

# City University of New York

*Queensborough Community College Department of Public Safety*

## 2024 Annual Security Report

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

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**Queensborough Community College**  
222-05 56<sup>th</sup> Avenue, Bayside, New York 11364



October 2024

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**Revisions to this report (February 2025):** On Friday, January 31, 2025, the U.S. Department of Education issued a Dear Colleague Letter stating, “[E]ffective immediately, the United States Department of Education’s (ED) Office for Civil Rights (OCR) will enforce Title IX under the provisions of the 2020 Title IX Rule, rather than the recently invalidated 2024 Title IX Rule.” For this reason, CUNY’s 2020 Policy on Sexual Misconduct (attached) replaces the fully rescinded 2024 Policy on Sex-Based Misconduct as the policy applicable to all open and future Title IX matters, including all “open Title IX investigations initiated under the 2024 Rule.

## College Overview

Queensborough Community College’s Annual Security Report includes statistics for the previous three years concerning reported crimes that occurred on campus; in certain off-campus buildings owned or controlled by Queensborough Community College; and on public property within, or immediately adjacent to and accessible from the campus. The report also includes institutional policies concerning campus security, such as policies concerning alcohol and drug use, crime prevention, including crimes involving Sexual Misconduct, and other matters. [The Annual Security Report can be viewed online](#). Hard copies are available in the Public Safety Office, the Office of Human Resources [room A-412] and the Office of Student Affairs [room L-418].

The college, a component of The City University of New York, is accredited by the Middle States Commission on Higher Education. Queensborough Community College offers transfer and career degree programs through 17 academic departments resulting in the Associate in Arts (A.A.), the Associate in Science (A.S.), and the Associate in Applied Science (A.A.S.) degrees. The College also offers non-credit courses, certificate programs and access to the visual and performing arts at the Queensborough Performing Arts Center (QPAC), which serves both the student body and the greater New York City community. The College also houses the QCC Art Gallery, which contributes to the educational and cultural vitality of the College and surrounding community. The Harriet and Kenneth Kupferberg Holocaust Resource Center (KHRC) is also located on the QCC campus. The mission of this center is to provide programs and resources to commemorate the victims of the Holocaust and to educate future generations about the ramifications of prejudice, racism, anti-Semitism and stereotyping in any society.

The campus is located at 222-05 56th Avenue, Bayside, NY 11364 in Queens County, a borough of New York City with a population of approximately 2.3 million people. The campus is situated on an approximately 34-acre site and is comprised of 16 buildings located on the campus.

The college enrolls approximately 11,000 degree program students who attend day and evening classes. In addition, the College, through the Office of Continuing Education, serves in excess of 10,000 multi-cultural individuals during the academic year.

The college employs approximately 650 full-time faculty/staff and approximately 900 part-time/adjunct staff members.

## Policy Statements

Policy statements provide information regarding CUNY Queensborough Community College security and fire safety policies. Campus safety, parking, vehicle regulations, public safety services, and other information on Public Safety can be found on the [Queensborough Community College Department of Public Safety website](#).

## Annual Disclosure of Crime Statistics

[Queensborough Community College's 2024 Annual Security Report](#) includes statistics for the previous three years about reported crimes that occurred on campus, in certain off-campus buildings owned and controlled by the college, and on public property within or immediately adjacent to and accessible from the campus. These statistics are compiled from Department of Public Safety incident reports, reports from designated Campus Security Authorities, and from the local New York Police Department (NYPD) precinct. The report also includes institutional policies concerning campus security, alcohol and drug use; information about crime prevention and the reporting of crimes, including those that involve Sexual Misconduct; and emergency and evacuation procedures. This data is reported to the United States Department of Education annually through web-based data collection. This Annual Security Report (ASR) 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 is posted on the Queensborough Community College website in the Public Safety section. To obtain a written copy of the report, please contact the Queensborough Community College Department of Public Safety at **(718) 631-6320** or visit the Public Safety office, Library Building, 3<sup>rd</sup> floor.

## Public Safety Authority

Queensborough Community College's main campus grounds, the contiguous geographic perimeter of the main campus, the entry gates, and the parking areas are patrolled on a 24-hour basis by Public Safety Peace Officers. Public Safety Peace 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 Peace Officers Law. Public Safety Peace Officers receive training in accordance with the New York State Division of Criminal Justice Services' (NYS DCJS) training requirements for Public Safety Peace Officers. Officers also participate in continual in-service training to maintain state compliance. At Queensborough Community College, incidents of a criminal nature that are reported to a Peace Officer may be referred, with the complainant's consent, to the NYPD. The Public Safety Department also conducts administrative investigations involving CUNY policies, rules and regulations. These investigations may involve students, staff, and/or visitors to college property. Referrals necessitating further review and action may be made to the QCC Office of Community Standards and/or Human Resources.

The Queensborough Community College Department of Public Safety consists of 1 Director, 2 Lieutenants/Assistant Directors, 9 Sergeants, 2 Specialists, and 20 Campus Peace Officers that are

responsible for patrolling the campus. Additionally, the college employs 13 Campus Security Assistants (CSAs) who are assigned to parking lots and other fixed posts. Campus Security Assistants (CSAs) are NYS Licensed Security Guards and do not have arrest powers (outside of the powers of a private citizen).

The Public Safety Department also oversees and monitors approximately 330 security surveillance cameras to ensure the safety of the college community. Additionally, Public Safety monitors Red Emergency Telephones located in interior hallways and Blue Emergency Assistance Call Boxes that are conspicuously located on campus grounds. These telephones and call boxes dial directly to the Queensborough Public Safety office, which is staffed 24 hours a day, 7 days a week.

## Campus Security Escort

Upon request from any student, faculty or staff member, a member of the Public Safety Staff can provide an escort anywhere on campus and as far as the municipal bus stops, which are located both on campus and directly across the street from the campus. Please call the QCC Department of Public Safety at **718-631-6320** for assistance.

## Campus Security Authorities

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

**Campus Security Authorities** include:

- **Vice President for Student Affairs** – Brian Mitra – Library Building Room LB-412, telephone 718-631-6351
- **Dean of Students** - Tikola Russell – Library Building Room LB-418, telephone 718-631- 6314
- **Director of Public Safety** – John Triolo – Library Building-3rd Floor, telephone 718-631-6320
- **Director of Student Leadership & Development** – Gisela Rivera – Student Union Lower Level, telephone 718-631-6233
- **Vice President for Academic Affairs and Provost** – Phyllis Curtis-Tweed -Administration Building Room A-503, telephone 718-631-6604
- **Director of Counseling** – Wilma Fletcher-Anthony – Library Building Room LB-422, telephone 718-631-6370
- **Director of Health Services** – Isabel Hocevar, Medical Arts Building Room MC-02, telephone 718-631-6375
- **Athletic Director** – Jon Hochberg, RFK Gymnasium Room 216, telephone 718-281-5149
- **Assistant Vice President for Equity, Inclusion and Belonging**– Amaris Matos-Administration Building Room A-504, tel. 718-281-5597



- **Director of Port of Entry Program** – Eric Feng – Science Building Room S-108, telephone 718-281-5410
- **Student Life Specialist** – Raymond Volel, Student Union Lower Level, telephone 718-631-6233
- **Asst. Dean of Admissions** – Patricia Ramos- Administration Building Room A-210, telephone 718-281-5217
- **Interim Director for Pre-College and Continuing Education** – Ekaterina Manafeeva - Y Building, telephone 718-631-6343
- **Title IX Officer** – Belinda Delgado, Administration Building Room A-413, telephone 718-281-5755
- **Manager of the Center for International Affairs** – Lampeto (Bette) Efthymiou, Library Building Room LB-431, telephone 718-631-6611
- **Director for Academy Advisement** – Michael Verdino, Library Building Room LB 434D, telephone 718-281-5774

## Crime Reporting Procedures

Faculty, staff, students, and others who may be on campus or on the contiguous geographic perimeter of the campus are encouraged to promptly report any past crime, 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. Calling the Public Safety Department's emergency telephone line by dialing **ext 6320** from any campus telephone, or **718-631-6320** from any other telephone.
2. Using one of the Red Emergency telephones or Blue Light callboxes located throughout the campus.
3. Reporting the information to any member of the Public Safety Department or in person at the Public Safety Office located in the Library Building, 3<sup>rd</sup> floor.
4. Our counselors are strongly encouraged, when they deem it appropriate, to inform the person(s) they are counseling of all 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 victim or witness, to the Department of Public Safety for inclusion in the annual crime report. Names and telephone numbers of **Campus Security Authorities** are located in the previous section of this report. The College recognizes the importance of confidentiality to victims and witnesses of crimes. Victim and witness information **will not** be included with crime statistics in the College's annual crime report prepared pursuant to **The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act)**. 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 only for providing a campus-wide safety alert.

6. The City University of New York is concerned about the safety, health, and/or well-being of all of its students, faculty, staff and visitors and has policies regarding the well-being of all members of the University. Specific policies address student activities that are disruptive to the mission of the University, as well as any suicidal or self-injurious threats or threatening behaviors.

As a result of growing national trends on college campuses regarding mental health issues, the University created the **Behavioral Intervention Team (BIT)**. BIT has been charged with upholding these policies and maintaining a healthy environment for the entire College Community.

The primary purpose of BIT is the implementation of policies and procedures relating to disruptive and threatening behavior, its reporting, assessment, intervention, and resolution. [Additional information regarding BIT can be obtained online.](#)

7. In the event you observe or are involved in an extreme or life-threatening situation, call 911, the New York City emergency telephone phone number. A call should also be made to the college Public Safety Department at x6320 or (718) 631-6320 to expedite and direct responding emergency personnel to your location.

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

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

Allegations of Sexual Misconduct including sexual harassment, sexual assault, stalking, or domestic and dating/intimate partner violence should be reported to one of the individuals listed below:

**Title IX Coordinator**, Belinda Delgado, Admin Rm. 408  
718-281-5768, bdelgado@qcc.cuny.edu

**Vice President for Student Affairs**, Brian Mitra, Library Rm. 412  
718-631-6351, BMitra@qcc.cuny.edu

**Director of Public Safety**, John M. Triolo, Library 3rd floor  
718-631-6320, jtriolo@qcc.cuny.edu

**Executive Director of Human Resources**, Nelmy Negrete, Admin Rm. 412  
718-281-5028, nelmy.negrete@qcc.cuny.edu

For more detailed information on Title IX, including community and campus specific resources, please also see CUNY policies, Getting Help, Understanding and Preventing Sexual Assault and Sexual Harassment at [Campus Title IX Webpages](#) and click on the campus you would like more information on.

## **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 your identity confidential, while taking steps to enhance the future safety of yourself and others. With such information, Queensborough Community 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 Queensborough Community College student or employee must be reported to the Department of Public Safety as soon as possible. The Department of Public Safety is responsible for responding to reported incidents and for any follow-up investigation. All College students, employees, and visitors should take an active role with respect to safety while on campus.

## **Civilian Complaints**

Complaints regarding security personnel should be forwarded to the Director of Public Safety. Complaints can be made by e-mail, letter, or in person to John Triolo, Director of Public Safety, Queensborough Community College, Library Building, 3<sup>rd</sup> Floor. All such complaints will be fully investigated, and appropriate corrective action will be taken if warranted.

## **Clery Crime Log**

All crimes that are reported to the Queensborough Community College Public Safety Department are annotated in the Public Safety Crime Log. All reportable criminal incidents are logged into the book provided that they occurred in the reportable geographic area of the college campus (on campus and public property), whether or not they are Clery-classified. The Public Safety Crime Log includes the following information: 1) date crime was reported, 2) date and time of the incident, 3) the nature of the crime, 4) the general location of the crime, 5) the disposition, if known, 6) special notes. The Clery Compliance Officer maintains the crime log and updates it regularly. Anyone can view the crime log, which is maintained in the Public Safety Office, Library Building, 3<sup>rd</sup> Floor, during normal business hours. The log is in hardcopy format. The log is updated less than two business days after the latest report comes in. If no reports are made during 30 calendar days, it is automatically updated. The log contains incidents for the past 2 calendar years. If you wish to review entries as far back as 7 calendar years, please make this request in person or call the office at (718) 631-6320. Your request will be granted within two regular business days. Information may be temporarily withheld from the log when it would

jeopardize an ongoing investigation, jeopardize the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence.

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

The Queensborough Community 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 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, Queensborough Community 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, Queensborough Community College Department of Public Safety 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 to the college. If necessary, further review and action may be referred to the Office of the Vice President for Student Affairs, 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 which 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 he or she commits 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 immediately report the incident to the Public Safety Department.

In 2021, there were no reported hate crimes at Queensborough Community College.

In 2022, there were no reported hate crimes at Queensborough Community College.

In 2023, there were two (2) reported hate crimes at Queensborough Community College.

- There was one (1) report of simple assault evidencing religious bias that occurred on campus.
- There was one (1) report of making graffiti evidencing racial bias that occurred on campus.

Victims of bias crime can also avail themselves of counseling and support services through the Office of Student Services.

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

Queensborough Community College does not have facilities for housing or sleeping. The College does not maintain any off-campus buildings or property. The College does not have any recognized off-campus student organizations, 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**

Queensborough Community College is a commuter school; there are no residences or dormitories on campus. To date, there are no off-campus student organizations. Generally, campus buildings open at 7:30 am and close for business at 11:00 pm, seven days a week. Access to campus facilities is limited to faculty, staff, students, guests and visitors who are conducting official college business. All buildings are locked after scheduled classes or special events end for the day.

All students, faculty and staff should possess a QCC TigerCard ID or which must be presented to Queensborough Community College officials or Public Safety personnel upon request. The Library is open to students, faculty, staff, as well as other CUNY students. During midterms and finals, the Library may have extended hours to accommodate students. Library hours of operation can be found on the [Library homepage on the Queensborough Community College website](#). Queensborough Community 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 a **QCC TigerCard** at the College ID Office located in the Library Building basement, room LB-02. While on campus, students, faculty, and staff must possess a Queensborough Community College ID Card. The ID card is the property of the College and must be presented upon request of a College official. If your card is lost or stolen, please go to the College ID Office to obtain a replacement card. You may be assessed a fee. If you are no longer a student/faculty/staff, your ID card must be returned to the College ID Office.

Students, faculty and staff can obtain an **electronic ID card** by downloading the **QCC Connect App** to their smartphone. After logging onto the App, the ID card can be accessed by clicking on the “ID Card” tile. The electronic ID card may be used at the campus pedestrian entry gates. However, a **QCC TigerCard** is required to pay for parking in the student parking lots.

### **College Issued Keys**

Administrators, faculty, and staff may be issued keys to their respective offices and/or buildings. If you were issued keys, it is your responsibility to safeguard them. If you lose College keys, it must be reported to Public Safety so an incident report can be generated.

### **Guests**

All visitors are expected to comport themselves in a manner consistent with an academic environment. Guests must identify themselves to Public Safety at the entry gate upon arrival or when requested by a College official. Guests will only be allowed onto campus if they have official business. Guests are subject to the direction of Public Safety personnel and/or 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 administrative staff. Permission to enter onto the college property is revokable at any time.

Persons not having a legitimate reason to be on campus may be asked to leave by Public Safety personnel.

On campus parking is restricted to faculty and staff possessing a valid QCC parking permit, registered students that pay a daily fee utilizing funds deposited on their **QCC TigerCard**, and authorized visitors that are issued a day pass by Public Safety at the Main Gate located on 56<sup>th</sup> Avenue. 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 at **x6320** or **718-631-6320**.

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

The Queensborough Community College Public Safety Department is open 24 hours a day, 7 days a week. Central Operations (Central) is located in the Library Building, 3<sup>rd</sup> Floor, where Public Safety officers monitor approximately 330 interior and exterior surveillance cameras, 43 Red Emergency Telephones and 9 Blue Light Emergency call boxes. Public Safety officers also maintain a logbook of all the reported incidents, events and campus conditions.

An officer assigned to Central communicates with the officers and supervisors that are on duty and dispatches them as needed to different areas of the campus. The Central operator is responsible for contacting the appropriate personnel for reported conditions (i.e. Buildings and Grounds, Environmental Health and Safety, Information Technology, etc.). Any conditions which appear unsafe should be directly reported to any Public Safety officer as soon as possible. All Public Safety personnel carry two-way radios programmed through a repeater to enhance effectiveness. A special two-way radio is also located at Central Operations that can communicate with other CUNY campuses. In addition, the campus has a public address system with both interior and exterior speakers to communicate with the College community. These speakers are tested regularly by the Telecommunications Department.

Along with the Office of the Vice President of Administration and Finance, Campus Facilities, and Physical Plant Services, the Director of Public Safety conducts ongoing reviews of campus grounds and facilities. Emphasis is placed on the need to ensure safe accessibility to buildings, with special attention to landscape hazards as well as inadequate lighting. In addition, all Public Safety personnel report potential safety and security hazards as well as entry door problems, elevator malfunctions and Automated External Defibrillator (AED) operating conditions while on patrol.

### **Safety Escort Service**

The Department of Public Safety operates a safety escort service 24 hours a day, 365 days a year. Any member of the College community can request an escort by dialing **x6320** from any campus phone or **(718) 631-6320** from any other telephone. Escorts are provided on campus and to the closest city bus stop.

### **Emergency Phones**

Red Emergency Telephones are located in interior hallways in all of the buildings on campus. Blue Light Emergency Call Boxes are located in the parking lots and other exterior locations across the

campus. Both types of phones call directly to the Public Safety Central operator when picked up or the call button is pushed.

## **Emergency Notification and Response**

An **Emergency Notification and Response** policy has been established that details emergency response and evacuation procedures for Queensborough Community College, as required by the Higher Education Opportunity Act of 2008. This policy applies to all students and employees of Queensborough Community College.

The **Emergency Management Operations Group** is comprised of representatives from the following College Departments: Finance and Administration, Academic Affairs, Student Affairs, Institutional Advancement, Public Safety, Marketing and Communications, Telecommunications, Buildings and Grounds, Information Technology, Facilities Planning, Environmental Health and Safety, and Health Services.

For the purposes of this policy, a significant emergency or dangerous situation involves an immediate threat to the health or safety of students or employees occurring on campus. Queensborough Community College will initiate and provide, without delay, immediate notifications to the appropriate segment(s) of the University 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.

### **QCC Emergency Notification System (ALERTUS)**

Queensborough Community College utilizes a mass communication platform called the **QCC Emergency Notification System**, aka **ALERTUS**. In the event of an incident which potentially impacts the health and safety of members of the campus community, the **QCC Emergency Notification System** allows for timely notification through messages broadcast to college computers, digital signage, and/or announcements over internal and external loudspeakers and college speakerphones. Information given to the college community may include details about the type of incident that has occurred and directions about how to respond.

### **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 timely and up-to-date information including impending dangerous weather, utility disruptions, and other emergency situations. 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. Simply log onto the [CUNY Alert site](#) and follow the instructions. Contact information for all registered students and employees is included in the **CUNY Alert** system, except for the contact information of those students who affirmatively choose to opt out of receiving **CUNY Alert** messages. If you



have trouble accessing or modifying your contact information in **CUNY Alert**, please contact the IT help desk at **extension 6348**.

The system is activated by authorized Public Safety personnel 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 NY Alert 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. However, please be aware that CUNY is not responsible for outdated or incorrect subscriber information, technical limitations such as overtaxed communications systems, transmission errors, cellular telephone roaming and/or out of range areas that may delay, block, or prevent, the communication of messages to certain users. CUNY also is 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 in reliance of an alert.

CUNY is committed to respecting your privacy. In order to personalize your **CUNY Alert** settings, you must sign in on the [CUNY Alert site](#). CUNY does not collect any personal information about you unless you provide that information voluntarily. Any personal information you choose to provide will only be used by CUNY to conduct official CUNY business. CUNY does not sell, rent, loan, trade or lease personal information collected on this site. For more information about [the CUNY privacy policy](#).

**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.

As used in this policy, authorized Public Safety personnel are the Director of Public Safety, Deputy Directors, Sergeants, dispatchers and/or officers who have been trained in the use of the emergency notification system.

## **Emergency Notification Procedures**

Upon receipt of a report that a significant emergency involving a threat to the safety and/or security of the campus community exists, the Department of Public Safety will, without delay, conduct an investigation into the details of such reports. Upon the Department of Public Safety's verification of such an incident, established protocols will be followed regarding notification of the appropriate campus personnel, to include the administrative hierarchy. Dependent on circumstances, the New York Police Department (NYPD) will be notified for its appropriate action and/or response.

After consultation between responsible campus authorities, timely information will be broadcast to the affected campus population(s) and areas, through an integrated series of communication systems to include: Alertus, CUNY Alert, Public Address and/or Fire Alarm Systems, Digital Signage,

Campus Email and Student Microsoft Office 365, QCC Website and/or QCC Connect App Emergency Notifications, etc.

**Note on all emergency notifications: When in the considered opinion of college, University 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.**

## **Timely Warnings**

**Clery Timely Warning Notices** are specifically related to compliance with the federal **Clery Act**, which 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** identifies **specific crimes** that require a timely warning notice to be issued, when crimes are reported to officials 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.

Types of incidents or situations that constitute **Clery Timely Warnings** being sent are:

All **Clery Act Crimes** that represent a serious or continuing threat to the personal well-being of students and employees. Examples include but are not limited to:

- Criminal Homicide
- Sex Offenses
- Robbery
- Aggravated Assault
- Burglaries (occupied rooms/offices/structures)
- Hate Crimes
- Persons with weapons with intent to use
- Threat of violent crime
- Situations where suspect is not known
- Assault (physical or sexual)

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 Queensborough Community College community on behalf of the institution.

The Department of Public Safety will issue alerts for crimes occurring within the Queensborough Community College Clery Geography, that is, on campus, adjoining public property, and non-campus property that meets certain criteria (as defined under The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act), that present a serious or continuing threat to the campus community. 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 Department of Public Safety of crimes as soon as possible. The Department of Public Safety will gather all pertinent information about the nature of the crime from the reporting person and other available sources including, but not limited to, other witnesses, campus security video, the ID card access system, and Department of Public Safety records.

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 pick pocketing 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 information known by the Director of Public Safety, or designee). Cases involving sexual assault 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. 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, the method by which to disseminate the warning to the campus community and 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 Deputy/Assistant Director of Public Safety, Lieutenant, and Sergeants after consulting with a higher authority.

## **Immediate Notifications**

Unless such notice and warning compromises 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 means: (1) the ALERTUS mass communication platform, (2) CUNY- Alert, (3) Verbal announcement through the College’s emergency communication response system, (4) Campus-wide e-mail and/or (4) Queensborough Community College web-site and/or app.

The following personnel are authorized to make such announcements: President or her designee, Public Safety Director or his designee, the Vice President of Finance and Administration, and the Vice President of Marketing and Communications. 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**

QCC’s Emergency Response Plan has several elements. The plan outlines sample procedures for responding to various campus emergencies. It also outlines the different communication systems utilized to notify the campus community that a significant emergency or dangerous situation involving an immediate threat to health or safety exists.

The most important element of any emergency response plan is communication. Timely information is crucial in helping to ensure one’s personal safety. Students, faculty and staff are encouraged to join CUNY Alert to receive text or voice notifications of campus emergencies or weather-related closings. Sign up is a simple process at [the CUNY Alert website](#) and will allow you to receive cell phone, home phone and/or email messages containing important information about campus emergencies.

Other campus communications systems include: the ALERTUS mass communication platform (to all office, classroom podia, and computer lab desk-top PC’s, Macs and digital signage); Public Address system (broadcast to individual buildings or “all buildings”); Exterior Voice Alert Notification System; Campus Email and student Microsoft Office 365 email; QCC website notices; Public Safety vehicle loud-speaker systems.

As members of the campus community, it is important for each of us to understand our roles and responsibilities, and to be prepared to respond if a crisis occurs. Please take a few minutes to look through the [Public Safety website](#) and review the Emergency Procedures Quick Guide and other valuable safety information. Note: The plan is provided in its entirety to Executive and Administrative Leaders, and Department Heads throughout the campus. It was drafted by the QCC Department of Public Safety in conjunction and consultation with other campus and university administrators.

## **Purpose**

The QCC Emergency Response Plan is a procedural document for organizing, coordinating and directing available resources toward the control of an emergency. The plan includes a chain of command establishing the authority and responsibility of various individuals. As with any document of this nature, the plan should be seen as a living text, subject to changes, update and revision as the environment of the College changes.

## **Defining Emergency Conditions**

The following are the different levels of emergency with the appropriate communications, notifications, and involvement for each level:

**LEVEL 1:** A Level 1 emergency includes a minor department or building incident that can be resolved by the responding service unit. This may result in calling in personnel and notifying the department where the problem occurred. An example is the physical plant response to a broken water pipe. There is no need to notify or involve anyone outside of the affected area.

**LEVEL 2:** A Level 2 emergency includes a department or building incident that can be resolved with existing University resources or limited outside help. A Level 2 incident is usually a one-dimensional event that has a limited duration and little impact on the campus community beyond those using the space/building in which it occurred. Examples include: minor chemical or fuel oil spills, building loss of heat or electricity for several hours, or a minor fire confined to a room and not involving hazardous chemicals. Notification may be made to University administration.

**LEVEL 3:** A Level 3 emergency is an incident that is primarily people, rather than infrastructure focused. Examples include: assaults, sexual assaults, building/ office occupations, hate crimes, or workplace violence. In these situations, the campus Emergency Response Team plans must be implemented with involvement from the Office of Public Safety or local law enforcement, and the University Emergency Management Team must be informed of the incident. Additionally, University/College Legal and Media Relations employees may need to be consulted depending upon the nature of the incident and its severity.

**LEVEL 4:** A Level 4 emergency includes a major emergency that impacts a sizable portion of the campus and/or outside community. Level 4 emergencies may be single or multi-hazard situations and often require considerable coordination both within and outside the University. Level 4 emergencies also include imminent events on campus or in the general community that may develop into a major University crisis or a full disaster. Examples include: bomb threats, heating plant failures, extended power outages, weather emergencies, major fires, contagious disease outbreaks, or domestic water contamination. In these situations, the campus Emergency Response Team plans must be implemented and the University Emergency Management Team must be notified and involved.

**LEVEL 5:** A Level 5 emergency includes a catastrophic emergency event involving the entire campus and surrounding community. Immediate resolution of the disaster, which is usually multi-hazard, is beyond the emergency response capabilities of campus and local resources. Examples include: earthquakes, tornadoes, or major hurricanes that require State and Federal assistance. In these situations, the campus

Emergency Response Team plans must be implemented and the University Emergency Management Team must be notified and involved.

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

Fire Alarms are tested each semester, during both the day and in the evening (4 times annually), in all campus buildings, one of which must be conducted during the first week of the summer session to ensure compliance with NY Education Law 807. During these drills, building occupants are familiarized with campus evacuation procedures. Each building has assigned fire/evacuation floor wardens who provide training and direction to the college community during drills and actual emergency events.

### **Fire Emergency Plan**

Floor coordinators are designated to serve specific areas of each building. When appropriate, they will be activated. They are trained to assist with the evacuation process throughout the campus. Their job is to facilitate evacuations and common space assembly of all kinds and to pass information to the fire safety command station. Please comply with their directions.

When fire alarms ring, please take note of any announcement over the public address system that immediately follows. It will provide you with instructions on where to assemble. If a false alarm occurs, an “all clear” announcement will follow via the public address system. Treat all fire alarms as real unless otherwise directed by the floor coordinators or members of the Public Safety staff. Below are general guidelines for dealing with a fire. Remember, when in doubt, call the QCC Department of Public Safety at **718-631-6320** or the FDNY by dialing 911, or activate a fire alarm pull station.

When reporting a fire or explosion:

- Provide your name, location and telephone number.
- Provide the location of the fire or explosion.
- Provide information on the number of persons trapped.
- Provide information on the number of persons injured.
- When the fire alarm sounds, complete evacuation is required.

#### **Remember the following!**

- If you or someone else is on fire – Stop, Drop and Roll.
- Follow instructions of Building and Floor Coordinators.
- Evacuate using the NEAREST UNCONTAMINATED STAIRWAY and EXIT.
- Close doors and windows as you leave, if possible.
- Never open a door without first checking for heat or smoke.
- Follow directions of Building or Floor Coordinators and/or Public Safety and other emergency response personnel.
- The most critical areas for immediate evacuation are the fire floor and floors immediately above.
- Do not use the elevator unless instructed to do so by emergency response personnel.
- If you find yourself in a smoke-filled environment, “Stay Low & Go.”

- Assist disabled persons to move to a safe area preferably on/or adjacent to the landing of the closest safe stairwell and notify person(s) in authority of their location for evacuation by emergency personnel.
- Use a fire extinguisher only on small fires that can be controlled by such extinguishers.
- Identify the correct type of fire extinguisher depending on the type of fire.
- Never let the fire come between you and the exit.

**Be prepared:**

- Note the location of fire alarms, red emergency phones, extinguishers and other emergency equipment.
- Familiarize yourself with evacuation routes and fire drill procedures.
- Note the location of landmarks which may aid your exit when visibility is reduced by smoke.
- Locate at least two emergency exits from your floor and make sure they are free from obstruction.

**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 at **x6320** or **718-631-6320**, if at all possible. Remember to only call 911 when it is safe to do so. 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 grounds, the United States Department of Homeland Security recommends the following course of action:

1. **EVACUATE (Run)** – if you can safely do so, run as fast as you can. Have an escape route and plan in mind. If outside, use buildings, trees, cars, or other substantial objects as cover. Leave your belongings behind. If you can get away from the immediate area of danger, summon help and warn others.
2. **HIDE OUT (Hide)** - 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 (Fight)** – Only do this as a last resort and only when your life is in imminent danger. If you choose to confront the aggressor, use all manner of materials at hand as weapons, such as books or chairs. 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.

**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 will be considered suspect until all avenues of investigation 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 **x6320** or **718-631-6320**. 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 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 be helpful in identifying 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**

1. All medical emergencies should be reported immediately to **Public Safety ext. 6320**
2. If the medical emergency is life threatening, have a second person call **911** while you are calling **Public Safety at ext. 6320**.
3. If you call **911**, be prepared to give your name; describe the nature and severity of the medical problem and the location of the victim. Try to answer all of the questions the dispatcher asks you and let them hang up the phone first. Do not move the victim. If you are certified in CPR and First Aid and able to help, then try to assist the victim until help arrives.
4. Look for emergency medical identification such as bracelets on injured persons and try to keep the victim as comfortable as possible until emergency personnel arrive.
5. If a medical problem is non-life threatening, call the Public Safety Department at **ext. 6320**. If the victim can be safely moved, they will be escorted to the Health Services Office, MC-02. If campus Public Safety personnel believe that a victim should not be moved or that emergency



medical care is required immediately, then they will call 911. Please remember that the decision to call or not call 911 is not based on financial situation or insurance status. The focus is on assisting the ill or injured party.

6. The school employs registered nurses. The nurse's office is in **Health Services, MC-02** and can be reached at **ext. 6375**.

**REMEMBER:**

- Do not hang up until instructed to do so by the Public Safety dispatcher.
- Do not move the victim unless they are in imminent danger.
- Assign someone to escort emergency personnel to the victim's location.
- Do not give the victim anything to eat or drink.
- Try to keep the victim calm and assure them that help is on the way.
- Comply with all instructions given by emergency response personnel and/or the Public Safety Dispatcher at Ext. 6320.

**Mental Health Medical Emergencies**

The balance of the demands of school and personal life can be challenging. **Counseling Services** provides support services to students currently enrolled at Queensborough Community College. Counseling sessions are confidential. The **Counseling office** is located in the Library Building, 4<sup>th</sup> Floor, **Room L-422** and their telephone number is **718-631-6370**.

1. If there is no imminent physical danger, you can speak to a counselor in Room L-422. If a Counselor is not available, please contact Public Safety for additional resources.
2. Whenever an individual demonstrates or reports a risk of self-destructive or suicidal behavior, immediate assistance is needed, and Public Safety should be notified at **x6320** or **718-631-6320**. Public Safety will take necessary measures to ensure their safety and refer them to appropriate resources.

**Utility Failure/Water Leak**

Utility failures and water leaks should be reported to the Department of Public Safety at **x6320** or **718-631-6320** or the Buildings and Grounds Department at **718-631-6231**:

- Provide the location of the incident.
- Report any noises or occurrences that happened before the incident.

**Be prepared:**

- Keep a flashlight handy.
- Know how to locate the nearest exit.
- If a leak threatens your work area, move items off the floor.
- Never touch fallen electrical lines or exposed electrical wiring.
- If a hazard exists, evacuation may be the next step. After consultation with the College Administration, announcements regarding any building closures will be made, as necessary.

**Gas Leaks**

Gas leaks are very rare but can be very serious. **If you smell gas, go to a safe area and contact Public Safety at x6320 or 718-631-6320. 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 event or chemical spill, the Queensborough Community College Environmental Health and Safety (EHS) Officer Mel Rodriguez will be contacted at **x5148**. Buildings and Grounds and Public Safety will respond along with the EHS Officer who will determine what actions to follow.
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 one or more of the following ways: **ALERTUS**; e-mail; college website; voicemail; **CUNY-ALERT**.
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 wide 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 (c) updates on emergency will be given, if practicable, by the same methodologies as indicated above.

### **Physical Violence/Criminal Activity**

When reporting any incident involving a confrontation, fight, physical violence or suspected criminal activity:

- Provide your name, location and telephone number.
  - Explain the situation to the Public Safety Dispatcher.
  - Provide information on any known injuries.
- Pay close attention to details, and try to determine the answers to these questions:
- How many people are involved?
  - Do you see any weapons?
  - Do you know any of the participants?
  - Is anyone running away from the scene? In what direction?
  - Entering a vehicle?
  - Color?
  - Make/Model?
  - License plate number?
  - Are there any passengers in the vehicle?
  - In which direction is the vehicle traveling?

Describe the participants by noting:

- Hair color
- Complexion
- Height, weight
- Gender
- General build
- Facial hair
- Markings, such as tattoos, piercings, scars
- Shirt color
- Pants color
- Shoes and hat description

#### **Remember that weapons may be involved!**

- If it can be accomplished safely, guide bystanders away from possible danger, but do not attempt to intervene or mediate with parties involved in an altercation or suspected criminal activity.

## **ACTIVE SHOOTER GUIDELINES**

Active shooter situations are unpredictable and evolve quickly. But you are not helpless.

### **WHAT YOU CAN DO NOW**

- Learn the building well. Re-learn it.
- Take special note of the location of the stairways.
- Consider it your obligation if you are aware of any member of, or visitor to, the College who appears to be under extreme stress or is expressing violent intentions, to inform a responsible person at the College – a Public Safety Officer, any Dean or Director or faculty member, or any of the people listed at the end of these Guidelines.

### **WHAT YOU CAN DO IF YOU ARE IN AN ACTIVE SHOOTER INCIDENT**

- First, if you can do it safely, call Public Safety at **x6320** or **718-631-6320** and/or **911**.

Information to provide **911** operator if you know it:

- Location of the active shooter
- Number of shooters, if more than one
- Physical description of shooter(s)
- Number and type of weapons held by the shooter(s)
- Number of potential victims at the location

**RUN:** If there is an accessible escape path, take it. Be sure to:

- Have an escape route and plan in mind  
If you can reach the stairs unobserved, do it.
- Evacuate regardless of whether others agree to follow you
- Leave your belongings behind
- Help others escape, if possible
- Prevent individuals from entering an area where the active shooter may be located
- Do not attempt to move wounded people

**HIDE:** If evacuation is not possible, find a place to hide where the active shooter is less likely to find you.

If you are in an office or classroom, stay there and secure the door. Lock it with a key or the latch on the inside of the lock. If you can't lock the door, place as much furniture as you can in front of the door. Stay low and quiet. Try to stay calm, and to calm those around you. Turn your cell phone ringer off. If possible, turn off the lights.

- If you are in a hallway, get into a room and secure the door in a similar fashion.
- Have situational awareness. Do not corner yourself if at all possible.

**FIGHT:** As a last resort, and only when your life is in imminent danger, attempt to incapacitate the active shooter by:

- Acting as aggressively as possible against them.

- Throwing items and improvising weapons -- Books, cups, phones, or any dense object.
- Yelling, screaming.
- Committing to your actions. Do not stop fighting until the shooter is completely incapacitated. If you chose to fight, there is no “mercy rule.”

### **HOW TO RESPOND WHEN LAW ENFORCEMENT ARRIVES**

Law enforcement’s purpose is to **stop** the active shooter. Officers will proceed directly to the area in which the last shots were heard and will take action to stop the shooter. If the shooter is actively harming people, they may fire their weapons even if bystanders are close.

- Officers may be armed with rifles, shotguns, handguns and sound grenades.
- Officers may shout commands and may push individuals to the ground for their safety. It is not the time to expect polite conversation.
- Remain calm and follow officers’ instructions.
- Put down any items in your hands (i.e., bags, jackets).
- Raise hands and spread fingers – keep your hands visible at all times.
- Avoid making quick movements toward officers such as holding on to them for safety.
- Avoid pointing, screaming and/or yelling.

Once you have reached a safe location, you will be asked to remain until the situation is under control, and all witnesses have been identified and questioned. Do not leave until law enforcement authorities have instructed you to do so.

### **Lock Down/Shelter in Place**

A **Lock Down** or **Shelter in Place** condition occurs when it has been officially determined that it is unsafe to enter the outside environment.

- All people on campus must remain inside and be prepared to stay inside until the area is cleared of the hazard and once again declared safe to inhabit.
- The HVAC system will be turned off and buildings will be sealed if a toxic environment exists outside.
- Even if you are uncomfortable, you must not open a door or window! Doing so may jeopardize your life and the lives of others.
- You will be alerted and provided with additional information by one or more of these methods:
  - Telephone/voicemail/e-mail messages
  - **CUNY Alert** text messaging system
  - Public Safety, Police or other emergency personnel
  - Emergency Response Team member
  - Building or Floor Coordinators

### **REMEMBER**

- A lock down/shelter in place situation is usually newsworthy. Advise your family and friends on how to reach the college in case of emergency:
- The main QCC number is **(718) 631-6262**.
- The Department of Public Safety 24-hour number is **718- 631-6320**.

- College officials will be in contact with news media and will keep campus personnel informed via **CUNY Alert**, e-mail, voicemail, college intercom, voice/siren alert system, word of mouth and any other available communications tool.

**Faculty and staff** – be prepared:

- If possible, keep non-perishable food and water in your office or workspace.
- Have additional prescription medications available. Students should also carry extra medication.
- Keep a battery-powered radio on hand.
- Keep a flashlight with fresh batteries near your desk.
- Keep a cell phone charger at work.

Consult with your family to develop an **Emergency Response Plan** so everyone knows what to do in the event of a major crisis. This applies to students as well.

**Evacuation Procedures:**

When evacuating the building or work area:

- Stay calm.
- Do not push or panic.
- Gather personal belongings if it is safe to do so. (Reminder: take prescription medications, keys, purse, glasses, etc. when possible since it may be hours before occupants are permitted back in the building).
- If safe, close the office door and window, but do not lock them.
- Assist disabled persons to move to a safe area preferably on/or adjacent to the landing of the closest safe stairwell and notify person(s) in authority of their location for evacuation by emergency personnel.
- Do not use the elevator unless told to do so by emergency personnel.
- Follow the instructions of Building and Floor Coordinators.
- Proceed to the designated evacuation meeting point.
- Re-enter the building only when advised to do so by police or emergency response personnel.

**Remember**

You **MUST** evacuate an area or building when ordered to do so, whether the order comes by means of an audible/visible alarm or alert, and/or through verbal directions from Public Safety or other emergency response personnel.

- Familiarize yourself with evacuation routes.
- Evacuation techniques are carefully selected keeping safety in mind. Unknown hazards may exist so always follow directions carefully.
- If you are given a specific route to take while evacuating, take that route in order to avoid contact with a toxic spill, fire or other dangerous situation.

**IMPORTANT COLLEGE TELEPHONE NUMBERS:**

Department of Public Safety - Ext. (6320) -- (718) 631-6320

Health Services - Ext. (6375) – (718) 631-6375

Counseling Services Ext. (6370) – (718) 631-6370

Environmental Health and Safety Ext. (5148) – (718) 281-5148

Student Affairs Ext. (6351) – (718) 631-6351

Office of Community Standards Ext. (6314) – (718) 631-6314

Student Activities Ext. (6233) – (718) 631-6233  
Information Technology Ext. (6348) – (718) 631-6348

### **EMERGENCY EQUIPMENT:**

Emergency Call Box Locations:

- Emergency Blue Light Call Boxes are located throughout campus: in Parking Lots 1, 2, 5, and 6; at the track / athletic field; in the bus stop; at the main entrance of the C Building; on the path between the Student Union and the Oakland Gallery; at the entrance to the Y Building.
- Red Security Phones with direct dial to Public Safety are installed in building corridors throughout campus for use in emergencies.

**Emergency Notifications** will be broadcast through the following:

- **ALERTUS** Mass Communication Platform (to all office and computer lab desktop PC's)
- Campus-wide e-mail, student Microsoft 365 mail and phone messaging.
- QCC Website
- Interior Public Address (PA) System.
- Campus Emergency Voice Alert System.
- Electronic Bulletin Board Signage System.
- CUNY Alert

**AEDs:** Automatic External Defibrillators (AEDs) and bleeding control stations (Trauma Kits) are strategically located in college buildings throughout campus and in Public Safety vehicle(s). In addition to Public Safety personnel, other key college employees have received training in their use.

First Aid/CPR Trained: Public Safety personnel are also trained in basic first aid, as well as in administering CPR. [A listing of AED locations on campus](#) can be found online.

### **EMERGENCY RESPONSE AND RECOVERY**

Emergency Response Preparation and Evacuation Testing Procedures: Annual Emergency Management training sessions are conducted by the Department of Public Safety in conjunction with the Office of Environmental Health and Safety for all Building and Floor Coordinators to review and reinforce their roles and responsibilities as fire and emergency facilitators. Emergency procedures are also discussed at new student and faculty orientations and are also contained on the Department of Public Safety website and in Department publications.

Fire Alarms are tested each semester, during both the day and in the evening (4 times annually), in all campus buildings. Full evacuations are conducted during these unannounced drills in which the audible fire alarms and public address systems are sounded and tested.

The operation of the **CUNY Alert** (text and voice) messaging system, the QCC (desktop computer) Alert message system and the Exterior Speaker Emergency Voice Notification system are also tested regularly and on an on-going basis.

Periodic table-top exercises, addressing a variety of emergency scenarios, are conducted by the University Public Safety Office in conjunction with the individual campus Public Safety Departments. Campus Peace Officers on patrol conduct regular checks of the red emergency phones located in the hallways of buildings throughout campus to ensure their proper operation. Safety checks are performed throughout campus as part of the officers' daily patrols. Any observed malfunction and/ or damage to facilities and/or equipment is documented in the appropriate manner and forwarded to the appropriate campus department for their attention.

The Department of Public Safety also conducts monthly lighting inspections campus wide with results forwarded to the Office of Building and Grounds for any necessary attention. Aggressive traffic and parking enforcement efforts are also directed towards designated fire lanes and hydrant areas to facilitate their use in times of emergency.

### **ACCESS TO COLLEGE FACILITIES**

Students, faculty, staff and visitors to Queensborough Community College have access to academic, recreational and administrative facilities and areas hosting cultural and entertainment events during scheduled hours and/ or when otherwise conducting official college business.

### **VEHICULAR ACCESS TO THE CAMPUS**

Vehicular traffic flow onto campus is restricted at approximately 11:30pm every night when the Public Safety officers close and lock the campus gates. All buildings are locked after scheduled classes or special events. During non-business hours, when the college is closed, entry to buildings is not allowed except with proper prior authorization.

### **IDENTIFICATION CARDS**

Faculty, staff and students are required to produce their college identification card to Public Safety Officers or other campus officials upon request. Lost or stolen ID cards should immediately be reported to the Office of Public Safety and/or the Campus ID office in the Library Building **Room LB-02**.

### **WEAPONS POLICY**

No one within the University community (including visitors), except Campus Peace Officers, pursuant to authorization of the College President and the University Executive Director of Public Safety, 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 or damage to a building or the grounds of the campus.

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

Pursuant to CUNY's Bylaws, "[e]ach student enrolled or in attendance in any college, school or unit under the control of the board and every student organization, association, publication, club or chapter shall obey (1) the laws of the city, state and nation; (2) the bylaws and resolutions of the board, including the rules and regulations for the maintenance of public order pursuant to article 129-a of the education law ("Henderson rules"); and (3) the governance plan, policies, regulations, and orders of the college.

### **HENDERSON RULES**

- 1.** A member of the academic community shall not intentionally obstruct and/or forcibly prevent others from the exercise of their rights. Nor shall he interfere with the institution's educational processes or facilities, or the rights of those who wish to avail themselves of any of the institution's instructional, personal, administrative, recreational, and community services.
- 2.** Individuals are liable for failure to comply with lawful directions issued by representatives of the University/college when they are acting in their official capacities. Members of the academic community are required to show their identification cards when requested to do so by an official of the college.
- 3.** Unauthorized occupancy of University/college facilities or blocking access to or from such areas is prohibited. Permission from appropriate college authorities must be obtained for removal, relocation, and use of University/college equipment and/or supplies.
- 4.** Theft from, or damage to University/college premises or property, or theft of or damage to property of any person on University /college premises is prohibited.
- 5.** Each member of the academic community or an invited guest has the right to advocate his position without having to fear abuse, physical, verbal, or otherwise, from others supporting conflicting points of view. Members of the academic community and other persons on the college grounds shall not use language or take actions reasonably likely to provoke or encourage physical violence by demonstrators, those demonstrated against, or spectators.
- 6.** Action may be taken against any and all persons who have no legitimate reason for their presence on any campus within the University/college, or whose presence on any such campus obstructs and/or forcibly prevents others from the exercise of the rights or interferes with the institution's educational processes or facilities, or the rights of those who wish to avail themselves of any of the institution's instructional, personal, administrative, recreational, and community services.
- 7.** Disorderly or indecent conduct on University/college-owned or controlled property is prohibited.
- 8.** No individual shall have in his possession a rifle, shotgun, or firearm or knowingly have in his possession any other dangerous instruments or material that can be used to inflict bodily harm on an individual or damage upon a building or the grounds of the University/college without the written authorization of such educational institution. Nor shall any individual have in his possession any other instrument or material which can be used and is intended to inflict bodily harm on any individual or damage upon a building or the grounds of the University/college.
- 9.** Any action or situation which recklessly or intentionally endangers mental or physical health or involves the forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization is prohibited.
- 10.** The unlawful manufacture, distribution, dispensation, possession, or use of illegal drugs or other controlled substances by University students or employees on University/college premises, or as part of any University/college activities is prohibited. Employees of the University must also



notify the College Personnel Director of any criminal drug statute conviction for a violation occurring in the workplace not later than five (5) days after such conviction.

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

## **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 in the attached Appendix: admonition, warning, censure, disciplinary probation, restitution, suspension, expulsions, ejection, and/or arrest by the civil authorities.

**Admonition:** An oral statement to the offender that he/she has 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 the violation of 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 or privileges or activities, these will be set forth in the decision of the student disciplinary panel or in any resolution agreement that is 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 or other member 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 any manner 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, 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 COLLEGE 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 CUNY's Bylaws.
2. In emergency or extraordinary circumstances, immediate suspension can be effectuated pending a hearing within seven (7) school days.
3. 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.

### **Publication of Emergency Procedures**

Emergency response and evacuation procedures are published annually via the Annual Security Report. The Public Safety Department encourages members of the college community to use this report as a guide for safe practices both on and off campus. Paper copies are available by calling 718-631-6320 or in the Public Safety Department, located in the Library Building, 3<sup>rd</sup> Floor.

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

The Public Safety Department issues safety alert bulletins (paper/email) 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 precincts that are responsible for the surrounding areas of the campus and for providing additional response assistance. All persons reporting crimes to the Public Safety Department are encouraged to promptly report the incident to the local police precinct concerned. 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 and that of others.

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 Sexual Misconduct) during initial orientation. Along with the office of the Vice President of Administration and Finance, Campus Facilities, and Campus Planning, the Director of Public Safety conducts on-going reviews of campus grounds and facilities. Special emphasis is placed on the need to ensure safe accessibility to buildings with special attention to landscape hazards as well as inadequate lighting. All public safety personnel, while on patrol, report potential safety and security hazards as well as entry door problems and elevator malfunctions. Building engineers and cleaners report health and safety issues during the course of normal work assignments.

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. Public Safety provides active shooter awareness training to faculty and staff through scheduled in-services with the various academic and administrative departments. Students may receive active shooter awareness training from Public Safety while taking the ST-100 and/or ST-101 courses at the request of the class professor.

Active shooter awareness material, including instructional videos regarding defensive strategies and bleeding control, can be found on the Queensborough Department of Public Safety website accessible through the following links: [Active Shooter/Hostile Intruder](#), [Stop the Bleed](#).

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

The City University of New York ("CUNY") is an institution committed to promoting the physical, intellectual, and social development of all individuals. As such, CUNY seeks to prevent the 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) 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 when they are on CUNY property, including CUNY residence halls, as well as when they are engaged in any CUNY-sponsored activities off campus.

### **Who Needs to Know this Policy**

All CUNY senior management, students, prospective students, employees, and prospective employees need to know this policy.

## **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. In order 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 that a violation of the policy 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.

[Standards that clearly prohibit the unlawful possession, use, sale or distribution of illicit drugs and alcohol on college property](#) or as part of any school activities can be found on the Queensborough Community College website.

### ***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. [Standards that clearly prohibit the unlawful possession, use, sale or distribution of illicit drugs and alcohol on college property or as part of any school activities](#) can be found on the Queensborough Community College website.

## **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 or 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, Sexual Misconduct, causing or threatening physical harm, hazing or damage to property, 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-affairs/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 their age) from possessing or consuming alcoholic beverages in CUNY residence halls. It also prohibits CUNY employees from illegally providing drugs or alcohol to CUNY students.

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

### **Legal Sanctions**

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

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

*Further, pursuant to New York State law:*

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

## **Health Risks**

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

### **LSD (Acid)**

LSD is one of the strongest mood-changing drugs, and has unpredictable psychological effects. With large enough doses, users experience delusions and visual hallucinations. Physical effects

include increased body temperature, heart rate, and blood pressure; sleeplessness; and loss of appetite.

### **Cocaine**

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

### **MDMA (Ecstasy)**

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

### **Heroin**

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

### **Marijuana**

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

### **Methamphetamine**

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

### **PCP/Phencyclidine**

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

### **Prescription Medications**

Prescription drugs that are abused or used for 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 service system depressants can lead to physical dependence and addiction. Taken in high doses, stimulants can lead to compulsive use, paranoia, dangerously high body temperatures and irregular

### **Tobacco/Nicotine**

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

### **Steroids**

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

### **Alcohol**

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

### **Substance Abuse**

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

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

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

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

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

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

- Using drugs and/or alcohol on a regular basis.



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

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

### **RESOURCES ON CAMPUS**

The college's Alcohol/Substance Abuse Program is a part of the Department of Student Development/Student Affairs. The purpose of this program is to:

- Educate students about alcohol and substance abuse.
- Identify students with problems related to alcohol and substance abuse.
- Intervene in the lives of students who are affected by such abuse.
- Provide counseling and/or referral for students with problems.

<b>OFFICE</b>	<b>LOCATION</b>	<b>ROOM</b>	<b>TELEPHONE NUMBER</b>
Counseling Center	Library – 4 <sup>th</sup> Floor	422	718-631-6370
Health Services	Medical Arts Cellar	MC-02	718-631-6375
Dept. of Student Affairs	Library – 4 <sup>th</sup> Floor	412	718-631-6351
Dean of Students	Library – 4 <sup>th</sup> Floor	418	718-631-6314
Title IX Office	Administration	413	718-281-5755
Affirmative Action	Administration	309	718-631-6391

CUNY Employees can seek assistance through the [CUNY Work Life Program](#) at (800) 833-8707.

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

<b>PROGRAM NAME</b>	<b>WEB ADDRESS</b>	<b>TELEPHONE NUMBER</b>
New York State Office of Alcoholism and	<a href="http://www.oasas.ny.gov">www.oasas.ny.gov</a>	(877) 846-7369

Substance Abuse Services		
New York State Smokers' Quitline	<a href="http://www.nysmokefree.com">www.nysmokefree.com</a>	(866) 697-8487
NYC Well (NYC Department of Health & Mental Hygiene)	<a href="http://nycwell.cityofnewyork.us">nycwell.cityofnewyork.us</a>	1-888-692-9355

**12 Step Recovery Programs**

- Narcotics Anonymous (212) 929-6262      [www.newyorkna.org](http://www.newyorkna.org)  
Cocaine Anonymous (212) 262-2463      [www.canewyork.org](http://www.canewyork.org)  
Marijuana Anonymous (212) 459-4423      [www.ma-newyork.org](http://www.ma-newyork.org)  
Alcoholics' Anonymous (212) 647-1680      [www.nyintergroup.org](http://www.nyintergroup.org)  
Nicotine Anonymous (631) 665-0527      [www.nicotine-anonymous.org](http://www.nicotine-anonymous.org)  
Al-Anon/Alateen (888) 425-2666      [www.al-anonny.org](http://www.al-anonny.org)

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

<b>KINGS</b>		
Bridge Back to Life Center, Inc.	175 Remsen St., 10 <sup>th</sup> Floor Brooklyn, NY 11201	(718) 852-5552
Kings County Hospital Center	606 Winthrop St. 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
St. Luke's-Roosevelt Hospital Center.	1000 Tenth Ave New York, NY 10019	(212) 523-6491
<b>QUEENS</b>		
Flushing Hospital Medical Center	4500 Parsons Boulevard Flushing, NY 11355	(718) 670-5078
Samaritan Village, Inc.	144-10 Jamaica Ave.	(718) 206-1990

	Jamaica, NY 11435	
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 Seguine Ave. Staten Island, NY 10309	(718) 226-2790
Richmond University Medical Center	427 Forest Ave. Staten Island, NY 10301	(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 Turnpike East Meadow, NY 11554	(516) 572-9400

## **SEXUAL MISCONDUCT**

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

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 of students, which includes acts of sexual violence, cyber stalking and unwanted physical contact of a sexual nature, is a form of discrimination prohibited by Title IX.

Sexual Harassment is unwelcome conduct of a sexual nature that is sufficiently serious to adversely affect your ability to participate in or benefit from an educational program. It includes unwelcome sexual advances, request for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature on or off campus.

CUNY prohibits the offenses of domestic violence, dating violence, sexual assault and stalking (as defined by the Clery Act) and reaffirms its commitment to maintaining a campus environment that emphasizes the dignity and worth of all members of the university community. Toward that end, Queensborough Community College issues this statement of policy 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 dating violence, domestic violence, sexual assault, or stalking, which will be followed regardless of whether the incident occurs on or off campus when it is reported to a college official.

A copy of the City University of New York Policy on Sexual Misconduct is attached to this report and can be viewed by clicking the following link [CUNY Sexual Misconduct Policy](#)

### **The City University of New York Policy on Sexual Misconduct**

Sexual Misconduct as defined in CUNY's Policy, including sexual harassment and sexual assault, stalking, domestic and dating/intimate partner violence, as defined in CUNY's Policy and as defined under the Clery Act and New York State Law, are prohibited. Please see below and CUNY's Sexual Misconduct Policy for definitions of these and other terms. Allegations of Sexual Misconduct, including sexual assault, sexual harassment, stalking, or domestic, dating and intimate partner violence should be reported to one of the individuals listed below:

- **Title IX Coordinator Belinda Delgado**, Admin Rm. 408, 718- 281-5768 [bdelgado@qcc.cuny.edu](mailto:bdelgado@qcc.cuny.edu)
- **Director of Public Safety John M. Triolo**, Library 3<sup>rd</sup> floor, 718-631-6320, [jtriolo@qcc.cuny.edu](mailto:jtriolo@qcc.cuny.edu)
- **VP of Student Affairs Brian Mitra**, Library Rm. 412, 718-631-6351, [BMitra@qcc.cuny.edu](mailto:BMitra@qcc.cuny.edu)
- **Executive Director of Human Resources Nelmy Negrete**, Admin Rm. 412, 718-281-5028, [nelmy.negrete@qcc.cuny.edu](mailto:nelmy.negrete@qcc.cuny.edu)

### **Reporting methods other than listed above**

1. Call the Department of Public Safety's emergency telephone line **718-631-6320** from your cell phone or report the information directly to any member of the Department of Public Safety. You may also make a report in person at the **Public Safety Office** located in the **Library Building, 3<sup>rd</sup> Floor**.
2. Use one of the 42 Red Emergency Assistance telephones or 9 Blue Light Emergency Call Boxes located throughout the campus.
3. Victims or witnesses may report crimes to persons designated as **Campus Security Authorities** who will then forward only the report of the crime – without divulging the name of victim 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 3 of this report. The College recognizes the importance of confidentiality to victims and witnesses of

crimes. For the purposes of providing 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 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 alert.

4. In the event that the situation you observe or are involved in is of an extreme or life-threatening nature, call the QCC Department of Public Safety at **ext. 6320**. Have a second person call 911, if possible. QCC Public Safety officers will assist and direct the police along with other responding emergency personnel.

## **Prevention Education Programs**

Queensborough Community College has developed materials and programs to educate its students, faculty and staff on the nature, dynamics, common circumstances and effects of sexual assault, domestic/intimate partner 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 Office of Title IX Coordinator and the Vice President for Student Affairs' Office provide this training to student activity groups, clubs, and athletic teams. Prevention education materials are distributed to all students during campus orientation activities.

CUNY's goal of creating a community free from sexual violence is a high priority and we have created training programs for both students and employees that are specifically tailored to CUNY campuses. **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 to them for assistance. The course is custom tailored so that students will receive their specific campus' contact information for Public Safety, Title IX Coordinator, Campus Health Services, Mental Health Counseling Center, and Office of Student Affairs. Additionally, CUNY added an alcohol education module to make sure students understand the dangers of irresponsible alcohol consumption and how it relates to sexual violence.

CUNY also created an online employee training program, the Employee Sexual Misconduct Prevention and Response Course, or ESPARC. This program, which all employees are required to take annually, informs 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 lets them know where to go, and with whom to speak, if they, a student, a colleague, or subordinate, experiences Sexual Misconduct. Additionally, it gives examples of conduct that constitute sexual harassment, and informs them what outside agencies employees may go to seek legal redress. Furthermore, each campus' online course not only informs them who is responsible at their specific campus for investigating these types of complaints, but also gives them up to date contact information for those individuals.

In addition, Queensborough Community College provides seminars, workshops, and/or information tabling 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, student affairs staff in cooperation with agencies such as the Queens Family Justice Center and the New York Police Department.

Faculty and staff are welcome to attend these events, as well. The Public Safety Department has a number of NYS Certified General Topics instructors who are the designated liaison for additional training on campus. The Public Safety Department is available to provide education programs upon request. The Public Safety Department conducts prevention education training on domestic violence, dating violence awareness, bullying, active shooter response, emergency preparedness, and other general crime prevention topics. If you would like to schedule an education program for a specific group, please contact Public Safety at 718-631-6320 in advance.

More information and resources about campus safety, sexual assault and harassment, domestic/intimate partner violence, stalking and dating violence can be found at: [CUNY Title IX Website](#)

**Important Definitions in the Clery Act and in CUNY'S Sexual Misconduct Policy** (Please refer to CUNY'S Sexual Misconduct Policy for Other Important Definitions).

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

Bystanders play a critical role in the prevention of sexual and relationship violence. They are "individuals who observe violence or witness the conditions that perpetuate violence. They are not directly involved but have the choice to intervene, speak up, or do something about it." We want to promote a culture of community accountability where bystanders are actively engaged in the prevention of violence without causing further harm. We may not always know what to do even if we want to help. Below is a list of some ways to be an active bystander. In addition, the College encourages all community members to report an incident of sexual harassment gender-based harassment, or sexual violence that they observe or become aware of to the Title IX Coordinator, and/or the Office of Public Safety and/or to Student Affairs. Community members who choose to exercise this positive option will be supported by the College and protected from retaliation.

If you or someone else is in immediate danger, dial 911 (if on campus, call **Public Safety** at **718-631-6320**). This could be when a person is yelling at or being physically abusive towards another and it is not safe for you to interrupt.

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 support in health, counseling, or with legal assistance.

### **Prevention and Risk Reduction**

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 to 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 or 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.

### **What to do if you are attacked**

After an attack, try to be as calm as possible in order to think clearly. Get to a safe place and call for help immediately.

If you are on campus, contact QCC Public Safety immediately; anywhere else call 911, call a relative or a friend or a 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 any 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 show 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 clothing that was stained or torn (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 (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 in order to assist with any ensuing criminal investigation. If the student believes that she/he may be the victim of date rape by being drugged, she/he 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<sup>i</sup> authorities and/or medical professionals if the student sochooses.
  1. New York State Department of Health has designated sexual assault forensic examiner ("SAFE") programs in hospitals that are 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 by the Office of Student Affairs/Student Development, unless otherwise required by law or CUNY policy.

### **Who is a perpetrator?**

Many people think that sexual assaults are only perpetrated by vicious strangers on dark, deserted streets. In fact, 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. With sexual assaults where the victim knows the perpetrator, alcohol use is often involved on the part of either the victim or the perpetrator. However, a 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, she or he is still the victim of the sex offense.



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

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

In order to give consent, one must be of legal age (17 years or older). Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by lack of consciousness or being asleep, being involuntarily restrained, or if the individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.

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

In the absence of consent, ***the attacker is always responsible*** for having committed 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 acts 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 she/he 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.

## **College and Community Counseling and Support Services for Sex Offense Victims**

### **On-Campus Assistance**

Victims of a sexual assault are encouraged to contact the Title IX Coordinator and/or Office of the Dean of Students to obtain assistance in accessing medical and counseling services, or to make any necessary changes to the student's academic program. Victims of such crimes can obtain assistance from the Office of the Dean of Students throughout the disciplinary process. The Office of Public Safety can assist the victim in getting to and from campus classes, filing a police report and obtaining an order of protection against the perpetrator. The victim can also file a complaint with the College against a perpetrator who is a student or employee of the University with the Vice President of Student Affairs and the Office of Public Safety.

### **College Support Services**

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

**Title IX Coordinator**, Belinda Delgado, Admin Rm. 408

718-281-5768, bdelgado@qcc.cuny.edu

**VP for Student Affairs**, Brian Mitra, Library Rm. 412

718-631-6351, BMitra@qcc.cuny.edu

**Director of Public Safety**, John M. Triolo, Library 3rd floor

718-631-6320, jtriolo@qcc.cuny.edu

**Director of Counseling**, Dr. Wilma Fletcher-Anthony, Counseling Office, Library Rm. 422, 718- 631-6370, wfletcheranthony@qcc.cuny.edu

### **Counseling for Employees**

CUNY Work Life Program (800) 833-8707 [www.myccaonline.com](http://www.myccaonline.com) Login code: **cuny**

### **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 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 [www.criminaljustice.ny.gov/pio/crimevictims.html](http://www.criminaljustice.ny.gov/pio/crimevictims.html)
- New York State Office of Victim's Services [www.ovs.ny.gov](http://www.ovs.ny.gov)
- NYC Mayor's Office to End Domestic and Gender Based Violence Family Justice Centers [www.nyc.gov/fjc](http://www.nyc.gov/fjc)

### **Definitions of Sex Offenses under New York State Law**

Sexual assault is a crime. 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. 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.

#### ***Sexual Assault***

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 the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her 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.

**Domestic Violence**

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 person’s act under the domestic or family violence laws of [New York]” 42 U.S.C 13925(a).

**Dating Violence**

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).

For the purpose of this definition:

1. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
2. Dating violence does not include acts covered under the definition of Domestic violence.

CUNY’s Sexual Misconduct Policy further defines Dating, Domestic and Intimate Partner Violence as:

A pattern of coercive behavior that can include physical, psychological, sexual or economic abuse, perpetrated by a person against an intimate partner. Such violence may occur in all kinds of intimate relationships, including married couples, people who are dating, couples who live together, people with children in common, same-sex partners, and people who were formerly in a relationship with the person abusing them.

**Stalking**

According to federal statute, stalking is “engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

- (A) Fear for his or her 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. 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.

CUNY’s Sexual Misconduct Policy further defines stalking as:

Intentionally engaging in a course of conduct directed at a specific person with whom the perpetrator currently has, previously has had, or desires to have, some form of sexual or romantic relationship, that:

1. Is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person’s immediate family or a third party with whom such person is acquainted; or
2. Cause material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person’s immediate family or a third party with whom such person is acquainted; or
3. Is likely to cause such person to reasonably fear that her/his employment, business or career is threatened, where such conduct consists of appearing, telephone 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.

### **DOMESTIC VIOLENCE RESOURCES**

- NYC Domestic Violence Hotline (24 hour) 1-800-621-4673
- NYPD Website – [www.nyc.gov/nypd](http://www.nyc.gov/nypd)
- NYS Domestic Violence Hotline - 1-800-942-6906, [www.opdv.ny.gov](http://www.opdv.ny.gov)
- Dial 911 for Emergency

### **WORKPLACE VIOLENCE RESOURCE**

[Queensborough Community College Workplace Violence Prevention Program](#)

### **COUNSELING**

For assistance and referrals, **students** should (1) consult the college website; or (2) contact the Counseling Center, located in the Library Building Room 422, telephone 718-631-6370.

For assistance and referrals, **employees** should consult with the Human Resources office at 718-631-6065. Assistance is also available through union employee assistance programs or through the CUNY Work/Life Program.

[CUNY Work/Life Program](#) (800) 833-8707

## **Disciplinary Procedure**

The College shall act promptly in response to information that a student has been sexually assaulted by another member of the CUNY community. Upon receipt of a complaint, the College shall undertake an appropriate investigation. If it appears that there is sufficient evidence to warrant disciplinary charges against a student, such charges shall be brought pursuant to Article 15 of the CUNY Board of Trustees Bylaws. If the matter is brought before a hearing, the complainant and alleged perpetrator are entitled to the same opportunities to have others present, including an advisor of their choice, at their own expense and to be informed, in writing of (1) the outcome of the proceedings at the same time; (2) the procedures for appealing the results; (3) any change in results that occurs prior to the time the results become final; and (4) when the results become final. If a student is found guilty of committing a sexual assault or other act of violence against another CUNY student or employee after a disciplinary hearing, the penalties may include suspension, expulsion from residence halls, or permanent dismissal from CUNY.

### **See chart below for a list of some of the major sex offenses and their maximum penalties under New York State Law.**

Sexual assault is a crime of power, aggression and violence. Terms such as “date rape” and “acquaintance rape” tend to minimize the fact that the act of rape, or any sexual assault, is a serious crime. There is never an excuse or a reason for a person to rape, assault or even touch another person’s private parts without consent. The impact on survivors of such an attack can cause severe and lasting physical, mental and emotional damage.

**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 he or she engages 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>Is a class B felony, with penalties 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 more, he or she engages 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>Is a class D felony, with penalties up to 7 years in prison.</i>
<i>Criminal sexual act in the first degree (PL § 130.50)</i>	<i>A person is guilty when he or she engages in oral sexual contact or anal sexual contact with another person by forcible compulsion, or 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>Is a class B felony, with penalties up to 25 years in prison.</i>
<i>Forcible touching (PL§ 130.52)</i>	<i>A person is guilty when he or she intentionally, and for no legitimate purpose, forcibly touches 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>Is a class A misdemeanor, with penalties up to 1 year in jail.</i>
<i>Sexual abuse in the first degree (PL § 130.65)</i>	<i>A person is guilty when he or she subjects 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>Is a class D felony, with penalties 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 he or she inserts 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>Is a class B felony, with penalties 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 he or she inserts 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>Is a class D felony, with penalties up to 7 years in prison.</i>
<i>Facilitating a sex offense with a controlled substance (PL § 130.90)</i>	<i>A person is guilty when he or she knowingly and unlawfully possesses a controlled substance or any substance that requires a prescription to obtain to 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>	<i>Is a class D felony, with penalties up to 7 years in prison.</i>

## Admission of Sex Offenders

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

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 childcare 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) 631-6320**.
3. Contact the [Division's sex offender registry web site](#) 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):

1. 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 a 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, the 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 Queensborough Community 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 his/her 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 a student is under 18 years of age and not emancipated, Queensborough Community 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, Queensborough Community 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 made the determination that the student is missing. Regardless if 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 Sexual Misconduct Policy](#)

[Equal Opportunity and Non-Discrimination Policy](#)

[Student Bill of Rights](#)

[CUNY Campus Workplace Violence Policy](#)

[Domestic Violence and the Workplace](#)

[Reasonable Accommodations and Academic Adjustments](#)

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](#)

TO FOLLOW ARE THE QUEENSBOROUGH COMMUNITY COLLEGE CRIME STATISTICS FOR THE 2021-2023 CALENDAR YEARS. THE STATISTICS INCLUDED ON THESE CHARTS ARE DERIVED FROM REPORTED CRIMINAL INCIDENTS FROM THE FOLLOWING SOURCES:

1. All Public Safety Incident Reports
2. Any reports from Campus Security Authorities
3. NYPD 111<sup>th</sup> Precinct (Local Precinct)





Crime Statistics 2021	All On-Campus Property				Non-Campus Property				Public Property				On Campus Residential Only				
	Reported to		*Non DPS	SUB TOTAL	Reported to		*Non DPS	SUB TOTAL	Reported to		*Non DPS	SUB TOTAL	GRAND TOTAL	Reported to		*Non DPS	Section TOTAL
	DPS	NYPD			DPS	NYPD			DPS	NYPD				DPS	NYPD		
Murder/Non-Negligent Manslaughter	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	
Robbery	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Aggravated Assault	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Arson	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	
Sex Offenses																	
Rape	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	
Incest	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	
Liquor Law Arrests	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Liquor Law Violation Referrals	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	
Drug Abuse Violations Referrals	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	0	0	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	
Domestic Violence	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Dating Violence	0	0	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	

\* 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				On Campus Residential Only				
	Reported to		*Non DPS	SUB TOTAL	Reported to		*Non DPS	SUB TOTAL	Reported to		*Non DPS	SUB TOTAL	GRAND TOTAL	Reported to		*Non DPS	Section TOTAL
	DPS	NYPD			DPS	NYPD			DPS	NYPD				DPS	NYPD		
Murder/Non-Negligent Manslaughter	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	
Robbery	0	0	0	0	0	0	0	0	1	1	0	2	2	0	0	0	
Aggravated Assault	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Arson	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	
Sex Offenses																	
Rape	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	1	0	0	0	
Incest	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	
Liquor Law Arrests	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Liquor Law Violation Referrals	2	0	0	2	0	0	0	0	0	0	0	2	2	0	0	0	
Drug Abuse Violations Arrests	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Drug Abuse Violations Referrals	14	0	0	14	0	0	0	0	0	0	0	14	14	0	0	0	
Weapons: Carrying/Possessing/Etc. Arrests	0	0	0	0	0	0	0	0	0	0	0	0	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	
Domestic Violence	0	0	0	0	0	0	0	0	1	0	0	1	1	0	0	0	
Dating Violence	0	0	0	0	0	0	0	0	1	0	0	1	1	0	0	0	
Stalking	3	0	0	3	0	0	0	0	1	0	0	1	4	0	0	0	

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

Crime Statistics 2023	All On-Campus Property				Non-Campus Property				Public Property				On Campus Residential Only				
	Reported to		*Non DPS	SUB TOTAL	Reported to		*Non DPS	SUB TOTAL	Reported to		*Non DPS	SUB TOTAL	GRAND TOTAL	Reported to		*Non DPS	Section TOTAL
	DPS	NYPD			DPS	NYPD			DPS	NYPD				DPS	NYPD		
Murder/Non-Negligent Manslaughter	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	
Robbery	1	0	0	1	0	0	0	0	0	0	0	0	1	0	0	0	
Aggravated Assault	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0	1	0	1	1	0	0	0	
Arson	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	
Sex Offenses																	
Rape	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Fondling	2	0	0	2	0	0	0	0	0	0	0	2	2	0	0	0	
Incest	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	
Liquor Law Arrests	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Liquor Law Violation Referrals	3	0	0	3	0	0	0	0	0	0	0	3	3	0	0	0	
Drug Abuse Violations Arrests	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Drug Abuse Violations Referrals	6	0	0	6	0	0	0	0	0	0	0	6	6	0	0	0	
Weapons: Carrying/Possessing/Etc. Arrests	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Weapons: Carrying/Possessing/Etc. Referrals	1	0	0	1	0	0	0	0	0	0	0	1	1	0	0	0	
Domestic Violence	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Dating Violence	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Stalking	3	0	0	3	0	0	0	0	0	0	0	3	3	0	0	0	

\* Denotes Report to other campus authorities      Hate Crimes Reported: 2.00      Unfounded Crimes Reported: None



## Unfounded Statistics

There were no unfounded crimes for the years 2021, 2022, & 2023

## Definitions of Geography

### On-Campus

Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area 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 only category.

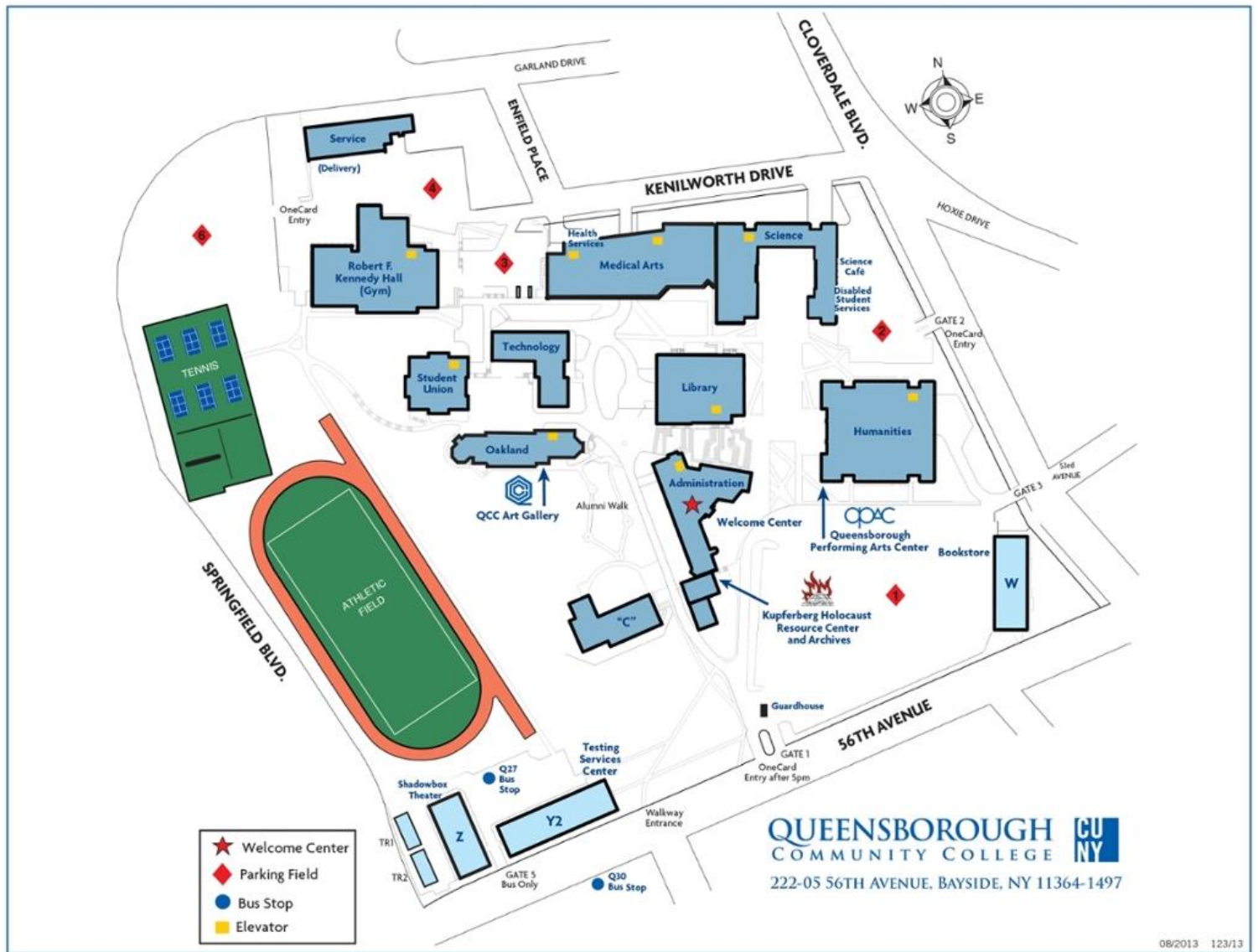
### Non-Campus Building or Property

Any building or property owned or controlled by a student organization that is officially recognized by the institution; 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 that are within the campus or immediately adjacent to and accessible from the campus. The Queensborough Community College crime statistics do not include crimes that occur in privately owned homes or businesses adjacent to the campus buildings.

# CAMPUS MAP



**THE CITY UNIVERSITY OF NEW YORK**  
**POLICY ON SEXUAL MISCONDUCT**  
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## **PREAMBLE**

This Policy prohibits Sexual Misconduct at The City University of New York (“CUNY”). In addition to defining what constitutes Sexual Misconduct and explaining the resources available to those affected by Sexual Misconduct, this Policy details CUNY’s procedures for investigating and adjudicating allegations of Sexual Misconduct. CUNY’s process for addressing allegations of Sexual Misconduct is based on federal, state and local laws, including Title IX, the federal law that prohibits sex discrimination in education and New York State’s Education Law Article 129-B, also known as the “Enough is Enough” law. Each time there is a change in the law, CUNY must review and revise this Policy.

In May 2020, the United States Department of Education (“USDOE”) issued regulations that significantly limited the behavior that constitutes sexual harassment prohibited by Title IX—this behavior is now referred to as Title IX Sexual Harassment.

Title IX Sexual Harassment is defined by the USDOE to mean conduct on the basis of sex that occurs in CUNY’s education program or activity against a person in the United States and that satisfies one or more of the following: (1) a 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 CUNY’s education program or activity; or (3) Sexual Assault, Dating Violence, Domestic Violence, or Stalking as defined in this Policy.

The regulations mandate a specific procedure for the investigation, resolution and adjudication of allegations of Title IX Sexual Harassment (“Title IX grievance procedure”). The regulations state that educational institutions may still prohibit sexual misconduct that falls outside of the narrow definition of Title IX Sexual Harassment and CUNY will continue to prohibit, investigate and adjudicate such conduct - for example, conduct that has a reasonable connection to CUNY but occurs outside of CUNY’s education program or activity, conduct that occurs outside the United States or unwelcome physical or verbal conduct of a sexual nature that does not meet the severe, pervasive and objectively offensive standard.

This Policy uses Sexual Misconduct as an umbrella term that covers all conduct prohibited by the Policy— regardless of whether that conduct meets the Title IX Sexual Harassment definition or not. Sexual Misconduct that falls outside the scope of Title IX Sexual Harassment will be referred to as a Non-Title IX Sexual Misconduct matter.

While the regulations specify a strict and complex Title IX grievance procedure for Title IX Sexual Harassment matters, those procedures are not required when Sexual Misconduct falls outside the scope of Title IX and CUNY determined that it would not use the Title IX grievance procedure for Non-Title IX Sexual Misconduct matters. Therefore, to ensure compliance with Title IX, as now interpreted, as well as other federal, state and local laws, this Policy provides two different sets of procedures: Title IX Sexual Harassment matters will follow the Title IX grievance procedure required by the regulations and Non-Title IX Sexual Misconduct matters will follow a different process that largely mirrors the CUNY investigation and adjudication process that existed under previous versions of this Policy, with a few changes and updates.

## **I. POLICY STATEMENT**

CUNY students, employees and visitors deserve the opportunity to live, learn and work free from Sexual Misconduct. Accordingly, CUNY is committed to:

1. Defining conduct that constitutes Sexual Misconduct;
2. Providing clear guidelines for students, employees and visitors on how to report incidents of Sexual Misconduct;
3. Providing ongoing assistance and support to all parties after allegations of Sexual Misconduct have been made;
4. Promptly and respectfully responding to and investigating allegations of Sexual Misconduct, pursuing disciplinary action when appropriate and taking action to investigate and address any allegations of retaliation;
5. Providing awareness and prevention information on Sexual Misconduct, including widely disseminating this Policy, as well as a “Students’ Bill of Rights” and implementing training and educational programs on Sexual Misconduct to college constituencies;
6. Gathering and analyzing information and data that will be reviewed in order to improve safety, reporting, responsiveness and the resolution of allegations of Sexual Misconduct;
7. Distinguishing between the specific conduct defined as Title IX Sexual Harassment by the USDOE and the broader definition of Sexual Misconduct prohibited by this Policy; and
8. Ensuring compliance with the federal regulations under Title IX, and other federal, state and local laws.

This is CUNY’s sole policy to address Sexual Misconduct and it is applicable at all CUNY colleges and units.<sup>1</sup> This Policy will be interpreted in accordance with the principles of academic freedom adopted by CUNY’s Board of Trustees.

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

1. [The CUNY Policy on Equal Opportunity and Nondiscrimination](#)<sup>2</sup> prohibits discrimination on the basis of numerous protected characteristics in accordance with federal, state and local law. That policy addresses sex discrimination other than Sexual Misconduct covered by this policy.
2. [The CUNY Campus and Workplace Violence Prevention Policy](#)<sup>3</sup> addresses workplace violence.
3. [The CUNY Domestic Violence and the Workplace Policy](#)<sup>4</sup> addresses domestic violence in or affecting employees in the workplace.

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<sup>1</sup> There is a separate policy for students at the Hunter College Campus Schools, consistent with federal regulations under Title IX, state and local law.

<sup>2</sup> <https://www.cuny.edu/wp-content/uploads/sites/4/page-assets/about/administration/offices/hr/policies-and-procedures/PEONon-Discrimination12.4.2014.pdf>.

<sup>3</sup> <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>.

<sup>4</sup> [http://policy.cuny.edu/general-policy/article-v/#policy\\_5.061](http://policy.cuny.edu/general-policy/article-v/#policy_5.061).

4. [The CUNY Procedures for Implementing Reasonable Accommodations and Academic Adjustments](https://www.cuny.edu/about/administration/offices/legal-affairs/policies-procedures/reasonable-accommodations-and-academic-adjustments/)<sup>5</sup> addresses the procedures CUNY will follow when there is a request for a reasonable accommodation or academic adjustment.

In addition, campus crime statistics, including statistics relating to sexual violence, which CUNY is required to report under the Jeanne Clery Act, are available on each college's Public Safety website.

## **II. SCOPE OF THIS POLICY**

This Policy governs the conduct of CUNY students, employees and visitors. Visitors may report a violation of this Policy and may also be subject to restrictions for failing to comply with this Policy.

This Policy prohibits Sexual Misconduct that occurs on CUNY property and conduct that occurs off CUNY property but has a reasonable connection to CUNY.

## **III. PROHIBITED CONDUCT AND DEFINITIONS**

This Policy prohibits Sexual Misconduct (addressed in this section), Retaliation (addressed in Section VII-G and defined below), knowingly submitting false statements or information (defined below) and certain intimate relationships between students and faculty members/employees (addressed in Section XIV).<sup>6</sup>

### **The following behaviors constitute Sexual Misconduct prohibited under this Policy:**

- a. **Dating Violence** is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. 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.
- b. **Domestic Violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim by a person with whom the victim shares a child, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under applicable domestic or family violence laws, or by any other person against an adult or youth victim who is protected from that person's acts under applicable domestic or family

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<sup>5</sup> <https://www.cuny.edu/about/administration/offices/legal-affairs/policies-procedures/reasonable-accommodations-and-academic-adjustments/>.

<sup>6</sup> Sex discrimination that does not constitute Sexual Misconduct is not addressed in this Policy but is covered by CUNY's Equal Opportunity and Non-Discrimination Policy. Sex discrimination is defined as treating an individual differently or less favorably because of sex, including sexual orientation, gender or gender identity (including transgender status), as well as pregnancy, childbirth and related medical conditions. Examples of sex discrimination include giving a student a lower grade, or failing to hire or promote an employee, based on their sex.



violence laws. Domestic violence can be a single act or a pattern of behavior, based on the frequency, nature, and severity of the conduct.

- c. **Sexual Assault: Contact** is any sexual contact, including sexual touching for the purpose of sexual gratification of either party or degrading or abusing such person, without a person's consent. 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.
- d. **Sexual Assault: Penetration** is any form of vaginal, anal, or oral penetration or attempted penetration, however slight, by a penis, object, tongue, or finger without a person's consent. This term includes incest and statutory rape.
- e. **Sexual Harassment** is unwelcome verbal or physical behavior based on a person's sex (including sexual orientation, gender, gender expression and gender identity, including transgender status). Conduct is considered "unwelcome" if the individual did not request or invite it and considered the conduct to be undesirable or offensive. This includes unwelcome conduct when: (1) a CUNY employee conditions the provision of an aid, benefit, or service of CUNY on an individual's participation in unwelcome sexual conduct (quid pro quo); and/or (2) such conduct alters the conditions of, or has the effect of interfering with, an individual's educational or work experience by creating an intimidating, hostile or offensive environment (hostile environment). The effect will be evaluated based on the perspective of a reasonable person in the position of a complainant. While it is not possible to list all circumstances that might constitute Sexual Harassment, the following are some examples of conduct that might constitute such harassment:
  - i. Suggestive body language or inappropriate or unwelcome physical contact that does not qualify as Sexual Assault: Contact;
  - ii. Verbal abuse or offensive comments of a sexual nature, including sexual slurs, persistent or pervasive sexually explicit statements, questions, jokes or anecdotes, degrading words regarding sexuality or gender, suggestive or obscene letters, notes, or invitations;
  - iii. Making lewd or sexual comments about an individual's appearance, body, or clothing;
  - iv. Visual displays or distribution of sexually explicit drawings, pictures, or written materials;
  - v. Undue and unwanted attention, such as repeated inappropriate flirting, staring, or making sexually suggestive gestures; or
  - vi. Offensive comments regarding a person's sexual orientation, gender identity or gender expression, such as persistent mocking or disparagement of a person based on a perceived lack of stereotypical masculinity or femininity.
- f. **Stalking** means 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. This Policy addresses stalking that is based on sex (including sexual orientation, gender, gender expression and gender identity, including transgender status). All other stalking will be addressed under other applicable policies.

- g. Title IX Sexual Harassment** is a subset of the broader definition of Sexual Harassment above. It is defined by the USDOE to mean conduct on the basis of sex<sup>7</sup> that occurs in CUNY's education program or activity against a person in the United States and that satisfies one or more of the following: (1) a 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 CUNY's education program or activity; or (3) Sexual Assault, Dating Violence, Domestic Violence, or Stalking as defined in this Policy.
- h. Voyeurism** is unlawful surveillance and includes acts that violate a person's right to privacy in connection with their body and/or sexual activity such as:
- i. Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent.
  - ii. Recording images (e.g. video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness where that person would have a reasonable expectation of privacy, without that person's consent;
  - iii. Disseminating images (e.g. video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness 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 consent to such disclosure; or
  - iv. Using or installing, or permitting the use or installation of a device for the purpose of recording another person's sexual activity, intimate body parts or nakedness in a place where the person would have a reasonable expectation of privacy without that person's consent.

**Other important terms and concepts addressed in this Policy:**

- a. Consent** means affirmative consent.
- b. Affirmative Consent** is a knowing, voluntary and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression.
- i. 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.
  - ii. In order to give consent, one must be of legal age (17 years or older in New York).
  - iii. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
  - iv. 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

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<sup>7</sup> "Based on sex" includes sexual orientation, gender, gender expression and gender identity, including transgender status.

- 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.
- v. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
  - vi. Consent may be initially given but withdrawn at any time. When consent is withdrawn or can no longer be given, sexual activity must stop.
- c. **Sexual Act/Sexual Activity** is
- i. Any form of vaginal, anal, or oral penetration or attempted penetration, however slight, by a penis, object, tongue or finger.
  - ii. Any sexual contact, including sexual touching. 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.
- d. **Complainant** refers to the individual who alleges that they have been the subject of Sexual Misconduct, and may be a CUNY student, employee (including all full-time and part-time faculty and staff and paid/unpaid interns) or visitor. Under this Policy, the alleged incident(s) may have been brought to the college’s attention by someone other than the complainant.
- e. **Confidentiality** is the commitment not to share any identifying information with others, except as required by law in emergency circumstances (such as risk of death or serious bodily harm). Confidentiality may only be offered by individuals who are not required to report known incidents of Sexual Misconduct to college officials. Licensed mental health counselors, medical providers and pastoral counselors may offer confidentiality. See additional discussion in Section VI.
- f. **Day** Whenever this Policy refers to a “day,” it means a calendar day other than a Saturday, Sunday or federal or state holiday.
- g. **Knowingly submitting false statements or information** means knowingly making false statements or submitting false information in connection with any allegation of Sexual Misconduct (as opposed to providing information which, even if erroneous, is provided in good faith). Anyone who knowingly makes false statements or submits false information in connection with any allegation of Sexual Misconduct will be subject to disciplinary action in accordance with CUNY Bylaws, policies and collective bargaining agreements.
- h. **Non-Title IX Sexual Misconduct Matter** is the term used to describe allegations of Sexual Misconduct that do not meet the definition of Title IX Sexual Harassment and therefore will be resolved, investigated and adjudicated pursuant to the procedures outlined in Section XII.
- i. **Party** is a complainant or respondent.
  - j. **Preponderance of evidence** is the standard of evidence used during the investigation and adjudication of Sexual Misconduct allegations under this Policy. A preponderance of the evidence means whether it is more likely than not that the Sexual Misconduct occurred.
  - k. **Privacy** is the assurance that an individual or the college will only reveal information about allegations of Sexual Misconduct to those who need to know the information in order to carry out their duties or responsibilities or as otherwise required by law. Individuals who are unable to offer the higher standard of confidentiality under law, but who are still

committed to not disclose information more than necessary, may offer privacy. See additional discussion in Section VI.

- l. Respondent** refers to the individual who is alleged to have committed Sexual Misconduct against a CUNY student, employee, or visitor.
- m. Retaliation** is adverse treatment of an individual as a result of that individual's reporting Sexual Misconduct, assisting someone to report Sexual Misconduct, opposing in a reasonable manner an act or policy believed to constitute Sexual Misconduct, or participating in any manner (or refusing to participate) in an investigation or resolution under this Policy. Adverse treatment includes intimidation, threats, coercion or discrimination for the purpose of interfering with any right or privilege secured by this Policy. All individuals are prohibited from engaging in retaliation, including complainants, respondents and others, such as friends or relatives of the parties.
- n. Title IX Formal Complaint** is a document filed by a complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a respondent and requesting that the college investigate the allegations. The Title IX Coordinator may sign a Title IX Formal Complaint with or without a complainant's desire to participate in a grievance process.
- o. Title IX Sexual Harassment Matter** is the term used to describe allegations of Sexual Misconduct that meet the definition of Title IX Sexual Harassment and therefore must be resolved, investigated and adjudicated pursuant to the Title IX grievance procedures required by the USDOE and outlined in Section XI.
- p. Visitor** is any person other than a CUNY student or employee who interacts with the CUNY community. CUNY alumni are considered visitors under this Policy.
- q. Writing** Whenever this Policy requires a "writing," electronic mail satisfies the writing requirement.

#### **IV. TITLE IX COORDINATOR**

Each college or unit of CUNY has an employee who has been designated as the Title IX Coordinator.<sup>8</sup> This employee is responsible for compliance with Title IX of the Education Amendments of 1972, 20 U.S.C. chapter 38, which prohibits sex discrimination in education programs (including Title IX Sexual Harassment as it is defined above), New York State Law Article 129-B ("Enough is Enough") and other federal, state and local laws pertaining to sex discrimination and sexual misconduct. The Title IX Coordinator has overall responsibility for implementing this Policy, including overseeing the investigation of allegations of Sexual Misconduct at their college or unit (including Title IX Sexual Harassment matters and Non-Title IX Sexual Misconduct matters) and carrying out the other functions of that position set forth in this Policy. All Title IX Coordinators will receive annual training as required by Title IX, the Clery Act, Enough is Enough, and other civil rights laws. The name and contact information for all Title IX Coordinators at CUNY can be found on CUNY's dedicated [Title IX website](#).<sup>9</sup> Title IX Coordinator training obligations are discussed in Section XIII.

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<sup>8</sup> Any reference to the Title IX Coordinator may also include their designee.

<sup>9</sup> <http://www1.cuny.edu/sites/title-ix/campus-websites/campus/university/>.

## V. RESOURCES AND INFORMATION FOR INDIVIDUALS AFFECTED BY SEXUAL MISCONDUCT

CUNY is committed to providing assistance, support and resources to those affected by Sexual Misconduct. This Section discusses a complainant's option of reporting Sexual Misconduct to outside law enforcement, the differences between CUNY's process and procedures and those of outside law enforcement and how to obtain immediate medical attention and emotional support.

### A. Reporting to Outside Law Enforcement

Students, employees and other community members may choose to report Sexual Misconduct to local law enforcement and/or state police ("outside law enforcement"). However, CUNY does not require that a complainant report Sexual Misconduct to outside law enforcement; nor will CUNY do so without the complainant's agreement, except in exceptional circumstances. The college may report Sexual 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 Sexual Misconduct to outside law enforcement, CUNY will provide assistance. 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 both on and off-campus and in obtaining immediate medical attention and other services.

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

### B. Differences between CUNY's Process and Procedures and Those of Outside Law Enforcement

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

Students, employees and other community members should be aware that CUNY procedures and standards differ from those of criminal law. When CUNY investigates allegations of Sexual Misconduct or brings disciplinary proceedings for violations of this Policy, the issue is whether the respondent violated CUNY policy. The standard applied in making this determination is whether the preponderance of the evidence supports a finding of responsibility, or, stated another way, whether it is more likely than not that the alleged conduct occurred. An individual found to have violated this Policy may be sanctioned by the college and CUNY. In the criminal justice system, on the other hand, the issue is whether the accused violated criminal law. The standard

applied is proof beyond a reasonable doubt and an individual found guilty of a crime is subject to criminal penalties, such as incarceration, probation and fines. More information about relevant criminal laws is available in “[A Plain Language Explanation of Distinction Between the New York Penal Law and the College Disciplinary Processes.](#)”<sup>10</sup>

### **C. Obtaining Immediate Medical Attention and Emotional Support**

CUNY encourages anyone who has experienced Sexual Assault, Domestic Violence or Dating Violence to seek medical attention as soon as possible. Medical resources can provide treatment for injuries, preventative treatment for sexually transmitted diseases, emergency contraception and other health services. They can also assist in preserving evidence or documenting any injuries. Taking these steps promptly after an incident can be helpful if an individual later decides to pursue criminal charges or a protective order.

Individuals who have experienced or witnessed Sexual Assault, Domestic Violence or Dating Violence 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. Counselors are trained to provide crisis intervention and provide referrals for longer-term care as necessary.

CUNY also maintains a [list of off-campus emergency contacts and resources](#)<sup>11</sup>, including rape crisis centers, available throughout New York City on its dedicated web page. This includes a list of local hospitals designated as SAFE (Sexual Assault Forensic Examiner) hospitals, which are specially equipped to handle sexual assaults and trained to gather evidence from such assaults.

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<sup>10</sup> <http://www1.cuny.edu/sites/title-ix/campus-websites/campus/university/>.

<sup>11</sup> <http://www1.cuny.edu/sites/title-ix/campus-websites/resources/>.

## **VI. IMPORTANT INFORMATION ABOUT REPORTING/CONFIDENTIALITY OBLIGATIONS OF COLLEGE AND CUNY EMPLOYEES**

CUNY values the privacy of its students, employees and visitors and recognizes that they should be able to seek the assistance they need without fear that the information they provide will be shared more broadly. An individual who speaks to a college or CUNY employee about Sexual Misconduct should be aware that employees fall into three categories:

- a. Confidential Employees** have an obligation to maintain a complainant's confidentiality regarding allegations of Sexual Misconduct and will not share any identifying information with others, except as required by law in emergency circumstances;
- b. Responsible Employees** are required to report allegations of Sexual Misconduct to the Title IX Coordinator but will protect an individual's privacy to the greatest extent possible and share information with other staff only on a need-to-know basis; and
- c. All other employees** are strongly encouraged, but not required to report allegations of Sexual Misconduct to the Title IX Coordinator. These employees are otherwise encouraged to protect an individual's privacy to the greatest extent possible and share information only with the Title IX Coordinator.

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

### **A. Confidential Employees**

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

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

If a student speaks solely to a confidential employee, the college will rarely be able to conduct an investigation into the allegations or pursue disciplinary action against the respondent. Confidential employees will assist students in obtaining other necessary support.

- b. For Employees.** Although CUNY does not directly employ individuals to whom CUNY employees can speak on a confidential basis regarding Sexual Misconduct, free confidential support services are available through [CUNY's Work/Life](#)

[Program](#)<sup>12</sup>, which is administered by an outside company. Confidential community counseling resources are also available [throughout New York City](#).<sup>13</sup>

Complainants may use these confidential resources even if they decide not to report allegations of Sexual Misconduct or participate in an investigation, CUNY resolution process or the criminal justice process. A complainant who first speaks to a confidential resource may later decide to report allegations to the college or with outside law enforcement.

## **B. Responsible Employees**

Individuals designated as responsible employees have a duty to report allegations of Sexual Misconduct, including all relevant details, to the Title IX Coordinator. These employees are not permitted to maintain a complainant's confidentiality, but will maintain a complainant's privacy to the greatest extent possible, and information reported to them will be shared only with the Title IX Coordinator and other people responsible for handling the college's response to the report.

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

CUNY has designated the following individuals as responsible employees:

- a. University Title IX Director
- b. College Title IX Coordinator and staff
- c. Office of Public Safety employees
- d. Vice President for Student Affairs or Dean of Students and all staff housed in those offices (other than staff that are designated as confidential employees)
- e. Residence Life staff in CUNY owned or operated housing, including Resident Assistants
- f. Directors and Deputy Directors of Human Resources
- g. College President, Vice Presidents and Deans
- h. Athletics Staff
- i. Department Chairpersons/Executive Officers
- j. CUNY Office of the General Counsel attorneys and College/unit attorneys
- k. College/unit labor designee
- l. Faculty and staff members at times when they are leading or supervising students on off-campus trips
- m. International Education Liaisons/Study Abroad Campus Directors and Field Directors
- n. All employees at Hunter College Campus Schools
- o. College Childcare Center staff
- p. Managers or supervisors, regarding alleged Sexual Misconduct involving people who report to them
  - i. **Managers** are employees who have authority to make tangible employment decisions with regard to other employees, including the authority to hire, fire, promote, compensate or assign significantly different responsibilities.

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<sup>12</sup> <https://www.cuny.edu/about/administration/offices/hr/benefits/>.

<sup>13</sup> <https://nownyc.org/womens-justice-now/get-help/>.



- ii. **Supervisors** are employees who are not managers, but have a sufficient degree of control over the working conditions of one or more employees, which might include evaluating their performance and making recommendations for changes in employment status that are given particular weight.

**C. Special Rules Concerning Public Awareness and Advocacy Events**

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

## **VII. REPORTING SEXUAL MISCONDUCT TO THE COLLEGE**

In order for CUNY to address allegations of Sexual Misconduct, it has to learn about the allegations. Accordingly, CUNY strongly encourages individuals who have experienced Sexual Misconduct to report allegations to a designated campus official, as set forth in “Where to Report Allegations of Sexual Misconduct on Campus” below. The designated officials are trained to receive allegations of Sexual Misconduct, to ensure they are investigated in accordance with this Policy and to help complainants get necessary assistance. Students, employees and visitors are encouraged to report allegations of Sexual Misconduct to campus officials, regardless of whether they have reported the incident to outside law enforcement authorities and regardless of where the incident took place.

### **A. Complainant’s Rights**

Individuals who have experienced Sexual Misconduct have the right to report allegations to the college or to decide not to do so. Students who report Sexual 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 properly respond and to repeat the description as few times as practicable (subject to the procedures outlined in Sections XI and XII).
- e. To have allegations of Sexual Misconduct investigated in accordance with CUNY policy.
- 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.

## **B. Where to Report Allegations of Sexual Misconduct on Campus**

Students, employees and visitors who experience Sexual Misconduct and wish to report the allegations to the college/CUNY, should notify one of these campus officials/offices:

- a. Title IX Coordinator;
- b. Office of Public Safety;
- c. Office of Vice President for Student Affairs or Dean of Students;
- d. Residence Life staff in CUNY owned or operated housing; or
- e. Human Resources Director.

Contact information for these officials can be found at CUNY's [Title IX Website](#). Complainants are encouraged, but not required, to complete the CUNY Sexual Misconduct Allegation Form. After the form is filled out, it should be brought to one of the offices listed above or submitted electronically through the college's Title IX website (where available) or by email. The college will also respond to allegations made without the form, whether oral or written.

When any of the officials or offices above is notified of allegations of Sexual Misconduct, they will provide a copy of this Policy to the complainant and coordinate with appropriate college offices to address the matter in accordance with this Policy, including providing appropriate supportive measures (addressed in Section VIII, below). These officials and offices will maintain a complainant's privacy to the greatest extent possible, and all information in connection with the allegations, including the identities of the complainant and the respondent, will be shared only with those who have a legitimate need for the information.

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

Whether a college may maintain a complainant's anonymity or request to not conduct an investigation, depends on whether the allegations will proceed as a Title IX Sexual Harassment matter or a Non-Title IX Sexual Misconduct matter (See Section X).

If the allegations will proceed as a Title IX Sexual Harassment matter, the Title IX Coordinator must inform the complainant that the complainant's identity may not be kept anonymous if the complainant wishes to proceed with a Title IX Formal Complaint, and that the notice to the respondent will reveal the complainant's identity. The complainant may choose whether to file a Title IX Formal Complaint when so informed. If the complainant chooses not to file a Title IX Formal Complaint, their identity will not be disclosed to the respondent.

If the allegations will proceed as a Non-Title IX Sexual Misconduct matter, a complainant may request: (a) that the matter be investigated only to the extent possible without further revealing their identity or revealing further details and/or (b) that no investigation into a particular incident be conducted. If a complainant makes such a request, the Title IX Coordinator will weigh the complainant's request against the college's obligation to provide a safe, non-discriminatory environment for all students, employees and visitors, including the complainant. Factors used to determine whether to honor such a request include, but are not limited to: (a) whether the respondent has a history of violent behavior or is a repeat offender; (b) whether the incident represents escalation of unlawful conduct by the accused from previously noted behavior; (c) any increased risk that the accused will commit additional acts of violence, (d) whether the accused used a weapon or force; (e) whether the complainant is a minor; (f) whether the college possesses other means to obtain evidence such as security footage and (g) whether available information reveals pattern of misconduct at a given location or by particular group.

The college's decision to maintain the complainant's anonymity does not mean that anonymity can be guaranteed in all circumstances; rather, the college will make reasonable efforts to keep information confidential consistent with law. Of course, a college's ability to meaningfully investigate the incident and pursue disciplinary action may be limited by such a request for anonymity. Notwithstanding the decision of the Title IX Coordinator regarding the scope of any investigation, the college will provide the complainant with ongoing assistance and support, including, where appropriate, the supportive measures and accommodations set forth in Section VIII of this Policy.

#### **D. Filing External Complaints**

Individuals who feel that they have been subjected to Sexual 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 outside agencies listed below:

- a. [U.S. Department of Education, Office for Civil Rights](http://www2.ed.gov/about/offices/list/ocr/complaintprocess.html)<sup>14</sup>
- b. [U.S. Equal Employment Opportunity Commission](https://www.eeoc.gov/federal/fed_employees/filing_complaint.cfm)<sup>15</sup>
- c. [New York State Division of Human Rights](https://dhr.ny.gov/complaint)<sup>16</sup>
- d. [New York City Commission on Human Rights](http://www1.nyc.gov/site/cchr/about/resources.page)<sup>17</sup>

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

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<sup>14</sup> <http://www2.ed.gov/about/offices/list/ocr/complaintprocess.html>.

<sup>15</sup> [https://www.eeoc.gov/federal/fed\\_employees/filing\\_complaint.cfm](https://www.eeoc.gov/federal/fed_employees/filing_complaint.cfm).

<sup>16</sup> <https://dhr.ny.gov/complaint>.

<sup>17</sup> <http://www1.nyc.gov/site/cchr/about/resources.page>.

### **E. Action by Bystanders**

CUNY encourages employees, students and visitors to take reasonable and prudent actions to prevent or stop an act of Sexual 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 a person in authority.

In addition, CUNY encourages employees, students and visitors to report any incident of Sexual Misconduct that they observe or become aware of to the Title IX Coordinator or the offices referenced in Section VII-B, above. Individuals who take action in accordance with this paragraph will be supported by the college, and anyone who retaliates against them will be subject to discipline.

### **F. Amnesty for Drug and Alcohol Use**

The health and safety of every student at CUNY is of the utmost importance. CUNY recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at a time that Sexual 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 Sexual Misconduct to college officials. A bystander or complainant acting in good faith who discloses any incident of Sexual Misconduct to college officials or law enforcement will not be subject to discipline under [CUNY's Policy on Drugs and Alcohol](#)<sup>18</sup> for violations of alcohol and/or drug use policies occurring at or near the time of the Sexual Misconduct.

### **G. Reporting Retaliation**

An individual may report allegations of retaliation to the Title IX Coordinator if the individual has been subject to retaliation, as defined in Section III. All retaliation allegations will be investigated in accordance with the investigation procedures set forth in this Policy, and individuals who are found to have engaged in retaliation will be subject to disciplinary action.

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<sup>18</sup> <https://www.cuny.edu/wp-content/uploads/sites/4/page-assets/about/administration/offices/legal-affairs/policies-procedures/Policy-Against-Drugs-and-Alcohol.pdf>.

## **VIII. SUPPORTIVE MEASURES AND ACCOMMODATIONS**

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 avoid an ongoing hostile environment. Supportive measures and accommodations are available to complainants, respondents and other affected parties. Supportive measures are available when a college becomes aware of allegations of Sexual Misconduct (including both Title IX Sexual Harassment matters and Non-Title IX Sexual Misconduct matters), whether or not a complainant chooses to move forward with an investigation and/or resolution. Supportive measures may be provided on an interim or continuing basis. The college may also take reasonable measures to ensure the safety of the college community at large.

The Title IX Coordinator is responsible for coordinating and ensuring the effective implementation of supportive measures and accommodations. When a college learns of allegations of Sexual Misconduct, the Title IX Coordinator will promptly contact a complainant to discuss the availability of supportive measures and accommodations, discuss the complainant's wishes with respect to supportive measures and accommodations and inform complainant that supportive measures and accommodations are available even if the complainant does not wish to proceed with an investigation and/or resolution of the allegations. Requests for supportive measures and accommodations should be made to the Title IX Coordinator.

The Title IX Coordinator will work with the Chief Student Affairs Officer<sup>19</sup> to identify a trained staff member to assist students to obtain supportive measures and accommodations. The Title IX Coordinator will work with the Human Resources Director to assist employees to obtain supportive measures and accommodations.

### **A. Range of Supportive Measures and Accommodations**

Possible supportive measures and accommodations may include:

- a. Making 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, providing an academic tutor, or extending deadlines for assignments;
- b. Making appropriate changes to residential housing situations or providing assistance in finding alternate housing;
- c. Changing an employee's work assignment or schedule;
- d. Providing an escort to and from class or campus work location;
- e. Arranging appropriate transportation services to ensure safety;
- f. Offering counseling services through the college Counseling Center or other appropriate office, or referral to an off-campus agency;
- g. Enforcing an Order of Protection issued by a court;
- h. Issuing a No Contact Order whereby continued intentional contact would be a violation of CUNY Policy and subject to disciplinary action (see discussion below); and

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<sup>19</sup> Any reference to the Chief Student Affairs Officer may also include their designee.

- i. Emergency removal of a respondent when they pose an imminent threat to the physical health or safety of any person (see discussion below).

## **B. No Contact Orders**

A No Contact Order is a directive issued by a college prohibiting intentional contact or communication between specified parties. An individual who intentionally violates a No Contact Order is in violation of CUNY Policy and will be subject to disciplinary action. No Contact Orders may be issued for both complainants and respondents, as well as other individuals as appropriate. No Contact Orders are issued by the Chief Student Affairs Officer (for students) and the Director of Human Resources (for employees).

## **C. Emergency Removal**

In exceptional circumstances, where a respondent presents an immediate threat to the physical health or safety of any student or other individual arising from a report of Sexual Misconduct, the college may effectuate an emergency removal of a student or take similar emergency measures against an employee, consistent with applicable CUNY Bylaws and policies.

Prior to emergency removal under this Section, the President or their designee will, in cooperation with the appropriate campus officials, conduct an individualized safety and risk analysis to determine whether a respondent presents an immediate threat to the physical health or safety of any person arising from a report of Sexual Misconduct. The college will give the student respondent notice and an opportunity to challenge the decision immediately following the removal (see Section VIII-D, below). Both parties will be notified at the same time and in the same manner of the emergency removal and if or when the emergency removal is lifted.

## **D. Process for Review of Supportive Measures and Accommodations, Including No Contact Orders and Emergency Removal**

Parties may request a prompt review of the need for and terms of supportive measures that directly affect them, including No Contact Orders and emergency removal. Issues that may be raised include possible modification or discontinuance of a No Contact Order.

If either party is a student, a request for review must be made to the college's Chief Student Affairs Officer. If neither party is a student, a request for review must be made to the college's Human Resources Director. If a case involves both a student and an employee, the Chief Student Affairs Officer will consult with the Human Resources Director before making a decision. Requests for review must be in writing and parties may submit evidence to support their request. All requests will be reviewed within seven (7) days after receipt.

## **IX. EVALUATION OF INITIAL ALLEGATIONS OF SEXUAL MISCONDUCT**

Upon learning of allegations of Sexual Misconduct, the Title IX Coordinator will evaluate whether the alleged behavior falls within the scope of Title IX Sexual Harassment. If the alleged Sexual Misconduct meets these criteria, it must proceed as a Title IX Sexual Harassment matter:

- a. the allegations, if true, meet the definition of Title IX Sexual Harassment as defined above in Section III; and
- b. at the time the allegations are made, the complainant is participating in, or attempting to participate in an education program or activity at CUNY.

If the alleged Sexual Misconduct does not meet the above criteria, the allegations will proceed as a Non-Title IX Sexual Misconduct matter. For allegations that involve multiple incidents of Sexual Misconduct, some of which qualify as a Title IX Sexual Harassment matter and some of which qualify as a Non-Title IX Sexual Misconduct matter, the allegations will proceed as a Title IX Sexual Harassment matter. Allegations of discrimination covered by CUNY's Equal Opportunity and Non-Discrimination Policy will continue to be referred to the Chief Diversity Officer and handled pursuant to separate procedures outlined in that policy.

Rights and procedures that apply to all Sexual Misconduct matters are addressed in Section X. Procedures for the investigation, resolution and/or adjudication of Title IX Sexual Harassment matters are addressed in Section XI. Procedures for the investigation, resolution and/or adjudication of Non-Title IX Sexual Misconduct matters are addressed in Section XII.



**X. RIGHTS AND PROCEDURES THAT APPLY TO ALL SEXUAL MISCONDUCT MATTERS**

The following rights and procedures apply to all allegations of Sexual Misconduct, regardless of whether the allegations will proceed as a Title IX Sexual Harassment matter or a Non-Title IX Sexual Misconduct matter.

**A. Rights of Parties during any Investigation and Resolution**

Parties will have the following rights when an investigation or resolution is initiated under either Section XI or XII of this Policy:

- a. To an investigation and process that is fair, impartial, timely, thorough and provides a meaningful opportunity to be heard;
- b. To have the allegations investigated and/or adjudicated by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, and the rights of the respondent, including the right to a presumption that the respondent is "not responsible" until any finding of responsibility;
- c. To have the allegations investigated, resolved and/or adjudicated by individuals who are free from a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent;
- d. To have the college's judicial or conduct process run concurrently with any criminal justice investigation and proceeding, except for temporary delays requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than ten (10) days except when law enforcement specifically requests and justifies a longer delay;
- e. To an investigation process where the burden of proof and burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the college and not on the parties;
- f. To receive reasonable advance written notice of any meeting they are required to or eligible to attend;
- g. To exclude their own prior sexual history with persons other than the other party in the investigation or conduct process and their own mental health diagnosis and/or treatment, subject to certain exceptions described in Sections XI and XII;
- h. To offer evidence during the investigation;
- i. To have irrelevant evidence excluded from any hearing;
- j. To review documents and tangible evidence, consistent with the Family Educational Rights and Privacy Act ("FERPA") and other laws (see Sections XI or XII for additional details);
- k. To be accompanied by an advisor of their choice (who may be an attorney), who may assist and advise throughout the process, including during all related meetings and hearings. Advisors must comply with applicable CUNY policies and procedures;<sup>20</sup>
- l. To simultaneous notice of the outcome of proceedings, including written notice of findings of fact, decisions and sanctions if any, as well as the rationale for the decision and any sanction;

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<sup>20</sup> For Title IX Sexual Harassment matters, CUNY will provide an advisor to any party who does not have one, for the limited purpose of conducting cross examination at a hearing. See Section XI-E-c-ii for more information.

- m. To access to a full and fair record of any hearing;
- n. To protection against retaliation as defined in Section III; and
- o. To protection against the provision of false statements and evidence, as defined in Section III.

## **B. Informal Resolution**

Informal Resolution is an alternative to the formal investigation and adjudication procedures outlined in Sections XI and XII and may include administrative resolution (such as a mutual agreement to abide by a No Contact Order), acceptance of responsibility and penalty, mediation or other alternative dispute resolution. In some cases, informal resolution may represent a beneficial outcome for both parties by providing an alternative to the formal investigation and adjudication process.

This informal resolution process is available in matters proceeding as Title IX Sexual Harassment matters and Non-Title IX Sexual Misconduct matters, except in cases involving Title IX Sexual Harassment allegations by a student against an employee.

Informal resolution may take place at any point prior to a determination of responsibility. For Title IX Sexual Harassment matters, informal resolution is available after a Title IX Formal Complaint is filed. The Title IX Coordinator must consider every eligible case for informal resolution. When the Title IX Coordinator determines that it is appropriate to refer a matter for informal resolution, the Title IX Coordinator will provide the parties with written notice that an informal resolution is being offered to resolve the allegations. This written notice will include:

- a. A description of the allegations;
- b. The requirements of the informal resolution process, including the circumstances under which an informal resolution will preclude the parties from resuming an investigation and formal resolution arising from the same allegations;
- c. Potential consequences resulting from participating in the informal resolution process, including what records will be maintained or could be shared with the other party; and
- d. Notice that either party has the right to withdraw from the informal resolution process and resume an investigation and formal resolution process at any time prior to agreeing to an informal resolution.

Both parties must agree to begin the informal resolution process. The time frame for investigations will be tolled while the parties engage in the informal resolution process. The Title IX Coordinator must reevaluate the parties' progress towards informal resolution every thirty (30) days and has the discretion to terminate the informal resolution process and resume the investigation at any time.

Upon referral by the Title IX Coordinator, the informal resolution process is conducted by a qualified staff or faculty member designated by the Title IX Coordinator, in coordination with the Chief Student Affairs Officer or a designated Human Resources representative, as applicable. Either party has the right to end the informal resolution process at any time prior to finalizing an informal resolution agreement.

Any agreement reached through informal resolution must be acceptable to both parties and the college. If a resolution is reached, the parties will be notified in writing, and a written memorandum

will memorialize the agreed upon resolution. Both parties must provide their voluntary, written consent before an informal resolution agreement is finalized. Once finalized, the obligations in the agreement will be binding and the allegations of Sexual Misconduct (and for Title IX Sexual Harassment matters, the Title IX Formal Complaint) will be deemed resolved. Once finalized, this memorandum will be maintained for seven (7) years, in compliance with recordkeeping requirements outlined in Section X-J.

Information learned as a direct result of the informal resolution process will not be documented in an investigatory report or subsequent adjudication. However, information learned from another source will not be excluded from an investigatory report or subsequent adjudication merely because it was discussed or raised during the informal resolution process. The staff or faculty member conducting the informal resolution process is precluded from participating as a witness in the investigation or participating as a witness or presenter in a subsequent adjudication. Violations of informal resolution agreements will be referred for discipline or other appropriate action in accordance with CUNY Bylaws, policies and collective bargaining agreements.

### **C. CUNY-wide Sexual Misconduct Panel and Committee Structure**

CUNY will constitute a CUNY-wide Sexual Misconduct Panel (“the Panel”) comprised of faculty members, Higher Education Officer series employees (“HEO”), and students from its constituent campuses, from which members will be drawn to serve as the decision-maker at hearings (Adjudication Committee) and the decision-maker of appeals (Appeal Committee) for both Title IX Sexual Harassment matters and Non-Title IX Sexual Misconduct matters. CUNY will consult with each College President to help constitute the Panel. When selecting faculty members, the President shall consult with the faculty member who is the head of the appropriate campus governance body or where the President is the head of the governance body, the faculty members of its executive committee. Each Panel member should be specially trained annually on the relevant law and this Policy.

Each Adjudication and Appeal Committee shall be comprised of three members of the Panel. Panel members will be selected on a rotation basis and will serve CUNY-wide, but will not serve on cases from their home campus. For cases in which the respondent is a student, each Committee will consist of one (1) faculty member or one (1) HEO, one (1) student member and a chairperson, who will be a faculty member or HEO. For cases in which the respondent is a faculty member, each committee will consist of two (2) faculty members and a chairperson, who may be a faculty member or HEO. For cases in which the respondent is an HEO, each committee will consist of two (2) HEOs and a chairperson, who may be a faculty member or HEO. For all other cases in which the respondent is an employee, each committee will consist of two (2) faculty members or one (1) faculty member and one (1) HEO and a chairperson, who may be either a faculty member or HEO.

The chairperson of each Committee will preside at all meetings and decide and make all procedural rulings for the Committee. The 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 and faculty representation.

In the event that any Committee member, including the chairperson, cannot continue, the University Title IX Director will appoint another Committee member from the Panel to fill the vacant seat.

Panel members will not participate in a case 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 a Committee if they have previously participated in a case involving the same parties.

#### **D. Conflict/Bias**

If a party believes that any individual involved in the investigation, resolution, adjudication or appeals process has a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent, either party may make a request to have that conflicted or biased individual removed from the process. Requests for removal must be made in writing within five (5) days of the notification that the individual is to be involved and include a detailed description of the conflict or bias. Requests for removal of a member of the Adjudication Committee must be made at least one (1) day before a hearing. 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 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 investigator, informal resolution facilitator or Committee member to ensure an impartial and fair process.

If any administrator designated by this Policy to participate in the investigation or resolution of Sexual Misconduct allegations is the respondent, the College President will appoint another college administrator to perform such person's duties under this Policy. If the President is the respondent, the investigation will be handled by the University Title IX Director or designee. In other appropriate cases in which a high-level administrator is the respondent, the investigation may be referred for investigation to the University Title IX Director or designee.

#### **E. Appeals From the Adjudication Committee's Determination of Responsibility**

A party may appeal the Adjudication Committee's determination of responsibility and/or the penalty imposed on the following grounds:

- a. Procedural irregularity that affected the outcome of the matter
- b. New evidence that was not reasonably available at the time of the hearing, which could affect the outcome of the matter
- 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;<sup>21</sup> or
- d. The disproportionate nature of the penalty.

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<sup>21</sup> Allegations of conflict or bias will be considered waived unless they are raised in a timely manner, pursuant to Section X-D, above.

The Appeal Committee may modify the penalty or remand the matter for a new hearing.

Parties intending to appeal under this section must send a written Notice of Appeal to the University Title IX Director within fifteen (15) days after the delivery of the written determination of responsibility. The University Title IX Director will notify the non-appealing party in writing within five (5) days of receipt of the Notice of Appeal and will instruct the college to provide the hearing recording to the parties. The college will provide the hearing recording to the parties in a timely manner.

The appealing party must submit their written appeal to the University Title IX Director within fifteen (15) days after the delivery of the hearing recording. The University Title IX Director will provide the appealing party's submission to the non-appealing party within five (5) days of submission. The non-appealing party will have the opportunity to submit a written response to the appeal, due within fifteen (15) days after the delivery of the appealing party's submission.

The University Title IX Director will facilitate the composition and scheduling of the Appeal Committee, which will be comprised of members of the CUNY-wide Sexual Misconduct Panel. The composition of the Appeal Committee is described above in Section X-C. Panel members that served on the Adjudication Committee will not serve on the Appeal Committee for the same matter.

The Appeal Committee will review the hearing materials and written submissions of the parties. The Appeal Committee will issue a written decision that indicates the final outcome and rationale for that decision within fifteen (15) days of receipt of the non-appealing party's written submission or failure to provide a submission. The written decision will be provided simultaneously to both parties.

#### **F. Hearing Recording**

The college shall make a recording of each hearing by some means such as a stenographic transcript, an audio recording or the equivalent. No other recording of the proceedings is permitted. A respondent who has been found responsible after a hearing is entitled upon request to a copy of such a record without cost upon the condition that it is not to be disseminated except to the respondent's advisor. In the event of an appeal, 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 advisors.

#### **G. Prohibition on Unauthorized Copying or Recording**

The parties 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 directive. Allegations of non-compliance will be reviewed by the Office of Student Affairs, or Human Resources, as appropriate, and may result in disciplinary action.

## **H. Student Respondent Withdrawal Before Allegations are Resolved**

A student who withdraws from CUNY shall not be exempt from a Sexual Misconduct investigation or adjudication that commenced prior to withdrawal. When a student respondent withdraws from CUNY with a Sexual Misconduct investigation or adjudication pending, the respondent will be barred from attending any other college, school, or unit 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 shall be binding, pending appeal.

When a college is notified of a respondent's withdrawal, the 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 penalty is either suspension or expulsion, the transcript notation will be adjusted in accordance with Section X-I, below.

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

### **I. Transcript Notations**

When a student respondent is found responsible and the penalty is either suspension or expulsion, the 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."

For all other cases, after four years from the date of the conclusion of the disciplinary proceeding, or one year after the conclusion of any suspension, whichever is later, the respondent has the right to request that a transcript notation from a finding of responsibility be removed. In cases where a student respondent was expelled as a result of a Clery Act crime of violence,<sup>22</sup> including but not limited to sexual assault, the notation will not be removed. If a finding of responsibility is vacated for any reason, the notation must be removed.

### **J. Recordkeeping**

All records related to a college's response to allegations of Sexual Misconduct must be maintained by the college 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 or accommodations taken in response to allegations of Sexual 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

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<sup>22</sup> See 20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII).

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.

## **XI. PROCEDURES FOR TITLE IX SEXUAL HARASSMENT MATTERS**

The following procedures apply only to Title IX Sexual Harassment matters.

### **A. Requirement of a Title IX Formal Complaint**

The Title IX Coordinator will determine if the manner in which the initial allegations were reported meets the criteria of a Title IX Formal Complaint, which is required to initiate a grievance process or resolution.

A Title IX Formal Complaint is a document filed by a complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment (as defined in Section III) against a respondent and requesting that the college investigate the allegations. The Title IX Coordinator may sign a Title IX Formal Complaint with or without a complainant's desire to participate in a grievance process. A Title IX Formal Complaint may be a physical document, email or electronic submission through a campus online form, so long as it contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the complaint.

If the manner in which the initial allegations were reported does not meet the criteria of a Title IX Formal Complaint, the Title IX Coordinator will contact the complainant to explain how to file a Title IX Formal Complaint and notify them that a Title IX Formal Complaint is required to resolve the allegations.

If no Title IX Formal Complaint is received within a reasonable time, the Title IX Coordinator may administratively close the matter. A complainant may file a Title IX Formal Complaint at any time thereafter.

### **B. Initiation of Title IX Grievance Procedure**

Upon receipt of a Title IX Formal Complaint, the Title IX Coordinator will notify the known parties that the college is commencing a Title IX grievance procedure. The notice will be in writing and will include the following:

- a. CUNY's Policy on Sexual Misconduct;
- b. Notice of the allegations, including sufficient details known at the time notice is sent, including the date, time and location of the alleged behavior, the identity of the parties and the specific act or acts that are alleged to violate the Policy's prohibition of Title IX Sexual Harassment, defined in Section III;
- c. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- d. A statement that the allegations outlined in the notice may not be the final allegations considered by the college, and notice that if the college decides to investigate additional allegations, the college will provide notice of the additional allegations in a timely manner and with sufficient time for the parties to prepare for any hearing;
- e. Notice that the parties may have an advisor of their choice, who may be an attorney;
- f. Notice that parties may inspect and review evidence, as outlined in Section XI-E-b;



- g. Notice that the parties are entitled to written notice of the date, time, location, participants and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate in any hearing, investigative interview or meeting;
- h. Notice that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the college and not on the parties;
- i. CUNY's prohibition on knowingly making false statements or knowingly submitting false information during the grievance process, as defined in Section III; and
- j. CUNY's prohibition on retaliation, as defined in Section III.

This notice will be provided at least five (5) days before any initial interview unless a party consents to a shorter period.

**C. Informal Resolution**

A Title IX Formal Complaint may be resolved through an informal resolution process (Section X-B).

**D. Dismissal of Title IX Formal Complaint Prior to Resolution**

- a. **Mandatory Dismissals** - If, at any time after receipt of a Title IX Formal Complaint, it becomes clear that the allegations, if true, do not meet the definition of Title IX Sexual Harassment, the Title IX Coordinator must dismiss the Title IX Formal Complaint.
- b. **Discretionary Dismissals** - The Title IX Coordinator may dismiss a Title IX Formal Complaint, or any allegations therein, if:
  - i. The complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the Title IX Formal Complaint or any allegations therein;
  - ii. The respondent is no longer enrolled or employed by CUNY; or
  - iii. Specific circumstances exist that prevent the college from gathering evidence sufficient to reach a determination as to the Title IX Formal Complaint or allegations therein.
- c. **Process following dismissal of Title IX Formal Complaint** - Upon mandatory or discretionary dismissal of a Title IX Formal Complaint, the Title IX Coordinator must determine whether the allegations will proceed as a Non-Title IX Sexual Misconduct matter. The parties will be notified of the dismissal in writing and provided an opportunity to appeal, as discussed in Section XI-D-d. This notice will include:
  - i. The basis for the dismissal;
  - ii. Whether the allegations will proceed as a Non-Title IX Sexual Misconduct matter; and
  - iii. The parties' right to appeal the dismissal and the procedures to do so.

- d. Appeal** - Either party may appeal the dismissal of a Title IX Formal Complaint on the following grounds:
- i. A procedural irregularity affected the outcome of the matter;
  - ii. New evidence that was not reasonably available at the time the dismissal was made, that could affect the outcome of the matter; and/or
  - iii. The Title IX Coordinator 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.

Appeals under this section must be directed to the University Title IX Director in writing within five (5) days after the delivery of the written dismissal notice.

The University Title IX Director will notify the non-appealing party in writing within five (5) days of the receipt of any appeal under this section, and will notify the non-appealing party of their opportunity to submit a written statement in support of, or challenging the dismissal of the Title IX Formal Complaint, due within five (5) days after the delivery of written notice from the University Title IX Director. The University Title IX Director will issue a written decision describing the result of the appeal and the rationale for the result within fifteen (15) days of the receipt of the appeal or within fifteen (15) days of the receipt of the opposing party's submission, whichever is longer. The University Title IX Director will provide the written decision simultaneously to both parties.

A Title IX Coordinator must wait until an appeal under this section is decided by the University Title IX Director before taking any further action as a Non-Title IX Sexual Misconduct matter.

## **E. Formal Resolution and Investigation**

### **a. Rights of the Parties**

When a Title IX Formal Complaint proceeds to formal resolution and investigation, the parties have the following rights in addition to those outlined in Section X-A:

- i. To have the Title IX Formal Complaint investigated, resolved and/or adjudicated by individuals who receive training as required by federal regulation;
- ii. To an evaluation of all relevant evidence, including both inculpatory and exculpatory evidence and credibility determinations that are not based on a person's status as a complainant, respondent or witness;
- iii. To receive reasonable advance written or electronic notice of allegations, including the date, time, location and general description of the allegations, as well as the specific conduct rule or law violated and the possible sanction;
- iv. To exclude questions and evidence about their own sexual predisposition or prior sexual behavior, unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent (complainant only);
- v. To exclusion (including the college's access, consideration, disclosure or other use) of a party's records that are made or maintained by a physician, psychiatrist, psychologist or

- other recognized professional or paraprofessional, and which are made and maintained in connection with the provision of treatment to the party, unless the college obtains the party's voluntary, written consent;
- vi. To offer evidence during the investigation, including both fact and expert witnesses and other inculpatory and exculpatory evidence;
  - vii. To an investigative report that fairly summarizes relevant evidence;
  - viii. To inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Title IX Formal Complaint, including inculpatory or exculpatory evidence whether obtained from a party or other source, consistent with FERPA and other law; and to submit a written response within ten (10) days of receiving said evidence and to have that written response considered by the Title IX Coordinator prior to the investigative report being finalized;
  - ix. To review the investigative report at least ten (10) days prior to any hearing and to respond in writing prior to a hearing or other time of determination regarding responsibility; and
  - x. To a live hearing and cross examination; CUNY will provide an advisor to any party who does not have one, for the limited purpose of conducting cross examination at a hearing.

#### **b. Investigation**

The Title IX Coordinator is responsible for conducting investigations in a prompt, thorough, and impartial manner. Whenever an investigation is conducted, the Title IX Coordinator must:

- i. Inform the parties that a Title IX grievance procedure and investigation is being commenced and their rights during such investigation, as outlined in Sections X-A and XI-E-a;
- ii. Coordinate investigative efforts with other appropriate offices;
- iii. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the college and not on the parties; and
- iv. Interview witnesses who might reasonably be expected to provide information relevant to the allegations, and review relevant documents and evidence.

The college must make reasonable efforts to ensure that the investigation is carried out within a reasonably prompt timeframe. While some allegations may require more extensive investigation, when possible, the investigation of a Title IX Formal Complaint must be completed within one hundred-twenty (120) days of receipt of the Title IX Formal Complaint (including the evidence review process, completion of the investigative report and report review process, as discussed below).

If there is a delay in completing the investigation, the Title IX Coordinator must notify the parties in writing and indicate the reason for the delay. The Title IX Coordinator should also note the reason for delay and projected timeline for completing the investigation in their case file. The reason for extension of the time frame 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 and witnesses; students 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.

### **i. Post Investigation Review of Relevant Documents and Materials**

Prior to the completion of the investigative report (discussed below), the Title IX Coordinator will send the parties (either in hard copy or electronic form) all of the relevant documents and materials gathered during the investigation that are directly related to the allegations raised in the Title IX Formal Complaint. These materials include any evidence upon which the Title IX Coordinator does not intend to rely when making a determination regarding responsibility and inculpatory or exculpatory evidence, whether obtained from a party or another source. The parties may submit a written response, due within ten (10) days after the materials are provided, which will be considered by the Title IX Coordinator prior to finalizing the investigative report.

The parties and their advisors must sign an agreement not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Title IX grievance process.

The parties will have access to use and refer to these documents and materials during a hearing.

### **ii. 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:

1. Procedural history of the case;
2. Alleged Policy violations;
3. A list of individuals interviewed;
4. A list of exhibits;
5. A list of additional documents and materials (not included as an exhibit) obtained as part of the investigation and directly related to the allegations, including inculpatory or exculpatory evidence; and
6. A summary of party and witness statements and other relevant evidence, including a summary of relevant evidence pertaining to each allegation.

### **iii. Review of Investigative Report**

Upon completion of the investigative report, and at least ten (10) days prior to any hearing, the Title IX Coordinator will send the report to each party (and the party's advisor, if applicable) for their review and written response. A party's written response to the report is due within ten (10) days after the report is provided, and will be shared with the Adjudication Committee and other party prior to a hearing.

### **c. Live Hearing**

Following the completion of the investigation and investigative report, as outlined above in Section XI-E-b, all Title IX Sexual Harassment matters will proceed to a live hearing. The same process and procedures will apply regardless of whether the respondent is a student or employee, although specific information regarding employee penalties is included in Section XI-E-c-ii-3 and Section XI-E-f.

When possible, the live hearing must be completed within sixty (60) days after completion of the investigation.

Live hearings pursuant to this section may be conducted with all parties physically present in the same geographic location or, at the college's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants to see and hear each other simultaneously.

### **i. Pre-hearing procedures**

#### **1. Referral for Hearing**

Following the conclusion of the investigative process, 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: University Title IX Director and college Office of Student Affairs.
- B. For employee respondents: University Title IX Director; college Office of Human Resources and college 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 (See Section X-C). 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 college Office of Student Affairs or college Office of Human Resources 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 both 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 must be sent by both first-class mail (or overnight mail) to the physical address or P.O. box address appearing on the records of the college and email using the party's CUNY email address, and any other email address known to the college. Notice of at least seven (7) days will be provided.

The parties are permitted one adjournment each, for a reasonable amount of time under the circumstances, without specifying a reason. Additional requests for an adjournment must be made at least five (5) days prior to the hearing date, and shall be granted or denied at the discretion of the chairperson of the Adjudication Committee. If either party fails to respond to the notice, appear on the adjourned date, or request an extension, the college may proceed without their presence, and any determinations of responsibility 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:
  - a. To present their side of the story;
  - b. To present witnesses and evidence on their behalf;
  - c. 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 must provide an advisor for the limited purpose of cross examination.
  - d. For their advisor to cross-examine witnesses presenting evidence;
  - e. For the respondent to remain silent without assumption of responsibility; and
  - f. A warning that anything said may be used at a non-college hearing.

### **3. Review of Evidence before Hearing**

At least five (5) days prior to the commencement of a hearing, the college will provide the parties and their advisors:

- A. A list of documents or other tangible evidence that the college intends to use at the hearing. In the event the college intends to use documents or other tangible evidence at the hearing that was not provided to the parties during the investigation phase, the college must provide those materials to the parties and their advisors at least five (5) days prior to commencement of a hearing; and
- B. A copy of the other party's written response to the investigative report.

At least five (5) days prior to the commencement of a hearing, the college will provide the members of the Adjudication Committee the following:

- A. The investigative report, including exhibits; and
- B. The parties' written responses to the investigative report.

#### **ii. Hearing Procedures**

All hearings pursuant to this Policy are closed hearings, meaning that participation and observation is limited to the parties, their advisors, witnesses, the Adjudication Committee, the college presenter and any college or CUNY staff required to coordinate the hearing.

#### **1. Roles and Responsibilities**

The participants at the hearing are the college, the respondent and the complainant.

#### **Adjudication Committee**

The Adjudication Committee, discussed in Section X-C, serves as the decision-maker at the hearing. Prior to the hearing, the Adjudication Committee will review the investigative report, exhibits and the parties' written responses to the investigative report. During the hearing, the Adjudication Committee will listen to the testimony, review and consider evidence and ask questions of the witnesses. After the hearing, the Adjudication Committee will consider all of the information and evidence reviewed, make a decision as to responsibility and penalty (if applicable) and issue a written determination of responsibility.

### **Adjudication Committee Chairperson**

The chairperson must preside at all hearing sessions and meetings. At the commencement of the hearing, the chairperson must inform the parties of the charges, the hearing procedures, and their rights. The chairperson must then ask the respondent to state whether they are responsible or not responsible for the conduct. The chairperson shall exclude from the hearing room all persons who are to appear as witnesses, except the respondent and the complainant.

The chairperson must rule on the admissibility of evidence and must exclude irrelevant questioning, testimony and evidence.

### **College Presenter**

The college will be represented by a presenter. Each academic year, the Chief Student Affairs Officer of each campus, must appoint/identify one or more campus college employees to serve as presenters for hearings against student respondents involving their campuses. Similarly, the College Labor Designee, Director of Human Resources or a designee must appoint/designate one or more campus college employees to serve as presenters against employee respondents involving their campuses. This list should be forwarded to the University Title IX Director and the Office of the Vice Chancellor for Student Affairs prior to the first day of the academic year.

### **Advisors**

The parties may be accompanied by an advisor of their choice (who may be an attorney) who may fully participate at the hearing, including advising and representing a party. In the event a party does not have an advisor present at the hearing, the college must provide an advisor for the limited purpose of conducting cross-examination on behalf of that party.

Advisors must treat all hearing participants, including the Adjudication Committee, parties and witnesses, with respect. Advisors must also abide by the Rules of Decorum promulgated by CUNY. Any party intending to appear with an attorney must give the college five (5) days' notice of the attorney's name and contact information.

## **2. Responsibility Phase**

The college bears the burden of proving the allegations by a preponderance of the evidence.

### **Presentation of Evidence**

Evidence will be presented in the following order: college, complainant and 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 grant and adjournment of the hearing as necessary in the interest of fairness, to permit the requesting party time to review the newly produced evidence.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the

complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Questions and evidence of the mental health diagnosis and/or treatment of any party may not be introduced, unless that party provided their voluntary and written consent for such materials to be made part of the investigation and the information is directly related to the allegations raised in the Title IX Formal Complaint.

### **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, but must do so through their advisor. In the event a party does not have an advisor and the case proceeds to a hearing, the college must provide an advisor for the limited purpose of conducting cross-examination on behalf of that party.

Before a complainant, respondent, or witness answers a cross-examination or other question, the Adjudication Committee Chairperson must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

If a party or witness does not submit to cross examination at the live hearing, the Adjudication Committee must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Adjudication Committee cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross examination or other questions.

### **3. Penalty Phase**

If a respondent is found responsible for violating the Policy, the Adjudication Committee will determine the penalty 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 penalty phase, and a determination that the respondent is responsible will be referred for discipline under the applicable collective bargaining agreement or Civil Service Law.

Following the responsibility phase of the hearing, the complainant, respondent, and college, will have the opportunity to introduce evidence and make arguments related to what the appropriate penalty should be, in the event the respondent is found responsible for violating the Policy. The complainant, respondent and college will also have the opportunity to introduce evidence of and comment on the respondent's character, including any past findings of responsibility for Domestic Violence, Stalking, Sexual Assault or any other Sexual Misconduct, and submit a statement regarding the impact of the conduct.

The college may also introduce a copy of the respondent's previous disciplinary records, if any, from any CUNY institution the respondent has attended, provided the respondent was shown a copy of the records prior to the commencement of the hearing.

The Adjudication Committee will consider the disciplinary records, as well as any documents or character evidence introduced by the respondent, the complainant, or the college, in determining an appropriate penalty.



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

#### **d. Determination of Responsibility**

Following the hearing, the Adjudication Committee will determine whether there is a preponderance of evidence that the respondent violated the Policy, which may be based on information contained in the investigative report and the testimony and evidence presented at the hearing.

The Committee will issue a written Determination of Responsibility, which must include the following:

- i. Identification of the allegations potentially constituting Sexual Misconduct;
- ii. A description of the procedural steps taken from the receipt of the Title IX Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- iii. Findings of fact supporting the determination;
- iv. Conclusions regarding the application of this Policy to the facts;
- v. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
- vi. If a student respondent is found responsible, any disciplinary sanctions that will be imposed on the respondent or, if an employee is found responsible, a statement that the matter will be referred for discipline under the applicable collective bargaining agreement or Civil Service Law, as applicable;
- vii. A statement of whether remedies designed to restore or preserve equal access to CUNY's education program or activity will be provided to the complainant; and
- viii. Procedures and permissible bases for the parties to appeal.

The college will send the written determination of responsibility to the parties simultaneously, within fifteen (15) days of the conclusion of the hearing. The determination of responsibility will be sent by both first-class mail (or overnight mail) to the physical address or P.O. box address appearing on the records of the college and email using the party's CUNY email address, and any other email address known to the college. In cases involving two or more complainants or respondents, the college has twenty (20) days from the conclusion of the hearing to send the decision. The decision is final subject to any appeal.

#### **e. 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 the recipient's education program or activity. Such remedies may include a continuation of the same supportive measures and accommodations described in Section VIII, but need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.

## **f. Sanctions for Respondents**

### **Range of Sanctions for Student Respondents**

Sanctions for student respondents range from a warning to suspension or expulsion from CUNY. When a disciplinary hearing results in a penalty 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 penalty is being served.

Students may also be subject to CUNY's policy on transcript notations which is discussed in Section X-I.

### **Range of Sanctions for Employees**

As discussed above in Section XI-E-c-ii-3, there will be no penalty phase for employees who is 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; instead, 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.

## **XII. PROCEDURES FOR NON-TITLE IX SEXUAL MISCONDUCT MATTERS**

The following procedures will apply to Non-Title IX Sexual Misconduct matters.

When the college becomes aware that Sexual Misconduct may have been committed by or against a student, employee or visitor, the college must conduct an investigation unless the information provided is insufficient to permit an investigation or the complainant has requested that the college refrain from such an investigation and the college has determined that refraining from an investigation will not result in a continuing threat to the college community. See Section VII-C.

### **A. Rights of the Parties**

Whenever an investigation of Non-Title IX Sexual Misconduct takes place, the parties have the rights described in Section X-A.

### **B. Informal Resolution**

A Non-Title IX Sexual Misconduct matter may be resolved through an informal resolution process (Section X-B).

### **C. Investigation**

The Title IX Coordinator is responsible for conducting any investigation in a prompt, thorough, and impartial manner. Whenever an investigation is conducted, the Title IX Coordinator must:

- a. Coordinate investigative efforts with other appropriate offices;
- b. Provide the parties written notice that an investigation is being commenced, including notice of the allegations and sufficient details known at the time notice is sent, including the date, time and location of the alleged behavior and the specific act or acts that are alleged to violate the Policy's prohibition on Sexual Misconduct;
- c. Interview witnesses who might reasonably be expected to provide information relevant to the allegations, and review relevant documents and evidence. Both the complainant and respondent must be informed that they have the right to provide relevant documents and to propose witnesses whom they reasonably believe can provide relevant information. A respondent employee who is covered by a collective bargaining agreement may consult with and have a union representative present at any interview of that employee conducted as part of such investigation; and
- d. Create an investigative report that fairly summarizes relevant evidence and makes findings as to whether, in the investigator's opinion, there is a preponderance of evidence that the respondent is responsible for the allegation(s).

The college must make reasonable efforts to ensure that the investigation and resolution of allegations of Sexual Misconduct are carried out within reasonably prompt timeframes. While some allegations may require more extensive investigation, when possible, the investigation of allegations of Sexual Misconduct (including completion of the investigative report) must be completed within one hundred-twenty (120) days of the receipt of the allegations.

If there is a delay in completing the investigation, the Title IX Coordinator must notify the parties in writing and indicate the reason for the delay. The Title IX Coordinator should also note the reason for delay and projected timeline for completing the investigation in their case file. The reason for extension of the time frame 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 and witnesses; students 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.

Upon completion of the investigation, the Title IX Coordinator must prepare an investigative report, which will fairly summarize and evaluate relevant evidence gathered during the investigation. The investigative report will include:

- a. Procedural history of the case;
- b. Alleged Policy violations;
- c. A list of individuals interviewed;
- d. A list of exhibits;
- e. Summary of party and witness statements and other relevant evidence;
- f. Analysis of evidence, including credibility assessments; and
- g. Factual findings regarding whether, in the investigator's opinion, there is a preponderance of evidence that the respondent is responsible for the allegation(s).

#### **D. Action Following the Investigation or Termination of an Investigation**

##### **a. Students**

If the complainant is a student, the Title IX Coordinator must provide the investigative report to both parties within five (5) days of the completion of the report. If the allegations are unsubstantiated, in whole or in part, the student complainant has the right to appeal the Title IX Coordinator's determination to an Appeal Committee. Appeals may be based on the following grounds:

- i. Procedural irregularity that affected the outcome of the matter
- ii. New evidence that was not reasonably available at the time of the investigation, which could affect the outcome of the matter; or
- iii. The Title IX Coordinator 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.

The complainant must submit their written appeal to the University Title IX Director within fifteen (15) days after the delivery of the investigative report. The University Title IX Director will provide the complainant's appeal to the respondent within five (5) days of submission. The respondent will have the opportunity to submit a written response to the appeal, due within fifteen (15) days after the delivery of the complainant's appeal.

The University Title IX Director will facilitate the composition and scheduling of the Appeal Committee, which will be comprised of members of the CUNY-wide Sexual Misconduct Panel, as outlined in Section X-C. The Appeal Committee will review the investigative report, the

complainant's appeal and the respondent's response, if any. The Appeal Committee will issue a written decision within fifteen (15) days of receipt of the respondent's written submission or failure to provide a submission. The written decision will be provided simultaneously to both parties.

If the Appeal Committee grants the appeal, it may remand the matter for appropriate action, which may include, but is not limited to, the evaluation of new evidence or a new investigation.

Following the appeal, if any, the Title IX Coordinator shall send the investigative report, as well as any decision on appeal, to the College President. If either party is a student, the investigative report must also be sent to the Chief Student Affairs Officer. A copy of the report and any decision on appeal must be maintained in the files of the Title IX Coordinator.

Following receipt of the investigative report, the College 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 others similarly situated. This may include a recommendation that disciplinary action be commenced against a respondent, as set forth in Section XII-E below, or for unsubstantiated findings, authorization to close the matter.

Within thirty (30) days following the termination of an investigation (for example, because it was resolved by informal resolution or the complainant withdrew cooperation); the Title IX Coordinator will summarize for the file the actions taken in response to the allegations and the basis on which the investigation was closed.

#### **b. Employees**

The Title IX Coordinator must provide the investigative report to the College President. Following receipt of the investigative report, the College 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 others similarly situated. This may include a recommendation that disciplinary action be commenced against a respondent, as set forth in Section XII-E below, or for unsubstantiated findings, authorization to close the matter.

Within thirty (30) days following the termination of an investigation (for example, because it was resolved by informal resolution or the complainant withdrew cooperation); the Title IX Coordinator will summarize for the file the actions taken in response to the allegations and the basis on which the investigation was closed.

### **E. Disciplinary Process and Procedures**

#### **a. Disciplinary Action**

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

### **i. Discipline Against Students**

When a College President recommends discipline against a student for violations of this Policy, the matter is referred to the college Office of Student Affairs and action must be taken in accordance with Section XI-E-b/c, below.

Sanctions for student respondents following a disciplinary hearing range from a warning to suspension or expulsion from CUNY. When a disciplinary hearing results in a penalty of expulsion or suspension for one term or more, the respondent must be barred from admission to, or attendance at, any other unit CUNY while the penalty is being served. Students may also be subject to CUNY's policy on transcript notations, discussed in Section X-I.

In addition to the rights described in Section X-A, the parties have the following rights at a disciplinary hearing:

1. To receive notice of the charges, including the date, time, location and factual allegations, concerning alleged violation of this Policy;
2. To receive notice of the specific provisions alleged to have been violated and possible sanctions;
3. To make an impact statement at the point when the Adjudication Committee is deliberating on appropriate sanctions;
4. To choose whether to disclose or discuss the outcome of a conduct or judicial process;
5. To appeal a determination of responsibility before a panel that is fair and impartial and does not include individuals with conflicts of interest;
6. To have all information obtained during the conduct process protected from public release until a decision-maker on appeal makes a final determination, unless otherwise required by law.

### **ii. Discipline Against Employees**

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

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

### **iii. Action Against Visitors**

In cases where the person accused of Sexual Misconduct is not a CUNY student or employee, the college's ability to take action against the respondent is usually limited. However, the college will take appropriate actions within its control, such as restricting the visitor's access to campus.

### **iv. No Disciplinary Action**

In cases where the College President decides not to bring disciplinary action, the Title IX Coordinator must inform the parties of that decision at the same time, in writing, and must offer any appropriate support services, including counseling, to both.

## **b. Student Discipline – Pre Hearing Procedures**

### **i. Referral of Violation for Disciplinary Action**

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

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

### **ii. Issuance of Notice of Charges and Hearing**

Notice of the charge(s) and of the time and place of the hearing must be sent by both first-class mail (or overnight mail) to the physical address or P.O. box address appearing on the records of the college and email using the party's CUNY email address, and any other email address known to the college.

The hearing must be scheduled within a reasonable time following the filing of the charges or the mediation conference. Notice of at least seven (7) days must be given to the parties in advance of the hearing unless the respondent consents to an earlier hearing. The parties are permitted one adjournment each, for a reasonable amount of time under the circumstances, without specifying a reason. Additional requests for an adjournment must be made at least five (5) days prior to the hearing date, and shall be granted or denied at the discretion of the chairperson of the Adjudication Committee. If either party fails to respond to the notice, appear on the adjourned date, or request an extension, the college may proceed without that party present, and any determination of responsibility or sanction will be binding.

The Notice of Charges and Hearing must contain the following:

1. A complete and itemized statement of the charge(s) being brought against the respondent including the policy, rule and/or bylaw the respondent is charged with violating, and the possible penalties for such violation; and
2. A statement that the parties have the right to attend and participate fully in the hearing including the right:

- a. To present their side of the story;
  - b. To present witnesses and evidence on their behalf;
  - c. To cross-examine witnesses presenting evidence, the exception being that the complainant and respondent may not cross-examine each other as discussed below;
  - d. For the respondent to remain silent without assumption of responsibility;
  - e. To be represented by an advisor or legal counsel at their expense; if the respondent or the complainant requests it, the college shall assist in finding a legal counsel or advisor; and
3. A warning that anything said may be used at a non-college hearing.

### **iii. Review of Evidence before Hearing**

At least five (5) days prior to the commencement of a hearing, the college must provide the parties (and their advisors, if applicable), with similar and timely access to review documents or other tangible evidence that the college intends to use at the disciplinary hearing, consistent with the restrictions imposed by FERPA. If a party submits documentary evidence during the hearing, the chairperson may, at the request of any other party, adjourn the hearing as necessary in the interest of fairness, to permit the requesting party time to review the newly produced evidence.

### **iv. Admission & Acceptance of Penalty**

After the charges have been preferred by the Chief Student Affairs Officer, but prior to the commencement of a hearing, the respondent may admit to the charges and accept the penalty that the Chief Student Affairs Officer determines to be appropriate to address the misconduct. Before resolving allegations in this manner, the Chief Student Affairs Officer, or designee, must first consult with the complainant and provide the complainant with an opportunity to object to the proposed resolution, orally and/or in writing. If a resolution is reached over the complainant's objection, the Chief Student Affairs Officer must provide the complainant with a statement of the reasons supporting such resolution, and the complainant may appeal the resolution to the Appeal Committee.

### **c. Student Discipline - Hearing Procedures**

The participants at the hearing are the college, the respondent and the complainant. All hearings pursuant to this Policy are closed hearings, meaning that participation and observation is limited to the parties, their advisors, witnesses, the Adjudication Committee, the college presenter and any college or CUNY staff required to coordinate the hearing.

#### **i. Roles and Responsibilities**

##### **Adjudication Committee**

The Adjudication Committee serves as the decision-maker at the hearing and is comprised of members of the CUNY-wide Sexual Misconduct Panel. The role of the Adjudication Committee is to listen to the testimony, ask questions of the witnesses, review the testimony and evidence presented at the hearing and the papers filed by the parties and make a decision as to responsibility.



In the event the respondent is found responsible for the conduct, the committee must then determine the penalty to be imposed.

### **Adjudication Committee Chairperson**

The chairperson must preside at the hearing. At the commencement of the hearing, the chairperson must inform the parties of the charges, the hearing procedures, and their rights. The chairperson must then ask the respondent to state whether they are responsible or not responsible for the conduct. Prior to accepting testimony at the hearing, the chairperson must rule on any motions regarding the adequacy of the notice of the charge(s). Subsequent thereto, the chairperson must rule on any motions regarding the admissibility of evidence and must exclude irrelevant, unreliable or unduly repetitive evidence. The chairperson must exclude from the hearing room all persons who are to appear as witnesses, except the respondent and the complainant.

The chairperson must preside at all hearing sessions and meetings and make all procedural rulings for the panel. The chairperson has discretion to limit the number of witnesses and the length of testimony for the presentations by any party and/or their representative.

### **College Presenter**

The college will be represented by a presenter. Each academic year, the Chief Student Affairs Officer of each campus, must appoint/identify one or more campus college employees to serve as presenters for hearings against student respondents involving their campuses. This list must be forwarded to the University Title IX Director and the Office of the Vice Chancellor for Student Affairs prior to the first day of the academic year.

### **Advisors**

The parties may be accompanied by an advisor of their choice (who may be an attorney) who may fully participate at a hearing, including advising and representing a party. Advisors may not give testimony as a witness at the hearing. Any party intending to appear with an attorney must give the college five (5) days' notice of the attorney's name and contact information. Advisors must treat all hearing participants, including the Adjudication Committee, parties and witnesses, with respect. Advisors must also abide by the Rules of Decorum promulgated by CUNY.

#### **ii. Responsibility Phase**

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

The parties will present evidence in the following order: college, complainant and respondent. At the conclusion of the college's presentation, the respondent may move to dismiss the charges. 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, adjourn the hearing as necessary in the interest of fairness, to permit the requesting party time to review the newly produced evidence.

Evidence of the mental health diagnosis and/or treatment of a complainant, respondent, or witness may not be introduced. Evidence of either party's prior sexual history may not be introduced except

that evidence of prior sexual history between complainant and respondent is admissible at any stage of the hearing to prove consent.

A party may not conduct cross-examination personally, but must do so through their advisor. In the event a party does not have an advisor and the case proceeds to a hearing, the college may assist them to find an advisor for the purpose of conducting cross-examination on behalf of that party.

### **iii. Penalty Phase**

If the panel finds the respondent responsible for the conduct, then the complainant, respondent, and college, will have the opportunity to introduce evidence and make arguments related what the appropriate penalty should be. The complainant, respondent and college will also have the opportunity to introduce evidence of and comment on the respondent's character, including any past findings of a respondent's responsibility for Domestic Violence, Stalking, Sexual Assault or any other Sexual Misconduct, and submit a statement regarding the impact of the conduct.

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

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

### **iv. Decision**

The Adjudication Committee must issue a written decision, which must be based solely on the testimony and evidence presented at the hearing, including the penalty phase. The college must send the written decision to the parties within seven (7) days of the conclusion of the hearing, by regular mail (or overnight mail) and e-mail to the address appearing on the records of the college. In cases involving two or more complainants or respondents, the college has fourteen (14) days of the conclusion of the hearing to send the panel's decision. The decision is final subject to any appeal.

### **XIII. COLLEGE OBLIGATIONS UNDER THIS POLICY**

In addition to addressing allegations of Sexual Misconduct, colleges/units of CUNY have the following obligations:

#### **A. Dissemination of Policies, Procedures, and Notices**

The Title IX Coordinator, in coordination with the Office of Student Affairs, Office of Public Safety, Human Resources Department and other appropriate offices, is responsible for the wide dissemination of the following on their campus: (i) this Policy; (ii) CUNY's Notice of Non-Discrimination; (iii) the Title IX Coordinator's name, phone number, office location, and email address and (iv) contact information for the campus Public Safety Office. Such dissemination includes posting the documents and information on the college website, and including it in residence life materials and training and educational materials.

The Students' Bill of Rights, which is appended to and made a part of this Policy, must be distributed to any individual reporting an incident of Sexual Misconduct at the time the report is made. It must also be distributed annually to all students, made available on the college's website and posted in college campus centers and in CUNY owned and operated housing.

#### **B. Training and Educational Programming**

CUNY is responsible for providing training to Title IX Coordinators, investigators, CUNY-wide Sexual Misconduct Panel members and anyone who facilitates informal resolutions.

The Title IX Coordinator, in coordination with other applicable offices, including Public Safety, Human Resources and Student Affairs, is responsible for ensuring that the college provides training to college employees on their obligations under this Policy; provides education on this Policy and on Sexual Misconduct (including Domestic Violence, Dating Violence, Stalking and Sexual Assault) to new and continuing students; and promotes awareness and prevention of Sexual Misconduct among all students and employees. Specific required trainings include the following:

##### **a. Training For Responsible and Confidential Employees**

The college must provide training to all employees who are required to report incidents of Sexual Misconduct under this Policy, as well as those employees who have been designated as confidential employees.

##### **b. Training For Title IX Coordinators, investigators, CUNY-wide Sexual Misconduct Panel members, and any person who facilitates an informal resolution**

CUNY will provide training on the topics below to Title IX Coordinators, investigators, CUNY-wide Sexual Misconduct Panel members, and any person who facilitates an informal resolution process. Training for Title IX Coordinators and investigators will be at least annual.

- i. The definition of Sexual Misconduct, including Sexual Harassment, Title IX Sexual Harassment, Dating Violence, Domestic Violence and Stalking;

- ii. How to conduct an investigation;
- iii. How to create an investigative report that fairly summarizes relevant evidence;
- iv. The grievance process, including hearings, appeals and informal resolution processes, as applicable;
- v. Impartiality, including avoiding prejudgment of the facts, conflicts of interest, and bias;
- vi. Relevance of questions and evidence, including the fact that sexual predisposition or prior sexual acts with individuals other than the parties are generally not relevant, the rights of the respondent, including the right to a presumption that the respondent is "not responsible" until a determination regarding responsibility is made at the conclusion of the applicable processes;
- vii. The scope of the college's education programs and activities;
- viii. The effects of trauma;
- ix. Other relevant CUNY policies and procedures; and
- x. Any technology to be used at a live hearing.

### **c. Student Onboarding and Ongoing Education**

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

### **C. Campus Climate Assessments**

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

#### **XIV. RULES REGARDING INTIMATE RELATIONSHIPS BETWEEN EMPLOYEES AND STUDENTS**

##### **A. Relationships Between Faculty or Employees and Students**

Sexual activity or amorous or dating relationships (“intimate relationships”), even when apparently consensual, are inappropriate when they occur between a faculty member or employee and any student for whom they have a professional responsibility. Those relationships are inappropriate because of the unequal power dynamic between students and faculty members and between students and employees who advise or evaluate them, such as athletic coaches or workplace supervisors. Such relationships necessarily involve issues of student vulnerability and have the potential for coercion. In addition, conflicts of interest or perceived conflicts of interest may arise when a faculty member or employee is required to evaluate the work or make personnel or academic decisions with respect to a student with whom they are having an intimate relationship.

Therefore, faculty members and other employees are prohibited from engaging in intimate relationships with students for whom they have a professional responsibility, including undergraduates, graduate and professional students and postdoctoral fellows.

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

##### **B. Relationships Between Supervisors and Employees**

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

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

## **XV. IMPLEMENTATION**

This Policy will become effective on August 14, 2020 and will apply to Sexual Misconduct that allegedly occurred on or after August 14, 2020. Sexual Misconduct that allegedly took place before the effective date of this Policy will be handled in accordance with the CUNY Policy on Sexual Misconduct that was in effect at the time the behavior occurred.

Should any portion of the 2020 Title IX Regulations be stayed or held invalid by a court of law, or should the Title IX Final Regulations be withdrawn or modified to not require the elements of this Policy, the invalidated elements of this Policy (including, but not limited to Sections IX and XI), will be deemed revoked as of the publication date of the opinion or order. Should this Policy's Title IX-specific procedures be revoked in this manner, any Sexual Misconduct covered under Section XI, including any elements of the process that occur after the revocation date if a case is not complete by that date of revocation, shall be investigated, resolved and/or adjudicated under Section XII without further action by CUNY.

The City University of New York  
Students' Bill of Rights

For CUNY students who experience Sexual Violence, including Sexual Assault;  
Domestic Violence, Dating Violence, Stalking or Voyeurism

All students have the right to

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

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

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

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

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

Policy on Sexual Misconduct – Revision to Provision Not Permitting Reliance on  
Statements Not Subject to Cross Examination in Title IX Hearings

As a result of a federal court ruling and subsequent update from the U.S. Department of Education, effective immediately, the portion of Section XI(E)(c)(ii)(2) of the Policy on Sexual Misconduct (PSM) relating to cross-examination at hearings for Title IX Sexual Harassment matters will no longer be in effect. This provision states: “If a party or witness does not submit to cross examination at the live hearing, the Adjudication Committee must not rely on any statement of that party or witness in reaching a determination regarding responsibility.” Accordingly, in all future Title IX Sexual Harassment hearings, members of that hearing’s Adjudication Panel may consider admissible statements made by parties or witnesses in reaching a determination regarding responsibility, even if those parties or witnesses do not participate in cross-examination at the live hearing.

The above provision regarding statements not subject to cross-examination was included in CUNY’s Policy on Sexual Misconduct because it was required by Title IX regulations that became effective in August 2020. However, on August 10, 2021, a Massachusetts federal court ruled, in *Victims Rights Law Center et al. v. Cardona*, WL 3185743 (D. Mass. July 28, 2021) that this particular requirement was arbitrary and capricious. On August 24, 2021, the U.S. Department of Education provided an update, available [here](#), stating that “[i]n accordance with the court’s order, the Department **will immediately cease** enforcement of the part of § 106.45(b)(6)(i) regarding the prohibition against statements not subject to cross-examination. **Postsecondary institutions are no longer subject to this portion of the provision.**”

Please note that all other provisions in the 2020 amendments which are incorporated into CUNY’s policy are still in effect. No other provision in the PSM has been affected by this update. Please do not hesitate to reach out to the University Title IX Director and/or the Office of the General Counsel, with any questions.