



# Medgar Evers College

The City University of New York  
1650 Bedford Avenue, Brooklyn, NY 11225

Jerry Hoffman  
Interim Chief of Public Safety



## ***2024 Annual Security Report***

***Includes crime statistics for 2021, 2022 and 2023***

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## **College Overview**

The College, a component of The City University of New York, was founded in 1970 as a result of collaborative efforts by community leaders, elected officials, the Chancellor, and the Board of Trustees of The City University of New York. The College, named after the late civil rights leader Medgar Evers, is charged with a mandate to meet the educational and social needs of the Central Brooklyn Community. Medgar Evers College believes that education is the right of all individuals in the pursuit of self-actualization. Consequently, the college's mission is to develop and maintain high-quality, professional, and career-oriented undergraduate degree programs both at the baccalaureate and at the associate degree levels, paying close attention to the articulation between the two-year and four-year programs.

Medgar Evers College has a student body of approximately 3600 students, which is reflective of the Crown Heights community. The college employs approximately 470 full-time faculty and staff. In addition, the college, through the School of Professional & Community Programs, serves approximately sixteen thousand multicultural individuals during the academic year. The campus is located at 1650 Bedford Avenue, Brooklyn, New York. The Borough of Brooklyn has a population of approximately 2.6 million people. The campus is situated on a four-acre site and comprised of five buildings located on or contiguous to the campus.

## **Policy Statements**

These policy statements provide information regarding Medgar Evers College's security and safety policies. More information regarding the Medgar Evers College Public Safety Department, parking, public safety services, and other CUNY policies can be found on the Medgar Evers College Public Safety website at: [Public Safety - Medgar Evers College \(cuny.edu\)](https://www.mec.cuny.edu/public-safety/)

## **Annual Disclosure of Crime Statistics**

The Medgar Evers College Annual Security Report includes statistics for the previous three years of reported crimes that occurred on campus, in certain off-campus buildings owned and controlled by Medgar Evers College, and on public property within or immediately adjacent to and accessible from the campus. These statistics are compiled from campus incident reports, reports from designated Campus Security Authorities, and the 71<sup>st</sup> NYPD precinct. This data is reported to the United States Department of Education via a web-based data collection system annually. The Annual Security Report (ASR) also includes institutional policies concerning campus security, alcohol and drug use, crime prevention, the reporting of crimes, including those that involve sexual misconduct, and emergency and evacuation procedures. The report is published prior to October 1st of each year and distributed to all students and employees via the college website. Current students and employees will be notified via email of the Annual Security Report's publication. As required, this report is available to all students, faculty, and staff annually. This report can be viewed online by clicking on the following link: <https://www.mec.cuny.edu/public-safety/annual-security-report/>.

To obtain a written copy of the report, please contact the Public Safety Department at 718-270-6069.

## **Public Safety Authority**

Medgar Evers College's main campus, the contiguous geographic perimeter of the main campus, the off-campus sites, the entry gates, and the parking area are patrolled on a 24-hour basis by Public Safety Officers. Public Safety Officers are sworn law enforcement/NYS Peace Officers under Criminal Procedure Law 2.10 subsection 79 and have the power to make arrests in compliance with New York State Criminal Procedure Law Peace Officers Law. Public Safety Officers also participate in regular in-service training to maintain state compliance. At Medgar Evers College, incidents of a criminal nature that are reported to a Peace Officer are typically referred, with the complainant's consent, to the New York City Police

Department. The Public Safety Department conducts administrative investigations involving reported violations of CUNY policies, rules, and regulations. These investigations may involve students, staff, and visitors on college property. Appropriate referrals necessitating further review and action may be made to Student Success and/or Human Resources.

The department currently consists of one Interim Director of Public Safety, four Sergeants, two Corporals, one Specialist, and six Campus Peace Officers assigned to patrol the campus. Additionally, the Department employs nineteen Campus Security Assistants who are assigned to fixed posts. Campus Security Assistants are licensed as NYS Licensed Security Guards and do not have arrest powers (outside of the powers of a private citizen). NYS Licensed contract security officers are also utilized on campus at fixed posts.

The Public Safety Department operates more than 330 closed-circuit surveillance cameras and a robust access control system to ensure the safety of the college community. There are also emergency push button intercoms in certain areas and emergency call boxes installed in the campus parking lots that connect directly to the Public Safety Dispatcher.

## Campus Security Authorities

Members of the college community may make reports of crimes and security incidents to these officials. Each year, the Public Safety Department requests data via campus e-mail from these authorities for inclusion in this report. The following persons are designated as Campus Security Authorities:

Interim Director of Public Safety: Jerry Hoffman	Rm - C-17	(718-270-6069)
SVP of Student Success & Enrollment Management: Dr. Jesse Kane	Rm - S-306	(718-270-6046)
Provost: Dr. Antoinette Coleman	Rm - B-3010	(718-270-5010)
SVP/COO: Jacqueline Clark	Rm - C-200	(718-270-6994)
Director of Human Resources: Susan Haynes	Rm - C-208	(718-270-6910)
Dean of Student Success: Dr. LaToya Blount	Rm - S-306	(718-270-6046)
Director of Student Life: Amani Reece	Rm - S-212	(718-270-6050)
Director of Health Services: Althea Willie	Rm - S-217	(718-270-6075)
Interim Director of Counseling: Dr. Makeba Pinder	Rm - B-1005D	(718-270-5123)
Director of Advisement: Kirt Robinson	Rm - S-220	(718-270-5125)
Director of Athletics: Chetara Murphy	Rm - C-P21	(718-270-6071)
Director of Office of Accessibility & Accommodation Services: Anthony Phifer	B-1024	(718-270-5027)
Coordinator of Veteran & Military Services: Andrea Dottin	Rm - C-306	(718-270-4915)
Director of Admissions & Recruitment: Dulcie McPhatter-Clayton	Rm - S-124D	(718-270-6024)
International Student Advisor: Joylyn Phillip-Ndiaye	Rm - S-123	(718-270-4893)
Title IX Coordinator: Lance Houston	Rm - C-208	(718-270-6129)
Chief Diversity Officer: Lance Houston	Rm - C-208	(718-270-6129)

## Crime Reporting Procedures

Students, Faculty, staff, and others who may be on campus or the contiguous geographic perimeter of the campus are encouraged to report any past crime promptly, attempted crime, or actual criminal activity to the Public Safety Department. The Department will expeditiously respond to the reported condition and make necessary notifications to the local police precinct when appropriate. Criminal activities, as well as other emergencies, can be reported by:

1. Call the Department of Public Safety's emergency telephone line (718) 270-6003. Extension 6003 may be dialed within the college's telephone system.
2. Using the assistance intercoms or emergency call boxes located at various sites throughout the campus.
3. Reporting the information to any member of the Department of Public Safety or in person at the Public



Safety Office located at 1638 Bedford Avenue, AB-1 Building, Room C-17.

4. All counselors are strongly encouraged when they deem it appropriate to inform the persons they are counseling of any procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.
5. Victims or witnesses may anonymously report crimes to persons designated as Campus Security Authorities, who will then forward only the report of the crime- without divulging the name of the victim or witness- to the Department of Public Safety for inclusion in the Annual Security Report. The College recognizes the importance of confidentiality to victims and witnesses of crimes. For the purposes of providing crime statistics pursuant to the Clery Act in the College's annual security report, victim and witness information will not be included. However, complete confidentiality cannot be guaranteed in all other contexts. The College reserves the right to notify the police when it believes that such reporting is necessary for the protection of the College community. In many cases, however, that notification will be done without divulging the victim's identity and will be done only for the purpose of providing a campus-wide safety alert.
6. In the event that the situation you observe or are involved in is of an extreme or life-threatening nature, call 911, the New York City Police Department's emergency phone number. If you make a 911 call, please also notify the Public Safety Department, who will also respond to assist and direct the police and other emergency personnel to the reported emergency.

## **Reporting and Prevention of Sex-Based Misconduct, including Sexual Assault, Harassment, Stalking, Dating/Intimate Partner and Domestic Violence**

The City University of New York policy on Sexual Assault is attached to the end of this report. To directly view a copy of the City University of New York Policy on Sexual Misconduct by clicking the following link: [CUNY Sex-Based Misconduct Policy](#)

Allegations of sex-based misconduct, including sexual harassment, sexual assault, stalking, or domestic and dating/intimate partner violence, should be reported to one of the individuals listed below.

1. Interim Director of Public Safety: Jerry Hoffman, Rm. C-17 in AB-1, (718) 270-6069, [jerryh@mec.cuny.edu](mailto:jerryh@mec.cuny.edu)
2. Dean of Student Success: Dr. LaToya Blount, Rm. S-306, (718) 270-4961, [Latoya.Blount18@mec.cuny.edu](mailto:Latoya.Blount18@mec.cuny.edu)
3. Director of Human Resources: Susan Haynes, Rm. C-208, (718) 270- 6910, [Shaynes@mec.cuny.edu](mailto:Shaynes@mec.cuny.edu)
4. Title IX Coordinator: Lance Houston, Rm. C-208, (718) 270-6169, [Lance.Houston16@mec.cuny.edu](mailto:Lance.Houston16@mec.cuny.edu)
5. Chief Diversity Officer: Lance Houston, Rm. C-208, (718) 270-6169, [Lance.Houston16@mec.cuny.edu](mailto:Lance.Houston16@mec.cuny.edu)

For more information, please see the section "Reporting and Prevention of Sexual Assault and Sex-Based Misconduct Offenses, Stalking and Dating/Intimate Partner/Domestic Violence" later in this document. For more detailed information on Title IX, including Community Resources, CUNY policies, Getting Help and Understanding and Preventing Sexual Assault and Sexual Harassment, please go to: [http://www1.cuny.edu/sites/title-ix/?post\\_type=campus\\_profile&p=153](http://www1.cuny.edu/sites/title-ix/?post_type=campus_profile&p=153)

## **Confidential Reporting Options**

If you are the victim of a crime and do not want to pursue action within the University system or the criminal justice system, you may still want to consider making a confidential report. With your permission, a



Public Safety officer can file a report on the details of the incident without revealing your identity (except to the Title IX Coordinator in the event of a reported sex offense or sexual harassment). The purpose of a confidential report is to comply with your wish to keep the matter confidential while taking steps to enhance the future safety of yourself and others. With such information, Medgar Evers College can keep an accurate record of the number of incidents involving students, employees, and visitors, determine where there is a pattern of crime with regard to a particular location, method, or assailant; and alert the campus community to potential danger. Reports filed in this manner are counted and disclosed in the annual crime statistics for the institution. Pastoral and professional counselors are encouraged to refer persons they are counseling to report crimes to Public Safety on a voluntary, confidential basis for inclusion in the annual security report by following this procedure.

Any on-campus crime witnessed by a CUNY student or employee must be reported to the Department of Public Safety as soon as possible. The Department of Public Safety is responsible for reporting and follow-up investigations when an incident is reported. All students, employees, and visitors should exercise responsibility for their own safety while on campus.

## **Civilian Complaints**

A proper relationship between the Public Safety Department and the college community, fostered by trust and confidence, is essential to a successful security and safety program. In order for us to better understand the community's perception of our service, we must investigate any allegation of inappropriate officer conduct. Your criticisms and constructive suggestions for improvement are welcome. Each complaint will be thoroughly investigated, and appropriate corrective action will be taken when warranted. You can file a complaint in the Public Safety Department located in AB-1, Room C-17, by asking to speak with the Sergeant on duty. If the complaint is against a Sergeant, ask to speak to the Lieutenant or Interim Director. You can also file a complaint by emailing the Interim Director of Public Safety at [jerryh@mec.cuny.edu](mailto:jerryh@mec.cuny.edu).

If you feel that you would rather not contact the college, you can make your complaint directly to the University Director of Public Safety at 646-664-2900 or send an email to [publicsafetyhq@cuny.edu](mailto:publicsafetyhq@cuny.edu). A member of the University Director's staff will be assigned to investigate the complaint and recommend appropriate action. In a case where an officer is alleged to have committed an illegal or criminal act, the complaint can be made to the New York City Police Department and/or the Director of Public Safety.

## **Clery Crime Log**

A daily Crime Log is maintained containing details of crimes reported to Medgar Evers College Public Safety. These records include any crime that occurred on campus, on a non-campus building or property, or public property within the patrol jurisdiction of the Public Safety Department. The daily crime log includes the date the crime was reported, the date and time of the crime, the nature of the crime, the general location of the crime, and the disposition. The log is updated within two (2) business days of the reporting of a crime or change in disposition. The log is in paper format and is available for public inspection in room C-17 in the AB-1 building. The log is available for public inspection during regular business hours. The log contains incidents reported within the last sixty (60) calendar days. If you wish to examine logs pre-dating this period, your request may be made to the Public Safety Department located at C-17 in the AB-1 building. Your request will be granted within the next two (2) regular business days.

## **Working Relationships with Other Law Enforcement Agencies**

The Medgar Evers College Public Safety Department maintains a cooperative relationship with local, state, and federal law enforcement agencies. A written Memorandum of Understanding exists between CUNY colleges and the New York City Police Department (NYPD) in compliance with New York State Law. The

NYPD provides the college with crime statistics for incidents that occurred within the geographical area of the campus in compliance with the Department of Education's Students Right to Know Act.

## **Investigations of Violent Felonies**

In accordance with New York State Education Law, Medgar Evers College maintains a plan for the investigation of violent felonies, which includes coordination with appropriate law enforcement agencies. In addition, in compliance with New York State Law and subject to applicable federal law, including, but not limited to, the federal Campus Sexual Assault Victims' Bill of Rights under Title 20 U.S. Code 1092 (f), which gives the victim of a sexual offense the right to decide whether or not to report, Medgar Evers College will notify the appropriate law enforcement agency within 24 hours of receiving a report of a violent felony.

The Public Safety Department conducts investigations involving CUNY rules and policies. These investigations may involve students, staff, and visitors of the college. If necessary, further review and action may be referred to the Dean of Student Success, Executive Director of Human Resources, or other administrative staff.

## **Hate Crime and Bias-Related Incidents**

Bias or hate crimes are crimes motivated by the perpetrator's bias or attitude against an individual victim or group based on perceived or actual personal characteristics, such as their race, color, creed, national origin, ethnicity, ancestry, religion, age, sex, sexual orientation, gender, gender identity, disability or alienage. Bias-related incidents are behaviors that constitute an expression of hostility against the person or property of another because of the targeted person's race, color, creed, national origin, ethnicity, ancestry, religion, age, sex, sexual orientation, gender, gender identity, disability, or alienage. According to New York Penal Law Section 485, a person commits a hate crime when they commit a specified criminal offense and either:

- (1) Intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability, or sexual orientation of a person, regardless of whether the belief or perception is correct, or
- (2) Intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability, or sexual orientation of a person, regardless of whether the belief or perception is correct.

Examples of hate crimes may include but are not limited to, threatening phone calls, hate mail (including electronic mail), physical assaults, vandalism, destruction of property, and fire bombings. Penalties for bias-related crimes are very serious and range from fines to imprisonment for lengthy periods, depending on the nature of the underlying criminal offense, the use of violence, or previous conviction of the offender. Students, staff, or faculty who commit bias crimes are also subject to University disciplinary procedures and a range of sanctions up to and including suspension, expulsion, or termination of employment.

In order to effectively handle incidents of bias-related crimes and prevent future occurrences of such crimes, victims or witnesses of a hate crime are encouraged to report the incident to the Public Safety Department immediately. Victims of bias crime can also avail themselves of counseling and support services through the Office of Student Services.

There were no reported Hate Crimes for the years 2021, 2022 and 2023.

## **Off-Campus Organizations Crimes and Safety Hazard Monitoring**

Medgar Evers College does not have housing facilities or recognized student organizations with off-campus locations. The College does not have any recognized off-campus student organizations or maintain any off-campus buildings or property.

### **Disclosure of Hearing Outcomes**

The University will, upon written request, disclose to the alleged victim of a crime of violence or a non-forcible sex offense the report on the results of any disciplinary proceeding conducted by the University against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as the result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

## **Security and Access to College Facilities**

### **Campus Facilities**

#### **Campus Hours of Operation**

Medgar Evers College is a commuter school; there are no residences or dormitories on campus. To date, there are no off-campus student organizations. Medgar Evers College's hours of operation are 7:00 a.m. to 11:00 p.m., Monday through Saturday, and 9:00 a.m. to 6:00 p.m. on Sunday. Access to campus buildings is limited to faculty, staff, students, guests, and visitors who are conducting official college business upon presentation of their college-issued identification cards or valid photo identification. The college reserves the right to refuse entry or remove anyone regardless of status for rule infractions or safety reasons.

All students, faculty, and staff are to possess a Medgar Evers College ID card, which must be presented to a College official or Public Safety personnel upon request. The library is open to Medgar Evers students, faculty, staff, and other CUNY students. Library hours are posted online at <https://ares.mec.cuny.edu/library/>. During finals, the library may have extended hours to accommodate students, which can be viewed online at <https://ares.mec.cuny.edu/library/about/hours/>. The College reserves the right to refuse entry or remove anyone regardless of status for rule infractions or safety reasons.

### **Identification Cards**

New students, faculty, and staff can obtain an identification card at the Public Safety Department, Room C-17, building AB-1. While on campus, students, faculty, and staff must possess a Medgar Evers College ID Card. The ID card is the property of the College and must be presented upon request of a College official or Public Safety personnel. If your card is lost/stolen, please go to the Bursar's office located in the S-Building, 3rd floor, to pay a replacement fee of \$10.00. Upon payment, bring your receipt to the Public Safety office. If you are no longer a student/faculty/staff, your ID card must be returned to the Public Safety Department.

### **College Issued Keys**

Administrators, faculty, and staff are issued keys to their respective offices and/or buildings. It is your responsibility to safeguard the keys issued to you. If you lose Medgar Evers College keys, you must report the loss to Public Safety immediately. Upon filing an incident report, a \$90 replacement key fee is charged, which can be paid in the Bursar's office. Upon receiving payment confirmation, a new key will be issued. Medgar Evers College keys will allow you access to your respective area of employment; however, if you require additional access, we require written justification and approval from your department Chairperson, Director, or Dean. Requests may be made via email to [publicsafety@mec.cuny.edu](mailto:publicsafety@mec.cuny.edu)

During non-business hours, when the College is closed, entry to buildings is not allowed except with prior written authorization and approval by the Department Chairperson, Director, Deans, and VPs to the Public Safety Department.

## **Guests**

All visitors are expected to comport themselves in a manner consistent with an academic environment. Guests must show identification to members of the Public Safety staff upon entry to the building. Public Safety will require a valid form of photo identification, and the guests will be signed in. Guests will only be allowed in the building if they have official business. Guests are subject to the instruction of Public Safety personnel as well as Administrative staff. A guest attending an event will be asked to leave if they appear to be intoxicated or refuse to follow directives given by Public Safety or a College Official. Permission to enter the college property is revocable at any time. Persons not having a legitimate purpose to be on campus may be asked to leave by Public Safety personnel.

## **Parking**

All vehicles parked on campus must display a valid parking permit. Vehicles without permits are subject to being booted, and a \$50 fine will be charged for removal. The fine must be paid in the Bursar's Office, S-Building Rm—308, prior to the boot being removed.

We ask for your cooperation in promoting a safe and secure college environment. If you see something unusual or someone acting suspiciously, please report it to Public Safety immediately.

## **Security Considerations Used in the Maintenance of Campus Facilities**

The Public Safety Department is open 24 hours a day, 7 days a week. A member of the Department is posted in the central command center to monitor the interior/exterior surveillance cameras and emergency phone line and maintain a log book of all reported incidents, events, and campus conditions.

The central dispatcher keeps the officers/supervisors on duty accountable and dispatches them as needed to different areas of the campus. The central dispatcher is responsible for contacting appropriate personnel if a campus condition is reported (i.e., Buildings and Grounds, Environmental Health and Safety, Information Technology, etc.). Any conditions that appear unsafe should be reported directly to any public safety officer as soon as possible. All Public Safety personnel carry two-way mobile radios programmed through a repeater to enhance effectiveness. A special two-way radio is also located at the central command center, and it can communicate with other CUNY campuses.

Along with the Senior Vice President and Chief Operating Officer and the Chief Superintendent Assistant of Facilities, the Director of Public Safety conducts ongoing reviews of the campus buildings and grounds. Special emphasis is placed on the need to ensure safe accessibility to buildings, with special attention paid to landscape hazards, inadequate lighting, and access control. In addition, all Public Safety personnel report potential safety and security hazards as well as entry door problems and elevator malfunctions while on patrol. Building engineers and custodians report health and safety issues during regular work assignments.

## **Safety Escort Service**

The Public Safety Department operates a safety escort service for individuals. If a college affiliate is the victim of harassment, sexual assault, stalking, or dating/intimate partner/domestic violence, they can request a Public Safety escort. A member of the college community can request an escort by dialing 718-270-6003. Escorts are provided only within and between Medgar Evers College-owned properties.

## **Emergency Phones**

There are two-way communication devices located in some campus buildings and parking lots that may be used to report emergencies. Press the emergency call button to communicate with Public Safety and inform them of the circumstances of the emergency.

## **Emergency Notification and Response**

The purpose of this policy is to establish emergency response and evacuation procedures for Medgar Evers College, as required by the Higher Education Opportunity Act of 2008. This policy applies to all students and employees of Medgar Evers College.

For this policy, a significant emergency or dangerous situation involves an immediate threat to the health or safety of students or employees occurring on campus. In the event of an emergency, Medgar Evers College will initiate and provide, without delay, immediate notifications to the appropriate segment(s) of the college community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students, employees, and visitors.

## **CUNY Alert**

All students, as well as faculty and staff, are strongly encouraged to participate in the CUNY Alert system. The CUNY Alert system is designed to give you immediate and up-to-date information regarding weather, utility, and emergencies. The system can contact you and family or friends, as you designate, via text message, cell phone, landline, and/or e-mail. The system can offer all methods of notice, a single method, or any combination. It is user-friendly and can prove to be invaluable before, during, and after an emergency. Log onto [www.cuny.edu/alert](http://www.cuny.edu/alert) and follow the instructions. If you have trouble accessing or modifying your contact information in CUNY Alert, please contact the IT Help desk at [helpit@mec.cuny.edu](mailto:helpit@mec.cuny.edu).

The system is activated via a web-based system controlled by the New York State Office of Emergency Management. CUNY Alert is the CUNY-branded emergency alert system that is based on the NYAlert system operated by New York State. CUNY makes every effort to inform affected CUNY Alert registered users of an emergency in a timely and appropriate manner. CUNY Alert users are responsible for keeping their contact information current. Medgar Evers College is not responsible for outdated or incorrect subscriber information, technical limitations such as overtaxed communications systems, transmission errors, and cellular telephone roaming and out-of-range areas that may delay, block, or prevent the communications of messages to certain users. CUNY is also not responsible for any costs incurred by the user for any alert received or for any actions taken or not taken by the user or any third party based on an alert. CUNY is committed to respecting your privacy. In order to personalize your CUNY Alert settings, you must sign in using your CUNY First login. CUNY does not sell, rent, loan, trade, or lease personal information collected on this site. For more information about the CUNY privacy policy, please visit <http://www.cuny.edu/website/privacy.html>.

CUNY Alert users are responsible for keeping their contact information current. In the event that phone alert, email, or SMS messages are not found or rejected for incorrect or expired information during a live alert, CUNY reserves the right to delete the problem entry or to deactivate a user's account.

The CUNY Alert system is only to be used by authorized personnel who have been trained in the use of the emergency notification system.

## **Emergency Notification Procedures**

Any individual on campus who has information about an emergency or dangerous situation that may affect Medgar Evers College must notify the Public Safety Department as soon as possible.

The Public Safety Department will initiate and provide, without delay, emergency notifications to the college community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students, employees, and visitors occurring on the campus. The Medgar Evers College Public Safety Department is responsible for confirming emergencies, in conjunction with administrators, local first responders, and/or the National Weather Service, that may warrant the distribution of an emergency notification to the Medgar Evers community.

Emergency notification for incidents that may pose an immediate threat to health and safety will be made without delay unless issuing a notification will, in the professional judgment of responsible authorities and taking into account the safety of the Medgar Evers community, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

## **Timely Warnings**

The Timely Warning Notice, specifically related to compliance with the federal Clery Act, requires colleges and universities to notify students and employees whenever there is a threat that a serious crime is ongoing or may be repeated-- so that campus community members can protect themselves from harm. The Clery Act defines certain specific crimes that require a timely warning notice to be issued when crimes are reported to Campus Security Authorities (CSAs) with significant responsibility for student and campus activities, campus safety, or the local police AND the reported crime(s) are believed to have occurred on campus, in or on non-campus buildings or property, or on public property contiguous to the campus.

Campus officials not subject to the timely warning reporting requirement include licensed or certified professional counselors and recognized pastoral counselors who are functioning in the role of providing confidential counseling to members of the Medgar Evers College community on behalf of the institution.

The Department of Public Safety will issue crime alerts for crimes occurring on the Medgar Evers College Clery Geography (On Campus, Public Property, and Non-campus property) that present a serious or continuing threat to the campus community as required by the timely warning notice requirements of the Jeanne Clery Act to aid in the prevention of similar occurrences. Timely warning notices will be distributed as soon as practicable, with the goal of preventing similar occurrences. The identities of victims and witnesses will not be included in the Timely Warning Notice.

Individuals on campus should notify the Public Safety Department of crimes as soon as possible. The Public Safety Department will gather all pertinent information about the nature of the crime from the reporting person and other available sources (these may include, but are not limited to, other witnesses, the campus video surveillance system, the ID card access control system, and the Public Safety Department).

1. Based on the information available, the Director of Public Safety or his designee shall determine whether the crime presents a serious or continuing threat to the campus community. Crime Alerts are typically issued for the following Uniform Crime Reporting Program (UCR)/National Incident-Based Reporting System (NIBRS) crime classifications:
  - a. Murder/Non-Negligent Manslaughter
  - b. Aggravated Assault (cases involving assaults among known parties, such as two roommates fighting, which results in an aggravated injury, will be evaluated on a case-by-case basis to determine if the individual is believed to be an ongoing threat to the college community)
  - c. Robbery involving force or violence (cases including pickpocketing and purse snatching will typically not result in the issuance of a Crime Alert but will be assessed on a case-by-case basis)

- d. Sexual Assault (considered on a case-by-case basis depending on the facts of the case, when and where the incident occurred when it was reported, and the amount of information known by the Director of Public Safety or designee). In cases involving sexual assault, they are often reported long after the incident occurred; thus, there is no longer the opportunity to distribute a Crime Alert as a “timely” warning notice to the community. All cases of sexual assault, including stranger and non-stranger/acquaintance cases, will be assessed for potential issuance of a Crime Alert.
- e. Major incidents of Arson
  2. Timely Warnings may be issued for other Clery crimes as determined necessary by the Director of Public Safety or his designee in his absence. Notices for other crime classifications and locations, even though not required by the law, may be issued as Public Safety Advisories.
  3. Based on the information available, the Director of Public Safety or his designee shall determine the content of the Crime Advisory and the method by which to disseminate the warning to the campus community. He will issue/initiate the distribution of the Crime Advisory.
  4. Crime Alerts will typically be issued to all current students and employees via email using the College email accounts. Crime Alerts may also be issued using some or all of the following methods of communication: posters, campus newspaper, or the college website. The content of the Crime Alert may include but is not limited to the nature of the crime, the area where the crime occurred, a description of the suspect(s), and safety tips. It is the responsibility of the Director of Public Safety or his designee to determine whether a crime presents a serious or continuing threat to the campus community and issue a Crime Alert if necessary.
  5. The Director of Public Safety’s designee may include the Assistant Director of Public Safety, Lieutenant, and Sergeants after consulting with a higher authority.

## **Immediate Notifications**

Unless such notice and warning compromise the containment of an emergency or would likely result in an expansion or exacerbation of an emergency, immediate notification of an emergency will take place through one – or a combination of – the following methodologies: (1) CUNY- Alert, (2) Verbal announcement through the School’s emergency communication response system or via the building Class E fire control system if a fire or smoke issue is detected, (3) Campus-wide e-mail blast and/or (4) School website notice.

The following personnel are authorized to make such announcements: the President or her designee, the senior vice president/chief operating officer or her designee, the Public Safety Director or his designee, etc. Again, please note that a circumstance may arise in which it would not be prudent or appropriate to issue an immediate notification if such release would compromise efforts to contain the emergency.

## **Emergency Response and Evacuation Procedures**

Medgar Evers College maintains an Emergency Response Plan that outlines the responsibilities of campus units during emergencies. This plan outlines incident priorities, campus organization, and specific responsibilities of particular units or positions. The emergency handbook is available online at <https://www.mec.cuny.edu/wp-content/uploads/2021/08/MEC-Emergency-Response-Guide1.pdf>.

The main goal of the Medgar Evers College Emergency Operations Plan is the preservation of life, protection of property, and the continuity of campus operations. Other objectives include but are not limited to:

- Delegation of responsibility to emergency personnel



- Coordination of emergency operations with external agencies such as the NYPD, FDNY, NYC Office of Emergency Management, etc.

The emergency response and evacuation procedures are tested at least twice each year. The Department of Public Safety does not tell building occupants in advance about the designated locations for long-term evacuations because those decisions are affected by the time of day, the location of the building being evacuated, the availability of the various designated emergency gathering locations on campus, and other factors such as the location and nature of the threat. In all cases, Public Safety staff on the scene will communicate information to students, faculty, and staff regarding the developing situation or any evacuation status changes.

During an emergency, the College may use the Public Address system to advise the college community of procedures to be followed. The Public Safety Department is authorized to make such announcements. Public Safety personnel will also assist in directing building occupants to a safe location. The building will remain unoccupied until deemed safe to re-enter by emergency personnel.

### **Testing of Emergency Response and Evacuation Procedures**

Medgar Evers College conducts fire drills throughout the year to ensure compliance with NY Education Law 807. During these drills, building occupants are familiarized with campus evacuation procedures. During the fire drill exercise, we ask all occupants to leave the building and be active participants in the evacuation process. Individuals with special needs will be identified and should remain at the nearest elevator lobby if located on an upper floor. Public Safety personnel will make a note of their location.

### **Fire Emergency Plan**

When fire alarms ring, please note the announcement that immediately follows. It will provide you with instructions on where to assemble. If a false alarm occurs, an “all clear” announcement will be made via the fire command response system. Treat all fire alarms as real unless otherwise directed by the floor wardens or members of the Public Safety staff. Below are general guidelines for dealing with a fire. But remember, WHEN IN DOUBT, CALL 911 OR ACTIVATE A FIRE PULL STATION.

1. Be familiar with the location of stairways, fire extinguishers, fire exits, and pull boxes in the buildings.
2. If a minor fire appears controllable, immediately contact (personally or preferably have someone else call) the Department of Public Safety at 718-270-6003. Locate a portable fire extinguisher. Then, promptly direct the discharge of the fire extinguisher toward the base of the flame by squeezing the trigger and moving the hose in a side-to-side motion. Do not use water extinguishers on electrical fires.
3. In the case of large fires that do not appear controllable, immediately activate a fire pull station and, if time permits, dial X6003 to report the exact location of the fire. If time permits, close the door of the room where the fire exists.
4. When the building evacuation alarm is sounded, always assume that an emergency exists. Touch closed doors; do not open them if they are hot. If the door is cool, brace yourself behind the door and open it slowly. Bracing yourself behind the door prevents the door from being blown open due to the pressure created by the fire. Walk quickly to the nearest exit and alert others to do the same. Do not use the elevators during a fire.
5. Smoke is the greatest danger in a fire, so stay near the floor, where the air is less toxic.
6. Once outside, move away from the affected building. Keep streets, fire lanes, hydrants, and walkways clear for emergency vehicles and crews. These essential personnel must be allowed to do their jobs.
7. Do not return to an evacuated building unless told to do so by a College official.
8. If you become trapped in a building during a fire and a window is available, place an article of clothing (shirt, coat, etc.) outside the window as a marker for rescue crews. If possible, place a wet cloth at the

base of the doors to keep smoke from entering. Shout at regular intervals to alert emergency crews of your location. Dampen a cloth with water, place it over your nose, and breathe lightly through it. It is understood that these items may not be available to you—hence the importance of moving quickly and knowing your escape routes.

9. Should your clothing catch fire, stop, drop, and roll. Rolling on the ground will help smother the fire; this is, in fact, very effective.

## Evacuation of People With Disabilities

People with disabilities are encouraged to register with the Office of Accessibility and Accommodation Services in Room B-1024. With the individual's permission, information on their location on campus and ability will be shared with the Public Safety Department to make it easier to locate and assist in the event of an emergency. Public Safety staff will sweep the elevator banks and alert supervisors to which banks have persons staged at them and how many.

1. Avoid using elevators unless directed to by firefighters.
2. Always ask how you can help before assisting.
3. Alert a person who is hearing-impaired to the emergency and initiate their evacuation. Use hand gestures and writing if necessary to communicate what is happening and where to go. Escort them to the evacuation site as they may not be able to follow oral commands issued by authorities.
4. Escort a person who is visually impaired and may not be able to see visual commands issued by authorities. A visually-impaired person may prefer to hold onto the elbow of a sighted person. If possible, ask someone to follow behind to prevent the differently-abled individual from being pushed down if there is crowding.
5. Encourage a mobility-impaired person to stage at the nearest elevator lobby. Stairway evacuation of wheelchair users should be done only by trained professionals, preferably using special equipment (evacuation chairs). Only in the case of extreme danger should an untrained person attempt to evacuate a wheelchair user, and remember, moving a wheelchair on stairs is never safe.

## Hostile Intruder

When an intruder in a campus building is actively causing deadly harm or presents the threat of imminent deadly harm to people, immediately seek cover and contact 911 and the Public Safety Department, if possible. Remember to call 911 only when it is safe, and give as many details as possible regarding location, number of assailants, means of aggression, and other pertinent information. When a hostile intruder is actively causing deadly harm or the threat of imminent deadly harm to people on the campus, the U.S. Department of Homeland Security recommends the following course of action:

1. **EVACUATE** – if you can safely do so, run as fast as possible. Have an escape route and plan in mind. Use buildings, trees, shrubs, and cars as cover if outside. Leave your belongings behind. If you can escape the immediate danger area, summon help and warn others.
2. **HIDE OUT** - If you decide to hide, consider the area in which you are hiding. Hide where you are out of the aggressor's view. Stay as quiet and calm as possible. Block entry to your hiding place and lock the doors (if possible). Silence all electronic devices.
3. **TAKE ACTION** – Only do this as a last resort when your life is in imminent danger. If you choose to confront the aggressor, use all manner of materials at hand as weapons, including books, chairs, or any object near at hand. Act with physical aggression and throw items at the aggressor. You can choose to play dead if other victims are around you. Do not give your position away or stand up until Public Safety or civil authorities give an "all-clear" signal.

## **The Bomb Threat Response Plan**

While it is important to note that the overwhelming majority of bomb threats are unfounded, it is the policy of the College that they must be taken seriously. Each threat will be thoroughly investigated and considered suspect until all avenues have been explored.

1. A suspicious-looking box, package, object, or container in or near your work area may be a bomb or explosive material. Do not handle or touch the object. Move to a safe area (far from the object) and call the Department of Public Safety immediately at 718-270-6003. Do not operate any electronic devices, radios, or light (power) switches.
2. If you receive a bomb threat, remain calm and try to obtain as much information as possible from the caller. Specifically, try to ascertain the following:
  - a) The location of the device.
  - b) The time, if any, the device is scheduled to go off.
  - c) The appearance or type of container used for the device.
  - d) The reason for placing the device.
  - e) The size of the bomb.
  - f) The type of explosive used in the device.
  - g) The name of the caller or organization taking responsibility.
  - h) Any additional information that might be available.
3. The person receiving the call should note the following:
  - a) Male or female voice.
  - b) Time of call.
  - c) Mood of the caller (excited, nervous, calm, and despondent).
  - d) Background noises that may be present at the location of the caller.
  - e) Approximate age of the caller.
  - f) Any other peculiarities that may help identify the source of the call or its purpose.
4. The police will be called, and the building may be subject to full or partial evacuation. When evacuating the building, use only the stairs. Do not use elevators. Move well away from the building and follow the instructions of floor coordinators and emergency personnel on-scene.
5. If there is an explosion:
  - a) Immediately take cover under sturdy furniture.
  - b) Stay away from the windows.
  - c) Do not light matches.
  - d) Move well away from the site of the explosion to a safe location.
  - e) Use stairs only; do not use elevators.

## **Medical Emergencies**

All medical emergencies should be reported immediately to Public Safety at 718-270-6003 or x6003. Public Safety personnel are trained first responders and will render aid until emergency personnel arrive.

1. If the medical emergency is life-threatening, Public Safety will respond to the location and direct EMS when they arrive on the scene.
2. If a medical problem is non-life threatening, responding Public Safety officers will assess the victim and will escort/transport the victim to the Office of Health Services (room S-217) if they can safely be moved.
3. A patient who knowingly and willingly refuses aid will not be given. If the victim refuses medical aid, the Public Safety Officer will document the victim's refusal of care and have the victim sign the written record. Any refusal to sign will be documented.

## **Mental Health Medical Emergencies**

The balance of the demands of school and personal life can be challenging. You are not alone, and the college has resources available to provide individual and group support services to students currently enrolled at Medgar Evers College. The Office of Counseling and Psychological Services is located in room B-1005 in the Bedford Building. The counseling mission of Medgar Evers College-CUNY is to motivate and assist students in pursuing higher education objectives and personal development for self-actualization. You can schedule a confidential counseling session by contacting the office at 718-270-4832. Further information can be obtained on their website at

<https://www.mec.cuny.edu/student-success/counseling-psychological-services/>

If you do not get a response from the Counseling Office, or it is during non-business hours, please contact Public Safety at 718-270-6003 or x6003.

Whenever an individual demonstrates or reports a risk of self-destructive or suicidal behavior, immediate assistance is needed, and Public Safety should be notified *immediately* at 718-270-6003 or x6003. Public Safety will take the necessary measures to ensure their safety and refer them to appropriate resources. The Medgar Evers College's Care Assessment and Response (CARE) Team, composed of representatives from the Office of Student Success, the Public Safety Department, the Office of Veteran and Military Services, and the Office of Health Services, is empowered to identify, investigate, assess, refer, monitor and take action in response to behaviors exhibited by members of the Medgar Evers Community that may pose a threat to the campus. The team's primary goal is to provide threat assessments and early intervention for reported individuals before a crisis arises on the campus. View the entire CARE Team document here: <https://www.mec.cuny.edu/wp-content/uploads/2021/01/CARe-Team-at-MEC.pdf>.

## **Utility Failures**

### ***Power Failure***

The following actions are to be taken by members of the college community in the event of a power failure:

1. Report any power failure immediately to Public Safety at 718-270-6003 or x6003.
2. In the event of loss of power in any building, an emergency generator will supply low-level light until power is restored.
3. Having a flashlight attached to a key chain, belt clip, or in a bag may be helpful even when not in the school. Never use candles.
4. During daylight, add as much natural lighting as possible by raising the blinds.
5. Faculty with classes should remain where they are until notified otherwise.
6. During a power failure or possible power failure, **never use an elevator**. If you become trapped in an elevator during a power outage, use the emergency "Call for Help" button in the elevator to contact Public Safety. Wait for assistance. Don't panic.
7. Once power is restored, Public Safety will make an announcement using the College's public address system. Evacuation may not be necessary during a power failure.

### ***Plumbing Problem/Flooding***

Cease using all electrical equipment. Notify Public Safety immediately. If necessary, vacate the area and prevent anyone else from entering. If a toilet overflows or water accumulates in a given area, contact Buildings and Grounds at 718-270-6123 or x6123.

## ***Gas Leaks***

Gas leaks are rare but serious; therefore, you should cease all operations immediately. **If you smell gas, go to a safe area and contact Public Safety at 718-270-6003 or x6003. Do not use a mobile phone near a gas leak, whether here or at home. Gas vapors can be ignited by static electricity.**

## ***Biological, Chemical Spill Response or Nuclear Attack Procedures***

1. In the event of a biological or chemical spill, the Medgar Evers College Environmental Health and Safety Officer will be contacted at 718-270-6216. Facilities and Public Safety will respond with the EHS Officer, who will determine the following actions.
2. Upon receiving confirmation of an imminent or ongoing biological or chemical spill that poses great risk to life at the College, the President or her designee shall declare a campus-wide emergency. This state of emergency may initiate a lockdown of the building and/or its total evacuation. Note: Notification will be made via the College website, voicemail, emergency communication response system, and/or CUNY-ALERT if possible.
3. Building occupants will be kept informed of changes as they develop by college officials. The following actions will be taken if necessary: (a) building air handlers will be turned off and intakes sealed if possible, (b) building occupants will be directed to enclosed areas of the building unless otherwise directed by civil authorities to provide the most insulation and (d) updates on emergency will be given, if practicable, by the same methodologies as indicated above.

## **Publication of Emergency Procedures**

Emergency response and evacuation procedures are published annually via the Annual Security Report. Additional information can be found on the Medgar Evers College webpage at: [Public Safety - Medgar Evers College \(cuny.edu\)](https://www.mec.cuny.edu/wp-content/uploads/2021/08/MEC-Emergency-Response-Guide1.pdf), and the Medgar Evers College emergency handbook can be found at: <https://www.mec.cuny.edu/wp-content/uploads/2021/08/MEC-Emergency-Response-Guide1.pdf>.

***Note on all emergency notifications:*** When in the considered opinion of university, college, or civil authorities, dissemination of information on a given emergency may hinder or cause additional harm, such notification may be delayed until such time that it is safe to do so.

## **Crime Prevention & Security Awareness Programs**

The Public Safety Department issues safety alert bulletins (paper/email) when deemed necessary to the campus community when serious crimes occur in areas on or near the campus. The Department maintains a relationship with the New York City Police Department 71<sup>st</sup> precinct, which is responsible for the surrounding areas of the campus perimeter and providing additional response assistance. All persons reporting crimes to the Public Safety Department are encouraged to report the incident to the local police precinct concerned promptly. A record of each report made to the local precincts is maintained as part of the Public Safety Department's annual statistical report.

Crime prevention is a high priority for the Public Safety Department and the college community. The department encourages community members to be vigilant and aware of their surroundings, both on and off campus, and to take responsibility for their own safety and security. Crime prevention seminars are scheduled each semester, and college community members are encouraged to participate actively.

All incoming students receive information about campus crime prevention programs, CUNY's Sexual Misconduct Policy, and awareness and prevention of sexual misconduct (as defined in CUNY's Policy on Sex-Based Misconduct)-during initial orientation.

The Public Safety Department also provides students, faculty, and staff with crime prevention information, along with other safety-related material, during scheduled events on campus as well as via email safety bulletins. Education programs offered include:

- New Student/New Faculty Orientation
- Domestic Violence Workshops
- Emergency Preparedness Training
- Hostile Intruder/Active Shooter Training
- Security surveys and vulnerability assessments

Please visit our website at: [Public Safety - Medgar Evers College \(cuny.edu\)](http://Public Safety - Medgar Evers College (cuny.edu)) for more information.

## **COLLEGE REGULATIONS/CODE OF CONDUCT**

### **Rules and Regulations for the Maintenance of Public Order Pursuant to Article 129-A of the Educational Law (The ‘Henderson Rules’)**

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

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

With respect to enforcement of these rules and regulations, we note that the Bylaws of the Board of Higher Education provide that:

“THE PRESIDENT. The president, with respect to their education unit, shall:

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

### **HENDERSON RULES**

1. A member of the academic community shall not intentionally obstruct and/or forcibly prevent others from exercising their rights. Nor shall he interfere with the institution’s educational processes or facilities or the rights of those who wish to avail themselves of any of the institution’s instructional, personal, administrative, recreational, and community services.
2. Individuals are liable for failure to comply with lawful directions issued by representatives of the University/college when they are acting in their official capacities. Members of the academic

community are required to show their identification cards when requested by an official of the college.

3. Unauthorized occupancy of University/college facilities or blocking access to or from such areas is prohibited. Permission from appropriate college authorities must be obtained for removal, relocation, and use of University/college equipment and/or supplies.
4. Theft from or damage to University/college premises or property, or theft of or damage to property of any person on University/college premises, is prohibited.
5. Each member of the academic community or an invited guest has the right to advocate his position without having to fear abuse, physical, verbal, or otherwise, from others supporting conflicting points of view. Members of the academic community and other persons on the college grounds shall not use language or take actions reasonably likely to provoke or encourage physical violence by demonstrators, those demonstrated against, or spectators.
6. Action may be taken against any and all persons who have no legitimate reason for their presence on any campus within the University/college or whose presence on any such campus obstructs and/or forcibly prevents others from the exercise of the rights or interferes with the institution's educational processes or facilities, or the rights of those who wish to avail themselves of any of the institution's instructional, personal, administrative, recreational, and community services.
7. Disorderly or indecent conduct on University/college-owned or controlled property is prohibited.
8. No individual shall have in his possession a rifle, shotgun, or firearm or knowingly have in his possession any other dangerous instruments or material that can be used to inflict bodily harm on an individual or damage upon a building or the grounds of the University/college without the written authorization of such educational institution. Nor shall any individual have in their possession any other instrument or material which can be used and is intended to inflict bodily harm on any individual or damage upon a building or the grounds of the University/college.
9. Any action or situation that recklessly or intentionally endangers mental or physical health or involves the forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization is prohibited.
10. The unlawful manufacture, distribution, dispensation, possession, or use of illegal drugs or other controlled substances by University students or employees on University/college premises or as part of any University/college activities is prohibited. Employees of the University must also notify the College Personnel Director of any criminal drug statute conviction for a violation occurring in the workplace not later than five (5) days after such conviction.
11. The unlawful possession, use, or distribution of alcohol by students or employees on University/college premises or as part of any University/college activities is prohibited.

## **PENALTIES**

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

*Admonition:* An oral statement to the offender that they have violated university rules.

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

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



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

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

*Suspension:* Exclusion from classes and other privileges or activities as set forth in the notice of suspension for a definite period of time. This may include suspension from a residence hall. To the extent there are conditions placed on return to classes, privileges, or activities, these will be set forth in the decision of the student disciplinary panel or any resolution agreement reached.

*Expulsion:* Termination of student status for an indefinite period. This may include expulsion from a residence hall. The conditions of readmission, if any is permitted, shall be in the order of expulsion.

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

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

#### **ADDITIONAL CAMPUS RULES**

1. Any student violating any law or regulation established by the College, University, City, State, or Federal Government (including the use of drugs) shall be subject to the formal disciplinary procedures as outlined in Articles 15.3 to 15.5 of the Board of Higher Education Bylaws and Sanctions as listed in the Board of Higher Education Bylaws and Article 129A of the Education Law (CUNY Henderson Rules). The initiation of disciplinary procedures requires notice to the student pursuant to 15.3 of the Board of Higher Education Bylaws.  
  
In emergency or extraordinary circumstances, immediate suspension can be effectuated pending a hearing within seven (7) school days.
2. All other persons who violate New York State or Federal laws, including those that govern gambling activities, the use of alcohol, and the possession, distribution, or consumption of any controlled substance, will be subject to arrest.

## **WEAPONS POLICY**

No one within the University community (including visitors), except Campus Peace Officers, pursuant to the authorization of the College President, shall have in their possession a rifle, shotgun, firearm, or any other dangerous instrument or material that can be used to inflict bodily harm on an individual, damage to a building, or campus.

## **University Policy Relating to Drugs and Alcohol**

The City University of New York (“CUNY”) is committed to promoting all individuals' physical, intellectual, and social development. As such, CUNY seeks to prevent the abuse of drugs and alcohol, which can adversely impact performance and threaten the health and safety of students, employees, their families, and the general public. CUNY complies with all federal, state, and local laws concerning the unlawful possession, use, and distribution of drugs and alcohol. Federal law requires that CUNY adopt and implement a program to prevent the use of illicit drugs and abuse of alcohol by students and employees. As part of its program, CUNY has adopted a policy which sets forth (1) the standards of conduct that students and employees are expected to follow, (2) CUNY sanctions for the violation of this policy, and (3) the responsibilities of the CUNY colleges/units in enforcing this policy. CUNY's policy also (1) sets forth the procedures for disseminating the policy, as well as information about the health risks of illegal drug and alcohol use, criminal sanctions for such use, and available counseling, treatment, or rehabilitation programs to students and employees; and (2) requires each college to conduct a biennial review of drug and alcohol use and prevention on its campus. This policy applies to all CUNY students, employees, and visitors on CUNY property, including CUNY residence halls, and when engaged in any CUNY-sponsored activities off campus.

### **CUNY Standards of Conduct**

The unlawful manufacture, distribution, dispensation, possession, or use of drugs or alcohol by anyone on CUNY property (including CUNY residence halls), in CUNY buses or vans, or at CUNY-sponsored activities is prohibited. In addition, CUNY employees are prohibited from illegally providing drugs or alcohol to CUNY students. Finally, no student may possess or consume alcoholic beverages, regardless of whether the student is of lawful age. To make informed choices about the use of drugs and alcohol, CUNY students and employees are expected to familiarize themselves with the information provided by CUNY about the physiological, psychological, and social consequences of substance abuse.

### **CUNY Sanctions**

Employees and students who violate this policy are subject to sanctions under University policies, procedures, and collective bargaining agreements as described below. Employees and students should be aware that, in addition to these CUNY sanctions, the University will contact appropriate law enforcement agencies if they believe a policy violation should also be treated as a criminal matter. However, students should also be aware of CUNY's Drug/Alcohol Use Amnesty Policy, described below.

#### ***Students***

Students are expected to comply with the CUNY college policies with respect to drugs and alcohol. Any student found in violation may be subject to disciplinary action under Article 15 of the Bylaws of the Board of Trustees, which may result in sanctions up to and including expulsion from the University. In addition, any student who resided in a CUNY residence hall and who is found to have violated any CUNY or college policy with respect to drugs and alcohol may be subject to sanctions under the CUNY Residence Hall Disciplinary Procedures, up to and including expulsion from the residence hall. In lieu of formal disciplinary action, CUNY may, in appropriate cases, seek to resolve the matter through an agreement pursuant to

which the student must see a counselor or successfully participate in a drug and alcohol treatment program. In accordance with Federal Education Rights and Privacy Act (“FERPA”), CUNY may also choose—when appropriate—to contact parents or legal guardians of students who have violated the CUNY policy on drugs and alcohol.

### ***Employees***

Any employee found to have violated this CUNY policy may be subject to disciplinary action in accordance with the procedures set forth in applicable CUNY policies, rules, regulations, and collective bargaining agreements. Sanctions may include a reprimand, suspension without pay, or termination of employment. In lieu of formal disciplinary action, CUNY may, in appropriate cases, seek to resolve the matter through an agreement pursuant to which the employee must successfully participate in a drug or alcohol treatment program.

### **Drug/Alcohol Use Amnesty Policy**

CUNY encourages students to seek medical assistance related to drug and/or alcohol use without fear of being disciplined for such use. CUNY also encourages students under the influence of drugs and/or alcohol who may be the victims of, witnesses to, or otherwise become aware of violence (including but not limited to domestic violence, dating violence, stalking, or sexual assault) or sexual harassment or gender-based harassment to report that violence or harassment. Students who, in good faith, call for medical assistance for themselves or others and/or who receive medical assistance as a result of a call will not be disciplined for the consumption of alcohol or drugs as long as there are no other violations that ordinarily would subject the student to disciplinary action. Similarly, students who may be the victims of, witnesses to, or otherwise become aware of violence, sexual harassment, or gender-based harassment and who report such violence or harassment and who report such violence or harassment will not be disciplined for the consumption of alcohol or drugs in the absence of other violations that ordinarily would subject the student to disciplinary action. However, if you are involved in the distribution of illegal drugs or sexual misconduct, causing or threatening physical harm, hazing, or property damage, amnesty may not apply. Additional information can be found at <http://www2.cuny.edu/wp-content/uploads/sites/4/page-assets/about/administration/offices/legal-Success/Drug-and-Alcohol-Use-Amnesty-Policy-10.1.2015.pdf>

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

### **Background**

The City University of New York’s Policy on Drugs and Alcohol, adopted by the Board of Trustees on June 22, 2009, prohibits the unlawful manufacture, distribution, dispensation, possession, or use of drugs or alcohol by employees, students or visitors, on CUNY property, in CUNY buses or vans, or at CUNY-sponsored activities. It prohibits all students (regardless of age) from possessing or consuming alcoholic beverages in CUNY residence halls. It also prohibits CUNY employees from illegally providing drugs or alcohol to CUNY students.

As the Policy states, sanctions for violation of the Policy, following appropriate disciplinary proceedings, may include, in the case of students, expulsion from the university and, in the case of employees, termination of employment. This document sets forth additional information required under federal law, including the legal sanctions for drug and alcohol use, health risks of such use, and information regarding available counseling, treatment, or rehabilitation programs.

## **Legal Sanctions**

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

Note that an individual need not physically possess a controlled substance to be guilty of a crime. The unlawful presence of a controlled substance in an automobile is presumptive evidence of knowing possession of such substance by each passenger unless the substance is concealed on the person of one of the occupants. Similarly, the presence of certain substances in plain view in a room can sometimes be presumptive evidence of knowing possession of such substances by anyone in close proximity.

*Further, pursuant to New York State law:*

1. Any person under age 21 who is found to be in possession of alcohol with the intent to consume it may be punished by a fine and/or required to complete an alcohol awareness program and/or to provide up to 30 hours of community service—alcoholic Beverage Control Law, § 65-c.
2. Giving or selling an alcoholic beverage to a person less than age 21 is a Class A misdemeanor punishable by a sentence of imprisonment up to one year. Penal Law § 260.20
3. Any person who operates a motor vehicle while intoxicated or while the consumption of alcohol or drugs impairs his ability to operate such vehicle is subject to suspension or revocation of driving privileges in the State, monetary fines up to \$1,000, and imprisonment for up to one year. Vehicle and Traffic Law § 1192
4. A person under 21 who presents false written evidence of age to purchase or attempt to purchase any alcoholic beverage may be punished by a fine, community service, and/or completion of an alcohol awareness program—Alcoholic Beverage Control Law § 65-b (1). Possessing such false evidence may also be criminal possession of a forged instrument, a felony in New York, punishable by a fine of up to \$ 5,000, imprisonment of up to 7 years, or both—penal Law §170.25.
5. Appearing in public under the influence of narcotics or a drug other than alcohol to the degree that a person may endanger him or herself or other persons or property or annoy persons in his vicinity is a violation, punishable by a fine and imprisonment up to 15 days. Penal Law § 240.40

## **Health Risks**

The following summarizes some health risks and symptoms associated with using many of the most-publicized drugs, including alcohol and tobacco. This information was obtained from the National Institute on Drug Abuse (part of the National Institutes of Health of the U.S. Department of Health and Human Services) and the Mayo Clinic. Individuals experience such substances differently based on various physical and psychological factors and circumstances.

### **LSD (Acid)**

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

### **Cocaine**

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

## **MDMA (Ecstasy)**

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

## **Heroin**

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

## **Marijuana**

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

## **Methamphetamine**

Methamphetamine is an addictive stimulant that is closely related to amphetamine but has long-lasting and more toxic effects on the central nervous system. It has a high potential for abuse and addiction.

Methamphetamine increases wakefulness and physical activity and decreases appetite. Chronic, long-term use can lead to psychotic behavior, hallucinations, and stroke.

## **PCP/Phencyclidine**

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

## **Prescription Medications**

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

## **Tobacco/Nicotine**

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

## **Steroids**

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

## **Alcohol**

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

## **Substance Abuse**

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

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

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

## **DRUG AND ALCOHOL PREVENTION PROGRAMS (DAAPP)**

### **On-Campus Alcohol and Substance Abuse Resources**

Medgar Evers College Department of Student Development/Student Success has several services to help students in need of assistance with alcohol and substance use/abuse. They are the Student Wellness Center, Counseling Services, and Health Services. These programs provide information on alcohol and substance abuse and make referrals to outside mental health, health, and substance abuse treatment programs. In addition, counselors are available in the Student Wellness Center and Counseling Services to assist students.

The primary function of the college's Counseling & Psychological Services Office is to help students cope with academic, career, and personal challenges that may interfere with their ability to achieve academic success and actualize their human potential. Medgar Evers College's counseling philosophy is "to motivate and assist students in their pursuit of education, career, and personal/social empowerment for life-long self-development." Counseling is a collaborative process involving developing a unique, confidential, helping relationship.

Counseling & Psychological Services facilitate workshops for students, faculty, and staff regarding sexual assault, psychological distress, campus violence, tobacco cessation, PTSD, and other mental health issues. In addition, Counselors utilize their skills to assist students and clients in achieving objectives by exploring a problem and its ramifications, examining attitudes and feelings, considering alternative solutions, and decision-making.

Medgar Evers College students should (1) consult the college website or (2) contact the Student Success Office and/or Counseling Center. At Medgar Evers College, a student may contact one of the campus resources listed below for further information and prevention programs.

OFFICE	LOCATION	ROOM	TELEPHONE NUMBER
Counseling & Psychological Services Office	Bedford Building 1650 Bedford Avenue	Rm. 1005	718-270-6939
Health Services	Student Services 1637 Bedford Avenue	Rm. 217	718-270-6075
Women's Development Center	Carroll Building 1150 Carroll Street	Rm. C-M2	718-270-6940
Male Development Empowerment Center	Carroll Building 1150 Carroll Street	Rm. C-M8	718-270-6405
CAMBA	Carroll Building 1150 Carroll Street	Rm. C-307	718-270-8269

Medgar Evers College employees can seek assistance through the CUNY Work Life Program at (800) 833-8707, or the following website: <http://www.powerflexweb.com/1073/login.html> The CUNY Work/Life Program is administered through CCA@your service, a behavioral health organization, which can be contacted by calling (800) 833-8707.

**Off-Campus Alcohol and Substance Abuse Resources**

PROGRAM NAME	ADDRESS	TELEPHONE NUMBER
Bridge Back to Life	3044 Coney Island Avenue, 3rd Fl. Brooklyn, NY 11235	(718) 616-5500
Coney Island Hospital Acute Care Addictions Program (ACAP)	2601 Ocean Parkway Brooklyn, NY 11235	(718) 616-5500
New Directions Substance Abuse Program	500 Atlantic Avenue Brooklyn, NY 11217	(718) 398-0800

**12-Step Recovery Programs**

- Narcotics Anonymous (212) 929-6262 <http://www.newyorkna.org/>
- Cocaine Anonymous (212) 262-2463 <http://www.canewyork.org/>
- Marijuana Anonymous Website [Marijuana Anonymous](#)
- Alcoholics Anonymous (212) 647-1680 <http://www.nyintergroup.org/>
- Nicotine Anonymous (631) 665-0527 <http://www.nicotine-anonymous.org/>
- Al-Anon/Alateen (888) 425-2666 <http://www.al-anonny.org>

**Detoxification and Outpatient/Inpatient Rehabilitation Facilities by County**

KINGS		
Bridge Back to Life Center, Inc.	175 Remsen St., 10 <sup>th</sup> Floor Brooklyn, NY 11201	(718) 852-5552
Kings County Hospital Center	591 Kingston Avenue Brooklyn, NY 11203	(718) 245-2630
Interfaith Medical Center	1545 Atlantic Avenue Brooklyn, NY 11213	(718) 613-4330



<b>NEW YORK</b>		
Bellevue Hospital Center	462 First Ave. New York, NY 10016	(212) 562-4141
Greenwich House, Inc	50B Cooper Square New York, NY 10003	(212) 677-3400
Mount Sinai West	1000 Tenth Ave New York, NY 10019	(212) 523-6166
<b>QUEENS</b>		
Flushing Hospital Medical Center	4500 Parsons Boulevard Flushing, NY 11355	(718) 670-5078
Samaritan Village, Inc.	144-10 Jamaica Ave. Jamaica, NY 11435	(718) 206-1990
Daytop Village, Inc.	316 Beach 65 <sup>th</sup> St. Far Rockaway, NY 11692	(718) 474-3800
<b>BRONX</b>		
St. Barnabas Hospital	4535 East 183 <sup>rd</sup> St. Bronx, NY 10457	(718) 960-6636
Montefiore Medical Center	3550 Jerome Ave., 1 <sup>st</sup> Floor Bronx, NY 10467	(718) 920-4067
Bronx-Lebanon Hospital Center	1276 Fulton Ave., 7 <sup>th</sup> Floor Bronx, NY 10456	(718) 466-6095
<b>RICHMOND COUNTY</b>		
Staten Island University Hospital	Center 375 Seguire Ave. Staten Island, NY 10309	(718) 226-2790
Richmond University Medical Center	1130 South Avenue Staten Island, NY 10314	(718) 818-5375
Camelot of Staten Island, Inc.	263 Port Richmond Ave. Staten Island, NY 10302	(718) 981-8117
<b>NASSAU COUNTY</b>		
Long Beach Medical	455 East Bay Dr. Long Beach, NY 11561	(516) 897-1250
North Shore University Hospital	400 Community Dr. Manhasset, NY 11030	(516) 562-3010
Nassau Health Care Corporation	2201 Hempstead Tpke East Meadow, NY 11554	(516) 572-9400

## SEX-BASED MISCONDUCT

### Reporting and Prevention of Dating Violence, Domestic Violence, Sexual Assault and Stalking

CUNY prohibits the offenses of dating violence, domestic violence, sexual assault, and stalking (as defined by the Clery Act). It reaffirms its commitment to maintaining a campus environment that emphasizes the dignity and worth of all members of the university community. Toward that end, Medgar Evers College issues this policy statement to inform the campus community of our programs to address domestic violence, dating violence, sexual assault, and stalking, as well as the procedures for institutional disciplinary action in cases of alleged reports. The City University of New York Policy on Sex-Based Misconduct is attached to the end of this report. The Policy can also be accessed by clicking the following link: [CUNY Sex-Based Misconduct Policy](#)

Allegations of sex-based misconduct, including sexual assault, sexual harassment, stalking, or domestic, dating, and intimate partner violence, should be reported to one of the individuals listed below:

1. Interim Director of Public Safety: Jerry Hoffman, Rm. AB1-C-17, (718) 270-6069, [jerryh@mec.cuny.edu](mailto:jerryh@mec.cuny.edu)
2. Dean of Student Success: Dr. LaToya Blount, Rm. S-306, (718) 270-6046, [Latoya.Blount18@mec.cuny.edu](mailto:Latoya.Blount18@mec.cuny.edu)
3. Director of Human Resources: Susan Haynes, Rm. C-208, (718) 270-6910, [Shaynes@mec.cuny.edu](mailto:Shaynes@mec.cuny.edu)
4. Title IX Coordinator: Lance Houston, Rm. C-208, (718) 270-6169, [Lance.Houston16@mec.cuny.edu](mailto:Lance.Houston16@mec.cuny.edu)
5. Chief Diversity Officer: Lance Houston, Rm. C-208, (718) 270-6169, [Lance.Houston16@mec.cuny.edu](mailto:Lance.Houston16@mec.cuny.edu)

For more detailed information on Title IX, including community and campus-specific information resources, please also see CUNY policies, Getting Help, Understanding and Preventing Sexual Assault and Sexual Harassment, please go to: <http://www1.cuny.edu/sites/title-ix/campus/medgar-evers-college/>

### Prevention Education Programs

CUNY/Medgar Evers College is committed to creating a community free from Sex-Based Misconduct. CUNY/Medgar Evers College has developed materials and programs to educate its students, faculty, and staff on the nature, dynamics, common circumstances, and effects of Sexual Assault, Dating Violence, Domestic Violence, and Stalking and the means to reduce their occurrence and prevent them. These programs are offered to incoming freshmen and transfer students during fall and spring orientation sessions. The Title IX Coordinator and the Vice President for Student Success offices provide this training to student activity groups, clubs, and athletic teams. Prevention education materials are distributed to students during campus orientation activities.

SPARC, or the Sexual and Interpersonal Violence Prevention and Response Course, is mandated for all incoming and transfer students and is offered to all other students through an easily accessible online portal. This program educates students on key information such as the definition of affirmative consent, where to go on campus if they, or someone they know, have been affected by Sexual Misconduct, and what resources are available for assistance. The course is custom-tailored so that students will receive specific campus contact information for Public Safety, Title IX Coordinator, Campus Health Services, Mental Health Counseling Center, and Office of Student Success. Additionally, CUNY added an alcohol education module to ensure students understand the dangers of irresponsible alcohol consumption and how it relates to sexual violence.

ESPARC, or the Employee Sex-Based Misconduct Prevention and Response Course, is a mandated annual training to inform employees how to identify, prevent, and respond to Sexual Misconduct in the workplace. In addition to educating employees on the various CUNY policies related to these topics, it also identifies where to go and with whom to speak if they, a student, a colleague, or a subordinate, experience Sexual Misconduct. Additionally, it gives examples of conduct that may constitute Sexual Harassment and informs employees that they may also seek legal redress from outside agencies. Each campus's online course informs participants who are responsible at their specific campus for investigating Sexual Misconduct and provides up-to-date contact information for those individuals.

In addition, the Medgar Evers College Title IX Coordinator, the Office of Student Success and Public Safety provide workshops throughout the year related to the prevention and handling of sexual assaults, stalking, and domestic/intimate partner violence for all relevant personnel, including public safety officers, counselors, and Student Success staff.

Faculty and staff are all welcome to attend the workshops as well. The Public Safety Department has NYS Certified General Topics instructors who are the designated liaison for additional training on campus, including domestic violence, dating violence awareness, bullying, active shooter response, emergency preparedness, stranger danger for children in the Day Care Center, and other general crime prevention topics. These education programs can be provided upon request. If you want to schedule an education program for a specific group, please contact Public Safety during business hours at 718-270-6069.

More information and resources about campus safety, sexual assault and harassment, domestic/intimate partner violence, stalking, and dating violence can be found at the [CUNY Title IX Website](#). Important Definitions can be found in the Clery Act and CUNY's Sexual Misconduct Policy (Please refer to CUNY's Sexual Misconduct Policy for Other Important Definitions).

## **How to be an Active Bystander**

CUNY/Medgar Evers College provides training on bystander intervention for incoming students and new employees. Bystanders play a critical role in the prevention of Sex-Based Misconduct. Bystanders are individuals who observe violence or witness the conditions that perpetuate violence. They are not directly involved but can intervene, speak up, or do something about it. Training on bystander intervention includes safe and positive options to prevent harm or intervene when there is a risk of Dating Violence, Domestic Violence, Sexual Assault, or Stalking.

CUNY encourages employees, students, and visitors to take reasonable and prudent actions to prevent or stop an act of Sex-Based Misconduct that they may witness unless doing so would pose a safety risk to themselves or others. Although these strategies will depend on the circumstances, they may include direct intervention, calling law enforcement, or seeking assistance from someone in authority. Bystander intervention strategies include:

1. Watch out for your friends and fellow students/employees. If you see someone who looks like they could be in trouble or need help, ask if they are ok.
2. Confront people who seclude, hit on, try to make out with, or have sex with people who are incapacitated.
3. Speak up when someone discusses plans to take sexual advantage of another person.
4. Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
5. Refer people to on or off-campus resources listed in this document for health, counseling, or legal assistance support.

In addition, CUNY encourages employees, students, and visitors to report any incident of Sex-Based Misconduct that they observe or become aware of to the Title IX Coordinator, Public Safety, or the other offices referenced above. The College will support individuals who take action in accordance with this paragraph, and anyone who retaliates against them will be subject to discipline.

If you or someone else is in immediate danger, dial 911 (if on campus, call Public Safety at 718-270-6003).

## **Prevention and Risk Reduction**

CUNY/Medgar Evers College also provides training on prevention and risk reduction to incoming students and new employees. Risk reduction is an option designed to decrease perpetration and bystander inaction, increase empowerment for victims, promote safety, and help individuals and communities address conditions that facilitate violence. Risk reduction options include:

1. Convey strongly that you expect your rights to be respected.
2. Meet new acquaintances in public places. Always have your own transportation or travel with trusted friends.
3. Keep money in your pocket or purse for phone calls or pay for transportation if you must leave a situation abruptly.
4. Be aware of how much alcohol is being consumed. It's best to avoid using alcohol. While not a direct cause of date rape, alcohol can increase your vulnerability by lowering your alertness and ability to react.
5. Do not accept a drink from someone you do not know or trust. Do not drink from bowls or large, common open containers.
6. Do not continue to drink from a beverage you left unattended.
7. Clearly define your sexual limit. If someone starts to offend you, be direct. Say no clearly when you mean no.
8. If you feel that you are being pressured into unwanted sex, say something as soon as you can before the behavior goes any further.
9. Embarrassment should not keep you from doing what is right for you. Do not hesitate to raise your voice, stand up abruptly, or scream if the situation warrants it.
10. Watch out for your friends and fellow students/employees. If you can do so safely, ask if they need help.
11. Speak up if you hear someone discuss plans to take sexual advantage of another person.
12. Offer to help a friend, fellow/student or employee make a report and seek assistance and support.
13. Avoid isolated areas.
14. Attend parties with friends. Arrange to leave with your friend.

## **Procedures Victims Should Follow in the Case of Alleged Dating Violence, Domestic Violence, Sexual Assault or Stalking**

The following information addresses what students should do if they experience Dating Violence, Domestic Violence, Sexual Assault, or Stalking.

- ✓ After an attack, try to be as calm as possible to think clearly. Get to a safe place and call for help immediately. If you are in the building, contact security immediately; anywhere else, call 911, call a relative, friend, or rape crisis center.
- ✓ The NYPD Sex Crimes Report Rape Line is always open at 212-COP-RAPE.
- ✓ Remain in the same condition as when the attacker left. Do not change, wash, or destroy any clothing or article that may be evidence.
- ✓ Do not wash, douche, or comb your hair.

- ✓ Have a medical/gynecological exam at the nearest hospital emergency room as soon as possible. The doctor should note and treat any injury and take measures to combat the possibility of sexually transmitted diseases or pregnancy. If you report being raped, the doctor may be able to collect semen smears or other physical specimens as evidence.
- ✓ Show police any bruises or injuries, however minor, resulting from the attack. Also, it shows injuries, however minor, resulting from the attack. Also, show injuries to a friend or relative who might be available as a corroborative witness at the trial. If possible, photograph bruises.
- ✓ Leave the crime scene exactly as it is. Do not touch, clean up, or throw anything away.
- ✓ Give any stained or torn clothing (including undergarments) during the crime to the police.
- ✓ When calm, write down every detail about the incident, including who, what, where, when, and how; what the attacker looked like (height, weight, clothing, type of build, color of skin, hair, eyes, facial oddities, scars jewelry, tattoos etc.); description of any vehicle used or the direction you last saw the attacker running; what kind of force or coercion was used; any objects touched, taken, or left by the attacker; if the attacker said anything, try to remember the words, the grammar, any accents or speech defects; and if there were witnesses, list who and where they might be.
- ✓ Seek psychological support as well as medical attention. Even though the actual incident is over, you may suffer from rape trauma syndrome, which includes a variety of difficulties commonly experienced after a sexual assault.
- ✓ A student can call the New York City Police Department or 911 or go directly to a hospital. If the student wishes, Public Safety will call 911 on their behalf. It is important to note that if you are a victim of a sex offense, **do not destroy any evidence (including clothing), and do not take a shower or bath.**
- ✓ It is important that such physical evidence be preserved to assist with any ensuing criminal investigation. If the student believes that they may be the victim of date rape by being drugged, they should go directly to a hospital to receive a toxicology examination since such drugs only remain in a person's system for a short period of time. The Department of Public Safety will assist with notification of other law enforcement authorities and/or medical professionals if the student so chooses.
  1. The New York State Department of Health has designated sexual assault forensic examiner ("SAFE") programs in hospitals designated as 24-hour centers of excellence. SAFE hospitals ensure the quality of collections, documentation, preservation, and custody of physical evidence by a trained examiner and provide medical care that includes, but is not limited to, treatment, referral, and follow-up at no cost to the victim.
  2. As time passes, evidence may dissipate or become lost or unavailable, making investigation, possible prosecution or disciplinary proceedings, or obtaining an order of protection more difficult. Even if a victim of sexual assault chooses not to file a complaint with law enforcement, the victim should consider having a sexual assault forensic exam, which will preserve the evidence in case the victim decides to file a report later. Files relating to sex offenses are kept confidential by the Department of Public Safety and the Office of Student Success/Student Life unless otherwise required by law or CUNY policy.

## **How to report Dating Violence, Domestic Violence, Sexual Assault or Stalking**

1. Call the Department of Public Safety's emergency telephone line at extension 6003 or 718-270-6003 from your cell phone. Or report the information to any Department of Public Safety member or in person at the Public Safety Office located in Room C-17 in AB-1.
2. Use one of the Emergency Assistance call boxes located throughout the campus.
3. Victims or witnesses may report crimes to persons designated as Campus Security Authorities, who will forward only the crime report – without divulging the victim's name or witness – to the Department of Public Safety for inclusion in the annual crime report. Names and numbers of Campus Security Authorities are located on page 2 of this report. The College

recognizes the importance of confidentiality to victims and witnesses of crimes. To provide crime statistics pursuant to the Campus Security Act in the College's Annual Security Report, victim and witness information will remain anonymous. However, complete confidentiality cannot be guaranteed in all other contexts. The College reserves the right to notify the police when it believes such reporting is necessary to protect the College Community. In many cases, however, that notification will be done without divulging the victim's identity and only to provide a campus-wide alert.

4. In the event that the situation you observe or are involved in is of an extreme or life-threatening nature, call 911. However, notify the Department of Public Safety if you make a 911 call. They will assist and direct the police along with other responding emergency personnel.
5. If you wish to report the allegations to the College/CUNY, contact one of the individuals listed below:
  - Director of Human Resources: Susan Haynes, Rm. C-208, (718) 270-6910, [Shaynes@mec.cuny.edu](mailto:Shaynes@mec.cuny.edu)
  - Title IX Coordinator: Lance Houston, Rm. C-208, (718) 270-6169, [Lance.Houston16@mec.cuny.edu](mailto:Lance.Houston16@mec.cuny.edu)
  - Interim Director of Public Safety: Jerry Hoffman, Rm. AB1-C-17, (718) 270-6069, [jerryh@mec.cuny.edu](mailto:jerryh@mec.cuny.edu)
  - Dean of Student Success: Dr. Latoya Blount, Rm. S-306, (718) 270-4961, [Latoya.Blount18@mec.cuny.edu](mailto:Latoya.Blount18@mec.cuny.edu)
  - Chief Diversity Officer: Lance Houston, Rm. C-208, (718) 270-6169, [Lance.Houston16@mec.cuny.edu](mailto:Lance.Houston16@mec.cuny.edu)

## **Options about the involvement of law enforcement and campus authorities**

Students, employees, or other community members may report Sex-Based Misconduct to local law enforcement and/or state police ("outside law enforcement"). However, CUNY/Medgar Evers College does not require that a complainant report Sex-Based Misconduct to outside law enforcement, nor will CUNY/Medgar Evers College do so without the complainant's agreement, except in exceptional circumstances. The college may report Sex-Based Misconduct to outside law enforcement without the complainant's consent when the college determines that the respondent poses a serious continuing threat to the physical safety of the complainant or another person.

If a student, employee, or other community member chooses to report Sex-Based Misconduct to outside law enforcement, CUNY/Medgar Evers College will assist. Each college Public Safety office must 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 reporting allegations on and off-campus and obtaining immediate medical attention and other services.

## **Who is a perpetrator?**

Many people think that sexual assaults are only perpetrated by vicious strangers on dark, deserted streets. Studies indicate that between 80 and 90 percent of all people who have been raped know their perpetrator(s). This is called "date rape" or "acquaintance rape." "Date rape" is not a legally distinct or lesser category of rape. It refers to a relationship and situational context in which rape occurs on a date. Rape or any sexual offense, whether on a date or not, is the same criminal offense involving the same elements of force, exploited helplessness, or underage participation. In sexual assaults where the victim

knows the perpetrator, alcohol use is often involved by either the victim or the perpetrator. However, sexual assault is still a crime regardless of the intoxication of the perpetrator or the victim.

## **Who is a victim?**

Anyone can be a victim, regardless of gender, age, race, sexual orientation, gender identity, religion, ethnicity, class, or national origin. Regardless of whether the victim was abusing alcohol and/or underage, they are still the victim of the sex offense.

## **When is there a lack of consent?**

CUNY's Sex-Based Misconduct Policy requires affirmative consent to sexual activity. Affirmative consent, as defined in CUNY's Sex-Based Misconduct Policy, 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 sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based on a participant's sex, sexual orientation, gender identity, or gender expression. Consent may be initially given but withdrawn at any time. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.

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 cannot knowingly choose to participate in sexual activity. Incapacitation may be caused by lack of consciousness or being asleep, involuntarily restrained, or if the individual 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 give consent.

## **Who is responsible for a sexual attack?**

In the absence of consent, the attacker is always responsible for committing the sexual assault regardless of the victim's appearance, behavior, or conduct on previous occasions. An attacker cannot assume that the way a person dresses or an act is an invitation for sexual advances. A person may welcome some forms of sexual contact and be opposed to others. The more impaired a person is from alcohol or drugs, the less likely they can give consent; having sex with someone who is "passed out" or sleeping is rape. In addition, regardless of previous sexual activity, if someone refuses sexual contact, the failure to respect that limit constitutes non-consensual sex.

## **Complainant's Rights**

Individuals who have experienced Sex-Based Misconduct have the right to report allegations to the college or to decide not to do so. Students who report Sex-Based Misconduct have all of the rights contained in the Students' Bill of Rights (copy attached).

Complainants also have these rights:

- a. To notify campus Public Safety and/or outside law enforcement, or to choose not to report.
- b. 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 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

- and 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.
- c. To disclose the incident to a college representative who can offer confidentiality or privacy and assist in obtaining services. See Section VI above.
  - d. To describe the incident only to those campus officials who need the information in order to respond appropriately and to repeat the description as few times as practicable (subject to the procedures outlined in CUNY's Policy on Sexual Misconduct, Sections XI and XII).
  - e. To have allegations of Sexual Misconduct investigated in accordance with CUNY's Policy on Sexual Misconduct.
  - f. To have privacy preserved to the extent possible.
  - g. 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.
  - h. To disclose the incident to the college's Human Resources Director or designee (if the respondent is a college employee) or request that a confidential or private resource assist in doing so.
  - i. To disclose the incident confidentially and obtain services from state and local governments.
  - j. 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.
  - k. 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.
  - l. To withdraw allegations or involvement from the process at any time.

## **College and Community Counseling and Support Services for those affected by Sex-Based Misconduct**

### **On-Campus Assistance**

CUNY is committed to providing assistance, support, and resources to those affected by Sex-Based Misconduct. Anyone who has experienced Sexual Assault, Domestic Violence, or Dating Violence is encouraged to contact the Title IX Coordinator to obtain assistance in accessing medical and counseling services or to obtain supportive measures, such as changes to the student's academic program. There is a wide range of supportive measures and accommodations available to those affected by Sexual Misconduct; for example, the Office of Public Safety can assist a complainant in getting to and from campus classes, filing a police report, and obtaining an order of protection against the respondent.

Section VIII-A of CUNY's Policy on Sex-Based Misconduct provides a written discussion about the range of supportive measures and accommodations available and information about how to request accommodations. As detailed in CUNY's Policy on Sex-Based Misconduct, supportive measures and accommodations are available regardless of whether a victim chooses to report allegations to the college, campus law enforcement, or outside law enforcement. Any accommodations or protective measures will remain confidential to the extent that maintaining such confidentiality would not impair the ability of the college to provide the accommodation or protective measures.

### **College Support Services**

#### **On-Campus Resources**

Title IX Office, C-208, 718-270-6169

Public Safety, AB -1 Rm. C-17, 718-270-6069

Student Success, S-306, 718-270-6046



Office of Health Services, S-217, 718-270-6075  
Center for Women's Development, C-M2, 718-270-6940  
Male Development Empowerment Center, C-M8, 718-270-6405

### **Counseling for Employees**

CUNY Work Life Program (800) 833-8707

### **Contacting outside agencies**

The College will assist any student requesting to contact outside agencies, including local police, regarding charges and complaints of sexual assault.

### **Off-Campus Resources**

- For immediate help, call 911
- The New York City Police Department Sex Crimes Report Line 212-267-RAPE
- New York State Domestic & Sexual Violence Hotline for confidential assistance 1-800-942-6906 (available 24/7/365) or visit the National Sexual Violence Resource Center website at [nsvrc.org](http://nsvrc.org).
- Report sexual assault on a New York college campus to the New York State Police at 1-844-845-7269
- Safe Horizon Hotline 1-800-621-HOPE (4673) [www.safehorizon.org/hotline](http://www.safehorizon.org/hotline)
- National Sexual Assault Hotline 800-656-HOPE (4673) Free, confidential, 24-hour hotline.
- New York State Domestic and Sexual Violence Hotline 1-800-942-6906  
<http://www.nyscadv.org/>
- The New York City Anti-Violence Project empowers gay, lesbian, bisexual, transgender, queer, and HIV-affected communities to end all forms of violence through organizing and education. The Anti-Violence Project provides support, counseling, and advocacy. The 24-hour hotline is 212-714-1141.
- The following New York State Department of Criminal Justice website offers links to many additional resources at [New York State Division of Criminal Justice Services \(ny.gov\)](http://www.nyc.gov/site/criminal-justice-services)
- New York State Office of Victim's Services [www.ovs.ny.gov](http://www.ovs.ny.gov)
- NYC Mayor's Office to Combat Domestic Violence/Family Justice Centers  
<http://www1.nyc.gov/site/ocdv/programs/family-justice-centers.page>

### **The City University of New York Policy on Sex-Based Misconduct**

A copy of the City University of New York Policy on Sex-Based Misconduct is attached to this report. It can be viewed by clicking the following link: [CUNY Sex-Based Misconduct Policy](#)

Under the provisions of Title IX of the Education Amendments of 1972 ("Title IX"), 20 USC §§ 1681 et seq., and its implementing regulations, 34 CFR Part 106, discrimination on the basis of sex in education programs or activities operated by recipients of federal financial assistance is prohibited. Sexual Harassment, which includes Sexual Assault, Dating Violence, Domestic Violence, and Stalking, is a form of discrimination prohibited by Title IX.

The United States Department of Education defines Title IX Sexual Harassment to mean conduct on the basis of sex that occurs in Medgar Evers College/CUNY's education program or activity against a person in the United States, and that satisfies one or more of the following: (1) a Medgar Evers College/CUNY

employee conditioning the provision of an aid, benefit or service of CUNY on an individual's participation in unwelcome sexual conduct; (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, *and* objectively offensive that it effectively denies a person equal access to Medgar Evers College/CUNY's education program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in CUNY's Policy on Sexual Misconduct.

CUNY Policy on Sexual Misconduct prohibits Sexual Misconduct, whether or not it falls within the scope of Title IX Sexual Harassment, defined above. Prohibited Sexual Misconduct includes Sexual Assault, Sexual Harassment, Dating Violence, Domestic Violence, Stalking, and Voyeurism, as those terms are defined in CUNY's Policy on Sexual Misconduct. Sexual Misconduct is prohibited regardless of whether it occurs on or off campus.

## **Investigation and Disciplinary Procedure for Allegations of Dating Violence, Domestic Violence, Sexual Assault and Stalking pursuant to CUNY's Policy on Sex-Based Misconduct**

The specific procedures that apply to the investigation and discipline of Sex-Based Misconduct allegations (including Domestic Violence, Dating Violence, Sexual Assault, and Stalking) vary based on the circumstances of each case and are outlined fully in CUNY's Policy on Sex-Based Misconduct, attached to this report.

Generally, the Title IX Coordinator is responsible for conducting investigations in a prompt, thorough, and impartial manner. Parties to an investigation have the right to an investigation process where the burden of proof and the burden of gathering evidence sufficient to reach a determination of responsibility rests on the college and not on the parties, although the parties will be provided the opportunity to offer evidence during an investigation. Parties have the right to be accompanied by an advisor of their choice, who may assist and advise throughout the process, including during all related meetings and hearings.

Depending on the specific circumstances of a case, available resolution options may include informal resolution or a formal investigation and hearing. Sanctions for student respondents who are found responsible for Sexual Misconduct will range from a warning to suspension or expulsion from CUNY.

## **Consent**

Consent is analyzed and defined differently in criminal law and pursuant to CUNY's Policy on Sex-Based Misconduct.

### ***In New York State criminal law, lack of consent results from:***

- (a) Forcible compulsion, or
- (b) Incapacity to consent; or
- (c) Where the offense charged in sexual abuse or forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct, or
- (d) Where the offense charged is rape in the third degree as defined in subdivision three of section 130.25, or criminal sexual act in the third degree as defined in subdivision three of section 130.40, in addition to forcible compulsion, circumstances under which, at the time of the act of intercourse, oral sexual conduct or anal sexual conduct, the victim clearly expressed that they did not consent to engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such act under all the circumstances.

**CUNY's Policy on Sex-Based Misconduct requires affirmative consent to sexual activity.** Affirmative consent, as defined in CUNY's Policy on Sex-Based Misconduct, 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 sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based on a participant's sex, sexual orientation, gender identity, or gender expression. Consent may be initially given but withdrawn at any time. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.

In order to give consent, one must be of legal age (17 years or older). Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent cannot be given when a person is incapacitated, which occurs when an individual cannot 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 give consent.

## **Definitions of Sexual Assault, Dating Violence, Domestic Violence, and Stalking under New York State Law**

*This information is provided for educational and awareness purposes. Please note that CUNY procedures and standards differ from those of criminal law. These definitions are also different than the definitions used for reporting pursuant to the Clery Act.*

### ***Sexual Assault***

New York State Penal Law does not define the term Sexual Assault. However, under Article 130 of the New York State Penal Law, it is a sex offense to engage in sexual contact or to engage in sexual intercourse, criminal sexual act, or sexual abuse by contact without the consent of the victim or where the victim is incapable of giving consent.

### ***In New York State, lack of consent results from:***

- (a) Forcible compulsion, or
- (b) Incapacity to consent; or
- (c) Where the offense charged in sexual abuse or forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct, or
- (d) Where the offense charged is rape in the third degree as defined in subdivision three of section 130.25, or criminal sexual act in the third degree as defined in subdivision three of section 130.40, in addition to forcible compulsion, circumstances under which, at the time of the act of intercourse, oral sexual conduct or anal sexual conduct, the victim clearly expressed that they did not consent to engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such act under all the circumstances.

### ***Stalking***

A person is guilty of stalking in the fourth degree (Penal Law 120.45) when he or she intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct: (1) is likely to cause reasonable fear of materials harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or (2) causes materials 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, and the actor was previously clearly informed to cease that conduct; or (3) is likely to cause such person to reasonably fear that his or her 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.

Stalking in the fourth degree is a class B misdemeanor and is punishable by up to 6 months in jail. The New York State Penal Law also defines Stalking in the third degree (120.50), Stalking in the second degree (120.55), and Stalking in the first degree (120.60), which are classified based on the severity of the conduct and other aggravating factors.

Criminal sex offenses are classified in degree according to the seriousness of sexual activity, the degree of force used, the age of the victim, and the physical and mental capacity of the offender and victim. See the chart below for a list of some of the major sex offenses and their maximum penalties under New York State Law.

**Pertinent Sex Offenses and Criminal Sanctions Under New York State Penal and Criminal Procedure Laws**

<b>Crime</b>	<b>Illegal Conduct</b>	<b>Criminal Sanctions</b>
<i>Rape in the first degree (PL§ 130.35)</i>	<i>A person is guilty when they engage in sexual intercourse with another person by forcible compulsion, with a person who is incapable of consent by reason of being physically helpless (e.g., being asleep, unconscious, or due to alcohol or drug consumption), who is less than 11 years old or less than 13 and the actor is 18 or older.</i>	<i>It is a class B felony, with penalties of up to 25 years in prison.</i>
<i>Rape in the second degree (PL§ 130.30)</i>	<i>A person is guilty when being 18 years old or older, engaging in sexual intercourse with another person less than 15, or with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated.</i>	<i>It is a class D felony, with penalties of up to 7 years in prison.</i>
<i>A criminal sexual act in the first degree (PL § 130.50)</i>	<i>A person is guilty when they engage in oral sexual contact or anal sexual contact with another person by forcible compulsion, with someone who is incapable of consent by reason of being physically helpless, or with someone less than 11 or with someone less than 13 and the actor is 18 or older</i>	<i>It is a class B felony, with penalties of up to 25 years in prison.</i>
<i>Forcible touching (PL§ 130.52)</i>	<i>A person is guilty when they intentionally, and for no legitimate purpose, forcibly touch the sexual or other intimate parts of another person for the purpose of degrading or abusing such person or for the purpose of gratifying the actor’s sexual desire.</i>	<i>It is a class A misdemeanor, with penalties of up to 1 year in jail.</i>
<i>Sexual abuse in the first degree (PL § 130.65)</i>	<i>A person is guilty when they subject another person to sexual contact by forcible compulsion, when the other person is incapable of consent by reason of being physically helpless, or when the person is less than 11 years old.</i>	<i>It is a class D felony, with penalties of up to 7 years in prison.</i>
<i>Aggravated sexual abuse in the first degree (PL § 130.70)</i>	<i>A person is guilty when they insert a foreign object in the vagina, urethra, penis, or rectum of another person causing physical injury to such person by forcible compulsion, when the person is incapable of consent by reason of being physically helpless, or when the person is less than 11.</i>	<i>It is a class B felony, with penalties of up to 25 years in prison.</i>
<i>Aggravated sexual abuse in the third degree (PL § 130.66)</i>	<i>A person is guilty when they insert a foreign object in the vagina, urethra, penis, or rectum of another person by forcible compulsion, when the person is incapable of consent by reason of being physically helpless, or when the person is less than 11 years old.</i>	<i>It is a class D felony, with penalties of up to 7 years in prison.</i>

<p><i>Facilitating a sex offense with a controlled substance (PL § 130.90)</i></p>	<p><i>A person is guilty when they knowingly and unlawfully possesses a controlled substance or any substance that requires a prescription to obtain from another person, without such person's consent and with intent to commit against such person conduct constituting a felony, and commits or attempts to commit such conduct constituting a felony defined in Article 30.</i></p>	<p><i>It is a class D felony, with penalties of up to 7 years in prison.</i></p>
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## Admission of Sex Offenders

### (As provided by the Vice Chancellor's Office of Legal Success)

The College reserves the right to deny admission to any student if, in its judgment, the presence of that student on campus poses an undue risk to the safety or security of the college or the college community. That judgment would be based on an individualized determination taking into account any information the college has about a student's criminal record and the particular circumstances of the college, including the presence of a child care center, a public school, or public school students on the campus.

## Campus Sex Crimes Prevention Act

The New York State Division of Criminal Justice Services maintains a registry of convicted sex offenders, which is available to local law enforcement agencies, including CUNY's Public Safety Department. To obtain information about a Level 2 or Level 3 registered sex offender, you may:

1. Contact the police department in the jurisdiction in which the offender resides and/or in which the college is located
2. Contact Public Safety at (718) 270-6069
3. Contact the Division's sex offender registry website – [www.criminaljustice.ny.gov/nsor/index.htm](http://www.criminaljustice.ny.gov/nsor/index.htm) and then click on "Search the Sex Offender Registry" or by dialing 800-262-3257

### Searching for Level 1 sex offenders (or those with a pending risk level):

Call the Division's sex offender registry at (800) 262-3257 with the name and at least one other identifier (an exact address, date of birth, driver's license number, or social security number), and DCJS will tell you if that individual is a registered sex offender in New York.

## Missing Students

In accordance with state and federal law, Medgar Evers College maintains procedures for the investigation of reports of missing persons. In addition, in compliance with state and federal law, the college will notify the appropriate law enforcement agency within 24 hours of receiving a report of a missing student who resides in campus housing.

The purpose of this policy is to establish procedures for Medgar Evers College's response to reports of missing students, as required by the Higher Education Opportunity Act of 2008. This policy applies to students who reside in campus housing.

For purposes of this policy, a student may be considered to be a "missing student" if the student's absence is contrary to their usual pattern of behavior and unusual circumstances may have caused the absence. Such circumstances could include, but not be limited to, a report or suspicion that the missing person may be the victim of foul play, has expressed suicidal thoughts, is drug dependent, is in a life-threatening situation, or has been with persons who may endanger the student's welfare. In the event that a student is under 18 years of age and not emancipated, the college must notify a custodial parent or guardian within 24 hours of the determination that the student is missing, in addition to notifying any additional contact person designated by the student. For all missing students, the college will notify the local law enforcement agency within 24 hours of the determination that the student is missing unless the local law enforcement

agency was the entity that determined that the student is missing. Regardless of whether the student is above the age of 18 or is an emancipated minor, the Director of Public Safety or his designee shall make a missing person report.

## **ADDITIONAL LINKS TO CUNY POLICIES AND PROCEDURES**

### **CUNY Policy on Sex-Based Misconduct (attached)**

The policy can be found by clicking the following link: [CUNY Sex-Based Misconduct Policy](#)

### **CUNY Policy on Equal Opportunity and Non-Discrimination**

The policy can be found by clicking the following link: [Equal Opportunity and Non-Discrimination Policy.](#)

### **CUNY Students Bill of Rights**

The Student's Bill of Rights can be found by clicking on the following link: [Student Bill of Rights.](#)

### **CUNY Campus Workplace Violence Policy**

The CUNY Workplace Violence Policy and additional information on workplace violence can be found by clicking the following link: [CUNY Campus Workplace Violence Policy.](#)

### **Domestic Violence and the Workplace**

Additional information can be found by clicking the following link: [CUNY Domestic Violence Policy](#)

### **Reasonable Accommodations and Academic Adjustments Policy**

Additional information can be found by clicking on the following link: [Reasonable Accommodations and Academic Adjustments.](#)

### **Drug and Alcohol Use Amnesty Policy**

The City University of New York Medical Amnesty/Good Samaritan Policy encourages students to seek medical assistance related to drug and alcohol use without fear of being disciplined for such use. For more information on this policy, go to the following webpage: [Drug/Alcohol Use Amnesty Policy.](#)

## **Crime Statistics**

TO FOLLOW ARE THE MEDGAR EVERS COLLEGE CRIME STATISTICS FOR THE 2021-2023 CALENDAR YEAR. THE STATISTICS INCLUDED IN THESE CHARTS ARE DERIVED FROM REPORTED CRIMINAL INCIDENTS FROM THE FOLLOWING SOURCES:

1. All Medgar Evers College Public Safety reports
2. Any reports from Campus Security Authorities
3. NYPD 71<sup>st</sup> Precinct (Local Precinct)

Hard copies of the *Annual Security Report* are located in the Public Safety Department office (Room C-17 in the AB-1 building) or can be obtained by calling the Public Safety Department at 718-270-6069. The report can also be found online at: <https://www.mec.cuny.edu/public-safety/annual-security-report/>

## **Crime Statistics for Medgar Evers College 2021-2023**

**(See chart on page 40)**



Crime Statistics	2021	All On-Campus Property				Non-Campus Property				Public Property				GRAND TOTAL	On Campus Residential Only			
		Reported to				Reported to				Reported to					Reported to			
		DPS	NYPD	*Non DPS	SUB TOTAL	DPS	NYPD	*Non DPS	SUB TOTAL	DPS	NYPD	*Non DPS	SUB TOTAL		DPS	NYPD	*Non DPS	Section TOTAL
Murder/Non-Negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0	0	2	0	2	2	0	0	0	0
Aggravated Assault	0	0	0	0	0	0	0	0	0	1	8	0	9	9	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0	0	1	0	1	1	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Burglary	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sex Offenses																		
Rape	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Fondling	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Incest	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Liquor Law Arrests	0	0	0	0	0	0	0	0	0	0	3	0	3	3	0	0	0	0
Liquor Law Violation Referrals	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Drug Abuse Violations Arrests	0	0	0	0	0	0	0	0	0	0	7	0	7	7	0	0	0	0
Drug Abuse Violations Referrals	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Weapons: Carrying/Possessing/Etc. Arrests	0	0	0	0	0	0	0	0	0	0	3	0	3	3	0	0	0	0
Weapons: Carrying/Possessing/Etc. Referrals	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Domestic Violence	0	0	0	0	0	0	0	0	0	0	1	0	1	1	0	0	0	0
Dating Violence	0	0	0	0	0	0	0	0	0	1	0	0	1	1	0	0	0	0
Stalking	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

\* Denotes Report to other campus authorities      Hate Crimes Reported: None      Unfounded Crimes Reported: None

Crime Statistics	2022	All On-Campus Property				Non-Campus Property				Public Property				GRAND TOTAL	On Campus Residential Only			
		Reported to				Reported to				Reported to					Reported to			
		DPS	NYPD	*Non DPS	SUB TOTAL	DPS	NYPD	*Non DPS	SUB TOTAL	DPS	NYPD	*Non DPS	SUB TOTAL		DPS	NYPD	*Non DPS	Section TOTAL
Murder/Non-Negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	1	0	1	1	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0	0	5	0	5	5	0	0	0	0
Aggravated Assault	0	0	0	0	0	0	0	0	0	0	7	0	7	7	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0	0	18	0	18	18	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Burglary	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sex Offenses																		
Rape	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Fondling	0	0	0	0	0	0	0	0	0	1	0	0	1	1	0	0	0	0
Incest	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Liquor Law Arrests	0	0	0	0	0	0	0	0	0	0	11	0	11	11	0	0	0	0
Liquor Law Violation Referrals	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Drug Abuse Violations Arrests	0	0	0	0	0	0	0	0	0	0	2	0	2	2	0	0	0	0
Drug Abuse Violations Referrals	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Weapons: Carrying/Possessing/Etc. Arrests	0	0	0	0	0	0	0	0	0	0	50	0	50	50	0	0	0	0
Weapons: Carrying/Possessing/Etc. Referrals	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Domestic Violence	0	0	0	0	0	0	0	0	0	0	5	0	5	5	0	0	0	0
Dating Violence	0	0	0	0	0	0	0	0	0	1	0	0	1	1	0	0	0	0
Stalking	0	0	0	0	0	0	0	0	0	1	0	0	1	1	0	0	0	0

\* Denotes Report to other campus authorities      Hate Crimes Reported: None      Unfounded Crimes Reported: One

Crime Statistics	2023	All On-Campus Property				Non-Campus Property				Public Property				GRAND TOTAL	On Campus Residential Only			
		Reported to				Reported to				Reported to					Reported to			
		DPS	NYPD	*Non DPS	SUB TOTAL	DPS	NYPD	*Non DPS	SUB TOTAL	DPS	NYPD	*Non DPS	SUB TOTAL		DPS	NYPD	*Non DPS	Section TOTAL
Murder/Non-Negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0	0	1	0	1	1	0	0	0	0
Aggravated Assault	0	0	0	0	0	0	0	0	0	0	6	0	6	6	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0	0	3	0	3	3	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Burglary	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sex Offenses																		
Rape	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Fondling	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Incest	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Liquor Law Arrests	0	0	0	0	0	0	0	0	0	0	4	0	4	4	0	0	0	0
Liquor Law Violation Referrals	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Drug Abuse Violations Arrests	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Drug Abuse Violations Referrals	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Weapons: Carrying/Possessing/Etc. Arrests	0	0	0	0	0	0	0	0	0	0	7	0	7	7	0	0	0	0
Weapons: Carrying/Possessing/Etc. Referrals	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Domestic Violence	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Dating Violence	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Stalking	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

\* Denotes Report to other campus authorities      Hate Crime Reported: None







## **Unfounded Statistics**

There was 1 unfounded crime for the years 2021, 2022 and 2023.

## **Definitions of Geography**

### **On-Campus**

Any building or property owned or controlled by an institution within one mile of the core campus and used by the institution in direct support of or in a manner related to the institution's educational purposes, including residence halls, and any building or property that is owned by the institution but controlled by another person, is frequently used by students and supports institutional purposes.

**Note:** *Statistics for university student housing facilities are recorded and included in both the all-on-campus category and the on-campus residential category (Not Applicable for Medgar Evers College).*

### **Non-Campus Building or Property**

Any building or property owned or controlled by a student organization that the institution officially recognizes, or any building or property owned or controlled by an institution that is used in direct support of or in relation to the institution's educational purposes, is frequently used by students and is not within the same reasonably contiguous geographic area of the institution.

### **Public Property**

All public property, including thoroughfares, streets, sidewalks, and parking facilities, is within the campus or immediately adjacent to and accessible from the campus. Medgar Evers College's crime statistics do not include crimes that occur in privately owned homes or businesses adjacent to the campus buildings.

## **Uniform Crime Reporting (UCR) Federal Definitions Related to Clery**

According to federal statute, sexual assault is an offense that meets the definition of rape, fondling, or statutory rape, as used in the FBI'S Uniform Crime Reporting (UCR) program. Under the UCR:

### ***Rape***

Rape is the penetration, no matter how slight, of the vagina or anus with any body part or object or oral penetration by a sex organ of another person, without the consent of the victim.

### ***Fondling***

Fondling is the touching of the private parts of another person for sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.

### ***Incest***

Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

### ***Statutory rape***

Statutory rape is sexual intercourse with a person who is under the statutory age of consent.

### ***Stalking***

Stalking is "engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

- a) Fear for their safety or the safety of others; or
- b) Suffer substantial emotional distress". 42 U.S.C 13925 (a).

For the purpose of this definition:

1. A course of conduct means two or more acts, including, but not limited to, acts which the stalker directly or indirectly, through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

### ***Domestic Violence***

New York State Penal Law does not define the term Domestic Violence, although various criminal acts defined by the New York State Penal Law may qualify as a “family offense” when committed by an intimate partner. An intimate relationship includes family or household members and other types of close relationships, such as people who are legally married or divorced, people with a child in common, including adopted children, people related by marriage, like in-laws, people related by blood, like brothers, parents, cousins, unrelated people who live, or have lived together for period of time and/or unrelated people in, or were in an intimate relationship (current or former), like same-sex couples and teens who are dating.

<http://nycourts.gov/CourtHelp/Safety/DVbasics.shtml>

According to federal statute, “domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under domestic or family violence laws of [New York], or by any other person against an adult or youth victim who is protected from that act under the domestic or family violence laws of [New York].” 42 U.S.C 13925(a).

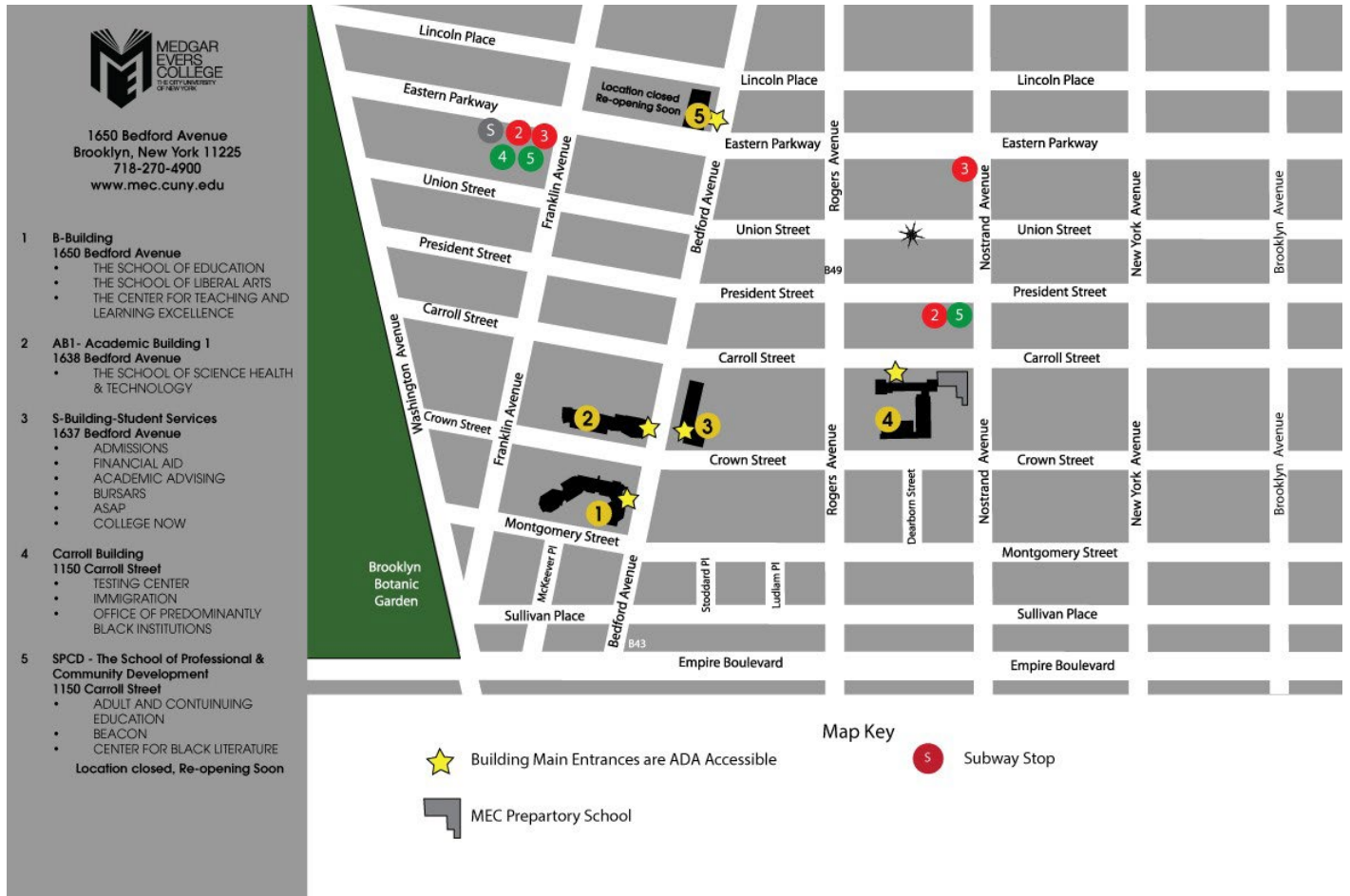
### ***Dating Violence***

New York State Penal Law does not define the term Dating Violence, although various criminal acts defined by the New York State Penal Law may qualify as a “family offense” when committed by an intimate partner, which includes people in an intimate relationship (current or former). Intimate relationships do not have to be sexual. For more information, see <http://nycourts.gov/CourtHelp/Safety/DVbasics.shtml>

According to federal statute, “dating violence” means violence committed by a person—

- a) Who is or has been in a social relationship of a romantic or intimate nature with the victim and
- b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - i. The length of the relationship
  - ii. The type of relationship
  - iii. The frequency of interaction between the persons involved in the relationship, 42 U.S.C 13925 (a).

# CAMPUS MAP



# THE CITY UNIVERSITY OF NEW YORK

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## I. POLICY STATEMENT

The City University of New York (“CUNY” or the “University”) is committed to creating and maintaining an environment in which its community members live, learn, and work free from all forms of sex discrimination. In accordance with Title IX of the Education Amendments of 1972, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”), as amended by the Violence Against Women Act (“VAWA”)/Campus Sexual Violence Act (“Campus SaVE Act”), Article 129-A and Article 129-B of the New York State Education Law, and all other federal, state, and local laws governing sex discrimination, CUNY prohibits dating violence, domestic violence, sexual assault, stalking, hostile environment harassment, quid pro quo harassment, knowingly submitting false statements or information relating to a report of sex discrimination, prohibited consensual relationships, retaliation, voyeurism, and all other forms of discrimination based on gender identity, pregnancy and related conditions, sex characteristics, sex stereotypes, and sexual orientation. In addition, CUNY is committed to: (1) assisting community members who are impacted by sex discrimination; (2) providing education and awareness training designed to eliminate sex discrimination and prevent future acts constituting sex discrimination; and (3) applying the Policy in a manner that is fair and impartial.

### April 2024 Title IX Regulations

In April 2024, the United States Department of Education (“USDOE”) published regulations amending Title IX of the Education Amendments of 1972. *The City University of New York Policy on Sex-Based Misconduct* (the “Policy”), which is effective as of August 1, 2024, incorporates the provisions contained in those regulations. Conduct occurring prior to August 1, 2024, will be addressed using: (1) the definitions in effect at the time of the reported conduct; and (2) the procedures in effect at the time the matter is being addressed by CUNY.

Should any portion of Title IX of the Education Amendments of 1972 be stayed, held invalid by a court of law, withdrawn, deemed unenforceable, or in any other way modified so as to not require the application of the grievance process, definitions, or any other provisions contained herein, the relevant portion of the Policy, and the affected elements of it, will be deemed revoked as of the publication date of the opinion, order, decision, guidance, or other binding communication. To the extent permissible, if a matter is not resolved as of the date of the opinion, order, decision, guidance, or other binding communication, the grievance process will be investigated and adjudicated under the Policy. If it is impermissible to apply a specific provision contained in the Policy, CUNY will apply the relevant provision set forth in *The City University of New York Policy on Sexual Misconduct* that was in effect from August 14, 2020, to July 31, 2024.

## II. NOTICE OF NON-DISCRIMINATION & ROLE OF THE TITLE IX COORDINATOR

It is the policy of CUNY – applicable to all schools, 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 gender, gender identity, sex characteristics, sex stereotypes, sexual orientation, and past/present/potential pregnancy, childbirth, and related conditions), marital status, partnership status, disability, genetic information, alienage, citizenship, military or veteran status, head of household/principal wayer status, status as a survivor of domestic violence/stalking/sex offenses, unemployment status, or any other legally prohibited basis in accordance with federal, state, and local laws.

It is also CUNY’s policy to provide reasonable accommodations when appropriate to individuals with disabilities, individuals observing religious practices, employees who have past/present/potential pregnancy, childbirth, or related medical conditions including lactation time and space, or employees who are survivors of domestic violence/stalking/sex offenses.

Each school, college, or unit within 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 in education programs or activities), New York State Education Law Article 129-B (“Enough is Enough”), and all other federal, state, and local laws pertaining to sex discrimination. The Title IX Coordinator has overall responsibility for implementing the Policy, including overseeing the response to reports of Sex-Based Misconduct that have a reasonable connection to their school, college, or unit. All Title IX Coordinators receive annual training on issues pertaining to Sex-Based Misconduct. To access the Title IX webpage for each school, college, or unit – which contains the contact information for that school, college, or unit’s Title IX Coordinator – please go to <https://www1.cuny.edu/sites/title-ix/campus-websites/>.

Inquiries concerning the application of Title IX and its implementing regulations may be referred to the Title IX Coordinator or to the Assistant Secretary of the Office for Civil Rights (“OCR”), U.S. Department of Education, Lyndon Baines Johnson Department of Education Building, 400 Maryland Avenue SW, Washington, DC 20202-1100. You may call the OCR main numbers toll free at 800-421-3481 or 800-877-8339 (TDD). Or contact OCR’s New York office at <https://www.ed.gov/> or 646-428-3800.

### Filing External Complaints

Individuals who have been subjected to Sex-Based Misconduct 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 external agencies listed below:

- [U.S. Department of Education, Office for Civil Rights](#)
- [U.S. Equal Employment Opportunity Commission](#)
- [New York State Division of Human Rights](#)
- [New York City Commission on Human Rights](#)

In certain circumstances, the school, college, or unit may close an investigation upon the filing of an external complaint. When this happens, the external agency takes over the investigation and the school, college, or unit will cooperate with the investigation conducted by the external agency. If a school, college, or unit closes an investigation for this reason, the Title IX Coordinator will notify the parties in writing.

#### Additional University Policies Addressing Discrimination

The following University policies address additional or related forms of discrimination. The Policy and all other policies addressing discrimination are interpreted in accordance with the principles of academic freedom adopted by CUNY's Board of Trustees.

- *CUNY Policy on Equal Opportunity and Non-Discrimination*  
This policy prohibits discrimination against employees and students based on 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 survivor of domestic violence/stalking/sex offenses, unemployment status, or any other legally prohibited basis in accordance with federal, state, or local laws. The *CUNY Policy on Equal Opportunity and Non-Discrimination* can be found here: <https://www.cuny.edu/wp-content/uploads/sites/4/page-assets/about/administration/offices/hr/policies-and-procedures/PEONon-Discrimination12.4.2014.pdf>
- *CUNY Campus & Workplace Violence Policy*  
This policy prohibits workplace violence. The *CUNY Campus & Workplace Violence Policy* can be found here: <https://www.cuny.edu/wp-content/uploads/sites/4/page-assets/about/administration/offices/legal-affairs/CUNY-Campus-and-Workplace-Violence-Prevention-Policy-2.28.11-and-amended-9.26.2011.pdf>
- *Gender Based Violence and the Workplace Policy*  
This policy prohibits gender-based violence occurring in the workplace or affecting employees in the workplace. The *CUNY Gender Based Violence and the Workplace Policy* can be found here: <https://www.cuny.edu/wp-content/uploads/sites/4/page-assets/about/administration/offices/legal-affairs/policies-resources/Gender-Based->

[Violence-and-the-Workplace-Policy.pdf](#)

- *Domestic Violence and the Workplace Policy*  
This policy prohibits domestic violence from occurring in the workplace or affecting employees in the workplace. The *Domestic Violence and the Workplace Policy* can be found here: [https://policy.cuny.edu/general-policy/article-v/#policy\\_5.061](https://policy.cuny.edu/general-policy/article-v/#policy_5.061)
- *Reasonable Accommodations and Academic Adjustments Procedures*  
This policy addresses the procedures CUNY follows in response to a request for a reasonable accommodation or academic adjustment. The *Reasonable Accommodations and Academic Adjustments Procedures* can be found here: <https://www.cuny.edu/about/administration/offices/legal-affairs/policies-resources/reasonable-accommodations-and-academic-adjustments/v-accommodations/>
- *Hunter College Campus Schools Policy on Sex-Based Misconduct*  
The Hunter College Campus Schools are subject to a separate policy addressing sex discrimination. The *Hunter College Campus Schools Policy on Sex-Based Misconduct* can be found here: <https://www.hunterschools.org/high-school/high-school-welcome>

### **III. SCOPE OF THE POLICY**

The Policy governs the conduct of CUNY students and employees participating in a CUNY education program or activity or engaging in conduct that has a reasonable connection to CUNY, and conduct by Third Parties that involves explicitly or impliedly conditioning the provision of a CUNY aid, benefit, or service on a person's participation in unwelcome sexual conduct. CUNY Visitors may be subject to restrictions under the Policy.

### **IV. SEX-BASED MISCONDUCT & DEFINITIONS**

The Policy prohibits the following types of Sex-Based Misconduct.

#### **A. Sex-Based Harassment**

The following conduct constitutes Sex-Based Harassment.

##### **1. Hostile Environment Harassment**

Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from CUNY's education program or activity (*i.e.*, creates a hostile environment).

Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- (a) The degree to which the conduct affected the complainant's ability to access CUNY's education program or activity;
- (b) The type, frequency, and duration of the conduct;
- (c) The parties' ages, roles within CUNY's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- (d) The location of the conduct and the context in which the conduct occurred; and
- (e) Other Sex-Based Misconduct in CUNY's education program or activity.

## 2. Quid Pro Quo Harassment

Conduct in which a CUNY employee or Third Party explicitly or impliedly conditions the provision of an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

## 3. Dating Violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. Dating violence can be a single act or a pattern of behavior, based on the frequency, nature, and severity of the conduct. Dating violence includes the threat of sexual assault or physical abuse. The existence of such a relationship is determined based on a consideration of the following factors: (1) The length of the relationship; (2) The type of relationship and (3) The frequency of interaction between the persons involved in the relationship. A relationship may be romantic or intimate regardless of whether the relationship was sexual in nature.

For the purposes of this definition: (1) dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse; and (2) dating violence does not include acts covered under the definition of domestic violence.

## 4. Domestic Violence

Violence committed by a current or former spouse or intimate partner of the complainant by a person with whom the complainant shares a child, by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the complainant under applicable domestic or family violence laws, or by any other person against an adult or youth complainant who is protected from that person's acts under applicable domestic or family violence laws of the State of New York.

For the purposes of this definition: (1) the relationship between the respondent and the complainant must be more than just two people living together as roommates; and (2) the people cohabitating must be current or former spouses or have or have had an intimate relationship.

## 5. Sexual Assault: Contact

Any sexual contact – including sexual touching for the purpose of sexual gratification, degradation of another person, or abuse of another person – without affirmative consent. Sexual touching includes: (1) contact under or over clothing with another person’s anus, breasts, buttocks, genitals, groin, or inner thigh; (2) touching another person under or over clothing with any of these body parts; (3) making another person touch any of these body parts under or over clothing; or (4) the emission of ejaculate on the body of another person or the clothing they are wearing. This definition includes the attempt to engage in any of the previously stated conduct.

#### 6. Sexual Assault: Penetration

Any form of vaginal, anal, or oral penetration, however slight, by a penis, object, tongue, or finger without a person’s affirmative consent. This definition includes incest and statutory rape. This definition includes the attempt to engage in any of the previously stated conduct.

#### 7. Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for their safety or the safety of others; or (2) suffer substantial emotional distress.

For the purposes of this definition: (1) course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property; (2) reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant; and (3) substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

The Policy addresses stalking that is based on sex (including gender identity, pregnancy and related conditions, sex characteristics, sex stereotypes, and sexual orientation). All other stalking will be addressed under other applicable policies.

### B. Sex-Based Discrimination & Related Misconduct

The following conduct constitutes Sex-Based Discrimination & Related Misconduct. Reported conduct that, if true, meets the definition of misconduct under both the Sex-Based Harassment and Sex-Based Discrimination & Related Misconduct sections will be analyzed solely under the Sex-Based Harassment provisions.

#### 1. Discrimination Based on Gender Identity

Unwelcome conduct directed toward a person based on their deeply felt, inherent sense of their gender, which may or may not be different than their sex assigned at birth, is prohibited under the Policy.

## 2. Discrimination Based on Past, Present, or Potential Pregnancy or Related Conditions

Subjecting a person to shame, punishment, unwanted sexual attention, or unwanted conduct based on past, present, or potential pregnancy or related conditions is prohibited under the Policy.

For the purposes of this definition:

- (a) Pregnancy or related conditions means pregnancy, childbirth, termination of pregnancy, or lactation; medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions as disclosed without any requirements for documentation.
- (b) Pregnancy or related conditions will be treated as any other temporary medical condition for all job-related purposes, including commencement, duration and extensions of leave; payment of disability income; accrual of seniority and any other benefit or service; and reinstatement; and under any fringe benefit offered to employees by virtue of employment.
- (c) In the case of an employee with insufficient leave or accrued employment time to qualify for leave, CUNY will treat pregnancy or related conditions as a justification for a voluntary leave of absence without pay for a reasonable period of time, at the conclusion of which the employee will be reinstated to the status held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.
- (d) CUNY will ensure all students and employees have reasonable access to a lactation space, which will be a space other than a bathroom, which is clean, shielded from view, free from intrusion from others, and may be used by a student or employee for expressing breast milk or breastfeeding as needed.

## 3. Discrimination Based on Sex Characteristics

Unwelcome conduct directed toward a person based on their physiological sex characteristics, which include a person's anatomy, hormones, chromosomes associated with male or female bodies, or intersex traits is prohibited under the Policy.

## 4. Discrimination Based on Sex Stereotypes

Unwelcome conduct directed toward a person based on nonconformity with stereotypical notions of how someone of their sex, or perceived sex, is expected to act or appear, or that seeks to restrict a community member from participating in activities that are not stereotypically associated with that community member's sex, or perceived sex, is prohibited under the Policy.

## 5. Discrimination Based on Sexual Orientation



Unwelcome conduct directed toward a person based on their emotional, romantic, or sexual attraction to a particular gender or sex is prohibited under the Policy.

#### 6. Knowingly Submitting False Statements or Information

Knowingly making false statements or submitting false information in connection with any allegation of Sex-Based Misconduct – as opposed to providing information which, even if erroneous, is provided in good faith – is prohibited. Anyone who knowingly makes false statements or submits false information in connection with any allegation of Sex-Based Misconduct will be subject to disciplinary action in accordance with CUNY Bylaws, policies, and collective bargaining agreements. A party, witness, or other participant in CUNY's grievance process will not be disciplined under this provision based solely on a determination regarding whether Sex-Based Misconduct occurred.

#### 7. Prohibited Consensual Relationships

Because all sexual activity, amorous relationships, or dating relationships (“intimate relationships”) between employees and students raise issues of unequal power dynamics, favoritism, exploitation, or conflicts of interest, employees, including faculty, 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 the purposes of this paragraph, 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.

Because all intimate relationships between supervisory employees and the employees they supervise raise issues of unequal power dynamics, favoritism, exploitation, or conflicts of interest, employees, including faculty, who possess supervisory responsibility are prohibited from engaging in intimate relationships with any employee they supervise unless the existence of that relationship has been reported to: (1) the person to whom the supervisory employee reports; or (2) the head of Human Resources for the school, college, or unit employing the supervisory employee and/or the Labor Designee. The person receiving the required notice will implement a plan to avoid or mitigate any conflicts of interest between the individuals in the intimate relationship as well as any conflicts of interest involving any other CUNY community member. Mitigation may involve the transfer of either the supervisor or the employee they supervise, reassigning the responsibility to evaluate the employee they supervise to a different supervisor, or other appropriate action. For the purposes of this paragraph, supervising an employee includes hiring, evaluating, assigning work to, or making decisions or recommendations that confer any aid, benefit, or service such as promotions, raises or other remuneration, or performing any other function that might affect employment opportunities.

## 8. Retaliation

Intimidation, threats, coercion, or discrimination against any student, employee, Visitor, Third Party, party, or witness for the purpose of interfering with any right or privilege secured by the Policy, or because the person has reported information, made a Complaint, testified, assisted, or participated, or refused to participate in any manner in an investigation, proceeding, or hearing under the Policy, including the Informal Resolution process or any other actions under the Policy is prohibited under the Policy. This definition includes retaliation by a student against another student. Nothing in this definition or the Policy precludes CUNY from requiring an employee or Third Party to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing under the Policy.

## 9. Voyeurism

Unwelcome surveillance, including acts that violate a person's right to privacy in connection with their body or sexual activity such as:

- (a) 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 affirmative consent.
- (b) Recording images (e.g., photograph or video) or audio of another person's sexual activity, intimate body parts, or nakedness where that person would have a reasonable expectation of privacy, without that person's affirmative consent;
- (c) Disseminating images (e.g., photograph or video) or audio of another person's sexual activity, intimate body parts, or nakedness where that person would have a reasonable expectation of privacy, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not affirmatively consent to such disclosure; or
- (d) 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 affirmative consent.

## **V. OBTAINING ASSISTANCE BEFORE A REPORT OF SEX-BASED MISCONDUCT IS RECEIVED BY CUNY**

CUNY values the privacy of our community members, and CUNY recognizes that community members may want to discuss their experiences without the details of that conversation being reported to the Title IX Coordinator for their school, college, or unit. This section identifies the individuals you may want to speak with before a report of Sex-Based Misconduct is submitted to the Title IX Coordinator.

The following individuals do not have a duty to submit a report to a school, college, or unit Title IX Coordinator when they obtain information that may constitute Sex-Based

Misconduct under the Policy. Community members may speak with a confidential resource at any time, including: (1) before a report of Sex-Based Misconduct is made to CUNY, whether or not they plan to submit a report in the future; or (2) after a report of Sex-Based Misconduct is made to CUNY.

A. Confidential Employees

Confidential Employees will not report information to a Title IX Coordinator when the Confidential Employees are informed of conduct that may constitute Sex-Based Misconduct under the Policy. The only exception is when they learn of an imminent threat of serious injury to the complainant or any other person, sexual activity involving a minor, or sexual activity involving a person with a cognitive disability. Please note that, if a community member speaks solely to a Confidential Employee, it is unlikely the school, college, or unit will be able to conduct a full investigation into the allegations, pursue disciplinary action against a respondent, or otherwise address the conduct.

The following employees are deemed Confidential Employees within CUNY.

- (a) Nurses, physicians, nurse practitioners, or other CUNY health office staff members or on-campus sexual assault response center staff members;
- (b) Counselors, guidance counselors, or other staff members at a CUNY counseling center;
- (c) Pastoral counselors or clergy (a person associated with a religious order or denomination, recognized by that order or denomination as someone who provides confidential counseling and identified by CUNY as functioning within the scope of that recognition);
- (d) Ombuds on campuses;
- (e) Designated staff members in CUNY Women's or Men's Centers;
- (f) Any other CUNY employee whose communications are privileged or confidential under federal, state, or local law (please note that an employee's confidential status only applies to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies); and
- (g) Any CUNY employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about Sex-Based Misconduct (the employee's confidential status is only with respect to information received while conducting the study).

1. Actions Confidential Employees Will Take

Confidential Employees, in response to an individual informing them of conduct that may reasonably constitute Sex-Based Misconduct under the Policy, will: (1) inform the individual of the Confidential Employee's status if the Confidential Employee is operating in that role when informed; (2) provide the individual the contact information for the Title IX Coordinator in their school, college, or unit; (3) explain how the individual can file a Complaint (*i.e.*, an oral or written request that can be objectively understood as a request

for CUNY to investigate and make a determination about reported Sex-Based Harassment under the Policy) if they choose to do so; and (4) explain that the Title IX Coordinator could provide the individual with Supportive Measures, provide them access to the Informal Resolution process, or conduct an investigation into the conduct. All Confidential Employees will also disclose that there are circumstances in which the Confidential Employee must report an incident to law enforcement (e.g., when the Confidential Employee becomes aware of: an imminent threat of serious injury to the complainant or any other person; a potentially unlawful sexual act involving a minor; or a potentially unlawful sexual act involving a person with a cognitive disability).

## 2. CUNY's Work/Life Program - Employees

In addition to the Confidential Resources above, free confidential support services are available for employees through CUNY's Work/Life Program. The CUNY Work/Life Program can be found here:

<https://www.cuny.edu/about/administration/offices/hr/includes/worklife/>

## B. Non-CUNY Resources

Non-CUNY resources do not have a duty to report Sex-Based Misconduct to a Title IX Coordinator. The following resources are available to community members both before and after a report of Sex-Based Misconduct is made to the Title IX Coordinator. The External Resources section below contains a wide range of additional resources that may be of assistance to community members who experience Sex-Based Misconduct.

### 1. Reporting to Law Enforcement

Students, employees and other community members may choose to report Sex-Based Misconduct to local law enforcement and/or state police ("outside law enforcement"). CUNY does not require a complainant to report Sex-Based Misconduct to outside law enforcement. In addition, CUNY will not report Sex-Based Misconduct without a complainant's approval, except in exceptional circumstances (e.g., they learn of an imminent threat of serious injury to the complainant or any other person, illegal sexual activity involving a minor, or illegal sexual activity involving a person with a cognitive disability). A summary of the distinctions between the criminal justice system and the Policy can be found in Section XII below.

#### i) Contact Information

Please dial 9-1-1 if you or anyone you know is experiencing an emergency. For non-emergencies, you may contact the following resources.

New York City Police Department - Sex Crimes Report Line  
(212) 267-7273

New York State Police 24-hour dedicated Campus Sexual Assault Hotline  
(844) 845-7269

New York City Police Department - General Inquiries  
(646) 610-5000

New York State Police – Troop NYC – General Inquiries  
(212) 459-7800

ii) Assistance from CUNY’s Department of Public Safety

Please note that CUNY Department of Public Safety (“Public Safety”) officers are not Confidential Employees. Therefore, they have a duty to report to the Title IX Coordinator for their school, college, or unit when they are informed of conduct that may constitute Sex-Based Misconduct under the Policy.

If any student, employee, or other individual chooses to report Sex-Based Misconduct involving a community member to outside law enforcement, Public Safety is available to provide assistance. Each school, college, or unit’s Public Safety office has an appropriately trained employee available at all times to provide information regarding the process to obtain an Order of Protection, collect and preserve evidence as part of a criminal investigation, or pursue other options within the criminal justice system. A link to the Campus Public Safety Directory can be found here: [Campus Public Safety Directory – The City University of New York \(cuny.edu\)](#)

2. Obtaining Medical Care

CUNY encourages anyone who has experienced Sexual Assault, Dating Violence, Domestic Violence, or any other form of sex-based violence or injury to seek medical attention as soon as possible. Medical professionals can provide preventative treatment for sexually transmitted infections, treatment for injuries, emergency contraception, and other health services. They can also assist in preserving evidence or documenting injuries. Promptly taking these steps after an incident can be helpful if an individual later decides to obtain an Order of Protection, pursue criminal charges, or pursue a resolution under the Policy. Individuals who have experienced or witnessed Sexual Assault, Dating Violence, Domestic Violence, or any other form of sex-based violence or injury are also encouraged to seek emotional support, either on or off campus.

On-campus resources may include nurses and/or nurse practitioners at campus health offices and counselors at campus counseling centers. If a student needs the morning-after pill, abortion medication, or another form of emergency birth control, CUNY has a trained individual in its health centers who can provide students with referrals to medical facilities or authorized providers that can provide appropriate medication. Counselors are also trained to provide crisis intervention and referrals for long-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 those assaults.

Public Safety officers are available to help community members seek medical care. As a reminder, Public Safety officers are not Confidential Employees. Therefore, they have a duty to report to the Title IX Coordinator for their school, college, or unit when they are informed of conduct that may constitute Sex-Based Misconduct under the Policy. Additional external resources can be found in Section X below.

## **VI. REPORTING SEX-BASED MISCONDUCT TO CUNY**

The following section discusses the various ways a report of Sex-Based Misconduct can be submitted to a Title IX Coordinator. If you are experiencing an emergency, please dial 9-1-1 for immediate assistance.

### **A. Officials Specifically Designated to Receive Reports of Sex-Based Misconduct**

CUNY strongly encourages individuals who have experienced or learned of Sex-Based Misconduct to report allegations to one of the following designated officials:

- (a) The Title IX Coordinator for the school, college, or unit;
- (b) A Public Safety official for the school, college, or unit;
- (c) The Office of Vice President for Student Affairs or Dean of Students;
- (d) Residence Life staff in CUNY-owned or operated housing;
- (e) The Labor Designee for the school, college, or unit; or
- (f) The head of Human Resources for the school, college, or unit.

These designated officials are trained to receive reports of Sex-Based Misconduct and appropriately respond to them. The contact information for each school or college's Title IX Coordinator, Public Safety Director, and Chief Student Affairs Officer can be found on CUNY's [Title IX Website](#). As a reminder, if individuals do not wish to speak with a CUNY employee who has a duty to report to a Title IX Coordinator, they should speak with a Confidential Employee.

### **B. Mandatory Reporters - Employees with a Duty to Notify the Title IX Coordinator of Reports of Sex-Based Misconduct**

Except for those employees who are designated as Confidential Employees, every employee who has the authority to institute corrective measures on behalf of CUNY or who has responsibility for administrative leadership, teaching, or advising within CUNY is a Mandatory Reporter who has a duty to notify the Title IX Coordinator for their school, college, or unit when they reasonably suspect or observe conduct that may constitute Sex-Based Misconduct under the Policy. Mandatory Reporters are not permitted to

maintain a complainant's confidentiality, but they should maintain a complainant's privacy to the greatest extent possible.

When possible, a Mandatory Reporter should advise the complainant of their obligations as a Mandatory Reporter before receiving a report of Sex-Based Misconduct. If, before a report of Sex-Based Misconduct is made to a Mandatory Reporter, the complainant indicates that they wish to speak with a person who does not have a duty to report, the Mandatory Reporter should direct the complainant to a Confidential Employee.

Mandatory Reporters are not required to report an incident of Sex-Based Misconduct if they are the person who experienced the Sex-Based Misconduct. Mandatory Reporters are not required to report Sex-Based Misconduct if they learn of the conduct during a public awareness event. Any CUNY employee who is not sure if they have a duty to report an incident should contact the Title IX Coordinator for their school, college, or unit to determine the appropriate steps they should take.

#### C. Sexual Misconduct Allegation Form

Community members are encouraged, but not required, to fill out the CUNY Sexual Misconduct Allegation Form to make a report of Sex-Based Misconduct. Once the form is filled out, they can: (1) bring the form to one of the designated officials discussed in Section VI(A) above; or (2) submit the form via email or through the school, college, or unit's Title IX website. The Sexual Misconduct Allegation Form can be found here: <https://www1.cuny.edu/sites/title-ix/sexual-misconduct-complaint-form/>.

#### D. Study Abroad

Community members participating in Study Abroad or Flagship programs may report Sex-Based Misconduct to the onsite director for that Study Abroad or Flagship program. The onsite director will share that information with the US-based, on-campus director for the Study Abroad or Flagship program, and this on-campus director is responsible for submitting the report of Sex-Based Misconduct to the Title IX Coordinator and Chief Student Affairs Officer.

#### E. Domestic Travel

Community members participating in domestic travel as part of a CUNY education program or activity may report Sex-Based Misconduct to the person leading the program or activity. This person is responsible for submitting the report of Sex-Based Misconduct to the Title IX Coordinator. Community members may also submit a report of Sex-Based Misconduct as outlined in above.

#### F. Alcohol and Drug Use Amnesty Policy

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 Sex-Based Misconduct occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. CUNY strongly encourages students to report Sex-Based Misconduct to University officials. A bystander or complainant acting in good faith who discloses any incident of Sex-Based Misconduct to University officials or law enforcement will not be subject to discipline under [CUNY's Policy on Drugs and Alcohol](#) for violations of alcohol and/or drug use policies occurring at or near the time of the Sex-Based Misconduct.

G. When an Employee is Informed a Student is Pregnant

All employees will provide a student with the contact information for the student's Title IX Coordinator upon being informed by the student that they are pregnant. They will also inform the student that the Title IX Coordinator can coordinate specific actions to prevent Sex-Based Misconduct and ensure the student's equal access to CUNY's education programs or activities. For more information on accommodation options for pregnant students, please see Section VII(D)(4).

H. Community Members Who Have Not Been Designated as Mandatory Reporters or Confidential Employees

Community members who are not Mandatory Reporters or Confidential Employees are strongly encouraged to report allegations of Sex-Based Misconduct to the Title IX Coordinator for their school, college, or unit when they reasonably suspect or observe conduct that may constitute Sex-Based Misconduct, and they are strongly encouraged to protect the privacy of affected individuals to the greatest extent possible.

I. Public Awareness & Advocacy Events

CUNY strongly supports public awareness and advocacy events (e.g., Take Back the Night events or candlelight vigils). These events are valuable because they provide information about how our community can address and prevent Sex-Based Misconduct. To preserve the ability of community members to freely participate in these events, individuals who disclose information about their own experiences with Sex-Based Misconduct during these events will not be seen as submitting a report of Sex-Based Misconduct that requires the commencement of an investigation by CUNY. Nevertheless, community members are encouraged to report any Sex-Based Misconduct they have experienced so that they may learn about their rights, their options, and the resources available to them.

J. Bystander Intervention

CUNY encourages employees, students, Visitors, and Third Parties to take reasonable and prudent actions to prevent or stop Sex-Based Misconduct they witness if doing so does not pose a safety risk to themselves or others. Although bystander intervention strategies depend on the circumstances, they may include direct intervention or seeking assistance from a person in a position of authority. A person in a position of authority may be an administrator, a professor, a supervisor, a member of Public Safety, local law enforcement,



or any person in a leadership position.

## **VII. CUNY'S INITIAL RESPONSE TO REPORTS**

When a Title IX Coordinator receives a report of Sex-Based Misconduct, they will attempt to contact the complainant to inform them of their rights, their options, and the resources available to them. The Title IX Coordinator will also obtain additional information about the complainant's experience. If the identity of the complainant is not known, reasonable steps will be taken to respond to the report and address the needs and concerns of any community member who experienced the unwelcome conduct. If the identity of the complainant is known, the Title IX Coordinator will maintain the complainant's privacy to the greatest extent possible, and the following actions will be taken to address the needs and concerns of the complainant.

### **A. Determining Whether the Conduct Falls Within the Scope of the Policy & Identifying the Proper Category of Sex-Based Misconduct Reported**

Once a report of Sex-Based Misconduct is received, the Title IX Coordinator will analyze the reported conduct to determine whether it falls within the scope of the Policy. As part of the process, the Title IX Coordinator will assess whether the individuals named in the report are students, employees, Visitors, or Third Parties as those terms are defined in the Glossary. If the Title IX Coordinator determines the conduct falls within the scope of the Policy, they will then determine whether the reported conduct falls under the Sex-Based Harassment or Sex-Based Discrimination & Related Misconduct provisions of the Policy.

Specific reported conduct that, if true, qualifies as both Sex-Based Misconduct under the Sex-Based Harassment provisions in Section IV(A) and Sex-Based Misconduct under the Sex-Based Discrimination & Related Misconduct provisions in Section IV(B) may only be analyzed under the Sex-Based Harassment provisions in Section IV(A). If a matter contains reported conduct that properly falls under the Sex-Based Harassment provisions in Section IV(A) and separate conduct that properly falls under the Sex-Based Discrimination & Related Misconduct provisions in Section IV(B), the matter will proceed in a manner that is consistent with the procedures for resolving a Sex-Based Harassment matter.

If the reported conduct does not fall within the scope of the Policy, the Title IX Coordinator will work with the complainant to determine which CUNY unit, department, or office, if any, is able to address the needs and concerns raised in the report. The analysis contained in this sub-section will be concluded within 10 business days.

### **B. Identifying Which School, College, or Unit has Jurisdiction**

The Title IX Coordinator for the school, college, or unit with jurisdiction over the respondent will lead the response to the reported conduct even if the reported conduct occurred within an education program or activity of a separate school, college, or unit. For student-respondents, jurisdiction will attach to the school or college in which that

student-respondent is enrolled. For employee-respondents, jurisdiction will attach to the school, college, or unit employing that employee-respondent. For Third Parties, jurisdiction will attach to the school, college, or unit authorizing the Third Party to provide the aid, benefit, or service.

C. Advisor of Choice & Support Person

The parties are permitted to have an advisor of their choice (*i.e.*, an “Advisor of Choice”) present during any meeting or included on any communication occurring pursuant to the Policy. The Advisor of Choice can be anyone, including an attorney, who is willing to assist or advise the party. CUNY will not limit the choice or presence of the Advisor of Choice. Unless otherwise expressly stated in the Policy, Advisors of Choice are not permitted to: (1) directly communicate with CUNY officials acting pursuant to the Policy; (2) submit documents on behalf of a party; or (3) otherwise communicate on behalf of a party. The availability of an Advisor of Choice to attend a meeting cannot unreasonably interfere with or delay meetings requested pursuant to the Policy. If the conduct of an Advisor of Choice is not consistent with the Policy, the party will be given notice of the improper behavior by their Advisor of Choice. If the conduct continues, CUNY will inform the party that continued non-compliance by their Advisor of Choice may be deemed a waiver by the party of the party’s right to proceed under or otherwise participate in the relevant portion of the Policy.

The parties are also permitted to have a Support Person present during any meeting occurring pursuant to the Policy. This person is responsible for addressing the mental, emotional, and physical health needs of a party. Support Persons are not permitted to: (1) directly communicate with CUNY officials acting pursuant to the Policy; (2) submit documents on behalf of a party; or (3) otherwise communicate on behalf of a party. The availability of a Support Person to attend a meeting cannot unreasonably interfere with or delay meetings requested pursuant to the Policy. If the conduct of Support Person is not consistent with the Policy, the party will be given notice of the improper behavior by their Support Person. If the conduct continues, CUNY will inform the party that continued non-compliance by their Support Person may result in the Support Person no longer being permitted to remain in that role.

D. Supportive Measures

Supportive Measures and accommodations are non-disciplinary, non-punitive individualized services designed to restore or preserve equal access to education and to ensure safety, prevent retaliation and prevent an ongoing hostile environment. Supportive Measures are available to all community members who have been affected by Sex-Based Misconduct. Supportive Measures are available when a school, college, or unit becomes aware of a report of Sex-Based Misconduct, whether or not a complainant chooses to move forward with an investigation or Informal Resolution. Supportive Measures may be provided on an interim or continuing basis. The Title IX Coordinator may also take reasonable measures to ensure the safety of the CUNY community at large.

When a Title IX Coordinator learns of a report of Sex-Based Misconduct, the Title IX Coordinator will promptly contact the complainant to inform the complainant of the availability of Supportive Measures, inform the complainant that Supportive Measures and accommodations are available even if the complainant does not wish to proceed with an investigation and/or Informal Resolution, and discuss the complainant's wishes regarding Supportive Measures.

When issuing Supportive Measures, the Title IX Coordinator will make reasonable efforts to address the physical, mental, and emotional well-being of the individual requesting Supportive Measures as well as their educational needs. Where no Complaint has been filed but Supportive Measures impacting a respondent have been requested, the respondent will be provided an unsigned Notice of Allegations, which will contain, if known: (a) the name of the parties; (b) the date, time, and location of the alleged Sex-Based Misconduct; (c) the underlying factual allegations; and (d) each type of Sex-Based Harassment or Sex-Based Discrimination & Related Misconduct alleged by the complainant.

The Title IX Coordinator is responsible for coordinating and ensuring the effective implementation of Supportive Measures. Therefore, all requests for 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 with obtaining Supportive Measures. The Title IX Coordinator will work with the Human Resources Director to assist employees with obtaining Supportive Measures.

#### 1. Range of Supportive Measures

The following types of Supportive Measures may be offered by CUNY:

- (a) Counseling services through the Counseling Center or other appropriate office, or referral to an off-campus agency;
- (b) Appropriate changes to academic programs, including changes in class schedule, accommodations to permit students to take an incomplete or drop a course or courses without penalty, permitting students to attend a class via videoconference platform or other alternative means, transferring a student into an online-only version of a class, providing an academic tutor, or extending deadlines for assignments;
- (c) Pregnancy accommodations;
- (d) Making appropriate changes to residential housing situations or providing assistance in finding alternate housing;
- (e) Changing an employee's work assignment or schedule;
- (f) Providing an escort to and from class or campus work location;
- (g) Arranging appropriate transportation services to ensure safety;
- (h) Issuing a No Contact Order whereby continued intentional contact would be a violation of CUNY Policy and subject to disciplinary action;

- (i) Enforcing an Order of Protection issued by a court; and
- (j) Emergency removal of a respondent when they pose an imminent threat to the physical health or safety of any person.

Where appropriate, the Title IX Coordinator has the authority to review and modify Supportive Measures.

## 2. No Contact Orders

A No Contact Order is a directive prohibiting intentional direct or indirect contact or communication between specific individuals. Students who violate a No Contact Order are in violation of the Henderson Rules and will be subject to disciplinary action under Article XV of the CUNY Bylaws. Employees who violate a No Contact Order are in violation of the relevant collective bargaining agreement or employment agreement and are subject to applicable disciplinary procedures. No Contact Orders may be issued to complainants, respondents, and other individuals as appropriate. No Contact Orders, and modifications of No Contact Orders, are drafted by the Title IX Coordinator and issued by the Chief Student Affairs Officer in student matters or the Director of Human Resources or Labor Designee in employee matters. No Contact Orders can be issued to one or more individuals and they may be unilateral or reciprocal.

## 3. Emergency Removal & Administrative Leave

When a respondent poses an imminent and serious threat to the health or safety of a student, employee, or other member of the CUNY community, CUNY may remove a respondent from any CUNY education program or activity in a manner that is consistent with the provisions contained in the Policy. An emergency removal is not a determination of responsibility.

Prior to issuing notice of an emergency removal under this sub-section, the Dean or President, or their designee, will, in consultation with the appropriate officials from the school or college and the University Title IX Director, conduct an individualized safety and risk analysis to determine whether the respondent presents an imminent and serious threat to the health or safety of a student, employee, or other member of the CUNY community. The parties will be notified of the emergency removal, or the revocation of the emergency removal, by an appropriate school or college official. Notice of the emergency removal will be simultaneously sent to the parties, and CUNY will provide the respondent notice and an opportunity to appeal the emergency removal immediately following the removal.

Nothing in this section prohibits CUNY from placing an employee on administrative leave from employment responsibilities during the pendency of a grievance procedure under the Policy. For employee-respondents subject to a collective bargaining agreement, emergency removal and administrative leave will comply with the procedures in the applicable collective bargaining agreement.

Violation of the terms of an emergency removal under the Policy will be grounds for separate disciplinary action which may include actions up to or including expulsion from the school or college or termination of employment.

A respondent may appeal an emergency removal on the following grounds:

- (a) Procedural irregularity that would change the decision to implement an emergency removal;
- (b) New evidence that would change the decision to implement an emergency removal and that was not reasonably available at the time the notice of emergency removal was issued;
- (c) Any person directly involved in the decision to implement an emergency removal had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the decision to implement an emergency removal; or
- (d) The disproportionate nature of the action.

A respondent must submit a written appeal of an emergency removal to the University Title IX Director within 5 business days of receipt of the written notice of emergency removal or within 5 business days of obtaining new information that supports one of the above grounds for appeal, whichever is later. Within 5 business days of receipt of the written appeal of an emergency removal, the University Title IX Director will: (1) inform the complainant that an appeal of the emergency removal has been submitted; and (2) provide the respondent's written appeal to the Vice Chancellor for Student Affairs, or their designee. Within 15 business days of receipt of the written appeal, the Vice Chancellor for Student Affairs, or their designee, will issue an Appeal Decision to both parties describing the result of the appeal and the rationale for the result.

#### 4. Pregnancy Accommodations

The following accommodations are available to students and employees seeking accommodations for past, present, or future pregnancy and related conditions.

##### i) Students

Pregnant students are entitled to breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom; intermittent absences to attend medical appointments; access to online or homebound education; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations; allowing a student to sit or stand, or carry or keep water nearby; counseling; changes in physical space or supplies (for example, access to a larger desk or a footrest); elevator access; or other changes to policies, practices, or procedures.

Pregnant students are also entitled to leaves of absence from their education program or activity for pregnancy and related conditions. Students are allowed to voluntarily take a leave of absence from their education program or activity to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. A longer period may be available to the extent a student qualifies for leave under any CUNY policy that allows for a greater period of time than the medically necessary period. When the student returns to their education program or activity, the student will be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the voluntary leave began.

For the purposes of this sub-section, supporting documentation is not necessary including, but not limited to, when the student's need for a specific action is obvious, such as when a student who is pregnant needs a bigger uniform, or when the reasonable modification because of pregnancy or related conditions at issue requires a student to carry or keep water nearby and drink, use a bigger desk, sit or stand, or take breaks to eat, drink, or use the restroom; when the student has lactation needs; or when the specific action is available to students for reasons other than pregnancy or related conditions without submitting supporting documentation. CUNY will treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions with respect to any medical or hospital benefit, service, plan, or policy CUNY administers, operates, offers, or participates in with respect to admitted students. Finally, CUNY will not require a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in a class, program, or extracurricular activity unless: (1) the certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity; (2) CUNY requires such certification of all students participating in the class, program, or extracurricular activity; and (3) the information obtained is not used as a basis for discrimination prohibited by the Policy.

#### ii) Employees

Employees requesting an accommodation based on pregnancy, childbirth, or a related medical condition should contact the Office of Human Resources at their school, college, or unit. Employees may be required to submit an intake form. The employee and the Director of Human Resources, or a designee, will engage in an interactive process, also called a cooperative dialogue, which may include a consideration of several factors, such as the employee's limitations and the job functions and requirements, with the goal of finding an acceptable accommodation. The Director of Human Resources, or a designee, will initiate a cooperative dialogue even when an employee does not make an accommodation request when the school, college, or unit has: (1) knowledge the employee's performance at work has been affected or that their behavior at work could lead to an adverse employment action; and (2) a reasonable basis to believe that the issue is related to pregnancy, childbirth, or a related medical condition. Reasonable accommodations may include, but are not limited to, granting frequent bathroom breaks,

providing the employee with a specialized chair, granting leaves of absence, changing work schedules to accommodate doctor's visits, temporary shift reassignments, providing light duties or assistance with manual labor for a period of time, or temporarily reassigning the employee to a vacant position for which the employee is qualified. A grant or denial of the employee's request will be made as soon as practicable, considering the urgency of the request, and sent to the employee in writing, either stating the accommodation, or for denials, the reason the request was denied.

Employees may be required to submit medical documentation when requesting: (1) time away from work, including for medical appointments, other than the presumptive six (for a vaginal delivery) to eight (for a cesarean section) week period following childbirth for recovery from childbirth; or (2) to work from home, either on an intermittent or a long-term basis. This requirement does not affect medical documentation requirements related to leave taken pursuant to the Family Medical Leave Act or other disability plans or policies.

Employees seeking accommodations for pregnancy, childbirth, or a related medical condition should consult the following policies or laws:

- The City University of New York Policy on Equal Opportunity and Non-Discrimination  
The *CUNY Policy on Equal Opportunity and Non-Discrimination* can be found here: <https://www.cuny.edu/wp-content/uploads/sites/4/page-assets/about/administration/offices/hr/policies-and-procedures/PEONon-Discrimination12.4.2014.pdf>
- The CUNY Procedures for Implementing Reasonable Accommodations and Academic Adjustments  
The CUNY Procedures for Implementing Reasonable Accommodations and Academic Adjustments can be found here: <https://www.cuny.edu/about/administration/offices/legal-affairs/policies-resources/reasonable-accommodations-and-academic-adjustments/v-accommodations/>
- The New York City Pregnant Workers Fairness Act  
The New York City Pregnant Workers Fairness Act can be found here: <https://www.eeoc.gov/wysk/what-you-should-know-about-pregnant-workers-fairness-act>

#### E. Request for Anonymity - Complainant

CUNY strongly supports a complainant's request that their anonymity be maintained after a report of Sex-Based Misconduct is received by the Title IX Coordinator. If the Title IX Coordinator can honor the request, the Title IX Coordinator will not disclose the complainant's name or identity to anyone other than those individuals who are necessary to implement the relevant provisions in the Policy. The Title IX Coordinator will report the

following types of incidents to law enforcement: (a) an imminent threat of serious injury to the complainant or any other person; or (b) potentially unlawful sexual activity involving a minor or a person with a cognitive disability.

Please note that Supportive Measures limiting the conduct of a respondent will not be available to complainants who wish to remain anonymous after a report of Sex-Based Misconduct is received by the Title IX Coordinator. All other Supportive Measures remain available to complainants who wish to remain anonymous. In addition, an investigation cannot be conducted when the complainant's anonymity is maintained by the Title IX Coordinator.

F. Request That an Investigation not Take Place - Complainant

The Title IX Coordinator will strongly consider a complainant's request that an investigation not take place. If a complainant makes such a request, the Title IX Coordinator will weigh the complainant's request against CUNY'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) The complainant's reasonable safety concerns regarding initiation of a Complaint;
- (b) Whether the respondent has a history of violent behavior or has engaged in repeated misconduct;
- (c) The age and relationship of the parties, including whether the respondent is a CUNY employee;
- (d) Whether the incident represents escalation of prohibited conduct by the respondent from previously noted behavior;
- (e) Any increased risk that the respondent will commit additional acts of violence or Sex-Based Misconduct;
- (f) Whether the respondent used a weapon or force;
- (g) Whether the complainant is a minor;
- (h) Whether the Sex-Based Misconduct, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- (i) Whether the school, college, or unit possesses other means to obtain evidence such as security footage;
- (j) Whether available information reveals a pattern of misconduct at a given location or by a particular group that poses a risk to other campus community members; and
- (k) Whether the school, college, or unit could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.

If the Title IX Coordinator determines a matter will proceed to an investigation despite the complainant's request that the matter not be investigated, the University Title IX Coordinator will notify the parties that the Title IX Coordinator is initiating a University Complaint. The person who experienced the unwelcome conduct will continue to be



designated as the complainant, and the complainant will receive all relevant communications, information, and updates pertaining to the investigation. Any investigative materials obtained or generated prior to the initiation of the University Complaint will be included in the investigative materials relating to the University Complaint if those investigative materials relate to the allegations contained in the University Complaint.

The Title IX Coordinator will continue to provide the complainant with ongoing assistance and support, including Supportive Measures.

#### G. Informal Resolution Process

CUNY recognizes that parties may want to resolve their matter using a process that is less time consuming and formal than the grievance processes contained in the Policy. The Informal Resolution process, which serves as an alternative to the formal grievance process, empowers parties by allowing them to tailor a mutually agreed upon outcome.

Once a report of Sex-Based Misconduct is received by the Title IX Coordinator, the Title IX Coordinator will inform the complainant, if known, that they may request the matter be resolved under one of the two pathways offered under the Informal Resolution process. A complainant may request that the Informal Resolution process take place even if an investigation has not been requested or commenced. A complainant may also initiate the Informal Resolution process after an investigation has commenced. The Informal Resolution process is no longer available to the parties once a determination is made by the decisionmaker.

If a complainant wishes to initiate the Informal Resolution process before an investigation has been requested or commenced, an unsigned Notice of Allegations will be provided to the respondent before the Informal Resolution process can begin.

The parties will receive a Notice of Informal Resolution at the outset of the Informal Resolution process. This notice contains:

- (a) A description of both the Party-Guided Informal Resolution Process and the CUNY-Guided Informal Resolution Process, including when those processes are available to the parties;
- (b) A statement that each party must agree to participate in the Informal Resolution process;
- (c) Notice that the time frame for an investigation or adjudication will be tolled while the parties engage in the Informal Resolution process;
- (d) A statement that each party has the right to unilaterally withdraw from the Informal Resolution process and initiate or resume the grievance process at any time prior to the completion of the Informal Resolution process;
- (e) A statement that the Title IX Coordinator has the discretion to terminate the Informal

- Resolution process at any time;
- (f) A statement that the parties may have an Advisor of Choice and Support Person present throughout the Informal Resolution process;
  - (g) A statement that information learned as a direct result of the Informal Resolution process will not be shared with an investigator or decisionmaker for that matter while the matter is ongoing;
  - (h) A statement that the records memorializing the information learned as a direct result of the Informal Resolution process will be maintained by the Title IX office and that this information will not be accessible to any other CUNY official;
  - (i) A statement that the Informal Resolution Agreement, if any, will be maintained by the Title IX office and the contents of the agreement will not be shared with any other CUNY official unless there is a reported violation of the Informal Resolution Agreement;
  - (j) A statement that the reported violation of an Informal Resolution Agreements will be referred for review and discipline, or other appropriate action, in accordance with CUNY Bylaws, policies, and collective bargaining agreements;
  - (k) A statement that information independently learned by another source will not be excluded from an Investigative Report or subsequent adjudication merely because the information was discussed or raised during the Informal Resolution process;
  - (l) Confirmation that the Informal Resolution Facilitator is precluded from participating in any investigation or adjudication process related to the allegations giving rise to the Informal Resolution process;
  - (m) A list of potential terms the parties may request or agree to while engaging in the Informal Resolution process;
  - (n) The effect of an Informal Resolution Agreement on the investigation and adjudication of any allegations resolved through the Informal Resolution process;
  - (o) A statement that an Informal Resolution Agreement is binding only on the parties to the agreement; and
  - (p) A statement on how records associated with the Informal Resolution process will be maintained and that the conditions or terms of the Informal Resolution Agreement will not be provided to any school, college, or unit official who is not directly participating in the Informal Resolution process.

The Informal Resolution process will commence once the respondent has received the signed or unsigned Notice of Allegations, the Notice of Informal Resolution has been provided to the parties, and the parties have agreed in writing to participate in either the Party-Guided Informal Resolution Process or the CUNY-Guided Informal Resolution Process.

#### 1. Party-Guided Informal Resolution Process

The Party-Guided Informal Resolution process allows the parties to reach a binding Informal Resolution Agreement without the respondent acknowledging responsibility for the allegations contained in the signed or unsigned Notice of Allegations. During this

process, the parties will determine the manner and frequency of their communications, and they will draft mutually agreed upon terms in the form of a proposed Informal Resolution Agreement.

- i) When the Party-Guided Informal Resolution Process is Prohibited

The Party-Guided Informal Resolution process is not available under the following conditions:

- The Party-Guided Informal Resolution process is between a student and an employee or Third Party;
- The Party-Guided Informal Resolution process is between a supervisory employee and an employee they supervise; or
- A No Contact Order is in place between the parties unless the No Contact Order is drafted or modified to allow for contact between the parties for the purpose of reaching an Informal Resolution Agreement.

- ii) The Role of the Informal Resolution Facilitator

A trained Informal Resolution Facilitator will be assigned to the Party-Guided Informal Resolution process. The role of the Informal Resolution Facilitator is to:

- (a) Provide the Informal Resolution Agreement Template to the parties at the outset of the process;
- (b) Re-share the list of potential terms the parties may request or agree to while engaging in the Informal Resolution process;
- (c) Observe the Party-Guided Informal Resolution process;
- (d) Relay any procedural questions the parties have to the school, college, or unit Title IX Coordinator;
- (e) Review the parties' proposed Informal Resolution Agreement to determine whether it requires a CUNY employee or Third Party to implement its terms and, if so, inform the parties whether it is feasible for a CUNY official to do so; and
- (f) Approve the Informal Resolution Agreement in consultation with the Title IX Coordinator.

The Informal Resolution Facilitator will not provide any advice to the parties. The only guidance the Informal Resolution Facilitator will provide the parties will relate to items (d) or (e) in the preceding paragraph.

The Informal Resolution Facilitator must be included on all written communications between the parties, and they must be in attendance throughout all meetings or conversations between the parties if those communications or meetings pertain to the Informal Resolution process. The parties' failure to include the Informal Resolution Facilitator on all Informal Resolution communications and throughout all Informal

Resolution meetings may result in the Informal Resolution Facilitator failing to approve the parties' proposed Informal Resolution Agreement.

iii) Monitoring Progress & Finalizing the Informal Resolution Agreement

The Title IX Coordinator will check in with the Informal Resolution Facilitator every 10 business days to assess the parties' progress. If the parties reach an agreement and the Informal Resolution Facilitator approves the Informal Resolution Agreement, the Informal Resolution Facilitator will provide a written copy of the agreement to the Title IX Coordinator.

The Title IX Coordinator will facilitate the implementation of the Informal Resolution Agreement as needed. Once finalized, the Informal Resolution Agreement will be maintained for the following time period, whichever is longer: (1) 7 years; or (2) the duration of time the parties are members of the CUNY community, and they are subject to the terms of the Informal Resolution Agreement.

iv) Grounds for Not Approving or Voiding an Informal Resolution Agreement

A proposed Informal Resolution Agreement will not be approved if the proposed agreement is the result of coercion, intimidation, force, or threat of harm, or if the proposed agreement is the result of a material misrepresentation. The parties' failure to include the Informal Resolution Facilitator on all Informal Resolution communications and in all Informal Resolution meetings may also result in a proposed Informal Resolution Agreement not being approved or being voided.

The Title IX Coordinator will void a finalized Informal Resolution Agreement if: (1) the agreement is the result of coercion, intimidation, force, or threat of harm; (2) the agreement is the result of a material misrepresentation; or (3) a party breaches the agreement.

If the parties wish to challenge a proposed Informal Resolution Agreement or a finalized Informal Resolution Agreement for the reasons stated above, they must submit a written request to the University Title IX Director containing the reason for making the request.

2. CUNY-Guided Informal Resolution Process

The CUNY-Guided Informal Resolution process allows the parties to reach a binding Informal Resolution Agreement only if the agreement notes that the respondent acknowledges responsibility for the allegations contained in the signed or unsigned Notice of Allegations. Any agreement reached through CUNY-Guided Informal Resolution must be acceptable to the parties and the Title IX Coordinator for the school, college, or unit.

i) The Role of the Informal Resolution Facilitator

A trained Informal Resolution Facilitator will be assigned to the CUNY-Guided Informal Resolution process. The role of the Informal Resolution Facilitator is to:

- (a) Re-share the list of potential terms the parties may request or agree to while engaging in the Informal Resolution process;
- (b) Meet with the parties separately to determine the terms, or combination of terms, that must be contained in the finalized Informal Resolution Agreement;
- (c) Determine whether the parties' terms overlap;
- (d) If the terms do not overlap, inform the parties that the terms do not overlap and the Informal Resolution process will conclude if the parties are unwilling to accept different terms;
- (e) If the terms overlap, draft a proposed Informal Resolution Agreement using the Informal Resolution Template;
- (f) Relay any procedural questions the parties have to the school, college, or unit's Title IX Coordinator; and
- (g) Present the Informal Resolution Agreement to the Title IX Coordinator for the Title IX Coordinator's approval.

The Informal Resolution Facilitator will not provide any advice to the parties. The only guidance the Informal Resolution Facilitator will provide the parties will relate to items (d) or (f) in the preceding paragraph. With respect to item (d), the Informal Resolution Facilitator will share the terms proposed by one party with the other party only if the other party states they wish to receive that information.

ii) Monitoring Progress & Finalizing the Informal Resolution Agreement

The Title IX Coordinator will check in with the Informal Resolution Facilitator every 10 business days to assess the parties' progress. If the parties reach an agreement and the Title IX Coordinator, or their designee, approves the terms of the Informal Resolution Agreement, the Informal Resolution Agreement will be finalized.

The Title IX Coordinator will facilitate the implementation of the Informal Resolution Agreement as needed. Once finalized, the Informal Resolution Agreement will be maintained for the following time period, whichever is longer: (1) 7 years; or (2) the duration of time the parties are members of the CUNY community, and they are subject to the terms of the Informal Resolution Agreement.

iii) Grounds for Not Approving or Voiding an Informal Resolution Agreement

The Title IX Coordinator will not approve an Informal Resolution Agreement if: (1) the proposed agreement is the result of coercion, intimidation, force, or threat of harm; (2) if the proposed agreement is the result of a material misrepresentation; or (3) they determine

the terms of the Informal Resolution Agreement are not commensurate with the nature of the allegations.

The Title IX Coordinator will void a finalized Informal Resolution Agreement if: (1) the agreement is the result of coercion, intimidation, force, or threat of harm; (2) the agreement is the result of a material misrepresentation; or (3) a party breaches the agreement.

If the parties wish to challenge a finalized Informal Resolution Agreement for the reasons stated above, they must submit a written request to the University Title IX Director containing the reason for making the request.

### 3. Timeframe

Informal Resolution processes lasting more than 30 business days will be terminated by the Title IX Coordinator absent good cause provided by the parties.

## **VIII. SEX-BASED HARASSMENT: GRIEVANCE PROCESS**

The following grievance process applies to all reports of Sex-Based Harassment under the Policy. Whether or not a party wishes to pursue the grievance process, Supportive Measures are available to parties, witnesses, and other impacted community members, and Informal Resolution is available to the parties. The parties may choose to have an Advisor of Choice and a Support Person present at all relevant times.

### A. Initiating the Sex-Based Harassment Grievance Process

The grievance process commences when the University receives a Complaint (*i.e.*, an oral or written request that can be objectively understood as a request for CUNY to investigate and make a determination about reported Sex-Based Harassment under the Policy). A request that CUNY investigate and make a determination about reported Sex-Based Harassment may be submitted by: (1) a complainant; (2) a person who is legally authorized to represent or act on behalf of the complainant; (3) and the Title IX Coordinator through a University Complaint.

### B. Presumption of Non-Responsibility, Burden of Proof, and Standard of Proof

All reports of Sex-Based Harassment will be addressed in a prompt, thorough, and impartial manner. The University will maintain the presumption that the respondent is not responsible for the reported Sex-Based Harassment until a determination is made and the appeal process has been exhausted. Throughout the grievance process, the burden is on the University, not the parties or witnesses, to gather sufficient evidence to establish whether Sex-Based Harassment occurred. The University applies the preponderance of the evidence standard of proof (*i.e.*, whether it is more likely than not that the Sex-Based Misconduct took place) to determine whether Sex-Based Harassment occurred.

### C. Duty to Participate

Neither a party nor a student-witness can be compelled to participate in the grievance process. CUNY reserves the right to compel an employee-witness or Third Party to participate in the grievance process. Please note that CUNY may be limited in its ability to ensure that Sex-Based Harassment does not continue or recur within the CUNY community if a party or witness does not participate in the grievance process.

D. Request for an Extension of Time

The investigator, Title IX Coordinator, or University Title IX Director will determine, on a case-by-case basis, whether a party has established good cause to be granted a reasonable extension of time to participate in any phase of the grievance process. The investigator, Title IX Coordinator, or University Title IX Director will simultaneously notify the parties of the length of the extension granted and the reason for the extension.

E. Dismissal of Complaints

The following sub-section governs the process for dismissing Complaints.

1. Grounds for Dismissal

A Title IX Coordinator may dismiss a matter if any of the following conditions are met: (1) the University is unable to identify the respondent after taking reasonable steps to do so; (2) the respondent is not participating in CUNY's education program or activity and is not employed by the University; (3) the complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint, and the Title IX Coordinator determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute Sex-Based Harassment under the Policy even if proven; or (4) the University determines the conduct alleged in the Complaint, even if proven, would not constitute Sex-Based Harassment under the Policy.

Prior to dismissing the Complaint, CUNY must make reasonable efforts to clarify the allegations with the complainant. The University will make reasonable attempts to obtain the complainant's withdrawal in writing if dismissing a Complaint based on the complainant's voluntary withdrawal of the Complaint or any allegations.

2. Notice of Dismissal

If a Title IX Coordinator dismisses a matter, the University will provide simultaneous, written notice of the dismissal and the basis for the dismissal to the parties, except if the dismissal occurs before the respondent has been notified of the allegations, in which case only the complainant will receive written notice. The notice will state the grounds for dismissal and will inform the party or parties of the right to appeal the dismissal.

3. Appeal Process for the Dismissal of a Complaint

A party may appeal the Title IX Coordinator's dismissal on the following grounds:

- (a) Procedural irregularity that would change the outcome of the dismissal;
- (b) New evidence that would change the outcome of the dismissal and that was not reasonably available at the time the dismissal was made; or
- (c) The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or against the individual complainant or respondent that affected the outcome of the dismissal.

The notice of appeal pertaining to the dismissal of a Complaint must be submitted to the Title IX Coordinator within 5 business days of the issuance of the written Notice of Dismissal or within 5 business days of obtaining new information that supports one of the above grounds for appeal, whichever is later. If a notice of appeal is submitted to the Title IX Coordinator, the Title IX Coordinator will notify the parties of the appeal, and the Notice of Allegations will be provided to the respondent if it had not previously been provided to the respondent. The parties will be provided an equal opportunity to make a statement in support of, or challenging, the dismissal. This statement must be submitted by the parties to the Title IX Coordinator within 5 business days of being notified of their right to submit the statement. The Title IX Coordinator will submit these materials to the University Title IX Director. The University Title IX Director will issue an Appeal Decision describing the result of the appeal and the rationale for the result within 15 business days of the receipt of the materials.

Even if a Complaint is dismissed, the Title IX Coordinator will offer Supportive Measures to the complainant. The University will also offer Supportive Measures to the respondent if the respondent has been notified of the allegations. The Title IX Coordinator will also take other appropriate, prompt, and effective steps to ensure that Sex-Based Misconduct does not occur, continue, or recur within the CUNY community.

#### F. Conflict of Interest or Bias

If a party believes a CUNY official who is administering any portion of the grievance process has a conflict of interest or bias for or against complainants, respondents, or witnesses generally or against an individual complainant, respondent, or witness, any party may make a request to have that reportedly conflicted or biased CUNY official removed from the process.

Requests for removal must include a detailed description of the conflict or bias. All requests for removal must be directed to the University Title IX Director. After receiving a request for removal, the University Title IX Director will ask the individual with the alleged conflict of interest or bias to provide a short, written response to the request for removal and consider that response before making a determination. If a conflict or bias exists, the University Title IX Director will take immediate steps to replace that CUNY official to ensure an impartial and fair grievance process is maintained.



If the respondent in a matter is a CUNY official who customarily administers a portion of the grievance process, the Dean or President for the school or college will appoint another administrator to perform that person's duties under the Policy.

If the President is the respondent, the investigation will be handled by the University Title IX Director, or their designee. In other appropriate matters in which a high-level administrator is the respondent, the investigation may be referred for investigation to the University Title IX Director, or their designee.

#### G. Unauthorized Recordings

The parties and witnesses are prohibited from recording any part of the investigation and grievance process and from unauthorized copying of documents or materials. Copying includes but is not limited to audio or video recording, streaming, photographing, scanning, transcribing, or any other form that conflicts with the spirit of this provision. Allegations of non-compliance will be reviewed by the Office of Student Affairs, Human Resources, or the Labor Designee, as appropriate, and may result in disciplinary action.

#### H. Student Withdrawal or Student Transfer Within CUNY Before the Grievance Process is Completed

A student who withdraws from CUNY will not be exempt from an investigation or adjudication that commenced prior to withdrawal. When a student-respondent withdraws from CUNY with an investigation or adjudication pending, the respondent will be barred from attending any other school or college of CUNY until the investigation and/or adjudication is complete or the allegations are otherwise resolved. If the respondent fails to appear at a subsequent hearing, the school or college may proceed in absentia, and any decision and sanction will be binding for all schools or colleges, pending appeal.

When a school or college is notified of a respondent's withdrawal, the school or college must place a notation on the respondent's transcript that the respondent "withdrew with conduct charges pending." If the respondent is subsequently found not responsible at a hearing, the transcript notation will be removed. If the respondent is subsequently found responsible at a hearing and the sanction is either suspension or expulsion, the transcript notation will be adjusted in accordance with Section VIII(L), below.

When a student-respondent transfers schools or colleges within CUNY while an investigation is pending, the school or college that instituted the investigation must complete the investigation before transferring the matter to the respondent's new school or college for adjudication.

#### I. Investigations

The following provisions discuss the investigative process under the Sex-Based Harassment grievance process.

## 1. Trained Investigator

A trained investigator will investigate Complaints impartially and objectively, and they will follow all relevant procedures in the Policy. All interviews will be conducted in a live, question-and-answer format. No person designated as an investigator will have a conflict of interest or bias for or against complainants, respondents, or witnesses generally, and they will not have a conflict of interest or bias for or against a specific complainant, respondent, or witness.

## 2. Anonymity

For a full discussion of a complainant's right to remain anonymous after a report of Sex-Based Misconduct is received by the Title IX Coordinator but before the grievance process has commenced, please see Section VII(E) ("CUNY's Initial Response to Reports, Request for Anonymity – Complainant").

Neither a party nor a witness may remain anonymous once the grievance process has commenced. Please see Section VIII(I)(6) to review the types of information that will be excluded or redacted during the grievance process.

## 3. Written Notice of Allegations

Following a live, question-and-answer intake meeting with the complainant, the investigator will draft a Notice of Allegations. The Notice of Allegations will contain the following information: (1) the name of the parties involved; (2) the date, time, and location of each reported incident to the extent known by the complainant; (3) the conduct giving rise to the report of Sex-Based Harassment; (4) a citation to the relevant portion of the Policy containing the definition of the specific type of Sex-Based Harassment alleged; (5) a reference to the Grievance Process, Informal Resolution, Supportive Measures, and Sanctions sections of the Policy; (6) a statement that retaliation is prohibited; (7) an acknowledgment that an updated Notice of Allegations will be shared with the parties if CUNY decides to investigate additional allegations of Sex-Based Harassment by the respondent toward the complainant that are not contained in the Notice of Allegations or if the Complaint is consolidated; (8) a statement that the parties will be provided an equal opportunity to access the relevant and not otherwise impermissible evidence, including the notes for each interview conducted by the investigator; (9) a statement that the parties will be provided an equal opportunity to access an Investigative Report that accurately summarizes the evidence; (10) a statement that they may have an advisor of their choice assist them throughout the process, and that the advisor may be, but is not required to be, an attorney; (11) the University's prohibition on improper disclosure of information and evidence; (12) a statement that the respondent is presumed not responsible for the alleged Sex-Based Harassment until a determination is made at the conclusion of the grievance process; (13) a statement that, prior to the determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker; and (14) a statement that the University's Code of Conduct and

the Policy prohibiting knowingly making false statements or knowingly submitting false information during the grievance procedure.

The parties will be permitted no less than 5 business days to prepare a response before an initial interview is conducted. To the extent the University has reasonable concerns for the safety of any person as a result of providing a Notice of Allegations, the University may reasonably delay providing written notice of the allegations in order to address the safety concern appropriately. Reasonable concerns will be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

#### 4. Witness Selection & Collection of Evidence

The investigator will make reasonable efforts to interview the parties and witnesses they deem necessary to obtain information needed to determine whether the reported conduct took place. CUNY will provide the parties with written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate.

All interviews will be conducted in a live, question-and-answer format in which the investigator will ask questions that enable the investigator to assess the credibility of the parties and witnesses and to evaluate the allegations. The parties will be provided an equal opportunity to recommend fact witnesses and present inculpatory and exculpatory evidence that is relevant and not otherwise impermissible.

The investigator will also make reasonable efforts to obtain materials needed to determine whether the reported conduct took place. The investigator will review all evidence gathered through the investigation and objectively evaluate whether evidence is relevant and what evidence is impermissible regardless of relevance. Each party will have an equal opportunity to access the evidence that is relevant to the allegations of Sex-Based Harassment and not otherwise impermissible, and the parties will be provided 10 business days to respond to the evidence.

#### 5. Unauthorized Disclosure of Information and Evidence

Unauthorized disclosure of information and evidence obtained solely through the grievance procedure is strictly prohibited and may constitute Retaliation under the Policy. CUNY will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance process. Please note that disclosure of information and evidence for purposes of litigation related to a Complaint of Sex-Based Harassment, or an administrative proceeding such as the pending grievance process under the Policy, is not prohibited.

#### 6. Excluded or Redacted Materials

The following materials will be excluded or redacted from the record:

- (a) Evidence that is protected under a privilege as recognized by federal, state, or local law, or evidence provided to a Confidential Employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- (b) A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless CUNY obtains that party's or witness's voluntary, written consent for use in CUNY's grievance process;
- (c) Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged Sex-Based Harassment;
- (d) Expert witnesses who are not approved by the investigator;
- (e) The social security number, home address, or similar highly sensitive information pertaining to a party, witness, or other person referenced in the grievance process; and
- (f) Any other materials prohibited by federal, state, or local law.

#### 7. Expert Witnesses

A party or witness who wishes to submit expert testimony or materials must state the scientific, technical, or other specialized knowledge the expert possesses, how the expert testimony or materials will assist the decisionmaker, why the material is reliable, and why the information is relevant but not otherwise impermissible. The investigator will determine whether to admit the expert testimony or materials. Unapproved expert testimony or materials will be excluded or redacted from the record.

#### 8. Review and Comment - Relevant Evidence

Prior to the completion of the Investigative Report, the investigator will provide the parties all relevant and not otherwise impermissible evidence gathered during the investigation (e.g., interview notes from the investigative interviews, materials submitted by the parties, and materials submitted by witnesses). The parties will have the opportunity to review and comment on this evidence. The parties may address the following in their comments:

- (a) The need to exclude or redact information;
- (b) Factual errors they observe in the evidence;
- (c) Information in the evidence that requires additional context;
- (d) A request for an additional meeting with the investigator and a detailed description of the rationale for that request; and
- (e) A request that the investigator conduct further investigation into a specific issue and a detailed description of the rationale for that request.

The parties may also provide supplemental evidence with their comments. The parties' comments and supplemental evidence are due within 10 business days of the investigator sharing the relevant and not otherwise impermissible evidence. The parties' comments and supplemental evidence will be considered by the investigator prior to finalizing the Investigative Report.

#### 9. Investigative Report

Upon completion of the investigation, the Title IX Coordinator must prepare an Investigative Report, which will fairly summarize all relevant evidence gathered during the investigation. The Investigative Report must include:

- (a) The procedural history of the investigation;
- (b) A list of the individuals interviewed;
- (c) A summary of the conduct alleged;
- (d) The definition of the specific type of Sex-Based Misconduct alleged;
- (e) An exhibit list containing all relevant and not otherwise impermissible evidence;  
and
- (f) A factual summary discussing the relevant evidence as it pertains to each allegation.

##### i) Review of the Investigative Report - The Parties

Upon completion of the Investigative Report, the investigator will send the report to each party for their review and written response. A party's written response to the report is due within 10 business days of the report being provided to them. Upon receipt of a party's written response to the report, it will be shared with the other party. Prior to the hearing, the Investigative Report and the parties' written response to the report, if any, will also be shared with the Adjudication Committee.

##### ii) Review of Investigative Report and Written Responses - Dean or President

Unless otherwise prohibited by federal, state, or local law, the Title IX Coordinator will send the Investigative Report and written responses to the Dean or President, and the Title IX Coordinator will send these materials to the Chief Student Affairs Officer if the respondent is a student. Following receipt of the Investigative Report and written responses, the Dean or President must, when warranted by the facts, authorize such action as they deem necessary, including action to correct the effects of the conduct investigated or prevent further harm to an affected party or other similarly situated person. This may include a recommendation that disciplinary action be commenced against the respondent or authorization to close the matter.

Within 30 business days of the termination of an investigation when it has been resolved by Informal Resolution or the complainant has withdrawn from the matter, the Title IX Coordinator will summarize for the file the actions taken in response to the allegations and the basis on which the investigation was closed.

## 10. Consolidation

The University may consolidate Complaints of Sex-Based Misconduct against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of Sex-Based Misconduct arise out of the same facts or circumstances. If one of the Complaints to be consolidated is a Complaint of Sex-Based Harassment, the grievance process for investigating and resolving the consolidated Complaint must comply with the procedures for a matter alleging Sex-Based Harassment.

## 11. Timeframe

The Investigations phase will be completed within 120 business days. If there is a delay in completing the Investigations phase, the Title IX Coordinator must notify the parties in writing, indicate the reason for the delay, and provide a timeframe for completing the investigation. The reason for an extension of the timeframe of an investigation may include, but is not limited to: compliance with a request by law enforcement; a limited accommodation for the availability of parties, their advisors, or witnesses; students or employees on leave; exam periods, school breaks, or vacations; and accounting for the complexities of a specific investigation, including the number of witnesses and volume of information provided by the parties.

### J. Hearings

Following the completion of the Investigations phase, unless otherwise permitted under the Policy, all Sex-Based Harassment matters will proceed to a live hearing.

#### 1. Referral for Hearing

Following the conclusion of the Investigations phase, the Title IX Coordinator will notify the following parties that the matter is ready for a hearing before the Adjudication Committee:

- (a) For student-respondents: the University Title IX Director and the school or college Office of Student Affairs.
- (b) For employee respondents: the University Title IX Director and the school, college, or unit Office of Human Resources and the school, college, or unit Labor Designee.

The University Title IX Director will facilitate the selection and scheduling of the Adjudication Committee, which will be comprised of members of the CUNY-wide Sexual Misconduct Panel. The University Title IX Director will determine an appropriate physical location for the hearing on a case-by-case basis. After the Adjudication Committee is selected and the hearing is scheduled, the school or college Office of Student Affairs or the school, college, or unit Office of Human Resources and/or Labor Designee will coordinate the hearing, including, for example, providing a location, facilitating a remote platform, recording the hearing and arranging for Presenters and advisors, as needed.

#### 2. Issuance of Notice of Hearing

The college Office of Student Affairs or Office of Human Resources/Labor Relations will issue the Notice of Hearing to the parties, which will include the date, time and location of the hearing and notice of the allegations identified in the Investigative Report. The Notice of Hearing will be sent via email, using the parties' CUNY email address unless another means of communication is requested. Notice of at least 7 business days will be provided. If any party fails to respond to the notice, appear on the adjourned date, or request an extension, the school, college, or unit may proceed without their presence, and any Written Determinations will be final, subject to appeal.

The Notice of Hearing must contain the following:

- (a) A complete and itemized statement of the allegations against the respondent, including the policy the respondent is charged with violating, and the possible penalties for such violation; and
- (b) A statement that the parties have the right to attend and participate fully in the hearing including the right: (1) to present their side of the story; (2) to present witnesses and evidence on their behalf; (3) to be represented by an advisor (who may be an attorney, at their own expense) and if the respondent or the complainant does not have an advisor at the hearing, the college will provide an advisor for the limited purpose of cross examination; (4) for their advisor to cross-examine witnesses presenting evidence; (5) for the respondent to remain silent without the assumption of responsibility; and (6) to a warning that anything said may be used at a non-college hearing.

### 3. CUNY-wide Sexual Misconduct Panel and Adjudication Committee

Each year, CUNY assembles a CUNY-wide Sexual Misconduct Panel (the "Panel") comprised of faculty members, Higher Education Officer ("HEO") series employees, and students from the schools or colleges. CUNY consults with each CUNY Dean or President during the process of forming the panel. When selecting faculty members, the Deans and Presidents consult with the faculty member who is the head of the appropriate campus governance body, or where the Dean or President is the head of the governance body, the faculty members of its executive committee. Each Panel member receives annual training regarding the Policy and their role in enforcing its provisions.

For each Sex-Based Harassment matter that goes to a hearing, three randomly selected members of the Panel will serve as the decisionmaker for that hearing. This three-member group of Panel members is referred to as the "Adjudication Committee."

For hearings in which the respondent is a student, each Adjudication Committee will consist of one faculty member or one HEO, one student member, and a chairperson, who will be a faculty member or a HEO. For hearings in which the respondent is a faculty member, each Adjudication Committee will consist of two faculty members and a chairperson, who will be a faculty member or a HEO. For hearings in which the respondent is a HEO, each Adjudication Committee will consist of two HEOs and a chairperson, who

will be a faculty member or a HEO. For all other hearings in which the respondent is an employee, each Adjudication Committee will consist of two faculty members or one faculty member and one HEO as well as a chairperson, who will be a faculty member or a HEO.

Once an Adjudication Committee is impaneled, they will be provided all relevant investigative materials, including the Investigative Report, the written responses to the Investigative Report, and any other relevant documents obtained as part of the investigation. The Adjudication Committee will not be provided any impermissible material or evidence.

During the hearing, the Adjudication Committee will listen to the testimony, review, and consider evidence and ask questions of the parties and witnesses to aid in their assessment of each individual's credibility and to assist them in their determination of responsibility. After the deliberation phase, the Adjudication Committee will consider all the information and evidence, make a decision as to responsibility and sanction, if applicable, and issue a Written Determination.

The Adjudication Committee will collectively decide by majority vote whether the respondent is responsible for the alleged Policy violation(s). Hearings will be scheduled promptly (including during the summers) at a convenient time, and efforts must be made to ensure full student, HEO, and faculty representation.

If any Adjudication Committee member, including the chairperson, cannot continue, the University Title IX Director will appoint another Adjudication Committee member from the Panel to fill the vacant position.

Panel members will not participate in a matter if they have been involved in the investigation, will be participating in the hearing as a witness or if they have a direct interest in the outcome of the matter. Panel members will not serve on an Adjudication Committee if they have previously participated in a matter involving the same parties.

#### 4. Hearing Format

The following sub-section addresses the hearing format for matters proceeding to a hearing under the Sex-Based Harassment grievance process.

##### i) Live Hearings

CUNY may conduct the live hearing with the parties physically present in the same geographic location. Upon request from any party, or at CUNY's discretion, the live hearing may be conducted with the parties physically present in separate locations, with technology enabling the Adjudication Committee and parties to simultaneously see and hear the party or the witness while that person is speaking. All hearings are closed, meaning participation and observation is limited to the parties, their advisors, witnesses,



the Adjudication Committee, the school, college, or unit Presenter and any CUNY official required to assist with the proper administration of the hearing.

ii) Role of the Chairperson

The chairperson of each Adjudication Committee will preside over all hearings and make all procedural rulings for the Adjudication Committee. At the commencement of the hearing, the chairperson will read from the Chairperson Script. During the presentation of evidence, the chairperson will exclude from the hearing room all persons who are to appear as witness until such time as they are providing testimony, and they will exclude all non-relevant questioning, testimony, and evidence. During the deliberation phase, the chairperson will lead the Adjudication Committee as the Adjudication Committee considers the information and evidence, determines responsibility, decides on the appropriate sanction, if applicable, and issues a Written Determination.

iii) Chairperson Script

At the outset of the hearing, the chairperson will inform the parties of their rights and the hearing procedures through the reading of the Chairperson Script.

During the reading of the Chairperson Script, the chairperson will ask the respondent whether they intend to admit responsibility for the allegations. If the Respondent admits responsibility for the allegations, the hearing moves directly to the post-hearing phase. If the Respondent chooses to not admit responsibility for the allegations, the hearing will proceed to the presentation of evidence. The Adjudication Committee may not draw any inference from a Respondent's decision not to admit responsibility for the allegations.

iv) Opening Statements

The school, college, or unit, through the Presenter, and the parties may make an opening statement following the reading of the Chairperson Script. The opening statement should be a summary of the nature of the allegations and of the key facts and evidence that will be discussed in detail during the subsequent presentation of evidence.

v) Presentation of Evidence

If the Presenter, complainant, and respondent each choose to participate in the Presentation of Evidence, evidence will be presented in the following order: (1) the Presenter; (2) the complainant; and then (3) the respondent. The parties have an equal opportunity to present relevant evidence, including fact and expert witnesses and other inculpatory and exculpatory evidence to the Adjudication Committee. If a party submits documentary evidence during a hearing that was not previously shared during the investigation, the chairperson may, at the request of any other party or the Presenter, grant an adjournment of the hearing as necessary in the interest of fairness, to permit the requesting party time to review the newly produced evidence. Evidence that would be excluded or redacted during the Investigations phase will be deemed inadmissible by the chairperson.

*a) Cross Examination*

Each party's advisor will be permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. A party may not conduct cross-examination personally; they must do so through their advisor. In the event a party does not have an advisor and the matter proceeds to a hearing, the school, college, or unit must provide a CUNY-Appointed Advisor for the Limited Purpose of Cross-Examination to ask those questions the party would like to ask. CUNY will not appoint a Confidential Employee to serve as a CUNY-Appointed Advisor for the Limited Purpose of Cross-Examination.

Before a complainant, respondent, or witness answers a cross-examination or other question, the chairperson must first determine whether the question is relevant and permissible, and they must explain any decision to prohibit a question.

*b) Absence or Refusal to Answer Questions*

The Adjudication Committee may not draw an inference regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer any cross examination questions. However, the Adjudication Committee may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The Adjudication Committee must not draw an inference about whether Sex-Based Harassment occurred based solely on a party's or witness's refusal to respond to such questions.

*vi) Closing Statements*

Following the presentation of evidence, the Presenter and the parties may provide closing statements. If the Presenter, complainant, and respondent each choose to provide a closing statement, they will be provided in the following order: (1) the respondent; (2) the complainant; and then (3) the presenter. Closing statements should summarize the key facts and evidentiary materials contained in the investigative record and discussed during the hearing. In addition, the parties may state how the key facts and evidentiary materials should inform the Written Determination that will be issued by the Adjudication Committee.

*vii) Post Hearing Submissions*

Within two business days of the completed hearing, the Presenter will have the opportunity to introduce a copy of the respondent's previous disciplinary records, if any, from any CUNY school or college the respondent has attended. They will also have the opportunity to submit an impact statement. The Presenter may submit an Impact Statement containing: (1) the appropriate sanction in the event the respondent is found responsible for violating the Policy; (2) the rationale for the proposed sanction. The Presenter may also introduce a copy of the respondent's previous disciplinary records, if any, from any CUNY school or college the respondent has attended, provided the respondent was shown a copy of the records prior to the commencement of the hearing.

The Presenter must provide the respondent with a copy of their previous disciplinary records in advance of the hearing if they intend to submit them to the Adjudication Committee following the hearing.

The parties may submit an Impact Statement containing the following information: (1) the appropriate sanction in the event the respondent is found responsible for violating the Policy; (2) the rationale for the proposed sanction; (3) evidence of and comments on the respondent's character; and (4) a statement regarding the impact of the conduct on the party.

The previous disciplinary records and the Impact Statements will not be reviewed by the Adjudication Committee unless the respondent is found responsible. Once the Adjudication Committee determines the respondent is responsible, these materials will be used to inform the sanctions provisions contained in the Written Determination.

#### viii) Hearing Recording

The school, college, or unit will make a recording of each hearing (e.g., stenographic transcript, audio recording, or video recording). No other recording of the proceedings is permitted. In the event of an appeal, the parties will be provided a copy of such a record without cost, upon the condition that it is not to be disseminated except to their Advisor of Choice, or any other person permitted to receive the record under federal, state, or local law.

#### 5. Written Determination

The decisionmaker will evaluate relevant and not otherwise impermissible evidence for its persuasiveness, and they will not make credibility determinations based on a person's status as a complainant, respondent, or witness. If the decisionmaker cannot establish by a preponderance of the evidence that Sex-Based Harassment occurred, the decisionmaker must not determine that Sex-Based Harassment occurred.

The Written Determination will include:

1. A description of the alleged Sex-Based Harassment;
2. Information about the policies and procedures that CUNY used to evaluate the allegations;
3. The decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether Sex-Based Harassment occurred;
4. The rationale for the Written Determination;
5. When the decisionmaker finds that Sex-Based Harassment occurred, any disciplinary sanctions CUNY will impose on the respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the University

- to the complainant, and, to the extent appropriate, other students identified by CUNY to be experiencing the effects of the Sex-Based Harassment; and
6. CUNY's procedures for the complainant and respondent to appeal.

The Title IX Coordinator will distribute the Written Determination to the parties simultaneously, within 15 business days of the conclusion of the hearing. The Written Determination will be sent by email using the parties' CUNY email address or by any other email address known to the school, college, or unit. In matters involving two or more complainants or respondents, the Title IX Coordinator has 20 business days from the conclusion of the hearing to distribute the Written Determination to the parties.

The Written Determination becomes final either on the date on which the Decision on Appeal is issued, or, if no party appeals, the date on which an appeal would no longer be considered timely.

If there is a determination that Sex-Based Harassment occurred, the Title IX Coordinator will coordinate the provision and implementation of remedies to a complainant and other persons CUNY identifies as having had their equal access to CUNY education programs or activities limited or denied by Sex-Based Harassment. The Title IX Coordinator will also coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions, and require the Title IX Coordinator to take other appropriate prompt and effective steps to ensure that Sex-Based Harassment does not continue or recur within the University community.

## 6. Sanctions

If a respondent is found responsible for violating the Policy, the Adjudication Committee will determine the consequences, or sanction, to be imposed; except that if the respondent is a represented employee whose discipline is subject to a collective bargaining agreement with CUNY or an employee with disciplinary rights under the New York State Civil Service Law, there will be no sanction phase, and a determination that the respondent is responsible will be referred for discipline under the applicable collective bargaining agreement or Civil Service Law. For all other employees, sanctions range from a reprimand to suspension to termination of employment.

When determining which sanction to impose, CUNY will elect to impose sanctions that are: (1) fair and appropriate given the facts of the specific matter; (2) adequate to promote the safety of the CUNY community; and (3) reflective of the seriousness of the Sex-Based Misconduct.

Relevant factors that will be considered when imposing a sanction include: (1) the specific Sex-Based Misconduct at issue; (2) the circumstances accompanying the lack of consent (such as force, threat, coercion, incapacitation); (3) the sanctions imposed on the respondent in other matters involving similar conduct or the sanction recommended by the

Presenter; (4) the impact of the offense on the parties and the broader CUNY community, including the safety of the CUNY community; and (5) the respondent's prior disciplinary history.

The following sanctions may be imposed on a student-respondent:

- (a) Warning: Notice to the respondent, in writing, that continuation or repetition of the wrongful conduct, within a period of time stated in the warning, may result in more severe disciplinary action.
- (b) Probation: A trial period during which the student may be excluded from participation in privileges or extracurricular University activities, as set forth in the notice of probation. Probation is for a designated period of time, and it includes notice of the probability of more severe disciplinary sanctions if the student is found to violate the Policy during the probationary period.
- (c) Residence Hall Dismissal: Permanent separation of the student from the residence hall and termination of the student's housing or license agreement, as applicable.
- (d) Suspension: Exclusion from classes and other University privileges and activities as set forth in the notice of suspension for a definite period of time not to exceed three years.
- (e) Dismissal: Permanent termination of student status, except that a dismissed student will be permitted to apply for readmission after a period of no less than three years in matters where the decision has expressly permitted such reapplication and set forth reasonable conditions for readmission.
- (f) Expulsion: Permanent termination of student status.
- (g) Withholding of Degree: A student's academic degree that has been earned but not yet awarded, may be withheld until the completion of the disciplinary process as set forth in the Policy, including the completion of all disciplinary sanctions imposed.
- (h) Revocation of Degree: Revoking degree awarded from the University/School/College for violations of the Policy committed by a student prior to graduation but discovered after the student is awarded a degree; and
- (i) Revocation of Admission: Revoking an offer of admission prior to a student enrolling at CUNY.

In addition to the sanction imposed (except for expulsion, withholding of degree, revocation of degree, and revocation of admission), CUNY will require any student determined to be responsible for a violation of the Policy to receive appropriate education and/or training related to the Sex-Based Misconduct at issue. Students who are suspended, dismissed, or expelled as a result of the disciplinary process are not entitled to a refund of their tuition and/or fees.

When a disciplinary hearing results in a sanction of expulsion or suspension for one term or more, the respondent must be barred from admission to, or attendance at, any other

unit of CUNY while the sanction is being served. Students may also be subject to CUNY's policy on transcript notations. (Section VIII(L)).

#### 7. Remedies for Complainants

In the event the respondent is found responsible for violating the Policy, the Title IX Coordinator will implement remedies for the complainant, designed to restore or preserve equal access to CUNY's education program or activity. Such remedies may include a continuation of the same Supportive Measures described in Section VII(D), but need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.

#### 8. Timeframe

When possible, the live hearing must be completed within 60 business days of the completion of the Investigations phase.

#### K. Appeals

The following provisions govern the appeal of a hearing held pursuant to the Sex-Based Harassment grievance process.

##### 1. Grounds for Appeal

A party may appeal the Adjudication Committee's Written Determination and/or the sanction imposed on the following grounds:

- (a) Procedural irregularity that would change the outcome of the matter;
- (b) New evidence that would change the outcome of the matter and that was not reasonably available at the time the Written Determination was made;
- (c) The Title IX Coordinator, investigator, or Adjudication Committee had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; or
- (d) The disproportionate nature of the sanction.

##### 2. CUNY-Wide Sexual Misconduct Panel – Appeal Arbiter

For each Sex-Based Harassment matter that goes to appeal after a hearing, one randomly selected member of the Panel will decide the appeal. This member of the Panel is referred to as the "Appeal Arbiter." In all such matters, the Appeal Arbiter will be a faculty member or a HEO.

##### 3. Notice of Appeal, Written Appeal, and Written Response to the Written Appeal

Parties intending to appeal under this section must send a written Notice of Appeal to the University Title IX Director within 10 business days of the delivery of the Written Determination or within 10 business days of obtaining new information that supports one of the above grounds for appeal, whichever is later. The University Title IX Director will

notify the non-appealing party in writing and will instruct the school, college, or unit to provide the hearing recording to the parties. The school, college, or unit will provide the hearing recording to the parties in a timely manner.

The appealing party must submit a Written Appeal to the University Title IX Director within 10 business days of the delivery of the hearing recording. The Written Appeal must contain the relevant ground(s) for appeal and a detailed description of the rationale for the appeal. The non-appealing party will have the opportunity to submit a Written Response to the Written Appeal, due within 10 business days of the delivery of the appealing party's Written Appeal.

The University Title IX Director will assign an Appeal Arbiter to the matter. The Appeal Arbiter will review the hearing materials and the written submissions of the parties.

#### 4. Potential Outcomes of the Appeal

The Appeal Arbiter may, in whole or in part, modify the sanction, remand the matter for a new investigation or hearing, or affirm the Written Determination. The Appeal Decision will be provided simultaneously to the parties.

#### 5. Timeframe

Within 15 business days of receipt of the non-appealing party's Written Response to the Written Appeal or the non-appealing party's failure to provide the submission, the Appeal Arbiter will issue an Appeal Decision indicating the final outcome and rationale for that decision.

#### L. Transcript Notations & Withholding of Degrees

When a student-respondent is found responsible and the sanction is either suspension or expulsion, the school or college must 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 all other matters, the school or college must place a notation of the findings and sanction on a respondent's transcript unless a resolution agreement, the decision-makers determination, or the decision on appeal expressly indicates otherwise.

In matters where a student-respondent was expelled as a result of a Clery Act crime of violence, including but not limited to sexual assault, the notation will not be removed. For all other matters, 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 is vacated for any reason, the notation must be removed.

## **IX. SEX-BASED DISCRIMINATION & RELATED MISCONDUCT: GRIEVANCE PROCESS**

The following grievance process applies to all reports of Sex-Based Discrimination & Related Misconduct under the Policy. Whether or not a party wishes to pursue the grievance process, Supportive Measures are available to parties, witnesses, and other impacted community members, and Informal Resolution is available to the parties. The parties may choose to have an Advisor of Choice and a Support Person present at all relevant times.

### **A. Initiating the Sex-Based Discrimination & Related Misconduct Grievance Process**

The grievance process commences when the University receives a Complaint (*i.e.*, an oral or written request that can be objectively understood as a request for CUNY to investigate and make a determination about reported Sex-Based Discrimination & Related Misconduct). A request that CUNY investigate and make a determination about reported discrimination may be submitted by: (1) a complainant; (2) a person who is legally authorized to represent or act on behalf of the complainant; (3) the Title IX Coordinator through a University Complaint; (4) any student or employee; or (5) any person other than a student or employee who was participating or attempting to participate in CUNY's education program or activity at the time of the alleged Sex-Based Discrimination & Related Misconduct.

### **B. Presumption of Non-Responsibility, Burden of Proof, and Standard of Proof**

All reports of Sex-Based Discrimination & Related Misconduct will be addressed in a prompt, thorough, and impartial manner. The University will maintain the presumption that the respondent is not responsible for the reported Sex-Based Discrimination & Related Misconduct until a determination is made and the appeal process has been exhausted. Throughout the grievance process, the burden is on the University, not the parties or witnesses, to gather sufficient evidence to establish whether Sex-Based Discrimination & Related Misconduct occurred. The University applies the preponderance of the evidence standard of proof (*i.e.*, whether it is more likely than not that the Sex-Based Misconduct took place) to determine whether Sex-Based Discrimination & Related Misconduct occurred.

### **C. Duty to Participate**

Neither a party nor a student-witness can be compelled to participate in the grievance process. CUNY reserves the right to compel an employee-witness or Third Party to participate in the grievance process. Please note that CUNY may be limited in its ability to ensure that Sex-Based Discrimination & Related Misconduct does not continue or recur within the CUNY community if a party or witness does not participate in the grievance process.



D. Request for an Extension of Time

The investigator/decisionmaker, Title IX Coordinator, or University Title IX Director will determine, on a case-by-case basis, whether a party has established good cause to be granted a reasonable extension of time to participate in any phase of the grievance process. The investigator/decisionmaker, Title IX Coordinator, or University Title IX Director will simultaneously notify the parties of the length of the extension granted and the reason for the extension.

E. Dismissal of Complaints

The following sub-section governs the process for dismissing Complaints.

1. Grounds for Dismissal

A Title IX Coordinator may dismiss a matter if any of the following conditions are met: (1) the University is unable to identify the respondent after taking reasonable steps to do so; (2) the respondent is not participating in CUNY's education program or activity and is not employed by the University; (3) the complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint, and the Title IX Coordinator determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute Sex-Based Discrimination & Related Misconduct under the Policy even if proven; or (4) the University determines the conduct alleged in the Complaint, even if proven, would not constitute Sex-Based Discrimination & Related Misconduct under the Policy.

Prior to dismissing the Complaint, CUNY must make reasonable efforts to clarify the allegations with the complainant. The University will make reasonable attempts to obtain the complainant's withdrawal in writing if dismissing a Complaint based on the complainant's voluntary withdrawal of the Complaint or any allegations.

2. Notice of Dismissal

If a Title IX Coordinator dismisses a matter, the University will provide simultaneous, written notice of the dismissal and the basis for the dismissal to the parties, except if the dismissal occurs before the respondent has been notified of the allegations, in which case only the complainant will receive written notice. The notice will state the dismissal may be appealed based on the Grounds for Dismissal above.

3. Appeal Process for the Dismissal of a Complaint

A party may appeal the Title IX Coordinator's dismissal on the following grounds:

- (a) Procedural irregularity that would change the outcome of the dismissal;
- (b) New evidence that would change the outcome of the dismissal and that was not reasonably available at the time the dismissal was made; or

- (c) The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the dismissal.

The notice of appeal pertaining to the dismissal of a Complaint must be submitted to the Title IX Coordinator within 5 business days of the issuance of the written Notice of Dismissal or within 5 business days of obtaining new information that supports one of the above grounds for appeal, whichever is later. If a notice of appeal is submitted to the Title IX Coordinator, the Title IX Coordinator will notify the parties of the appeal, and the Notice of Allegations will be provided to the respondent if it had not previously been provided to the respondent. The parties will be provided an equal opportunity to make a statement in support of, or challenging, the dismissal. This statement must be submitted by the parties to the Title IX Coordinator within 5 business days of being notified of their right to submit the statement. The Title IX Coordinator will submit these materials to the University Title IX Director. The University Title IX Director will issue an Appeal Decision describing the result of the appeal and the rationale for the result within 15 business days of the receipt of the materials.

Even if a Complaint is dismissed, the Title IX Coordinator will offer Supportive Measures to the complainant. The University will also offer Supportive Measures to the respondent if the respondent has been notified of the allegations. The Title IX Coordinator will also take other appropriate, prompt, and effective steps to ensure that Sex-Based Misconduct does not occur, continue, or recur within the CUNY community.

#### F. Conflict of Interest or Bias

If a party believes a CUNY official who is administering any portion of the grievance process has a conflict of interest or bias for or against complainants, respondents, or witnesses generally or an individual complainant, respondent, or witness, any party may make a request to have that reportedly conflicted or biased CUNY official removed from the process.

Requests for removal must include a detailed description of the conflict or bias. All requests for removal must be directed to the University Title IX Director. After receiving a request for removal, the University Title IX Director will ask the individual with the alleged conflict of interest or bias to provide a short, written response to the request for removal and consider that response before making a determination. If a conflict or bias exists, the University Title IX Director will take immediate steps to replace that CUNY official to ensure an impartial and fair grievance process is maintained.

If the respondent in a matter is a CUNY official who customarily administers a portion of the grievance process, the Dean or President will appoint another administrator to perform that person's duties under the Policy.

If the Dean or President is the respondent, the investigation will be handled by the University Title IX Director, or their designee. In other appropriate matters in which a high-level administrator is the respondent, the investigation may be referred for investigation to the University Title IX Director, or their designee.

G. Unauthorized Recordings

The parties and witnesses are prohibited from recording any part of the investigation and grievance process and from unauthorized copying of documents or materials. Copying includes but is not limited to audio or video recording, streaming, photographing, scanning, transcribing, or any other form that conflicts with the spirit of this provision. Allegations of non-compliance will be reviewed by the Office of Student Affairs, Human Resources, or Labor Designee, as appropriate, and may result in disciplinary action.

H. Student Withdrawal or Student Transfer Within CUNY Before the Grievance Process is Completed

A student who withdraws from CUNY will not be exempt from an investigation or adjudication that commenced prior to withdrawal. When a student-respondent withdraws from CUNY with an investigation or adjudication pending, the respondent will be barred from attending any other school or college of CUNY until the investigation and/or adjudication is complete or the allegations are otherwise resolved. If the respondent fails to appear at a subsequent hearing, the college may proceed in absentia, and any decision and sanction will be binding for all schools or colleges, pending appeal.

When a school or college is notified of a respondent's withdrawal, the school or college must place a notation on the respondent's transcript that the respondent "withdrew with conduct charges pending." If the respondent is subsequently found not responsible at a hearing, the transcript notation will be removed. If the respondent is subsequently found responsible at a hearing and the sanction is either suspension or expulsion, the transcript notation will be adjusted in accordance with Section IX(K), below.

When a student-respondent transfers schools or colleges within CUNY while an investigation is pending, the school or college that instituted the investigation must complete the investigation before transferring the matter to the respondent's new school or college for adjudication.

I. Investigations & Written Determination

The following provisions discuss the investigative and decision-making process under the Sex-Based Discrimination & Related Misconduct grievance process.

1. Trained Investigator & Decisionmaker – Dual Role

In matters falling under the Sex-Based Discrimination & Related Misconduct grievance process, the investigator will also serve as the decisionmaker. In their role as the investigator, they will investigate Complaints impartially and objectively, and they will

follow all relevant procedures in the Policy. All interviews will be conducted in a live, question-and-answer format. In their role as the decisionmaker, they will evaluate relevant and not otherwise impermissible evidence for its persuasiveness, and they will not make credibility determinations based on a person's status as a complainant, respondent, or witness.

No person designated as an investigator or decisionmaker will have a conflict of interest or bias for or against complainants, respondents, or witnesses generally, and they will not have a conflict of interest or bias for or against a specific complainant, respondent, or witness.

## 2. Anonymity

For a full discussion of a complainant's right to remain anonymous after a report of Sex-Based Misconduct is received by the Title IX Coordinator but before the grievance process has commenced, please see Section VII(E) ("CUNY's Initial Response to Reports, Request for Anonymity – Complainant").

Neither a party nor a witness may remain anonymous once the grievance process has commenced. Please see Section IX(I)(6) to review the types of information that will be excluded or redacted during the grievance process.

## 3. Written Notice of Allegations

Following a live, question-and-answer intake meeting with the complainant, the investigator will draft a Notice of Allegations. The Notice of Allegations will contain the following information: (1) the name of the parties involved; (2) the date, time, and location of each reported incident to the extent known by the complainant; (3) the conduct giving rise to the report of Sex-Based Discrimination & Related Misconduct; (4) a citation to the relevant portion of the Policy containing the definition of the specific type of Sex-Based Discrimination & Related Misconduct alleged; (5) a reference to the Grievance Process, Informal Resolution, Supportive Measures, and Sanctions sections of the Policy; (6) a statement that retaliation is prohibited; (7) an acknowledgment that an updated Notice of Allegations will be shared with the parties if CUNY decides to investigate additional allegations of Sex-Based Discrimination & Related Misconduct by the respondent toward the complainant that are not contained in the Notice of Allegations or if the Complaint is consolidated; (8) a statement that the parties will be provided an equal opportunity to access the relevant and not otherwise impermissible evidence, including the notes for each interview conducted by the investigator; (9) a statement that they may have an Advisor of Choice assist them throughout the process, and that the advisor may be, but is not required to be, an attorney; (10) the University's prohibition on improper disclosure of information and evidence; (11) a statement that the respondent is presumed not responsible for the alleged Sex-Based Discrimination & Related Misconduct until a determination is made at the conclusion of the grievance process; (12) a statement that, prior to the determination, the parties will have an opportunity to present relevant and not

otherwise impermissible evidence to a trained, impartial decisionmaker; and (13) a statement that the University's Code of Conduct and the Policy prohibit knowingly making false statements or knowingly submitting false information during the grievance process.

The parties will be permitted no less than 5 business days to prepare a response before an initial interview is conducted. To the extent the University has reasonable concerns for the safety of any person as a result of providing a Notice of Allegations, the University may reasonably delay providing written notice of the allegations in order to address the safety concern appropriately. Reasonable concerns will be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

#### 4. Witness Selection & Collection of Evidence

The investigator will make reasonable efforts to interview the parties and witnesses they deem necessary to obtain information needed to determine whether the reported conduct took place. CUNY will provide the parties written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate.

All interviews will be conducted in a live, question-and-answer format in which the investigator will ask questions that enable the investigator to assess the credibility of the parties and witnesses and to evaluate the allegations. The parties will be provided an equal opportunity to recommend fact witnesses and present inculpatory and exculpatory evidence that is relevant and not otherwise impermissible.

The investigator will also make reasonable efforts to obtain materials needed to determine whether the reported conduct took place. The investigator will review all evidence gathered through the investigation and objectively evaluate whether evidence is relevant and not otherwise impermissible. Each party will have an equal opportunity to access the evidence that is relevant to the allegations of Sex-Based Discrimination & Related Misconduct and not otherwise impermissible, and the parties will be provided 10 business days to respond to the evidence.

#### 5. Unauthorized Disclosure of Information and Evidence

Unauthorized disclosure of information and evidence obtained solely through the grievance procedure is strictly prohibited and may constitute Retaliation under the Policy. CUNY will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance process. Please note that disclosure of information and evidence for purposes of litigation related to a Complaint of Sex-Based Discrimination & Related Misconduct, or an administrative proceeding such as the pending grievance process under the Policy, is not prohibited.

#### 6. Excluded or Redacted Materials

The following materials will be excluded or redacted from the record:

- (a) Evidence that is protected under a privilege as recognized by federal, state, or local law, or evidence provided to a Confidential Employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- (b) A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless CUNY obtains that party's or witness's voluntary, written consent for use in CUNY's grievance process;
- (c) Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged Sex-Based Discrimination & Related Misconduct;
- (d) Expert witnesses who are not approved by the investigator;
- (e) The social security number, home address, or similar highly sensitive information pertaining to a party, witness, or other person referenced in the grievance process; and
- (f) Any other materials prohibited by federal, state, or local law.

#### 7. Expert Witnesses

A party or witness who wishes to submit expert testimony or materials must state the scientific, technical, or other specialized knowledge the expert possesses, how the expert testimony or materials will assist the decisionmaker, why the material is reliable, and why the information is relevant but not otherwise impermissible. The investigator will determine whether to admit the expert testimony or materials. Unapproved expert testimony or materials will be excluded or redacted from the record.

#### 8. Review and Comment – Relevant Evidence

Prior to drafting the Written Determination, the investigator will provide the parties all relevant and not otherwise impermissible evidence gathered during the investigation (*e.g.*, interview notes from the investigative interviews, materials submitted by the parties, and materials submitted by witnesses). The parties will have the opportunity to review and comment on this evidence. The parties may address the following in their comments:

- (a) The need to exclude or redact information;
- (b) Factual errors they observe in the evidence;
- (c) Information in the evidence that requires additional context;
- (d) A request for an additional meeting with the investigator and a detailed description of the rationale for that request; and
- (e) A request that the investigator conduct further investigation into a specific issue and a detailed description of the rationale for that request.

The parties may also provide supplemental evidence with their comments. The parties' comments and supplemental evidence are due within 10 business days of the investigator sharing the relevant and not otherwise impermissible evidence. Once the comments and supplemental evidence are received by the investigator or the deadline for the submission of these materials has passed, the investigator will provide the comments and supplemental evidence, if any, to the parties.

When the investigator concludes that no additional investigation is warranted, the investigator will issue a Notice of Investigation Closure to the parties. The parties' comments and supplemental evidence will be considered by the investigator prior to drafting the Written Determination.

### 9. Written Determination

After the Notice of Investigation Closure has been issued to the parties, the decisionmaker, who had been serving in the role of the investigator, will evaluate relevant and not otherwise impermissible evidence for its persuasiveness, and they will not make credibility determinations based on a person's status as a complainant, respondent, or witness. If the decisionmaker cannot establish by a preponderance of the evidence that Sex-Based Discrimination & Related Misconduct occurred, the decisionmaker must not determine that Sex-Based Discrimination & Related Misconduct occurred.

Once a determination is reached, the decisionmaker will simultaneously notify the parties in writing of the determination. The Written Determination will include:

- (a) A description of the alleged Sex-Based Discrimination & Related Misconduct;
- (b) Information about the policies and procedures that CUNY used to evaluate the allegations;
- (c) The decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether Sex-Based Discrimination & Related Misconduct occurred;
- (d) The rationale for the Written Determination;
- (e) When the decisionmaker finds that Sex-Based Discrimination & Related Misconduct occurred, any disciplinary sanctions CUNY will impose on the respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the University to the complainant, and, to the extent appropriate, other students identified by CUNY to be experiencing the effects of the Sex-Based Discrimination & Related Misconduct; and
- (f) CUNY's procedures for the complainant and respondent to appeal.

The Title IX Coordinator will simultaneously distribute the Written Determination to the parties within 15 business days of the issuance of the Notice of Investigation Closure. The determination of responsibility will be sent by email using the parties' CUNY email address or any other email address known to the school, college, or unit. In matters involving two or

more complainants or respondents, the Title IX Coordinator has 20 business days from the conclusion of the hearing to distribute the decision to the parties.

The Written Determination becomes final either on the date on which the Decision on Appeal is issued, or, if no party appeals, the date on which an appeal would no longer be considered timely.

If there is a determination that Sex-Based Discrimination & Related Misconduct occurred, the Title IX Coordinator will coordinate the provision and implementation of remedies to a complainant and other persons CUNY identifies as having had their equal access to University education programs or activities limited or denied by Sex-Based Discrimination & Related Misconduct. The Title IX Coordinator will also coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions, and require the Title IX Coordinator to take other appropriate prompt and effective steps to ensure that Sex-Based Discrimination & Related Misconduct does not continue or recur within the University community.

## 10. Sanctions

Sanctions refer to the consequences imposed on a respondent following a determination they are responsible for violating the Policy. When determining which sanction to impose, CUNY will elect to impose sanctions that are: (1) fair and appropriate given the facts of the specific matter; (2) adequate to promote the safety of the CUNY community; and (3) reflective of the seriousness of the Sex-Based Misconduct.

Relevant factors that will be considered when imposing a sanction include: (1) the specific Sex-Based Misconduct at issue; (2) the circumstances accompanying the lack of consent (such as force, threat, coercion, incapacitation); (3) the sanctions imposed on the respondent in other matters involving similar conduct; (4) the impact of the offense on the parties and the broader CUNY community, including the safety of the CUNY community; and (5) the respondent's prior disciplinary history.

The following sanctions may be imposed on a student-respondent:

- (j) Warning: Notice to the respondent, in writing, that continuation or repetition of the wrongful conduct, within a period of time stated in the warning, may result in more severe disciplinary action.
- (k) Probation: A trial period during which the student may be excluded from participation in privileges or extracurricular University activities, as set forth in the notice of probation. Probation is for a designated period of time, and it includes notice of the probability of more severe disciplinary sanctions if the student is found to violate the Policy during the probationary period.



- (l) Residence Hall Dismissal: Permanent separation of the student from the residence hall and termination of the student’s housing or license agreement, as applicable.
- (m) Suspension: Exclusion from classes and other University privileges and activities as set forth in the notice of suspension for a definite period of time not to exceed three years.
- (n) Dismissal: Permanent termination of student status, except that a dismissed student will be permitted to apply for readmission after a period of no less than three years in matters where the decision has expressly permitted such reapplication and set forth reasonable conditions for readmission.
- (o) Expulsion: Permanent termination of student status.
- (p) Withholding of Degree: A student’s academic degree that has been earned but not yet awarded, may be withheld until the completion of the disciplinary process as set forth in the Policy, including the completion of all disciplinary sanctions imposed.
- (q) Revocation of Degree: Revoking degree awarded from the University/School/College for violations of the Policy committed by a student prior to graduation but discovered after the student is awarded a degree; and
- (r) Revocation of Admission: Revoking an offer of admission prior to a student enrolling at CUNY.

In addition to the sanction imposed (except for expulsion, withholding of degree, revocation of degree, and revocation of admission), CUNY will require any student determined to be responsible for a violation of the Policy to receive appropriate education and/or training related to the Sex-Based Misconduct at issue. Students who are suspended, dismissed, or expelled as a result of the disciplinary process are not entitled to a refund of their tuition and/or fees.

When an investigation and Written Determination results in a sanction of expulsion or suspension for one term or more, the respondent must be barred from admission to, or attendance at, any other unit of CUNY while the sanction is being served. Students may also be subject to CUNY’s policy on transcript notations which is discussed in Section IX(K).

For employees who are subject to a disciplinary process contained in a collective bargaining agreement with CUNY or an employee with disciplinary rights under the New York State Civil Service Law, a determination that the respondent is responsible will be referred for discipline under the applicable collective bargaining agreement or Civil Service Law. For all other employees, sanctions range from a reprimand to suspension to termination of employment.

## 11. Remedies for Complainants

In the event the respondent is found responsible for violating the Policy, the Title IX Coordinator will implement remedies for the complainant, designed to restore or preserve equal access to CUNY’s education program or activity. Such remedies may include a

continuation of the same Supportive Measures and accommodations described in Section VII(D) but need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.

## 12. Consolidation

The University may consolidate Complaints of Sex-Based Misconduct against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of Sex-Based Misconduct arise out of the same facts or circumstances. If one of the Complaints to be consolidated is a Complaint of Sex-Based Harassment, the grievance process for investigating and resolving the consolidated Complaint must comply with the procedures for a matter alleging Sex-Based Harassment.

## 13. Timeframe

The Investigations & Written Determination phase will be completed within 120 business days. If there is a delay in completing the Investigations & Written Determination phase, the Title IX Coordinator must notify the parties in writing, indicate the reason for the delay, and provide a timeframe for completing the investigation. The reason for an extension of the timeframe of an investigation may include, but is not limited to: compliance with a request by law enforcement; a limited accommodation for the availability of parties, their advisors, or witnesses; students or employees on leave; exam periods, school breaks, or vacations; and accounting for the complexities of a specific investigation, including the number of witnesses and volume of information provided by the parties.

### J. Appeals

The following provisions govern the appeal of Written Determinations issued pursuant to the Sex-Based Discrimination & Related Misconduct grievance process.

#### 1. Grounds for Appeal

A party may appeal the decisionmaker's Written Determination and/or the sanction imposed on the following grounds:

- (a) Procedural irregularity that would change the outcome of the matter;
- (b) New evidence that would change the outcome of the matter and that was not reasonably available at the time the Written Determination was made;
- (c) The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; or
- (d) The disproportionate nature of the sanction.

#### 2. CUNY-wide Sexual Misconduct Panel – Appeal Arbiter

For each Sex-Based Discrimination & Related Misconduct matter that goes to appeal after a Written Determination, one randomly selected member of the Panel will decide the

appeal. This member of the Panel is referred to as the “Appeal Arbiter.” In all such matters, the Appeal Arbiter will be a faculty member or a HEO.

### 3. Written Appeal and Written Response to the Written Appeal

Parties intending to appeal under this section must send a Written Appeal to the University Title IX Director within 10 business days of the delivery of the Written Determination or within 10 business days of obtaining new information that supports one of the above grounds for appeal, whichever is later. The Written Appeal must contain the relevant ground(s) for appeal and a detailed description of the rationale for the appeal. The University Title IX Director will notify the non-appealing party of the Written Appeal in writing. The non-appealing party will have the opportunity to submit a Written Response to the Written Appeal, due within 10 business days of the delivery of the appealing party’s Written Appeal.

The University Title IX Director will assign an Appeal Arbiter to the matter. The Appeal Arbiter will review the investigative materials and the written submissions of the parties.

### 4. Potential Outcomes of the Appeal

The Appeal Arbiter may, in whole or in part, modify the sanction, remand the matter for a new investigation, remand the matter for the issuance of a Written Determination containing new or additional analysis, or affirm the Written Determination. The Appeal Decision will be provided simultaneously to the parties.

### 5. Timeframe

Within 15 business days of receipt of the non-appealing party’s Written Response to the Written Appeal or the non-appealing party’s failure to provide the submission, the Appeal Arbiter will issue an Appeal Decision indicating the final outcome and rationale for that decision.

### K. Transcript Notations & Withholding of Degrees

When a student-respondent is found responsible and the sanction is either suspension or expulsion, the school or college must 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 all other matters, the school or college must place a notation of the findings and sanction on a respondent’s transcript unless a resolution agreement, the decision-makers determination, or the decision on appeal expressly indicate otherwise.

In matters where a student-respondent was expelled as a result of a Clery Act crime of violence, including but not limited to sexual assault, the notation will not be removed. For all other matters, 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 is vacated for any reason, the notation must be removed.

## **X. EXTERNAL RESOURCES**

The list of external resources below is not intended to be an exhaustive list. The inclusion of an organization, entity, and/or individual in the list below is not a guarantee that the resource will have the capability, availability, and/or bandwidth to assist individuals who may need their services.

### Day One:

- 1-800-214-4150 (Call); 1-646-535-3291 (Text)

provides free direct services, including counseling, legal support, and case management to individuals 24 years of age, and under.

### EndTab:

- Contact available through ENDTAB website
- Creates, and provides, practical tools related to digital safety.

### Mount Sinai Sexual Assault and Violence Intervention Program (SAVI):

- 212-423-2140

### National Domestic Violence 24 Hour Hotline

- 1-800-799-7233
- 1-800-787-3224 (TTY)
- National Deaf Hotline Videophone: [deafhelp@thehotline.org](mailto:deafhelp@thehotline.org), 1-855-812-1001

### New York City Family Justice Centers

- Bronx: 198 East 161<sup>st</sup> Street, 2<sup>nd</sup> Floor, (718) 508-1220
- Kings (Brooklyn): 350 Jay Street, 15<sup>th</sup> Floor, (718) 250-5113
- New York (Manhattan): 80 Centre Street, 5<sup>th</sup> floor, (212) 602-2800
- Queens: 126-02 82<sup>nd</sup> Avenue, (718) 575-4545
- Richmond (Staten Island): 126 Stuyvesant Place, (718)-697-4300

Through any NYC FJC, survivors of domestic and gender-based violence and their children can get connected to organizations that provide case management, economic empowerment, counseling, civil legal, and criminal legal assistance. Located in all five boroughs, FJCs are safe, caring environments that provide one-stop services and support. Key City agencies, community, social and civil legal services providers, and

District Attorney's Offices are located on-site at FJCs, to make it easier for survivors to get help.

#### [New York City Sexual Alliance Against Sexual Assault:](#)

- [contact-us@svfreenyc.org](mailto:contact-us@svfreenyc.org)

The New York City Alliance Against Sexual Assault (The Alliance) works to prevent sexual violence and reduce the harm it causes through education, prevention programming, advocacy for survivors, and the pursuit of legal and policy changes.

#### [New York State Coalition Against Domestic Violence:](#)

- [nyscadv@nyscadv.org](mailto:nyscadv@nyscadv.org); (518) 482-5465
- The New York State Coalition Against Domestic Violence (NYSCADV) provides training, support, technical assistance and advocacy to local direct service domestic violence programs across New York State. A directory of available New York State Domestic Violence programs, by county, is available on the [NYSCADV website](#).

#### [Office for the Prevention of Domestic Violence](#)

- 1-800-942-6906, or 7-1-1 for Deaf or Hard of Hearing; Text: 844-997-2121  
<https://opdv.ny.gov/chat.html>
- 24/7 confidential support for survivors of gender-based violence

#### [Safe Horizon](#)

- 24 Hour Helpline: 212-227-3000
- The nation's leading victim assistance organization, operating a network of programs across New York City communities and systems. We work with survivors of all forms of violence, including racism, to move from crisis to confidence.

#### [Sanctuary for Families:](#)

- [Info@sffny.org](mailto:Info@sffny.org); (212) 349-6009
- New York's leading service provider and advocate for survivors of domestic violence, sex trafficking and related forms of gender violence.

#### [Violence Intervention Program](#)

- 1-800-664-5880
- A New York City gender-based violence organization led by and for Latinx survivors.

#### [Womankind](#)

- Helpline: 1-888-888-7702

- Womankind brings critical resources and deep cultural competency to help survivors of all ages find refuge, recovery, and renewal from domestic violence, human trafficking, and sexual violence.

## **XI. STUDENT BILL OF RIGHTS**

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 their 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 their 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 their institution, any student, the respondent and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of their 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 their institution.

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

## **XII. PLAIN LANGUAGE EXPLANATION OF DISTINCTIONS BETWEEN THE NEW YORK PENAL LAW AND CUNY’S POLICY ON SEX-BASED MISCONDUCT**

Students, employees, and other community members should be aware that CUNY procedures and standards differ from those of the criminal justice system. Below is a brief description of the differences between the criminal justice system and CUNY’s Policy on Sex-Based Misconduct.

	<b>Criminal Justice System</b>	<b>CUNY Policy on Sex-Based Misconduct</b>
<b>Goals</b>	Public safety, deterrence, and punishment.	Education; safety; safe and supportive campus environment.
<b>Governing Law</b>	New York State Penal Code; New York State Rules of Criminal Procedure (or another state’s rules if the crime took place there), Federal Criminal Law, and Rules of Evidence.	Title IX; The Clery Act as amended by the Violence Against Women Act; NYS Education Law Articles 129-A and 129-B. Applicable federal, state, and local law addressing sex discrimination.
<b>How to report and whether there must be action once a report is made</b>	Crimes involving sexual violence may be reported to campus police (if the campus has police officers), the local police agency, or to the New York State Police. Certain crimes may also be reported to federal law enforcement agents. Once a report is made, the decision whether to investigate is made by the police/law enforcement agency, often in consultation with a District Attorney or other prosecuting agency. An investigation may be conducted without the consent or participation of a reporting individual. The ultimate decision of whether to initiate a criminal prosecution is initially made by a prosecutor. In cases involving felony charges, the final charging decision is made by a Grand Jury.	Complainants may disclose sexual violence to various college employees who are designated Confidential Employees or to others who will try to ensure privacy to the extent consistent with the obligation to provide a safe educational environment. Disclosures made to a Confidential Employee will not be shared with the Title IX Coordinator. When a report is made to the Title IX Coordinator (TIXC) or another non-confidential resource, the TIXC will determine whether an investigation is necessary by weighing a request for confidentiality by the reporting individual against the continuing safety of that person and the safety and best interests of the campus community.
<b>Who investigates?</b>	Police or other law enforcement officials.	Investigators employed or retained by CUNY.
<b>Procedures</b>	See Governing Law. Procedures established by police departments, prosecutors’ offices, etc.	The Bylaws, collective bargaining agreements, or other polices may impact the Policy.
<b>Standard of Evidence</b>	Crimes must be proven “Beyond a Reasonable Doubt”	A violation of disciplinary rules must be found by a “Preponderance of the Evidence” ( <i>i.e.</i> , the “more likely than not” standard).
<b>Confidentiality</b>	Law enforcement agencies offer some confidential assistance, but a criminal charge and trial must be public.	CUNY offers Confidential Employees, but a disciplinary proceeding requires relevant information be shared with those involved.
<b>Privacy</b>	Criminal trials must be public.	Disciplinary proceedings are kept as private as possible, but information must be shared with

		certain individuals within the college, the parties, and pursuant to law.
<b>Who are the parties?</b>	The prosecution and defendant. The victim/survivor is <u>not</u> a party, but often the critical witness for the prosecution.	The complainant and the respondent.
<b>Participation in the process</b>	In limited circumstances, a criminal prosecution can proceed without the participation or cooperation of the reporting individual, but without a reporting individual’s participation, it is generally more difficult to prove a crime beyond a reasonable doubt.	The parties cannot be required to participate. However, a college will be limited in its ability to respond if a party does not participate.
<b>Who initiates the proceedings?</b>	A prosecutor, acting on behalf of the state (or the United States in federal cases).	The complainant or CUNY may initiate the proceedings.
<b>Testimony</b>	In a court, testimony is generally public. Other parties are, through counsel, entitled to cross-examine witnesses.	Please see the relevant portions of the “Sex-Based Harassment: Grievance Process” and “Sex-Based Discrimination & Related Misconduct: Grievance Process” portions of the Policy.
<b>Role of attorneys</b>	Both the state and the defendant are represented by counsel; counsel may question witnesses.	Attorneys may serve as Advisors of Choice or Support Persons.
<b>Mental Health and Sexual History</b>	In New York, a reporting individual’s prior sexual and mental health history is generally, but not always, inadmissible in a criminal case. There are limited circumstances under which directly relevant evidence of that kind may be admitted.	Please see the relevant “Excluded or Redacted Materials” portions of the Policy.
<b>Possible Results</b>	If a prosecution takes place, the defendant may <ul style="list-style-type: none"> <li>• plead guilty or “no contest”</li> <li>• have the case dismissed by the judge (on legal grounds)</li> <li>• be found “guilty” or “not guilty” by a judge or jury</li> </ul>	Informal Resolution; A finding of “responsible” or “not responsible” for Sex-Based Misconduct under the applicable grievance process; An acknowledgement of responsibility by the Respondent; A dismissal of the matter.
<b>Sanctions</b>	An individual found guilty may be fined, imprisoned, or both. In some courts, alternative sanctions are sometimes used.	An individual found responsible for violating college policy may be given a range of sanctions (depending on the severity of the conduct and other factors, such as prior judicial history), ranging from a warning to suspension or expulsion from the institution.



### **XIII. RECORDKEEPING**

All records related to a school, college, or unit's response to allegations of Sex-Based Misconduct must be maintained by that school, college, or unit for 7 years from the last action on a matter, unless such records must be maintained for a longer period of time pursuant to CUNY's Records Retention and Disposition Schedule. These records include: records of any actions, including any Supportive Measures provided in response to allegations of Sex-Based Misconduct; investigation records, materials, and documents; determinations regarding responsibility and disciplinary sanctions; remedies provided to a complainant designed to restore or preserve equal access to CUNY's education program or activity; any appeals and the result; any informal resolution and the result; and any recordings or transcripts of hearings.

CUNY's Records Retention and Disposition Schedule requires that student disciplinary records be maintained permanently.

### **XIV. GLOSSARY**

**Admission:** Selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by CUNY.

**Affirmative Consent:** 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.

For the purposes of this definition:

- (a) 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.
- (b) In order to give consent, one must be of legal age (17 years or older in New York).
- (c) Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- (d) 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.

- (e) Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- (f) Consent may be initially given but withdrawn at any time. When consent is withdrawn or can no longer be given, sexual activity must stop.

**Applicant:** A person who submits an application, request, or plan required to be approved by CUNY.

**Complainant:** A student, employee, Visitor, Third Party, or other person who is reported to have been subjected to conduct that could constitute Sex-Based Misconduct under the Policy. Under the Policy, the reported conduct may have been brought to the school, college, or unit's attention by someone other than the complainant.

**Complaint:** An oral or written request to CUNY that objectively can be understood as a request for CUNY to investigate and make a determination about alleged discrimination under Title IX or the Policy.

**Confidential Employee:** An employee whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of the Policy, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; An employee of CUNY whom CUNY has designated as confidential under the Policy for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services; or an employee of a postsecondary institution who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee's confidential status is only with respect to information received while conducting the study.

**Confidentiality:** 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 required to report known incidents of Sex-Based Misconduct to school, college, or unit officials. Licensed mental health counselors, medical providers and pastoral counselors may offer confidentiality.

**Consent:** This term is synonymous with "affirmative consent."

**Day:** Whenever the Policy refers to a "day," it means a CUNY business day.

**Informal Resolution:** A voluntary alternative to the grievance process which culminates in a signed informal resolution agreement that is available before a determination of responsibility has been rendered by a decisionmaker.

**Informal Resolution Agreement:** A binding written document, that both parties must sign, which contains the mutually agreed upon terms and provisions of the informal resolution.

**Informal Resolution Facilitator:** A trained individual assigned to matters being addressed via the Informal Resolution process.

**Mandatory Reporter:** Any employee who has authority to institute corrective measures on behalf of CUNY or who has responsibility for administrative leadership, teaching, or advising within CUNY, and who has a duty to notify the Title IX Coordinator for their school, college, or unit when they reasonably suspect or observe conduct that may reasonably constitute Sex-Based Misconduct under the Policy.

**Party:** The complainant(s) or respondent(s) in a matter.

**Pregnancy:** Pregnancy, childbirth, termination of pregnancy, or lactation; medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions as disclosed without any requirements for documentation.

**Preponderance of the Evidence Standard:** The standard of evidence used during the investigation and adjudication of Sex-Based Misconduct under the Policy. To satisfy the preponderance of the evidence standard, the decision-maker must determine that it is more likely than not that Sex-Based Misconduct occurred.

**Privacy:** The commitment by a CUNY official administering the Policy to only disclose information pertaining to a report of Sex-Based Misconduct to the extent necessary to carry out their duties or responsibilities under the Policy.

**Respondent:** A person who is reported to have engaged in Sex-Based Misconduct as defined in the Policy.

**Sanctions:** Consequences imposed on a respondent following a determination under Title IX that the respondent violated CUNY's prohibition on sex discrimination.

**Sexual Act/Sexual Activity:** Any form of vaginal, anal, or oral penetration or attempted penetration, however slight, by a penis, object, tongue or finger. Any sexual contact, including sexual touching, also constitutes a sexual act/sexual activity. Sexual touching includes contact under or over clothing with another person's anus, breasts, buttocks, genitals, groin or inner thigh; touching another person anywhere with any of these body

parts; making another person touch any of these body parts under or over clothing; or the emission of ejaculate on the clothing or body of another person.

**Sex-Based Misconduct:** Conduct that qualifies as Sex-Based Harassment or Sex-Based Discrimination under the Policy. See Section IV for the definitions of Sex-Based Harassment and Sex-Based Discrimination & Related Misconduct.

**Student:** A person attempting to participate in a CUNY education program or activity as a student. This includes applicants for admissions and those that have gained admission to CUNY, part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at a CUNY education program or activity.

**Student with a Disability:** A student who is an individual with a disability as defined in the Rehabilitation Act of 1973, as amended, 29 U.S.C. 705(9)(B), (20)(B), or a child with a disability as defined in the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3).

**Support Person:** An individual responsible for addressing the mental, emotional, and physical health needs of a party.

**Supportive Measures:** Individualized measures offered as appropriate, or as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to: (1) restore or preserve that party's access to CUNY's education program or activity, including measures that are designed to protect the safety of the parties or CUNY's educational environment; or (2) provide support during CUNY's grievance process or during the informal resolution process .

**Third Party:** An agent or other person authorized by CUNY to provide an aid, benefit, or service under CUNY's education program or activity.

**Unauthorized Copying:** Audio or video recording of any part, step, meeting, or communication related to the investigation or grievance process, and/or streaming, photographing, scanning, transcribing, or any other action that results in the replication or duplication of documents and/or materials provided in connection with an investigation and/or grievance process.

**Unauthorized Disclosure of Information and Evidence:** A party's sharing, disclosing, posting, or transmitting of information, documents, communications, materials, or evidence, relayed, conveyed, or provided to the party, by the college or school, as part of the investigation or grievance process, to an individual (other than the party's advisor of choice) entity, organization, website, social media platform, or other medium, for a non-permissible purpose.

**Visitor:** A person, other than a student or employee, who is alleged to have been subjected to conduct that could constitute sex discrimination under the Policy and who was participating or attempting to participate in CUNY’s education program or activity at the time of the alleged sex discrimination.