days following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.

Whereas, within a two-week deadline following the EEPC's Preliminary Determination, the entity submitted a preliminary response; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), after consideration, the EEPC issued a Final Determination on September 30, 2020, which indicated that the following areas required corrective action: no(s). 2, 3, 5, 6, and 7; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), in the Final Determination, the EEPC assigned a monitoring period from October 1, 2020 to March 31, 2021, to determine whether the entity eliminated areas of non-compliance, if any; and

Whereas, in accordance with Charter Chapter 36, Section 832(c) the entity was required to respond in 30 days, and make monthly reports thereafter for a period not to exceed six months, on

the progress of its efforts to correct outstanding areas of non-compliance; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), on October 30, 2020, the entity issued a response to the EEPC's Final Determination; and

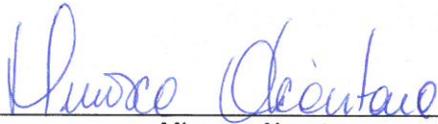
Whereas, in accordance with Charter Chapter 36, Section 832(c), the Fiorello H. LaGuardia Community College was monitored until May 28, 2021; and

Whereas, pursuant to Charter Chapter 35, Sections 815(a)(15) and (19), which requires agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity for minority group members and women, the President submitted a copy of a memorandum to staff dated July 1, 2021, which recognized the EEPC's audit and reiterated commitment to the Fiorello H. LaGuardia Community College's equal employment practices; Now Therefore,

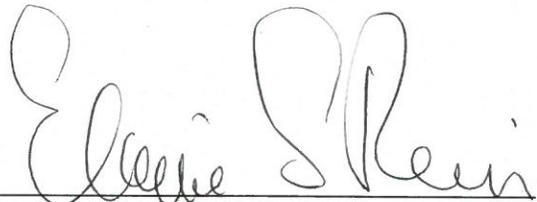
Be It Resolved, that the Fiorello H. LaGuardia Community College has satisfied the equal employment standards set by the EEPC pursuant to its authority under New York City Charter Chapters 35 and 36; and

Be It Resolved, that the EEPC's Board of Commissioners approves the issuance of this Determination of Compliance to President Kenneth Adams of the Fiorello H. LaGuardia Community College.

Approved unanimously on July 22, 2021.



Minosca Alcantara
Commissioner/Mayoral Appointee



Elaine S. Reiss, Esq.
Commissioner/Mayoral Appointee

Vacant
Commissioner/City Council Appointee

Vacant
Commissioner/City Council Appointee



Aldrin Rafael Bonilla
Chair/Commissioner/Joint Appointee

This
Determination of Compliance

is hereby issued to

Fiorello H. LaGuardia Community College

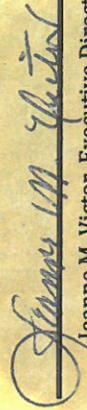
for successful implementation of 7 of 7 required corrective actions,
thereby achieving compliance with the Equal Employment Practices Commission's
Sexual Harassment Prevention and Response Practices
from January 1, 2018 to this date.

In care of President Kenneth Adams,
Principal EEO Professional Ronald Edwards,
and Legal Counsel & Labor Relations Manager Taejong Kim

On this 22nd day of July in the year 2021,



Aldrin Rafael Bonilla, Chair



Jeanne M. Victor, Executive Director