

Baruch College
City University of New York
University-Wide Policies

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POLICIES

The following policies are CUNY policies promulgated under the laws of New York State and the United States. While we expect cooperation with these policies, they are not intended to supersede the laws and jurisdiction of the countries where our International Executive Programs are offered. Whenever there is a conflict between CUNY policy and the laws of these countries, the latter take precedent.

A. CUNY Computer Use Policy

The City University of New York
Policy on Acceptable Use of Computer Resources

Introduction

CUNY's computer resources are dedicated to the support of the university's mission of education, research and public service. In furtherance of this mission, CUNY respects, upholds and endeavors to safeguard the principles of academic freedom, freedom of expression and freedom of inquiry.

CUNY recognizes that there is a concern among the university community that because information created, used, transmitted or stored in electronic form is by its nature susceptible to disclosure, invasion, loss, and similar risks, electronic communications and transactions will be particularly vulnerable to infringements of academic freedom. CUNY's commitment to the principles of academic freedom and freedom of expression includes electronic information. Therefore, whenever possible,

CUNY will resolve doubts about the need to access CUNY computer resources in favor of a user's privacy interest.

However, the use of CUNY computer resources, including for electronic transactions and communications, like the use of other university-provided resources and activities, is subject to the requirements of legal and ethical behavior. This policy is intended to support the free exchange of ideas among members of the CUNY community and between the CUNY community and other communities, while recognizing the responsibilities and limitations associated with such exchange.

Applicability

This policy applies to all users of CUNY computer resources, whether affiliated with CUNY or not, and whether accessing those resources on a CUNY campus or remotely.

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

Definitions

"CUNY Computer resources" refers to all computer and information technology hardware, software, data, access and other resources owned, operated, or contracted by CUNY. This includes, but is not limited to, personal computers, handheld devices, workstations, mainframes, minicomputers, servers, network facilities, databases, memory, and associated peripherals and software, and the applications they support, such as e-mail and access to the internet.

"E-mail" includes point-to-point messages, postings to newsgroups and listservs, and other electronic messages involving computers and computer networks.

Rules for Use of CUNY Computer Resources

1. Authorization. Users may not access a CUNY computer resource without authorization or use it for purposes beyond the scope of authorization. This includes attempting to circumvent CUNY computer resource system protection facilities by hacking, cracking or similar activities, accessing or using another person's computer account, and allowing another person to access or use the user's account. This provision shall not prevent a user from authorizing a colleague or clerical assistant to access information under the user's account on the user's behalf while away from a CUNY campus or because of a disability. CUNY computer resources may not be used to gain unauthorized access to another computer system within or outside of CUNY. Users are responsible for all actions performed from their computer account that they permitted or failed to prevent by taking ordinary security precautions.

2. Purpose. Use of CUNY computer resources is limited to activities relating to the performance by CUNY employees of their duties and responsibilities. For example, use of CUNY computer resources for private commercial or not-for-profit business purposes, for private advertising of products or services, or for any activity meant solely to foster personal gain, is prohibited. Similarly, use of CUNY computer resources for partisan political activity is also prohibited.

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

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

Examples of applicable federal and state laws include the laws of libel, obscenity and child pornography, as well as the following: Family Educational Rights and Privacy Act, Electronic Communications Privacy Act, Computer Fraud and Abuse Act, New York State Freedom of Information Law, New York State Law with respect to the confidentiality of library records.

Examples of applicable CUNY rules and policies include the following: Sexual Harassment Policy, Policy on Maintenance of Public Order, Web Site Privacy Policy, Gramm-Leach-Bliley Information Security Program, University Policy on Academic Integrity, and Information Security policies.

4. Licenses and Intellectual Property. Users of CUNY computer resources may use only legally obtained, licensed data or software and must comply with applicable licenses or other contracts, as well as copyright, trademark and other intellectual property laws.

Much of what appears on the internet and/or is distributed via electronic communication is protected by copyright law, regardless of whether the copyright is expressly noted. Users of

CUNY computer resources should generally assume that material is copyrighted unless they know otherwise, and not copy, download or distribute copyrighted material without permission unless the use does not exceed fair use as defined by the federal Copyright Act of 1976.

Protected material may include, among other things, text, photographs, audio, video, graphic illustrations, and computer software.

5. False Identity and Harassment. Users of CUNY computer resources may not employ a false identity, mask the identity of an account or computer, or use computer resources to engage in abuse of others, such as sending harassing, obscene, threatening, abusive, deceptive, or anonymous messages within or outside CUNY.
6. Confidentiality. Users of CUNY computer resources may not invade the privacy of others by, among other things, viewing, copying, modifying or destroying data or programs belonging to or containing personal or confidential information about others, without explicit permission to do so. CUNY employees must take precautions to protect the confidentiality of personal or confidential information encountered in the performance of their duties or otherwise.
7. Integrity of Computer Resources. Users may not install, use or develop programs intended to infiltrate or damage a computer resource, or which could reasonably be expected to cause, directly or indirectly, excessive strain on any computing facility. This includes, but is not limited to, programs known as computer viruses, Trojan horses, and worms. Users should consult with the IT director at their college before installing any programs that they are not sure is safe.
8. Disruptive Activities. CUNY computer resources must not be used in a manner that could reasonably be expected to cause or does cause, directly or indirectly, unwarranted or unsolicited interference with the activity of other users. This provision explicitly prohibits chain letters, virus hoaxes or other intentional e-mail transmissions that disrupt normal e-mail service. Also prohibited are spamming, junk mail or other unsolicited mail that is not related to CUNY business and is sent without a reasonable expectation that the recipient would welcome receiving it, as well as the inclusion on e-mail lists of individuals who have not requested membership on the lists, other than the inclusion of members of the CUNY community on lists related to CUNY business. CUNY has the right to require users of CUNY computer resources to limit or refrain from other specific uses if, in the opinion of the IT director at the user's college, such use interferes with efficient operations of the system, subject to appeal to the President or, in the case of central office staff, to the Chancellor.

9. CUNY Names and Trademarks. CUNY names, trademarks and logos belong to the university and are protected by law. Users of CUNY computer resources may not state or imply that they speak on behalf of CUNY or use a CUNY name, trademark or logo without authorization to do so. Affiliation with CUNY does not, by itself, imply authorization to speak on behalf of CUNY.
10. Security. CUNY employs various measures to protect the security of its computer resources and of users' accounts. However, CUNY cannot guarantee such security. Users are responsible for engaging in safe computing practices such as guarding and not sharing their passwords, changing passwords regularly, logging out of systems at the end of use, and protecting private information, as well as for following CUNY's Information Security policies and procedures. Users must report incidents of Information Security policy non-compliance or other security incidents to CUNY's Chief Information Officer and Chief Information Security Officer, and the IT director at the affected user's college.
11. Filtering. CUNY reserves the right to install spam, virus and spyware filters and similar devices if necessary in the judgment of CUNY's Office of Information Technology or a college IT director to protect the security and integrity of CUNY computer resources. Notwithstanding the foregoing, CUNY will not install filters that restrict access to e-mail, instant messaging, chat rooms or websites based solely on content.
12. Confidential Research Information. Principal investigators and others who use CUNY computer resources to store or transmit research information that is required by law or regulation to be held confidential or for which a promise of confidentiality has been given, are responsible for taking steps to protect confidential research information from unauthorized access or modification. In general, this means storing the information on a computer that provides strong access controls (passwords) and encrypting files, documents, and messages for protection against inadvertent or unauthorized disclosure while in storage or in transit over data networks. Robust encryption is strongly recommended for information stored electronically on all computers, especially portable devices such as notebook computers, Personal Digital Assistants (PDAs), and portable data storage (e.g., memory sticks) that are vulnerable to theft or loss, as well as for information transmitted over public networks. Software and protocols used should be reviewed and approved by CUNY's Office of Information Technology.
13. CUNY Access to Computer Resources. CUNY does not routinely monitor, inspect, or disclose individual usage of its computer resources without the user's consent. In most instances, if the university needs information located in a CUNY computer resource, it will simply request it from the author or custodian. However, CUNY IT professionals and staff do regularly monitor general

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

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

1. when the user has voluntarily made them accessible to the public, as by posting to Usenet or a web page;
2. when it is reasonably necessary to do so to protect the integrity, security, or functionality of CUNY or other computer resources, as determined by the college chief information officer or his or her designee, after consultation with CUNY's chief information officer or his or her designee;
3. when it is reasonably necessary to diagnose and resolve technical problems involving system hardware, software, or communications, as determined by the college chief information officer or his or her designee, after consultation with CUNY's chief information officer or his or her designee;
4. when it is reasonably necessary to protect CUNY from liability, or when failure to act might result in significant bodily harm, significant property loss or damage, or loss of significant evidence, as determined by the college president or a vice president designated by the president, after consultation with the Office of General Counsel and the Chair of the University Faculty Senate (if a CUNY faculty member's account or activity is involved) or Vice Chair if the Chair is unavailable;
5. when there is a reasonable basis to believe that CUNY policy or federal, state or local law has been or is being violated, as determined by the college president or a vice president designated by the president, after consultation with the Office of General Counsel and the Chair of the

University Faculty Senate (if a CUNY faculty member's account or activity is involved) or Vice Chair if the Chair is unavailable;

6. when an account appears to be engaged in unusual or unusually excessive activity, as indicated by the monitoring of general activity and usage patterns, as determined by the college president or a vice president designated by the president and the college chief information officer or his or her designee, after consultation with CUNY's chief information officer or his or her designee, the Office of General Counsel, and the Chair of the University Faculty Senate (if a CUNY faculty member's account or activity is involved) or Vice Chair if the Chair is unavailable; or
7. as otherwise required by law.

In those situations in which the Chair of the University Faculty Senate is to be consulted prior to monitoring or inspecting an account or activity, the following procedures shall apply: (i) the college president shall report the completion of the monitoring or inspection to the Chair and the CUNY employee affected, who shall also be told the reason for the monitoring or inspection, except where specifically forbidden by law; and (ii) if the monitoring or inspection of an account or activity requires physical entry into a faculty member's office, the faculty member shall be advised prior thereto and shall be permitted to be present to observe, except where specifically forbidden by law.

A CUNY employee may apply to the General Counsel for an exemption from some or all of the circumstances under which CUNY may inspect and monitor computer resource activity and accounts, pursuant to subparagraphs (a)-(f) above, with respect to a CUNY computer resource used solely for the collection, examination, analysis, transmission or storage of confidential research data. In considering such application, the General Counsel shall have the right to require the employee to affirm in writing that the computer resource will be used solely for the confidential research. Any application for exemption should be made prior to using the computer resource for the confidential research.

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

In addition, users should be aware that CUNY may be required to disclose to the public under the New York State Freedom of Information Law communications made by means of CUNY computer resources in conjunction with University business.

Any disclosures of activity of accounts of individual users to persons or entities outside of CUNY, whether discretionary or required by law, shall be approved by the General Counsel and shall be

conducted in accordance with any applicable law. Except where specifically forbidden by law, CUNY employees subject to such disclosures shall be informed promptly after the disclosure of the actions taken and the reasons for them.

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

See CUNY's Web Site Privacy Policy for additional information regarding data collected by CUNY from visitors to the CUNY website at www.cuny.edu.

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

Violations will normally be handled through the university disciplinary procedures applicable to the relevant user. For example, alleged violations by students will normally be investigated, and any penalties or other discipline will normally be imposed, by the Office of Student Affairs. CUNY has the right to temporarily suspend computer use privileges and to remove from CUNY computer resources material it believes violates this policy, pending the outcome of an investigation of misuse or finding of violation. This power may be exercised only by the President of each college or the Chancellor.

2. Additional Rules. Additional rules, policies, guidelines and/or restrictions may be in effect for specific computers, systems, or networks, or at specific computer facilities at the discretion of the directors of those facilities. Any such rules which potentially limit the privacy or confidentiality of electronic communications or information contained in or delivered by or over CUNY computer resources will be subject to the substantive and procedural safeguards provided by this policy.
3. Disclaimer. CUNY shall not be responsible for any damages, costs or other liabilities of any nature whatsoever with regard to the use of CUNY computer resources. This includes, but is not limited to, damages caused by unauthorized access to CUNY computer resources, data loss, or other damages resulting from delays, non-deliveries, or service interruptions, whether or not resulting from circumstances under the CUNY's control.

Users receive and use information obtained through CUNY computer resources at their own risk. CUNY makes no warranties (expressed or implied) with respect to the use of CUNY computer resources. CUNY accepts no responsibility for the content of web pages or graphics that are linked from CUNY web pages, for any advice or information received by a user through use of CUNY computer resources, or for any costs or charges incurred by a user as a result of seeking or accepting such advice or information.

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

Baruch College Web Site Privacy Policy

NOTE: The following policy applies to users of baruch.cuny.edu and is intended to explain what types of information is gathered from users and how that information is used. Baruch employees should also refer to the [CUNY Computer User Policy](#) which outlines CUNY's internal policy for the use and protection of CUNY & Baruch computer resources.

Baruch College is committed to respecting your privacy. As an unregistered user, you can visit most of our web site without revealing any personal information. However, in order to personalize your view of our site and gain access to certain information systems, you must register and provide some personal information. We do not collect any personal information about you unless you provide that information voluntarily. Any personal information you choose to provide us will only be used by CUNY to conduct official CUNY business. Baruch does not sell, rent, loan, trade or lease personal information collected on this site.

For purposes of this policy, "personal information" means any information concerning a natural person which, because of name, number, symbol, mark or other identifier, can be used to identify that natural person.

To protect your privacy and prevent unauthorized use, please keep your IDs and passwords in a secure place. Also, whenever you use CUNY systems from a public workstation, be sure to logout of the systems and close all web browsers

Information Collected and Stored Automatically

Cookies

A cookie is a piece of text placed on your computer by a web server. We occasionally use "session" cookies on some parts of cuny.edu to enhance your experience of the site and to help you move through it easily. Session cookies created on your computer by CUNY servers do not contain personal information. We may use a session cookie to store a randomly generated identifying tag on your

computer. Session cookies are temporary and are automatically deleted during operation of your browser or when your browser is closed. Most web browsers may be customized to refuse new cookies or delete existing cookies. Rejecting or deleting cookies may limit your ability to take advantage of some features of this web site and could result in the loss of any customized setting.

Logs and Network Monitoring

We maintain log files of all access to cuny.edu and also monitor network traffic for purposes of site management and security. We use this information to help diagnose problems with the server and to carry out other administrative tasks. We also use log analysis tools for such purposes as creating summary statistics to determine which information is of most interest to users, identifying system problem areas, and determining technical requirements. The following information is typically collected in these files:

- The Internet Protocol address and domain name of your Internet Service Provider and/or computer, if your computer has an IP address assigned directly to it;
- The type of browser and operating system you use;
- The date and time you visited Baruch.cuny.edu;
- The web pages or services you accessed at cuny.edu and amount of time spent at each page; and

None of the foregoing information is deemed to constitute personal information by the New York State Internet Privacy and Security Act.

Information Collected by E-mail and Online Transactions

If you send us an e-mail, we will collect your e-mail address and the contents of your message. We will use your e-mail address and the information included in your message to respond to you, to address the issues you identify, and to improve this web site. We may also use your e-mail address to notify you about updates, services, special events or activities offered by CUNY or its colleges. If you would prefer not to receive e-mail or other communications from Baruch, contact Communications & Marketing. If you complete a transaction such as an online application or an information request form, we will collect the information, including personal information that you volunteered in completing the transaction. We will use this information only for the purposes for which the transaction was intended. We may redirect your e-mail message or information you provided through an online transaction to a Baruch College office other than the one which originally received the message or information in order to better respond to you. We do not knowingly collect personal information from children under the age of 13. You are cautioned, however, that we will treat personal information submitted in an e-mail as though it

was submitted by an adult, and it may, unless exempted from access by federal or state law, be subject to public access.

Disclosure of Information Collected Through this Web Site

We may collect or disclose personal information without your consent if the collection or disclosure is:

- necessary to perform Baruch's or CUNY's statutory duties or necessary to operate a program authorized by law, or authorized by state or federal statute or regulation;
- made pursuant to a court order or by law;
- for the purpose of validating your identity; or
- of information to be used solely for statistical purposes that is in the form that cannot be used to identify any particular person.

Further, the disclosure of information, including personal information, collected through this website is subject to the provisions of the U.S. Family Educational Rights & Privacy Act and New York State's Freedom of Information Law. We may also disclose personal information to federal or state law enforcement authorities to enforce CUNY's rights against unauthorized access or attempted unauthorized access to CUNY's information technology assets.

Retention of Information Collected Through this Web Site

We retain the information collected through this web site in accordance with the CUNY records retention and disposition policy. The retention period differs depending on the type of information collected. Questions regarding the records retention and disposition policy should be addressed to:

Chief Information Officer

Baruch College

1 Bernard Baruch Way – Box H-0910

New York, NY 10010

Access to and Correction of Personal Information Collected Through this Web Site

You may submit a request to the Chief Information Officer to determine whether personal information pertaining to you has been collected through this web site. Your request must be in made in writing and must be accompanied by reasonable proof of your identity. Reasonable proof of identity may include verification of a signature, inclusion of an identifier generally known only to you, or similar appropriate identification. The address of the records access officer is:

Chief Information Officer

Baruch College

1 Bernard Baruch Way – Box H-0910

New York, NY 10010

The Chief Information Officer will, within five business days of the receipt of a proper request, provide access to the personal information; deny access in writing, explaining the reasons therefore; or acknowledge the receipt of the request in writing, stating the approximate date when the request will be granted or denied, which date shall not be more than thirty days from the date of the acknowledgment. If we have collected your personal information through cuny.edu and that information is to be provided to you pursuant to your request, the records access officer will inform you of your right to request that the personal information be amended or corrected under the procedures set forth in Section 95 of the Public Officers Law.

Confidentiality and Integrity

We limit employee access to personal information collected through cuny.edu to only those employees who need access to the information in the performance of their official duties. Employees who have access to this information must follow appropriate procedures in connection with any disclosures of personal information. In addition, we have implemented procedures to safeguard the integrity of Baruch's information technology assets, including, but not limited to, authentication, authorization, monitoring, auditing, and encryption. These security procedures have been integrated into the design, implementation, and day-to-day operations of cuny.edu as part of our continuing commitment to the security of electronic content as well as the electronic transmission of information. For security purposes and to maintain the availability of cuny.edu for all users, we employ software to monitor traffic to identify unauthorized attempts to upload or change information or otherwise damage this web site.

Links to Third-Party Sites

baruch.cuny.edu contains links to, and may be linked from, sites outside of Baruch College. We are not responsible for the privacy practices, terms of use, or the content of such web sites. A link to an outside web site from Baruch.cuny.edu does not constitute an endorsement or sponsorship of such web site or its content.

Changes to Policy and Disclaimer

We may change this policy from time to time, and reserve the right to do so without notice. The information provided in this privacy policy should not be construed as giving business, legal or other advice, or warranting as fail proof, the security of information provided through Baruch.cuny.edu.

Contact Information

For questions regarding this privacy policy, please contact: cio@baruch.cuny.edu

B. The City University Of New York Intellectual Property Policy

I. Purpose

- To serve the public good by promoting and facilitating the dissemination of the products of research, authorship and invention by the University¹ community
- To recognize and encourage research, authorship and invention by the University community by providing for the sharing of tangible rewards resulting from the commercialization of such research, authorship and invention
- To define the ownership, distribution and commercialization rights associated with the products of research, authorship and invention by the University community, and to define the policies and procedures for managing such products

II. Applicability

This policy shall apply to all forms of Intellectual Property created or developed, in whole or in part, by Members of the University (1) making Substantial Use of University Resources, (2) as a direct result of University duties, (3) pursuant to the terms of an agreement to which the University is a party, or (4) in the course of or related to activities on grants or contracts administered by the Research Foundation.

III. Ownership of Intellectual Property

A. General Rule:

1. The Creator shall own all rights in Copyrightable Works.
2. The University shall own all rights in other Intellectual Property.

B. Exceptions and Clarifications to the General Rule:

1. Sponsored Research. Ownership of Intellectual Property resulting from Sponsored Research shall be determined pursuant to the terms of the agreement between the University or the Research Foundation, as the case may be, and the Sponsor, or as otherwise required by applicable law. If ownership is not defined in the agreement, Intellectual Property shall be owned pursuant to the General Rule.
2. Commissioned Work. The University shall normally own Intellectual Property resulting from Commissioned Work. In all cases of Commissioned Work, ownership and royalty rights shall be specified in a written agreement, a copy of which shall be submitted to the OGC for review and approval as to form. Any such agreement which provides for ownership by other than the University shall also provide the University with a royalty-free, non-exclusive license to use the Intellectual Property for internal educational and research purposes.
3. Copyrightable Work Created Within the Scope of Employment. Copyrightable Work, other than Scholarly or Pedagogical Work, prepared by an employee of the University or the Research Foundation within the scope of his or her employment shall be owned by the University or the Research Foundation, as the case may be. Examples of Copyrightable Work subject to this provision include, without limitation, personnel manuals, written policies, administrative handbooks, public relations materials, archival

audio and video recordings of College events, and official College and University web pages.

4. Electronically Published Course Materials. Courses designed to be delivered over the internet, by computer or through similar technologies may involve both Copyrightable Works and other Intellectual Property. Consistent with its intent to recognize the Creator as the owner of Scholarly or Pedagogical works, the University claims no ownership rights in either the intellectual content of such courses, or the tools and technologies used to present them, unless the work was the result of Sponsored Research or is Commissioned Work, in which case B.1 or B.2 of this Part shall apply.
 5. Negotiated Agreements. A Member of the University who wishes to conduct work making Substantial Use of University Resources under terms different from those set forth in the General Rule above may enter into an agreement for the use of such resources with the College(s) where such work shall be conducted. Such agreement shall be negotiated by the President(s) of the College(s) with the advice of the OGC, and must be approved by the Chancellor. The agreement shall specify who shall own any Intellectual Property resulting from such work, any arrangement as to equity sharing, royalty-sharing, and/or the amount of the fee, if any, to be paid for use of the University Resources.
 6. University Media. Copyrightable Work prepared for publication in official University and College media, such as television and radio stations, newspapers, magazines and journals shall be owned pursuant to the individual policies of such media or as defined in their contracts with Creators. In the absence of a policy or contract, copyright shall be owned by the University.
- C. Creator's Non-Commercial Use. Where the University owns the Intellectual Property under this policy, the Creator is permitted to continue to use the work for his or her own non-commercial purposes. Any distribution by the Creator to academic colleagues outside the University beyond the limits of "fair use", as defined in Section 107 of the Copyright Act of 1976, shall be permitted pursuant to written agreement from the University through the Chancellor or Designated Individual at each College.

IV. Administration of this Policy

Authority and responsibility for this policy shall reside with the Chancellor. The Chancellor may seek the advice and assistance of the Intellectual Property Committee (as described in Section V.E.). The responsibility for administration of the policy at the college level is delegated to the Designated Individual at each College.

V. Management of Intellectual Property

- A. Disclosure of Intellectual Property.
 1. Disclosure Required. Creators shall disclose to the Chancellor any Intellectual Property that is owned by the University under this policy, including improvements and reductions to practice and Intellectual Property created under Sponsored Research.
 2. Timing. Disclosure shall be made prior to submission of the Intellectual Property for publication, other release to the public domain or attempt to license, distribute or manufacture the Intellectual Property commercially.
 3. Multiple creators. Where more than one Member of the University has participated in the creation of Intellectual Property, all participants must sign the disclosure notice.

B. Determination of Ownership Rights.

1. Determination of Rights. The Chancellor shall determine whether the University has reason to exercise ownership rights over Intellectual Property disclosed to it, and, if the University has such rights, whether it desires to obtain protection for or pursue licensing of such Intellectual Property.
2. Notice to Creator. The Chancellor shall promptly notify the Creator of his/her determination to disclaim or assert ownership of the Intellectual Property.
3. Time Limit. The University shall make every reasonable effort to act expeditiously under the circumstances in arriving at all decisions and taking all actions under Sections B, C and D of this Part.²

C. Legal Protection and Commercialization.

1. Forms of Protection. Intellectual Property determined by the Chancellor to be owned by the University may be patented, registered with the U.S. Copyright Office or otherwise legally protected by the University.
2. Assignments. The Creator of such Intellectual Property shall cooperate with the University in the application for legal protection of the Intellectual Property, including executing appropriate assignments, declarations and/or other documents required to set forth effectively the ownership and rights to the Intellectual Property pursuant to this policy. In the event of any dispute between the Creator and the University, the Creator's obligations under this provision shall be without prejudice to the Creator's rights under Part IX.
3. Costs of Protection. All costs involved in obtaining and maintaining legal protection of University-owned Intellectual Property shall be borne by the University, unless the University disclaims, releases or waives its ownership rights or unless a licensee accepted by the Creator agrees to bear such costs pursuant to the terms of a written license agreement.
4. Commercialization. The Creator has primary responsibility for identifying parties having an interest in using, developing or commercializing University-owned Intellectual Property.
5. Progress Reports. The Chancellor shall regularly inform the Creator of the progress of the University's protection efforts and licensing of University-owned Intellectual Property disclosed by such Creator.

D. Creator's Additional Rights.

1. Request for Release. The Creator may request assignment to the Creator of some or all of the University's rights in Intellectual Property (a "Release") under the following circumstances:
 - a. if the University notifies Creator that it elects not to protect or commercialize University-owned Intellectual Property, or that it has decided to abandon protection or commercialization; or
 - b. if, within 90 calendar days of disclosure to the Chancellor, the Creator has not received notice from the Chancellor that the University: (i) disclaims ownership of the Intellectual Property or (ii) has taken steps to protect or commercialize University-owned Intellectual Property.

Such request shall disclose the date of any publication of the Intellectual Property.

2. Release or Proof of Continuing Effort. Within 30 calendar days of the date of a request from a Creator for a Release, the University shall either (a) disclaim ownership of the Intellectual Property, (b) execute a Release, or (c) document that the University has exercised and continues to exercise due diligence in attempting to protect or commercialize the Intellectual Property.
 3. Form of Release. The University may condition the granting of a Release on the assignment to the University of a share, not to exceed 10 %, of net proceeds. For purposes of this section, "net proceeds" shall mean earnings to the Creator from the Intellectual Property over and beyond reasonable costs incurred in the process of legal protection and management. The University shall retain a royalty-free, non-exclusive license to use any Intellectual Property released to the Creator under this Section D for internal educational and research purposes. Pursuant to 37 C.F.R. Part 401, as amended (regulations implementing the Bayh-Dole Act), the U.S. government shall also retain certain rights.
 4. University Waiver. The University shall be deemed to have waived its rights in the Intellectual Property if: (a) it fails to meet the deadline specified in Section D.2, or a mutually agreeable extended time period; or (b) in the case of a patentable Invention, it fails to file a patent application within 90 calendar days of the date of publication as set forth in the Creator's request for a Release under Section D.1.
 5. Creator's Right to Protect. If the University disclaims, releases or waives ownership of Intellectual Property, the Creator shall have the right to obtain protection for or pursue licensing of such Intellectual Property in his or her own name and at his or her own cost.
- E. Intellectual Property Committee.
1. Purpose. An Intellectual Property Committee shall be established to advise the Chancellor on disclosures made to him or her, to make recommendations for updates and changes to this policy, and to consider such other matters as may be described in this policy or may be referred to the Committee by the Chancellor.
 2. Composition. The Intellectual Property Committee shall consist of at least nine members. The Vice Chancellor for Research or designee (who shall serve as chair of the Committee) and the President of the Research Foundation or designee, shall be members. The Chair of the University Faculty Senate, or a person designated by the Chair, shall select the remaining members of the Committee, taking into account the recommendations of the Chancellor. Membership of the Committee shall, insofar as possible, consist of individuals who have generated copyrighted or patented materials and should collectively represent a diversity of types of such materials (i.e., textbooks, biotechnology, software, etc.) The General Counsel of the Research Foundation shall serve as staff to the Committee.
 3. Subcommittees. The Chair of the Intellectual Property Committee shall appoint from among the membership of the Intellectual Property Committee a Copyright Subcommittee responsible for the review of disclosures of Copyrightable Works, and a Patent and Technology Subcommittee responsible for the review of disclosures of Inventions, Trade Secrets and Know-How, and Tangible Research Property. Each subcommittee shall, insofar as possible, consist of at least five members, a majority of whom shall have generated copyrighted materials, in the case of the Copyright Subcommittee, or patented materials, in the case of the Patent and Technology Subcommittee. The Chair of the Intellectual Property Committee or designee shall serve as chair of the subcommittees. In connection with the review of the disclosure of a particular invention, the Chair of the Patent and Technology Subcommittee may

convene a meeting limited to those members whose areas of expertise are most relevant to the subject of the invention.

4. Term. Intellectual Property Committee Members are appointed for three-year terms with non-concurrent expiration dates and may serve successive terms.
- F. Sponsored Research Requirements. The Research Foundation shall monitor disclosure and reporting requirements and other obligations to Sponsors regarding University-owned Intellectual Property developed under a Sponsored Research agreement or grant, including but not limited to obligations to the U.S. government under 37 C.F.R. Part 401, as amended (regulations implementing the Bayh-Dole Act).
- G. Management Organization. The University may make an agreement with one or more intellectual property management organizations to undertake the legal protection and/or, with the permission of the Creator, commercialization activities, described in this Part V. Any such management organization shall be required to abide by the time limits set forth in Section V.D.
- H. Not Applicable. This Part does not apply to University-owned Intellectual Property described in Sections III.B.2 and III.B.3, or in Section III.B.5 to the extent this Part conflicts with the terms of the negotiated agreement.

VI. Distribution of Income from Intellectual Property

- A. Policy. A Creator of University-owned Intellectual Property is entitled to share in the income, including royalties, equity interests (subject to any University conflict of interest policy), and dividends, earned from the commercialization of that Intellectual Property.
- B. Distribution. Subject to the terms of any Sponsored Research agreement and unless otherwise agreed by the University and the Creator, gross income created from commercialization of University-owned Intellectual Property shall be distributed as follows:
 1. First, to pay for any out-of-pocket expenses incurred by the University or the Research Foundation in connection with the administration, protection and commercialization of such Intellectual Property, including, but not limited to, fees paid to outside legal, consulting, marketing and licensing organizations and any other out-of-pocket costs incurred by the University or the Research Foundation.
 2. Then, 10 % applied to a fund at the University for payment of costs related to patent filing, prosecution and maintenance fees.
 3. The resulting "Net Proceeds" shall be distributed as follows:
 - 50 % to the Creator;
 - 25 % to the University for the support of research and scholarly activity; and
 - 25 % to the Creator's College(s), with 50 % of such amount going to the Creator's academic or research unit(s) for the support of research and scholarly activity.
- C. Multiple Creators. Where two or more Members of the University contributed to the creation of Intellectual Property, the Creator's share of revenues shall be divided among them equally, unless the Members of the University agree upon a different distribution among themselves and notify the University in writing of their agreement.

VII. Issues Relating to Ownership of Equity and Conflict of Interest

- A. University's Equity Interest. Subject to the review and approval of the Chancellor, and after a diligent effort to identify prospective sponsors or licensees, the University is permitted to take an equity interest in sponsors or licensee companies under the following terms and conditions:
1. Sponsors and licensees shall demonstrate management and technical capability, and have the financial resources necessary to meet their development objectives and their obligations to the University.
 2. License agreements shall include measures of performance that must be met in order to maintain the license granted by the University.
 3. Equity shall not be held in sufficient amount to confer management power, which generally would limit ownership to less than 20% of equity.
 4. Equity shall represent a fair valuation for the Intellectual Property.
 5. The University shall not accept a position on the board of directors of a licensee, but may accept and exercise observer rights on such boards. Exceptions to this policy require the approval of the Chancellor.
 6. Licensees shall pay for out-of-pocket patenting and related expenses.
- B. Member's Significant Interest.
1. Conflicts of interest may arise when a Member of the University has a Significant Interest in an entity:
 - a. to which the University has granted a license of Intellectual Property created by the Member;
 - b. with whom the University has entered into a Sponsored Research agreement;
 - c. which has contracted with the University for use of the Member's University office or laboratory or other University Resources; or
 - d. which employs or otherwise involves the Member's student advisees.
 2. A Member of the University with a Significant Interest in an entity described in B.1, above:
 - a. shall disclose the Significant Interest to the University prior to the execution of any agreement between the entity and the University;
 - b. shall not represent the University in negotiating the agreement; and
 - c. shall not employ or otherwise involve such Member's student advisees at the entity unless they are paid at market rate.
 3. A Member's Significant Interest in a licensee shall not prohibit the Member from receiving Creator's royalties pursuant to VI.B.3 of this policy.
 4. Nothing in this Section shall lessen the obligation of a Member to comply with the requirements of state and federal law, the Research Foundation and any other University policy, regarding the disclosure of conflicts of interest.
- C. Consulting Agreements. Conflicts involving Intellectual Property may arise when a Member of the University enters into a personal consulting or other agreement with a third party. Such agreements may include provisions as to the licensing or assignment of Intellectual Property and may come into conflict with this policy. Prior to signing any consulting or other agreement that deals with Intellectual Property owned by the University pursuant to this policy, a Member of the University shall have the agreement reviewed by the Chancellor to be certain such agreement does not inappropriately assign University rights to third parties. If the agreement is in conflict with this policy, the Member must either obtain from the Chancellor a waiver of any University rights, or otherwise modify the consulting agreement to conform to this policy. This

requirement is in addition to, and does not eliminate the necessity for, any approval required by any University conflict of interest policy.

VIII. Exceptions to and Waiver of Policy

- A. Any Member of the University is entitled to request an exception or waiver to the provisions of this policy, including in the event that a publisher or other outside organization proposes terms which are exceptions to this policy.
- B. A Member of the University wanting an exception or waiver shall, in the first instance, send a written request to the Chancellor, who shall circulate the request to the Member's College President, the University Dean for Research and the President of the Research Foundation. If these three individuals agree, the Chancellor shall notify the Member that the request is granted.
- C. In the event that a request for exception or waiver is not granted pursuant to B, above, the Member of the University shall have the right to appear, accompanied by representatives of such individual's choice, before the Intellectual Property Committee for further consideration of the request. This hearing shall occur no later than 30 calendar days from the date of the request for such hearing. The Intellectual Property Committee shall prepare a report of its findings and submit an advisory recommendation to the Chancellor for review within 30 calendar days of the hearing. The decision of the Chancellor on the findings and recommendations of the Intellectual Property Committee shall be rendered within 30 calendar days and shall be final.
- D. Parties to the process described in this Part VIII (including without limitation the University Dean for Research, the College President(s), the President of the Research Foundation, the Chancellor, and the members of the Intellectual Property Committee) shall maintain the confidentiality of any Intellectual Property contained in documents submitted as part of this process.

IX. Resolution of Disputes

This policy constitutes an understanding which is binding on the University and Members of the University for the use of University Resources and for participating in research programs at the University. Any questions of interpretation or claims arising out of or relating to this policy, or dispute as to ownership rights of Intellectual Property under this policy, shall be settled by the following procedure: The issue must first be submitted, in the form of a letter setting forth the grievance or issue to be resolved, to a review panel of five members, including a representative of the Creator, and designees of the Executive Vice Chancellor for Academic Affairs, the President of the Research Foundation, the Chair of the Faculty Advisory Council of the Research Foundation, and the Provost of the Creator's College. The panel shall review the matter and then advise the parties of its decision within 30 calendar days of submission of the letter. The decision of the panel may be appealed by either side to the Chancellor. The decision of the Chancellor shall be final.

X. Trademarks

The University owns all right, title and interest in Trademarks related to an item of Intellectual Property owned by the University, or to a program of education, service, public relations, research or training program of the University.

XI. Role of the Research Foundation

The University hereby assigns its ownership rights in Inventions resulting from Sponsored Research to the Research Foundation. The Research Foundation may file patent applications, as named assignee, for such Inventions, subject to the terms of this policy, including the distribution provisions set forth in Section VI, with respect to income earned from the commercialization of such Inventions. Furthermore, nothing in this policy shall prevent the Chancellor from appointing the Research Foundation as the Chancellor's designee for performance of the functions assigned to the University in general or the Chancellor in particular, or to retain distribution of income from commercialization of Intellectual Property.

XII. Effective Date

This policy is effective from the date of approval by the University Board of Trustees with respect to Intellectual Property created after that date and shall remain in effect until modified or revoked.

XIII. Definitions

"Chancellor" shall mean the Chancellor of the University or his or her designee.

"College" shall mean a "senior college" or "community college" of the University or a component thereof; as such terms are defined in Section 6202 of the New York Education Law.

"Commissioned Work" shall mean work commissioned by the University in writing from a Member of the University, outside the scope of his or her employment.

"Copyrightable Work" shall mean an original work of authorship, including any Scholarly or Pedagogical Work, which has been fixed in any tangible medium of expression from which it can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device, and may include, but is not limited to, books, journals, musical works, dramatic works, multimedia products, computer programs or codes, videos, films, sound recordings, pictorial and graphical works and sculpture.

"Creator" shall mean a Member of the University whose creative activity results in the development of Intellectual Property. As used in this policy, the term "Creator" also includes groups of researchers, authors or inventors whose joint efforts produce Intellectual Property.

"Designated Individual" shall mean the College officer who has been appointed by the College President to be in charge of Intellectual Property matters.

"Intellectual Property" shall mean all forms of intellectual property, including but not limited to Inventions, Copyrightable Works, Trade Secrets and Know-How, and Tangible Research Property, but excluding Trademarks.

"Invention" shall mean a process, method, machine, manufacture, discovery, device, plant, composition of matter or other invention that reasonably appears to qualify for protection under the United States

patent law, whether or not actually patentable. "Invention" shall also include computer programs and codes, but only to the extent they are patentable.

The term "**Member of the University**" shall include full-time and part-time faculty, staff, and graduate students engaged in faculty-directed research, whether paid or unpaid, as well as individuals compensated by grant funds made available to the University by or through the Research Foundation. Any other person who develops Intellectual Property while making extraordinary use of University Resources shall also be deemed a Member of the University, unless there is an agreement providing that such person shall not be subject to this policy.

"**OGC**" shall mean the Office of the General Counsel and Vice Chancellor for Legal Affairs.

"**Research Foundation**" shall mean The Research Foundation of the City University of New York.

"**Scholarly or Pedagogical Works**" shall mean Copyrightable Works created for traditional academic purposes. Examples include scholarly books (including text books), instructional materials including lecture notes, classroom presentations, research articles, research monographs, student theses and dissertations, novels, poems, films, videos, musical compositions and performances, dramatic works and performances, visual works of art including paintings, drawings, sculpture, installations and performance art, and other scholarly publications or works of artistic imagination, whether such works are disseminated in print, electronically or through some other tangible medium.

"**Significant Interest**" shall mean the following:

1. the position of director, officer, partner, employee, or agent, or other managerial position; or
2. anything of monetary value, including but not limited to, salary or other payments for services (e.g., consulting fees or honoraria), equity interest (e.g., stock, stock options or other ownership interests), and Intellectual Property rights and royalties from such rights.

The term does not include: (1) income from seminars, lectures or teaching engagements sponsored by public or nonprofit entities; (2) income from service on advisory committees or review panels for public or nonprofit entities; (3) financial interests in business enterprises or entities that, when aggregated for the Member and the Member's spouse and dependent children, meet both of the following tests: (a) do not exceed \$10,000 per year in value, as determined through reference to public prices or other reasonable measures of fair market value and (b) do not represent more than a 5 % percent ownership interest in any single enterprise or entity; or (4), salary, royalties or other continuing payments that, when aggregated for the Member and the Member's spouse and dependent children, are not expected to exceed \$10,000 per year in value.

"**Sponsor**" shall mean an organization, agency or individual which or who provides funding, equipment, or other support for the University, directly or through the Research Foundation, to carry out a specified project in research, training, or public service pursuant to a written agreement ("**Sponsored Research**"). Sponsors include Federal, State, local and other governmental entities, as well as private industry, individuals, educational institutions and private foundations.

"**Substantial Use of University Resources**" shall mean unreimbursed use of University Resources at a level not ordinarily used by or available to, all or virtually all, faculty, staff or graduate students, as the

case may be. Ordinarily available University Resources include assigned office, laboratory and studio space and standard office, laboratory and studio equipment, office computer workstations, library and other general use information resources and the means of network access to such resources. The University does not construe the payment of salary in the form of release time or sabbatical as constituting substantial use of University Resources, except in those situations where the release time or sabbatical is granted specifically to support the development of Commissioned Work. Use of ordinarily available University Resources for private, commercial purposes is considered substantial use.

"Tangible Research Property" shall mean tangible items produced in the course of research including, but not limited to, biological materials, research notes and reports, laboratory notebooks, computer databases and software, circuit chips, equipment and engineering drawings.

"Trade Secrets and Know-How" shall mean facts, information, data, designs, business plans, customer lists and other secret knowledge which give the owner a competitive edge.

"Trademark" shall mean a distinctive word, design or graphic symbol, or combination of the same, that distinguishes and identifies the goods and services of one party from those of another. The term "Trademark" shall include service marks.

"University" shall mean The City University of New York.

"University Resources" shall mean any resources available to a Member of the University as a direct result of his or her affiliation with the University and which would not otherwise be available to a non-University-affiliated individual, including but not limited to, funds and financial support, facilities, equipment, supplies, services, non-faculty University personnel, students, release time and sabbaticals.

C. Baruch College Code of Student Conduct

Regulations Governing Student Conduct

Baruch College is dedicated not only to learning and the advancement of knowledge but also to the development of ethical and responsible persons. It seeks to achieve these goals through a sound educational program and policies that encourage independence and maturity. Regulations governing student conduct have been formulated with these objectives in view.

The regulations described below have been promulgated by the duly established college authorities pursuant to Article XV, Section 15.1, of the Bylaws of the Board of Higher Education of The City of New York (see page 240). Procedures for the enforcement of campus codes are detailed in other sections of Article XV (see pages 240-42). Nothing contained herein shall conflict with the rights of The City University of New York as stated in the Rules and Regulations for the Maintenance of Campus Order pursuant to Article 129A of the Educational Law of New York State (see pages 244-45).

Members of the Baruch College community are bounded by federal, state, and municipal laws as well as by the regulations enacted by the Board of Trustees of The City University of New York and by the duly established college authorities designated by the president and dean of students. Institutional discipline is aimed at conduct that directly and significantly impairs the opportunities of members of the college community to attain their educational objectives. The rules are intended to protect the health and safety of persons in the college community and to maintain and protect property. There are,

also, guidelines for the keeping of records and the sponsoring of non-classroom activities, such as lectures, concerts, athletic events, and social functions.

Offenses

Sanctions can result from the commission of any of the following offenses:

1. Academic cheating or plagiarism.
2. Knowingly furnishing false information to the college, forgery, or alteration or use of college documents or instruments of identification with intent to deceive.
3. Lending a Baruch College identification card to anyone or failure to present it when requested by a duly authorized and identified college official.
4. Misrepresenting oneself as a Baruch College or City University of New York representative.
5. Violation of regulations relating to the entry and use of institutional facilities, including closing hour restrictions.
6. Physical or verbal abuse or harassment of any person on college premises or at college sponsored or supervised functions.
7. Theft, willful destruction, damage, or misuse of college property, including library materials.
8. Theft, willful destruction, or damage of property belonging to a member of the college community on college premises.
9. Advertising, soliciting, or selling any merchandise or service or soliciting of information on campus without permission of the Office of the Dean of Students.
10. Use or sale of unlawful drugs on campus.
11. Use of alcohol on campus at other than duly authorized social functions. (The sponsoring organization must obtain prior permission from the Dean of Students or his/her authorized representative in compliance with all applicable civil laws pertaining to the consumption of alcoholic beverages and provide for adequate supervision.)
12. Gambling. The Penal Law of New York State prohibits loitering in a public place for the purpose of gambling with cards, dice, or other gambling paraphernalia.
13. Intentional disruption or obstruction of teaching, research, administration, disciplinary proceedings, or other institutional activities.
14. Failure to comply with directions of duly authorized and identified college officials acting in performance of their official duties.

Sanctions

The commission of any of the above offenses shall be subject to the following sanctions; admonition, warning, censure, disciplinary probation, restitution, suspension, expulsion, ejection, or complaint to civil authorities. The definition of these sanctions can be found on the Baruch College website at http://www.baruch.cuny.edu/academic/academic_honesty.html. The procedures for the administration of these penalties are detailed in the section on disciplinary procedures on the Baruch College website at <http://www.baruch.cuny.edu/studentaffairs/StudentLife/handbook/articlexv.htm>.

Sale and Purchase of Research Papers for Course Use

The sale or purchase of term papers, student essays, reports, and other written assignments intended for use in credit courses is prohibited. Purchase from commercial term paper firms for use as course papers is illegal and subjects a student to disciplinary proceedings.

D. Smoking Regulation

Smoking is prohibited in all School facilities.

E. Academic Integrity Policy

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

1. Definitions and Examples of Academic Dishonesty

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

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

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

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

- Internet plagiarism, including submitting downloaded term papers or parts of term papers, paraphrasing or copying information from the internet without citing the source, or "cutting & pasting" from various sources without proper attribution.

1.3. **Obtaining Unfair Advantage** is any action taken by a student that gives that student an unfair

advantage in his or her academic work over another student, or an action taken by a student through which a student attempts to gain an unfair advantage in his or her academic work over another student. Examples of obtaining unfair advantage include:

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

1.4. **Falsification of Records and Official Documents**

Examples of falsification include:

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

2. Methods for Promoting Academic Integrity

2.1. Packets containing a copy of the CUNY Policy on Academic Integrity and, if applicable, the college's procedures implementing the Policy, and information explaining the Policy and procedures shall be distributed to all current faculty and, on an annual basis to all new faculty (full and part-time) These packets also shall be posted on each college's website. Orientation sessions for all new faculty (full and part-time) and students shall incorporate a discussion of academic integrity.

2.2. All college catalogs, student handbooks, faculty handbooks, and college websites shall include the CUNY Policy on Academic Integrity and, if applicable, college procedures implementing the policy and the consequences of not adhering to the Policy.

2.3. Each college shall subscribe to an electronic plagiarism detection service and shall notify students of the fact that such a service is available for use by the faculty. Colleges shall encourage faculty members to use such services and to inform students of their use of such services.

3. Reporting

3.1. Each college's president shall appoint an Academic Integrity Officer in consultation with the elected faculty governance leader. The Academic Integrity Officer shall serve as the initial contact person with faculty members when they report incidents of suspected academic dishonesty. The

Academic Integrity Officer may be the college's Student Conduct Officer, another student affairs official, an academic affairs official, or a tenured faculty member. Additional duties of the Academic Integrity Officer are described in Sections 4.1, 4.2.1, 4.2.2, 4.3 and 4.4.

3.2. A faculty member who suspects that a student has committed a violation of the CUNY Academic Integrity Policy shall review with the student the facts and circumstances of the suspected violation whenever feasible. Thereafter, a faculty member who concludes that there has been an incident of academic dishonesty sufficient to affect the student's final course grade shall report such incident on a Faculty Report Form in substantially the same format as the sample annexed to this Policy and shall submit the Form to the college's Academic Integrity Officer. Each college shall use a uniform form throughout the college, which shall contain, at a minimum, the name of the instructor, the name of the student, the course name and number and section number, the date of the incident, a description of the incident and the instructor's contact information.

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

4. Procedures for Imposition of Sanctions

4.1. Determination on academic vs. disciplinary sanction

The Academic Integrity Officer shall determine whether to seek a disciplinary sanction in addition to an academic sanction. In making this determination, the Academic Integrity Officer shall consult with the faculty member who initiated the case and may consult with student affairs and/or academic affairs administrators as needed. Before determining which sanction(s) to seek, the Academic Integrity Officer also shall consult the student's confidential academic integrity file, if any, to determine whether the student has been found to have previously committed a violation of the Academic Integrity Policy, the nature of the infraction, and the sanction imposed or action taken. Prior violations include both violations at the student's current college and violations that occurred at any other CUNY college. In making the determination on prior violations, the Academic Integrity Officer shall determine whether the student previously attended any other CUNY colleges and, if so, shall request and be given access to the academic integrity files, if any, at such other CUNY colleges. The Academic Integrity Officer should seek disciplinary sanctions only if (i) there is a substantial violation; or (ii) the student has previously violated the Policy; or (iii) academic sanctions are unable to be imposed because the student has timely withdrawn from the applicable course. Examples of substantial violations include but are not limited to forging a grade form or a transcript; stealing an examination from a professor or a university office; having a substitute take an examination or taking an examination for someone else; having someone else write a paper for the student or writing a paper for another student; sabotaging another student's work through actions that prevent or impede the other student from successfully completing an assignment; and violations committed by a graduate or professional student or a student who will seek

professional licensure. The college also should consider any mitigating circumstances in making this determination.

4.2. Procedures in Cases Involving Only Academic Sanctions

4.2.1. Student Admits to the Academic Dishonesty and Does Not Contest the Academic Sanction

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

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

4.2.2. Student Admits to the Academic Dishonesty but Contests the Academic Sanction

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

4.2.3. Student Denies the Academic Dishonesty

In a case where a student denies the academic dishonesty, a fact-finding determination shall be made, at each college's option, by an Academic Integrity Committee established by the college's governance body or by the Student-Faculty Disciplinary Committee established under Article XV of the CUNY Bylaws. Each college's Academic Integrity Committee shall adopt procedures for hearing cases. (If a college opts to use its Student-Faculty Disciplinary Committee for this purpose, that Committee shall use Article XV procedures.) Those procedures, at a minimum, shall provide a student with (i) written notice of the charges against him or her; (ii) the right to appear before the Committee; and (iii) the right to present witness statements and/or to call witnesses. Those procedures also shall provide the faculty member with the right to make an appearance before the Committee. The Committee may request the testimony of any witness and may permit any such witness to be questioned by the student and by the administrator presenting the case. Academic Integrity Committees and Student-Faculty Disciplinary Committees, as applicable, shall issue written decisions and send copies of their decisions to the college's Academic Integrity Officer. The Academic Integrity Officer may not serve on a college's Academic Integrity Committee.

4.3. Procedures in Cases Involving Disciplinary Sanctions

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

If the college seeks to have both a disciplinary and an academic sanction imposed, the college shall proceed first with the disciplinary proceeding and await its outcome before addressing the academic sanction. The student's grade shall be held in abeyance by using the PEN grade established for this purpose, pending the Committee's action. If the Faculty-Student Disciplinary Committee finds that the alleged violation occurred, then the faculty member may reflect that finding in the student's grade. The student may appeal the finding in accordance with Article XV procedures and/or may appeal the grade imposed by the faculty member in accordance with section 4.2.2. If the Faculty-Student Disciplinary Committee finds that the alleged violation did not occur, then no sanction of any kind may be imposed. Where a matter proceeds to the Faculty-Student Disciplinary Committee, the Academic Integrity Officer shall promptly report its resolution to the faculty member and file a record of the resolution in the student's confidential academic integrity file, unless, as explained below, the suspected violation was held to be unfounded.

4.4. Required Action in Cases of No Violation

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

5. Implementation

Each college, in accordance with its governance plan, shall implement this Policy and may adopt its own more specific procedures to implement the Policy. Colleges' procedures must be consistent with the policy and procedures described in the Policy.

6. Faculty Report Form

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

Office of the Academic Integrity Officer

[Fill in name of college]

Instructor Name:

Dept: _____ Tel.No: _____ email:

Course: _____ Section: _____

Semester: _____

Student Name: _____ Student ID#: _____

Date of Incident: _____

Type of Incident: _____ Cheating _____ Plagiarism
_____ Other _____

Description of Incident:

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

Yes ___ No ___ Student could not be contacted

Explanation _____

Explanation of recommended sanction _____

Signature of Faculty Member _____ Date _____

Resolution of the Case after Adjudication

Academic

sanction _____

Disciplinary sanction _____

Signature of Academic Integrity Officer _____ Date _____

F. Maintenance of Public Order

The Board of Trustees in compliance with Chapter 191 of the Laws of 1969 (Henderson Act) adopts the following rules and regulations for the maintenance of public order on college campuses and other college property used for educational purposes:

1. *Rules Governing Members of the Academic Community and Visitors*

A member of the academic community shall not intentionally obstruct and/or forcibly prevent others from the exercise of their rights. Nor shall he or she 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.

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.

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.

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.

Each member of the academic community or an invited guest has the right to advocate his or her 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.

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 their rights, or whose presence 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.

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

No individual shall have in his or her possession a rifle, shotgun or firearm or knowingly have in his or her possession any other dangerous instrument or material that can be used and is intended 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 or her possession any other instrument or material that 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.

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

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 days after such conviction.

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

2. *Sanctions*

2.1 Definitions

a) Admonition: An oral statement to the offender that he or she has violated university rules

- b) Warning: Notice to the offender, orally or in writing, that continuation or repetition of wrongful conduct within a period of time stated in the warning, may be cause for more severe disciplinary action
- c) Censure: Written reprimand for violation of a specified regulation, including the possibility of more severe disciplinary sanctions in the event of a conviction for the violation of any University regulation within a period stated in the letter of reprimand
- d) Disciplinary Probation: Exclusion from participation in privileges or extracurricular University activities as set forth in the notice of disciplinary probation for a specified period of time
- e) Restitution: Reimbursement for damage to or misappropriation of property. Reimbursement may take the form of appropriate service to repair or otherwise compensate for damages
- f) Suspension: Exclusion from classes and other privileges or activities, as set forth in the notice of suspension, for a definite period of time
- g) Expulsion: Termination of student status for an indefinite period. The conditions of readmission, if any is permitted, shall be stated in the order of expulsion
- h) Complaint to Civil Authorities
- i) Ejection

Admonition, warning, censure, and disciplinary probation shall be in addition to any other penalty provided by law or The City University.

2.2 Students

Any student engaging in any manner in conduct prohibited under this policy shall be subject to the following range of sanctions defined in this policy:

- a) Admonition
- b) Warning
- c) Censure
- d) Disciplinary probation
- e) Restitution
- f) Suspension
- g) Expulsion
- h) Ejection
- i) Arrest by the civil authorities

2.3 Faculty and Staff

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 this policy shall be subject to the following range of penalties:

- a) Warning
- b) Censure
- c) Restitution
- d) Fine not exceeding those permitted by law or by the Bylaws of the University
- e) Suspension with or without pay pending a hearing before an appropriate college authority
- f) Dismissal after a hearing
- g) Ejection

h) Arrest by the civil authorities

For engaging in the unlawful manufacture, distribution, dispensation, possession, or use of illegal drugs or other controlled substances on University/college premises, or as part of any University/college activities, such an individual may, alternatively, 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 of these activities 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 University.

2.4 Visitors

Any visitor, licensee, or invitee, engaging in any manner in conduct prohibited under this policy shall be subject to ejection, and/or arrest by the civil authorities.

2.5 Organizations

Any organization that authorizes the conduct prohibited under this policy shall have its permission to operate on campus rescinded.

3. *Dissemination of Rules and Regulations*

A copy of these rules and regulations is filed with the Regents of the State of New York and with the Commissioner of Education. These rules and regulations are to be incorporated in each college bulletin.

4. *Security Services on Campuses*

All security and safety services provided on college-owned or leased facilities shall be the responsibility of the college President. College responsibility for security and public safety applies to any building or property owned or controlled by the college and used by the college in direct support of, or related to, its educational purposes, and any building or property owned or controlled by student organizations recognized by the college. This includes student union buildings and other entities that bear the name of the college. All security or security related functions at events in college facilities, such as performances, speeches, conferences, meetings, classes, and other special events, shall be managed by the college. No private security personnel, such as bodyguards or escorts acting in a security capacity—with the exception of security guards contracted for by the college—shall perform any campus security or security related functions. The use of armed private security guards is prohibited. After consultation with the campus faculty and student constituencies, as well as with the appropriate University offices, the colleges are to establish security and safety guidelines for persons or organizations appearing at campus events or using campus facilities, consistent with this policy. Contracts for speakers or space rentals should contain conditions whereby events may be canceled or payments or deposits may be forfeited for failure to comply with college security policies and procedures. Additionally, any person or organization violating such an agreement may be denied future access to any University campus or related facility in addition to any other applicable college or lawful sanctions. This policy does not apply to federal, state, county, or municipal sworn law enforcement officers, or to foreign or international law enforcement personnel who are officially charged with the responsibility of providing security for

particular individuals, or who are involved in a law enforcement capacity—e.g. crowd control in conjunction with the security officers of the college.

This policy, which applies to all facilities and events whether fees are paid to speakers or funded through student fees, is not intended to limit or abridge individual access to or attendance at college events.

In the event that private security is necessary and requires an exception to this policy, such exceptions must be approved by the college President and the Chancellor and reported to the Board of Trustees' Committee on Fiscal Affairs, Facilities, and Contract Review at the earliest practicable time.

5. *Campus Peace Officers*

The Board of Trustees of the University has the power to appoint campus officers who shall have the powers of peace officers as set forth in the Criminal Procedure Law within the geographical area of the City of New York. The powers of such peace officers include making arrests, searches and issuing appearance tickets, but not the power to carry firearms. It is appropriate to authorize the Chancellor to withhold these powers of peace officers when they are undergoing background checks and training and to suspend them while they are under investigation for misconduct or poor performance, under a disciplinary penalty, and other circumstances. The Board of Trustees authorizes the Chancellor or his or her designee to withhold and make the initial designation, and to suspend and reinstate the authority and powers as peace officers—under the Criminal Procedure Law of New York State—of campus peace officers who have been appointed by the Board of Trustees.

6. *Outside Law Enforcement Intervention*

A college president, or his or her designee, shall consult with the Chancellor or his or her designee prior to involving law enforcement agencies during a campus protest, including summoning the police, except in cases of immediate danger to personal safety or to property. In considering such action, the President, or his or her designee, shall make all possible efforts to consult with the student body president(s) and the chair of the faculty governance body. The Chancellor shall endeavor to consult with the student trustee on the President's intent to call the police. The Chancellor shall develop a process to be followed by the colleges and the central office prior to calling the police.

7. *Violent Felony Offenses and Missing Students*

Each college shall adopt and implement a plan providing for the investigation of any violent felony offense occurring at, or, on the grounds of each such institution, and providing for the investigation of a report of any missing student who resides in a facility owned or operated by the college. Such plans shall provide for the coordination of the investigation of such crimes and reports with the New York City Police Department.

The Chancellor is authorized to execute such agreements as are necessary with the New York City Police Department providing for the prompt investigation of such violent felony offenses and missing student reports. The plans of each college shall include compliance with the terms of such agreement(s).

Each college plan must provide for the coordination of the investigation of such reports between the University Public Safety Peace Officer Service and the New York City Police Department in accordance with a written agreement. The University intends to have a master agreement for all of the University colleges with the Police Department. Although the law requires that college plans also include provisions for the reporting and investigation of missing students, this is limited to students residing in dormitories (i.e., facilities owned or operated by the college).

G. Student Disciplinary Procedures

Complaint Procedures:

- a. Any charge, accusation, or allegation which is to be presented against a student, and, which if proved, may subject a student to disciplinary action, must be submitted in writing in complete detail to the office of the dean of students promptly by the individual, organization or department making the charge.
- b. The chief student affairs officer of the college or his or her designee will conduct a preliminary investigation in order to determine whether disciplinary charges should be preferred. The chief student affairs officer or his or her designee will advise the student of the charge(s) against him or her, consult with other parties who may be involved or who have information regarding the incident, and review other relevant evidence. Following this preliminary investigation, which shall be concluded within thirty (30) calendar days of the filing of the complaint, the chief student affairs officer or designee shall take one of the following actions:
 - (i) Dismiss the matter if there is no basis for the allegation(s) or the allegation(s) does not warrant disciplinary actions. The individuals involved shall be notified that the complaint has been dismissed;
 - (ii) Refer the matter to conciliation. If a matter is referred to conciliation the accused student shall receive a copy of the notice required pursuant to section 15.3.e. of this bylaw; or
 - (iii) Prefer formal disciplinary charges.

Conciliation Conference:

- c. The conciliation conference shall be conducted by the counselor in the office of the dean of students or a qualified staff or faculty member designated by the chief student affairs officer. The following procedures shall be in effect at this conference:
 1. An effort will be made to resolve the matter by mutual agreement.
 2. If an agreement is reached, the counselor shall report his/her recommendation to the chief student affairs officer for approval and, if approved, the complainant shall be notified.
 3. If no agreement is reached, or if the student fails to appear, the counselor shall refer the matter back to the chief student affairs officer who will prefer disciplinary charges.
 4. The counselor is precluded from testifying in a college hearing regarding information received during the conciliation conference.

Notice of Hearing and Charges:

- d. Notice of the charge(s) and of the time and place of the hearing shall be personally delivered or sent by the chief student affairs officer of the college to the student at the address appearing on the records of the college, by registered or certified mail and by regular mail. The hearing shall be scheduled within a reasonable time following the filing of the charges or the conciliation conference. Notice of at least five business days shall be given to the student in advance of the hearing unless the student consents to an earlier hearing.
- e. The notice shall contain the following:

1. A complete and itemized statement of the charge(s) being brought against the student including the rule, bylaw or regulation he/she is charged with violating, and the possible penalties for such violation.
2. A statement that the student has the following rights:
 - (i) to present his/her side of the story;
 - (ii) to present witnesses and evidence on his/her behalf;
 - (iii) to cross-examine witnesses presenting evidence against the student;
 - (iv) to remain silent without assumption of guilt; and
 - (v) to be represented by legal counsel or an advisor at the student's expense.
3. A warning that anything the student says may be used against him/her at a non-college hearing.

Faculty-Student Disciplinary Committee Procedures:

- f. The following procedures shall apply at the hearing before the faculty-student disciplinary committee:
 1. The chairperson shall preside at the hearing. The chairperson shall inform the student of the charges, the hearing procedures and his or her rights.
 2. After informing the student of the charges, the hearing procedures, and his or her rights, the chairperson shall ask the student charged to plead guilty or not guilty. If the student pleads guilty, the student shall be given an opportunity to explain his/her actions before the committee. If the student pleads not guilty, the college shall present its case. At the conclusion of the college's case, the student may move to dismiss the charges. If the motion is denied by the committee the student shall be given an opportunity to present his or her defense.
 3. Prior to accepting testimony at the hearing, the chairperson shall rule on any motions questioning the impartiality of any committee member or the adequacy of the notice of the charge(s). Subsequent thereto, the chairperson may only rule on the sufficiency of the evidence and may exclude irrelevant, immaterial or unduly repetitive evidence. However, if either party wishes to question the impartiality of a committee member on the basis of evidence which was not previously available at the inception of the hearing, the chairperson may rule on such a motion. The chairperson shall exclude all persons who are to appear as witnesses, except the accused student.
 4. The college shall make a record of each fact-finding hearing by some means such as a Stenographic transcript, a tape recording or the equivalent. A disciplined student is entitled upon request to a copy of such a transcript, tape or equivalent without cost.
 5. The student is entitled to a closed hearing but has the right to request an open public hearing. However, the chairperson has the right to hold a closed hearing when an open public hearing would adversely affect and be disruptive of the committee's normal operations.
 6. The college bears the burden of proving the charge(s) by a preponderance of the evidence.
 7. The role of the faculty-student disciplinary committee is to listen to the testimony, ask questions of the witnesses, review the testimony and evidence presented at the hearing and the papers filed by the parties and render a determination as to guilt or innocence. In the event the student is found guilty, the committee shall then determine the penalty to be imposed.

8. At the end of the fact-finding phase of the hearing, the student may introduce additional records, such as character references. The college may introduce a copy of the student's previous disciplinary record, where applicable, provided the student was shown a copy of the record prior to the commencement of the hearing. The disciplinary record shall be submitted to the committee in a sealed envelope and shall not be opened until after the committee has made its findings of fact. In the event the student has been determined to be guilty of the charge or charges the records and documents introduced by the student and the college shall be opened and used by the committee for dispositional purposes, i.e., to determine an appropriate penalty if the charges are sustained.
9. The committee shall deliberate in closed session. The committee's decision shall be based solely on the testimony and evidence presented at the hearing and the papers filed by the parties.
10. The student shall be sent a copy of the faculty-student disciplinary committee's decision within five days of the conclusion of the hearing. The decision shall be final subject to the student's right of appeal.
11. Where a student is represented by legal counsel the president of the college may request that a lawyer from the general counsel's office appear at the hearing to present the college.

H. Procedures for Handling Student Complaints about Faculty Conduct in Academic Settings

I. Introduction. The University and its Colleges have a variety of procedures for dealing with student-related issues, including grade appeals, academic integrity violations, student discipline, disclosure of student records, student elections, sexual harassment complaints, disability accommodations, and discrimination. One area not generally covered by other procedures concerns student complaints about faculty conduct in the classroom or other formal academic settings. The University respects the academic freedom of the faculty and will not interfere with it as it relates to the content or style of teaching activities. Indeed, academic freedom is and should be of paramount importance. At the same time the University recognizes its responsibility to provide students with a procedure for addressing complaints about faculty treatment of students that are not protected by academic freedom and are not covered by other procedures. Examples might include incompetent or inefficient service, neglect of duty, physical or mental incapacity and conduct unbecoming a member of the staff.

II. Determination of Appropriate Procedure. If students have any question about the applicable procedure to follow for a particular complaint, they should consult with the chief student affairs officer. In particular, the chief student affairs officer should advise a student if some other procedure is applicable to the type of complaint the student has.

III. Informal Resolution. Students are encouraged to attempt to resolve complaints informally with the faculty member or to seek the assistance of the department chairperson or campus ombudsman to facilitate informal resolution.

IV. Formal Complaint. If the student does not pursue informal resolution, or if informal resolution is unsuccessful, the student may file a written complaint with the department chairperson or, if the chairperson is the subject of the complaint, with the academic dean or a senior faculty member designated by the college president. (This person will be referred to below as the Fact Finder.). Only students in a faculty member's class or present in another academic setting where the alleged conduct occurred may file complaints against that faculty member.

A. The complaint shall be filed within 30 calendar days of the alleged conduct unless there is good cause shown for delay, including but not limited to delay caused by an attempt at informal resolution. The complaint shall be as specific as possible in describing the conduct complained of.

B. The Fact Finder shall promptly send a copy to the faculty member about whom the complaint is made, along with a letter stating that the filing of the complaint does not imply that any wrongdoing has occurred and that a faculty member must not retaliate in any way against a student for having made a complaint. If either the student or the faculty member has reason to believe that the department chairperson may be biased or otherwise unable to deal with the complaint in a fair and objective manner, he or she may submit to the academic dean or the senior faculty member designated by the college president a written request stating the reasons for that belief; if the request appears to have merit, that person may, in his or her sole discretion, replace the department chairperson as the Fact Finder. The chairperson may also submit a written request for recusal for good cause to the academic dean or senior faculty member designated by the college president to review such requests. If a recusal request is granted, a different department chairperson shall conduct the investigation, or, if no other chairperson is available, an administrator designated by the college president shall serve in the chairperson's stead. Further, the college president may re-assign investigations as necessary, including but not limited to situations in which a Fact Finder has not completed an investigation in a timely manner. In addition, during any time that no department chairperson is available to investigate a complaint, the college president may assign an administrator to investigate.

C. The Fact Finder shall meet with the complaining student and faculty member, either separately or together, to discuss the complaint and to try to resolve it. The Fact Finder may seek the assistance of the campus ombudsman or other appropriate person to facilitate informal resolution.

D. If resolution is not possible, and the Fact Finder concludes that the facts alleged by the student, taken as true and viewed in the light most favorable to the student, establish that the conduct complained of is clearly protected by academic freedom, he or she shall issue a written report dismissing the complaint and setting forth the reasons for dismissal and send a copy to the complaining student, the faculty member, the chief academic officer and the chief student affairs officer. Otherwise, the Fact Finder shall conduct an investigation. The Fact Finder shall separately interview the complaining student, the faculty member and other persons with relevant knowledge and information and shall also consult with the chief student affairs officer and, if appropriate, the college ombudsman. The Fact Finder shall not reveal the identity of the complaining student and the faculty member to others except to the extent necessary to conduct the investigation. If the Fact Finder believes it would be helpful, he or she may meet again with the student and faculty member after completing the investigation in an effort to resolve the matter. The complaining student and the faculty member shall have the right to have a representative (including a union representative, student government representative or attorney) present during the initial meeting, the interview and any post-investigation meeting.

E. In cases where there is strong preliminary evidence that a student's complaint is meritorious and that the student may suffer immediate and irreparable harm, the Fact Finder may provide appropriate interim relief to the complaining student pending the completion of the investigation. The affected faculty member may appeal such interim relief to the chief academic officer.

F. At the end of the investigation, the Fact Finder shall issue a written report setting forth his or her findings and recommendations, with particular focus on whether the conduct in question is protected by academic freedom, and send a copy to the complaining student, the faculty member, the chief academic officer and the chief student affairs officer. In ordinary cases, it is expected that the investigation and written report should be completed within 30 calendar days of the date the complaint was filed.

V. Appeals Procedure. If either the student or the faculty member is not satisfied with the report of the Fact Finder, the student or faculty member may file a written appeal to the chief academic officer within 10 calendar days of receiving the report, which time period may be extended for good cause shown. The chief academic officer shall convene and serve as the chairperson of an Appeals Committee, which shall also include the chief student affairs officer, two faculty members elected annually by the faculty council or senate and one student elected annually by the student senate. The Appeals Committee shall review the findings and recommendations of the report, with particular focus on whether the conduct in question is protected by academic freedom. The Appeals Committee shall not conduct a new factual investigation or overturn any factual findings contained in the report unless they are clearly erroneous. If the Appeals Committee decides to reverse the Fact Finder in a case where there has not been an investigation because the Fact Finder erroneously found that the alleged conduct was protected by academic freedom, it may remand to the Fact Finder for further proceedings. The committee shall issue a written decision within 20 calendar days of receiving the appeal. A copy of the decision shall be sent to the student, the faculty member, the department chairperson and the president.

VI. Subsequent Action. Following the completion of these procedures, the appropriate college official shall decide the appropriate action, if any, to take. For example, the department chairperson may decide to place a report in the faculty member's personnel file or the president may bring disciplinary charges against the faculty member. Disciplinary charges may also be brought in extremely serious cases even though the college has not completed the entire investigative process described above; in that case, the bringing of disciplinary charges shall automatically suspend that process. Any action taken by a college, whether interim or final, must comply with the bylaws of the University and the collective bargaining agreement between the University and the Professional Staff Congress.

VII. Campus Implementation. Each campus shall implement these procedures and shall distribute them widely to administrators, faculty members and students and post them on the college website.

I. Student Privacy Policy

Family Educational Rights and Privacy Act (FERPA) FERPA Annual Notice to Students: Access to Student Records

Annually, Colleges inform students of the Family Educational Rights and Privacy Act of 1974, (FERPA) as amended. The Office of the Registrar will disclose FERPA information by publishing a notice in the College Catalog, Registrar Website and in other appropriate locations. This annual notice shall

prescribe the procedures whereby a student may make a formal request for non-disclosure of directory information, exercise the right to inspect and review education records, request an amendment of education records and obtain a copy of the College's education records policy. The Family Educational Rights and Privacy Act (FERPA) affords students certain rights with respect to their education records. See Section "6" below on your right to prevent the disclosure of directory information. The FERPA rights of students are:

(1) The right to inspect and review your education records. Students should submit to the registrar, dean, head of the academic department, or other appropriate official, written requests that identify the record(s) they wish to inspect. If the records are not maintained by the college official to whom the request was submitted, that official shall advise the student of the correct official to whom the request should be addressed. All requests shall be granted or denied in writing within 45 days of receipt. If the request is granted, you will be notified of the time and place where the records may be inspected. If the request is denied or not responded to within 45 days, you may appeal to the college's FERPA appeals officer. Additional information regarding the appeal procedures will be provided to you if a request is denied. Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for students to review the records. Schools may charge a fee for copies.

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

(3) The right to consent to disclosure of personally identifiable information contained in your education records, except to the extent that FERPA authorizes disclosure without consent. One exception which permits disclosure without consent is disclosure to college officials with legitimate educational interests. A college official is a person employed by the university in an administrative, supervisory, academic or research, or support staff position; a person or company with whom the University has contracted; a person serving on the Board of Trustees; or a student serving on an official committee, such as a disciplinary or grievance committee, or assisting another college official in performing his or her tasks. A college official has a legitimate educational interest if access is reasonably necessary in order to perform his/her instructional, research, administrative or other duties and responsibilities. Upon request, the college discloses education records without consent to officials of another college or school in which a student seeks or intends to enroll.

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

General Counsel and Vice Chancellor for Legal Affairs
The City University of New York
535 East 80th Street
New York, NY 10021.

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

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

www.ed.gov/policy/gen/guid/fpco/ferpa/index.html

(6) Colleges will make the following “directory information” concerning current and former students available to those parties having a legitimate interest in the information:

- Name
- attendance dates (periods of enrollment)
- address
- telephone number
- date and place of birth
- photograph
- email address
- full- or part-time status
- Enrollment status (undergraduate, graduate, etc.)
- level of education (credits) completed
- major field of study
- degree enrolled for
- participation in officially recognized activities and sports
- height and weight of athletic team members

For More information, including a tutorial, please refer to
<http://www.baruch.cuny.edu/registrar/FERPAFAQ.htm>

J. Students with Disabilities

Reasonable Accommodation

Please contact the local program administrator if you need an accommodation based on a disability as defined by the country in which your degree program is being administered.

K. Non-Discrimination Policy

Statement of Principles

The City University of New York, located in a historically diverse municipality, is committed to engendering values and implementing policies that will enhance respect for individuals and their cultures. The University believes that, in order to truly benefit from this diversity, the University must foster tolerance, sensitivity and mutual respect among all members of its community. Efforts to

promote diversity and to combat bigotry are an inextricable part of the educational mission of the University. Diversity among the University's many members strengthens the institution, promotes the exchange of new ideas, and enriches campus life. The University does not condone and will not tolerate discrimination or harassment in employment or in its educational programs and activities. The City University of New York continues to recognize the important need to maintain at each campus equal access and opportunity for qualified students, faculty and staff from all ethnic and racial groups and from both sexes.

Policy Statement

It is the policy of The City University of New York and the constituent colleges and units of The University to recruit, employ, retain, promote, and provide benefits to employees and to admit and provide services for students without regard to race, color, creed, national origin, ethnicity, ancestry, religion, age, sex, sexual orientation, gender identity, marital status, legally registered domestic partnership status, disability, predisposing genetic characteristics, alienage, citizenship, military or veteran status, or status as a victim of domestic violence.

Sexual harassment, a form of sex discrimination, is prohibited under the University's Policy Against Sexual Harassment.

The City University of New York, as a public university system, adheres to federal, state, and city laws and regulations regarding non-discrimination and affirmative action including among others Section 1324b of the Immigration and Nationality Act (INA), Executive Order 11246, as amended, Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Sections 503 and 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, as amended and the Age Discrimination Act of 1975, the New York State Human Rights Law and the New York City Human Rights Law. The "protected classes," as delineated in Executive Order 11246: (i.e. Black, Hispanic, Asian/Pacific Islander, American Indian/Alaskan Native and Women), were expanded on December 9, 1976 by the Chancellor of The City University of New York to include Italian-Americans. The Office of Management and Budget further expanded these protected classes in 2006 to include two or more races (not 4 Hispanic or Latino) and replaces Asian/Pacific Islander, with Asian (not Hispanic or Latino) and Native Hawaiian (not Hispanic or Latino) and Black will be renamed as Black or African American (not Hispanic or Latino). Should any federal, state, or city law or regulation be adopted that prohibits discrimination based on grounds or characteristics not included in this policy, this policy shall be read to prohibit discrimination based on those grounds or characteristics, as well.

Responsibility for Compliance

The President of each college of the University, the Senior Vice Chancellor at the Central Office, and the Dean of the Law School shall have ultimate responsibility for overseeing compliance with this Policy at his or her respective unit of the University.

Discrimination Complaints

The City University of New York is committed to addressing discrimination complaints promptly, consistently and fairly. There shall be a discrimination complaint procedure administered by each unit of

the University. Retaliation against any member of the University community who has made a complaint of discrimination is prohibited.

Complaint Procedure for Review of Allegations of Unlawful Disparate Treatment Discrimination

(The University has developed separate procedures for implementation of the Policy Against Sexual Harassment. For details see Section V)

1. Discrimination Defined

a. Treating members of a protected class less favorably because of their membership in that class. The protected groups are set forth in CUNY's nondiscrimination policy.

b. Harassment is a type of discrimination involving oral, written, graphic or physical conduct relating to an individual's race, color, or national origin (including an individual's ancestry, country of origin, or country of origin of the individual's parents or other family member) or other protected characteristic that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to work for, participate in or benefit from the educational institution's programs or activities.

2. Responsible Offices and Individuals

a. **Responsibilities of the Presidents:** The President of each college of the University, the Executive Vice Chancellor and Chief Operating Officer at the Central Office, the Deans of the Law School, Graduate School of Journalism and Sophie Davis School of Biomedical Education shall have ultimate responsibility for overseeing compliance with the Non- Discrimination Policy (hereinafter the "Policy") at his or her respective unit of the University. **Each President shall:**

- Appoint an Affirmative Action/Compliance and Diversity Officer (AA/CDO), a Sexual Harassment Coordinator and at least one Deputy Coordinator, a 504/ADA Compliance Coordinator and a Title IX Coordinator. The AA/CDO may be appointed to perform one or more of these functions.
- Ensure that the individuals appointed to handle allegations of discrimination/harassment, including sexual harassment, are fully trained and equipped to carry out their responsibilities.
- Assure that supervisors receive orientation on the University's Non- Discrimination Policy and Policy Against Sexual Harassment.
- Annually disseminate to all employees the Non-Discrimination Policy, the Policy Against Sexual Harassment, and the Form for Notification of Protected Categories, and include the names, titles, telephone numbers, and office locations of the AA/CDO, the Sexual Harassment Coordinator and Deputy Coordinator(s), the 504/ADA Compliance Coordinator, and in addition, to students, the Title IX Coordinator, and the Chief Student Affairs Officer. Such information should be widely disseminated and included in all orientations (including supervisory orientation sessions), handbooks, newsletters, and on the colleges' websites. In addition, the *Policies and Procedures on Non-Discrimination and Sexual Harassment* should be incorporated into the training curriculum for employees that are involved in investigating discrimination complaints.
- Submit annually to the Office of the Vice Chancellor for Faculty and Staff Relations an annual report on non-discrimination, which shall include information on complaints filed within the past year and their resolution, and other information.

b. **Responsibilities of the Affirmative Action/Compliance and Diversity Officer (AA/CDO) and the Chief Student Affairs Officer:**

- The AA/CDO is responsible, as the President's designee, for providing confidential consultation, informal complaint resolution and investigation of all internal complaints of discrimination/harassment.
- The AA/CDO and the Chief Student Affairs Officer or his/her representative are responsible, as the President's designees, for handling and providing for prompt and equitable resolution of student discrimination/harassment complaints under applicable laws, rules, and/or regulation.

c. Responsibilities of the Sexual Harassment Coordinator, Deputy Coordinator and Sexual Harassment Awareness and Intake Committee are set forth in Section IV.

d. Responsibilities of Supervisory Personnel

- Supervisory personnel exercise authority on behalf of the University. They include deans, directors, department chairpersons, executive officers, administrators, or other persons with supervisory responsibility. They must take steps to create a workplace free of discrimination and harassment, and must take each and every complaint seriously.
- Each supervisor must arrange for the posting, in his or her area, of the University's Non-Discrimination Policy with the names, titles, telephone numbers, and office locations of the AA/CDO, the Sexual Harassment Coordinator and Deputy Coordinator(s), the Chief Student Affairs Officer, the 504/ADA Compliance Coordinator and the Title IX Coordinator.

e. Responsibilities of the University Community-at-large

- Members of the University community, who become aware of allegations of discrimination including sexual harassment, should encourage the aggrieved individual to report the alleged act to the AA/CDO or the Sexual Harassment Coordinator, as applicable.

3. Confidentiality

The privacy of individuals who bring complaints of discrimination, who are accused of discrimination, or who are otherwise involved in the complaint process should be respected, and information obtained in connection with the filing, investigation, or resolution of complaints should be handled as confidentially as possible. It is not possible, however, to guarantee absolute confidentiality and no promise of complete confidentiality should be made to University employees or students who are involved in the complaint process.

4. Making a Complaint of Discrimination

Any applicant for employment or individual who is employed by or enrolled at The City University of New York may file a complaint of discrimination. The University places a strong emphasis on prompt action to resolve complaints alleging discrimination. Members of the University community who believe they have been discriminated against or harassed are strongly encouraged to report allegations as promptly as possible. Delay in making a complaint may make it more difficult for a unit of the University to investigate the allegations. The complaint procedure that follows applies to all job applicants and employees and in some instances, former employees of The City University of New York. Students employed by CUNY have the right to equal employment opportunity in their capacity as employees. Sexual harassment, a form of sex discrimination, is prohibited under the University's Policy Against Sexual Harassment. Members of the University community who believe they have been sexually harassed are strongly encouraged to report their allegations as promptly as possible to the Sexual Harassment Coordinator (who in most cases is the AA/CDO). For details on reporting a complaint of sexual harassment see Section IV.

Whom to Contact

Any employee, applicant for employment, or student, may file a complaint of discrimination or sexual harassment. Individuals who believe they are being or have been discriminated against or harassed in violation of university policy are encouraged to contact, as soon as possible, the AA/CDO. At the time the individual makes his/her complaint, the AA/CDO should provide the complainant with the complaint form (Attachment A) and with information about the various internal and external mechanisms through which the complaint may be filed (Attachment B). In the event that an employee on an assignment off campus files a complaint of discrimination the AA/CDO should investigate the complaint promptly, including coordinating, when necessary, with the off campus entity. Students who participate in field placement assignments should be informed, prior to reporting to the assignment, of CUNY's procedures regarding complaints of discrimination while on field placement assignments.

5. Preliminary Review of Discrimination Complaints

Individuals who believe they have been victims of discrimination/harassment may contact the AA/CDO to discuss issues relating to discrimination, with or without filing a complaint. The AA/CDO may conduct a preliminary fact-finding review. At its conclusion, the AA/CDO shall inform the complainant of the options available. These include seeking informal resolution to the problems the complainant has encountered or asking that a full investigation be conducted. Based upon the facts of the case, the AA/CDO may also advise the complainant that his or her case is more suitable for adjudication by another entity within the University.

6. Informal Resolution

Individuals who believe they have been discriminated against may choose to resolve their complaints informally. Informal resolution is a confidential process where parties can participate in a search for fair and workable solutions. Informal resolution requires the consent of both parties and suspends the complaint procedure for up to thirty (30) working days, which can be extended, at the discretion of the AA/CDO, upon consent of both parties. The AA/CDO should determine if informal resolution is appropriate in light of the nature of the complaint. All complaints, whether formal or informal, should be made in writing. The parties may agree upon a variety of resolutions, including but not limited to modification of work assignment, training for a department, or an apology. Resolutions should be agreed upon, signed by, and provided to the complainant(s) and respondent(s). Once both parties reach an informal agreement, it is final. Because informal resolution is voluntary, sanctions may be imposed against the accused only for a breach of the executed voluntary agreement. The complainant may advise the AA/CDO at any time during the informal resolution process that he or she wishes to withdraw a complaint. The AA/CDO or either party may at any time, prior to the expiration of thirty (30) working days, declare that attempts at informal resolution have failed. Upon such notice, the AA/CDO may commence a full investigation. If no informal resolution of a complaint is achieved, the individual shall refer the matter to the AA/CDO to conduct a more thorough investigation of the complaint. Individuals must complete the form annexed as Attachment A.

7. Investigation of Discrimination Complaints

- a. Full investigation of a discrimination complaint may occur when:
 1. The AA/CDO determines, upon review of a complaint that an investigation is warranted, or
 2. Informal resolution has failed.

- b. It is recommended that the investigation include the following, to the extent feasible:
 1. Interviewing of the complainant by the AA/CDO.

2. Informing the complainant that an investigation is being commenced, that interviews of the accused and possibly other people shall be conducted, and that the President shall determine what action, if any, to take after the investigation is completed.
3. Interviewing of the accused by the AA/CDO. The accused should be advised that a complaint of discrimination has been received, that an investigation has begun, which may include interviews with third parties, and that the President shall determine what action, if any, to take after the investigation is completed. The accused should be given a copy of the complaint (with sensitive information such as the complainant's home address and telephone number redacted) and an opportunity to respond. An accused employee who is covered by a collective bargaining agreement may consult with a union representative and have a union representative present during the interview.
4. Determining if, in addition to the complainant, the accused, and those persons named by them, there are others who may have relevant information regarding the events in question and whether there is documentary evidence that may be relevant to the complaint. Persons interviewed should be advised that information related to the complaint should be kept confidential and not disclosed further, except as necessary during the complaint process.
5. Informing the accused that retaliation against any person who files a complaint of discrimination, participates in an investigation, or opposes a discriminatory employment or educational practice or policy is prohibited under University policy and federal and state and city law. The accused should be informed that if retaliatory behavior is engaged in, he/she shall be subject to severe discipline, up to and including termination of employment or, if the accused is a student, permanent dismissal from the University.
6. Informing the complainant of the right to file a complaint with the appropriate federal or state or city agency and requesting that the complainant advise the AA/CDO if he or she has filed a complaint with an external agency. In the event that the AA/CDO learns that the complainant has filed a complaint with an external agency, he or she should inform the Office of General Counsel and coordinate the investigation accordingly.

c. Withdrawing a complaint.

1. A complaint of discrimination may be withdrawn at any time. Only the complainant(s) may withdraw a complaint. Requests for withdrawals must be submitted to the AA/CDO in writing. The AA/CDO, prior to making the determination to end the investigation, will consider whether evidence has been found that may lead to the conclusion that the University has an obligation to take action to correct unlawful discriminatory behavior. If there is such evidence, the investigation will continue. In either event, the AA/CDO will notify the respondent(s) in writing that the complainant(s) has withdrawn the complaint and whether it has been determined by appropriate University officials to continue the investigation for corrective action purposes.

d. In the event that a complaint is anonymous, the complaint should be investigated as thoroughly as possible under the circumstances.

e. Timeframe: While some complaints of discrimination may require extensive investigation, whenever possible, the investigation of most complaints should be completed within 60 days of the receipt of the complaint. In cases where the investigation is not completed within 60 days, a *Delay Notification Letter* (Attachment D) should be sent to the parties and the reason for the delay should be noted in the file.

8. Action Following Investigation of Discrimination Complaints

- a. Promptly following the completion of the investigation, the AA/CDO shall report his or her findings to the President, and in the event that the accused is a student, to the Chief Student Affairs Officer.
- b. Following such report, the President shall review the complaint investigation report and authorize such action as he or she deems necessary to properly correct the effects of or to prevent further harm to an affected party or others similarly situated. The President's review of the report and authorization that action be taken shall be documented in writing, which may be issued electronically. This can include commencing action to discipline the accused under applicable University Bylaws or collective bargaining agreements. Disciplinary action may include, but is not limited to, termination of employment and/or dismissal from the University, demotion, reassignment, suspension, reprimand, training or granting a benefit wrongfully withheld.
- c. The complainant(s) and respondent(s) to an investigation should be apprised in writing of the outcome and action taken as a result of the complaint.
- d. For each investigation, the President will sign a form that will go into the investigation file, stating: "I have reviewed the report of the investigation of the discrimination complaint filed by [complainant] on [date] and authorize the Affirmative Action Officer/Compliance and Diversity Officer/Sexual Harassment Coordinator to take appropriate action based on the findings in the report." The action authorized by the President shall be final.
- e. If the President is the accused, the Vice Chancellor of Faculty and Staff Relations shall appoint an investigator who shall report his/her findings to the Chancellor. The Chancellor shall determine what action shall be taken. The Chancellor's decision shall be final.

9. Immediate Preventive Action

The President may, in extreme cases, take whatever action is appropriate to protect the college community.

10. False and Malicious Accusations

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

11. Records and Reports

- a. The AA/CDO shall keep the President informed regarding complaints of discrimination and shall provide the information necessary to prepare the annual non-discrimination report referenced above in § II 2(a).
- b. Records regarding complaints of discrimination shall be maintained in a secure location.

12. Applicability of Procedures

- a. These Procedures are applicable to all of the units and colleges of the University. The Hunter College Campus Schools may make modifications to these procedures, subject to approval by.

b. These Procedures are intended to provide guidance to the Presidents for implementing the University policy of non-discrimination; these procedures do not create any rights or privileges on the part of any others. The University reserves the right to alter, change, add to, or delete any of these procedures at any time without notice.

L. Policy Against Sexual Harassment

Policy Statement

It is the policy of The City University of New York to promote a cooperative work and academic environment in which there exists mutual respect for all University students, faculty, and staff. Harassment of employees or students based upon sex is inconsistent with this objective and contrary to the University's non-discrimination policy. Sexual harassment is illegal under Federal, State, and City laws, and will not be tolerated within the University. The University, through its colleges, will disseminate this policy and take other steps to educate the University community about sexual harassment. The University will establish procedures to ensure that investigations of allegations of sexual harassment are conducted in a manner that is prompt, fair, thorough, and as confidential as possible under the circumstances, and that appropriate corrective and/or disciplinary action is taken as warranted by the circumstances when sexual harassment is determined to have occurred. Members of the University community who believe they have been aggrieved under this policy are strongly encouraged to report the allegations of sexual harassment as promptly as possible. Delay in making a complaint of sexual harassment may make it more difficult for the college to investigate the allegations.

a. Prohibited Conduct

It is a violation of University policy for any member of the University community to engage in sexual harassment or to retaliate against any member of the University community for raising an allegation of sexual harassment, for filing a complaint alleging sexual harassment, or for participating in any proceeding to determine if sexual harassment has occurred.

b. Definition of Sexual Harassment

For purposes of this policy, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other oral or written communications or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing;
2. Submission to or rejection of such conduct by an individual is used as a basis for employment or academic decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or abusive work or academic environment. Sexual harassment can occur between individuals of different sexes or of the same sex. Although sexual harassment most often exploits a relationship between individuals of unequal power (such as between a faculty member and student, supervisor and employee, or tenured and untenured faculty members), it may also occur between individuals of equal power (such as between fellow students or co-workers), or in some circumstances even where it appears that the harasser has less power than the individual harassed (for example, a student

sexually harassing a faculty member). A lack of intent to harass may be relevant to, but will not be determinative of, whether sexual harassment has occurred.

c. Examples of Sexual Harassment

Sexual harassment may take different forms. Using a person's response to a request for sexual favors as a basis for an academic or employment decision is one form of sexual harassment. Examples of this type of sexual harassment include, but are not limited to, the following: requesting or demanding sexual favors in exchange for employment or academic opportunities (such as hiring, promotions, grades, or recommendations); submitting unfair or inaccurate job or academic evaluations or grades, or denying training, promotion, or access to any other employment or academic opportunity, because sexual advances have been rejected.

Other types of unwelcome conduct of a sexual nature can also constitute sexual harassment, if sufficiently severe or pervasive that the target does find, and a reasonable person would find, that an intimidating, hostile or abusive work or academic environment has been created. Examples of this kind of sexual harassment include, but are not limited to, the following: sexual comments, teasing, or jokes; sexual slurs, demeaning epithets, derogatory statements, or other verbal abuse; graphic or sexually suggestive comments about an individual's attire or body; inquiries or discussions about sexual activities; pressure to accept social invitations, to meet privately, to date, or to have sexual relations; sexually suggestive letters or other written materials; sexual touching, brushing up against another in a sexual manner, graphic or sexually suggestive gestures, cornering, pinching, grabbing, kissing, or fondling; coerced sexual intercourse or sexual assault.

d. Consensual Relationships

Amorous, dating, or sexual relationships that might be appropriate in other circumstances have inherent dangers when they occur between a faculty member, supervisor, or other member of the University community and any person for whom he or she has a professional responsibility. These dangers can include: that a student or employee may feel coerced into an unwanted relationship because he or she fears that refusal to enter into the relationship will adversely affect his or her education or employment; that conflicts of interest may arise when a faculty member, supervisor, or other member of the University community is required to evaluate the work or make personnel or academic decisions with respect to an individual with whom he or she is having a romantic relationship; that students or employees may perceive that a fellow student or co-worker who is involved in a romantic relationship will receive an unfair advantage; and that if the relationship ends in a way that is not amicable, either or both of the parties may wish to take action to injure the other party. Faculty members, supervisors, and other members of the University community who have professional responsibility for other individuals, accordingly, should be aware that any romantic or sexual involvement with a student or employee for whom they have such a responsibility may raise questions as to the mutuality of the relationship and may lead to charges of sexual harassment. For the reasons stated above, such relationships are strongly discouraged. For purposes of this section, an individual has "professional responsibility" for another individual at the University if he or she performs functions including, but not limited to, teaching, counseling, grading, advising, evaluating, hiring, supervising, or making decisions or recommendations that confer benefits such as promotions, financial aid awards or other remuneration, or that may impact upon other academic or employment opportunities.

e. Academic Freedom

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

f. False and Malicious Accusations

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

g. Procedures

The University has developed procedures to implement this policy. The President of each constituent college of the University, the Senior Vice Chancellor at the Central Office, and the Dean of the Law School shall have ultimate responsibility for overseeing compliance with this policy at his or her respective unit of the University. In addition, each dean, director, department chairperson, executive officer, administrator, or other person with supervisory responsibility shall be required to report any complaint of sexual harassment to the individual or individuals designated in the procedures. All members of the University community are required to cooperate in any investigation of a sexual harassment complaint.

h. Enforcement

There is a range of corrective actions and penalties available to the University for violations of this policy. Students, faculty, or staff who are found, following applicable disciplinary proceedings, to have violated this Policy are subject to various penalties, including termination of employment and/or student expulsion from the University.

i. Procedures for Implementation of The City University's Policy Against Sexual Harassment

The following are procedures for implementation of the Policy Against Sexual Harassment at The City University of New York (hereinafter the "Policy"):

Sexual Harassment Defined

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other oral or written communications or physical conduct of a sexual nature when: submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing; submission to or rejection of such conduct by an individual is used as a basis for employment or academic decisions affecting such individual; or such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or abusive work or academic environment.

Responsibilities of Officers and Individuals

a. Responsibilities of the Presidents

The President of each constituent college of The City University of New York, the Senior Vice Chancellor at the Central Office, and the Dean of the Law School (hereinafter "Presidents") are responsible for overseeing compliance with the implementation of the Policy. Each President shall:

- Appoint a Sexual Harassment Coordinator and Deputy Coordinator(s) to be available to employees who wish to make complaints of sexual harassment. More than one Deputy Coordinator may be appointed at the discretion of the President. Presidents should take into account gender and ethnic balance as they appoint individuals. Further, one of the Coordinators should be a faculty member. The responsibilities of the Sexual Harassment Coordinator and Deputy Coordinator(s) are set forth in subsection b. below.
- Appoint a Sexual Harassment Awareness and Intake Committee to be responsible for educating the college community about sexual harassment through printed materials, workshops, and the like. The responsibilities of the Sexual Harassment Awareness and Intake Committee are set forth in subsection c. below.
- Ensure that the Coordinator, Deputy Coordinator(s) and Awareness and Intake Committee members are fully trained and equipped to carry out their responsibilities.
- Disseminate the Policy Against Sexual Harassment, including the names, titles, telephone numbers, and office locations of the Sexual Harassment Coordinator, Deputy Coordinator(s) and Sexual Harassment Awareness and Intake Committee members, annually to all employees. It is recommended that such information be included in all orientation, and all handbooks and newsletters; and on the college website.
- Submit as part of the annual report on non-discrimination, a summary of the sexual harassment educational activities undertaken at the college, as well as a summary of the number of complaints filed and the general outcomes thereof.

b. Responsibilities of the Sexual Harassment Coordinator and Sexual Harassment Deputy Coordinator(s)

- It is the responsibility of the President to appoint the college AA/CDO as either the Sexual Harassment Coordinator or a Sexual Harassment Deputy Coordinator. Further, a faculty member should be appointed as one of the Coordinators.
- The Sexual Harassment Coordinator is responsible, as the President's designee, for reviewing all complaints of sexual harassment from any member of the college community, and for making efforts to resolve those complaints informally, if possible. When informal resolution is not possible, the Sexual Harassment Coordinator shall investigate the complaint. The Sexual Harassment Coordinator shall report to the President (and the Chief Student Affairs Officer, if the accused/complainant is a student) the results of the investigation. A Deputy Coordinator may also assume responsibility for the informal resolution or investigation of complaints, as assigned by the Sexual Harassment Coordinator. The Coordinators have an obligation to maintain confidentiality to the fullest extent possible.
- Submit annually as part of the report on non-discrimination, a summary of the sexual harassment educational activities undertaken at the college, as well as a summary of the number of complaints filed and the general outcomes thereof.

c. Responsibilities of the Sexual Harassment Awareness and Intake Committee

- The Sexual Harassment Awareness and Intake Committee is responsible for educating employees about sexual harassment and its potential consequences to the University community, and for overseeing sexual harassment training.
- It is recommended that the Sexual Harassment Awareness and Intake Committee consist of six to eight persons, all of whom shall be appointed by and serve at the pleasure of the President. Further, it is strongly recommended that the Committee reflect the diversity of the college, and be composed of at least two faculty members, as well as administrators, staff, and students.
- All members of the Sexual Harassment Awareness and Intake Committee shall be available to receive complaints of sexual harassment from any member of the college community, to explain the University

complaint procedures, and to refer individuals and/or the complaint to the Sexual Harassment Coordinator.

- All members of the Sexual Harassment Awareness and Intake Committee have an obligation to maintain confidentiality to the fullest extent possible.

d. Responsibilities of Supervisors

- Each dean, director, department chairperson, executive officer, administrator, or other person with supervisory responsibility (hereinafter "supervisor") is responsible within his or her area of jurisdiction for the implementation of the Policy. Supervisors must report to the Sexual Harassment Coordinator or in his or her absence a Deputy Coordinator, any complaint of sexual harassment or any incident of sexual harassment that he or she becomes aware of or reasonably believes to exist. Having reported such complaint or incident, the supervisor should keep it confidential and not disclose it further, except as necessary during the complaint process.

- Each supervisor shall arrange for the posting, in his or her area, of the University Policy Against Sexual Harassment and the names, titles, telephone numbers, and office locations of the college Sexual Harassment Coordinator, Deputy Coordinators and Awareness and Intake Committee members. Other materials provided to a supervisor by the Sexual Harassment Awareness and Intake Committee should also be posted.

e. Responsibilities of the University Community-At-Large

Members of the University community who become aware of allegations of sexual harassment should encourage the aggrieved individual to report the alleged sexual harassment to the Sexual Harassment Coordinator, a Deputy Coordinator or any member of the Awareness and Intake Committee.

Confidentiality

The privacy of individuals who bring complaints of sexual harassment, who are accused of sexual harassment, or who are otherwise involved in the complaint process should be respected, and information obtained in connection with the filing, investigation, or resolution of complaints should be handled as confidentially as possible. It is not possible, however, to guarantee absolute confidentiality and no such promises should be made by the Sexual Harassment Coordinator, a Deputy Coordinator, Awareness and Intake Committee member or other University employees who may be involved in the complaint process.

Making a Complaint of Sexual Harassment

Any member of the University community may report allegations of sexual harassment to the Sexual Harassment Coordinator, a Deputy Coordinator or any member of the Awareness and Intake Committee. Employees who are covered by collective bargaining agreements may elect to use both their contractual grievance procedures, within the time limits provided in those agreements, to report allegations of sexual harassment; and to report such allegations directly to the Sexual Harassment Coordinator, a Deputy Coordinator or a member of the Sexual Harassment Awareness and Intake Committee. Members of the University community who believe they been aggrieved under the Policy are strongly encouraged to report the allegations of sexual harassment as promptly as possible. Delay in making a complaint may make it more difficult for the college to investigate the allegations.

Informal Resolution of Sexual Harassment Complaints

a. After receiving a complaint of sexual harassment, the Sexual Harassment Coordinator shall, in appropriate cases, make efforts to resolve the complaint informally, i.e., by an arrangement that is acceptable to the complainant, the accused, and the college. Examples of informal resolutions include, but are not limited to: arranging for a workshop on sexual harassment to be conducted for the unit, division, or department in which the sexual harassment is alleged to have occurred; having a supervisor, Sexual Harassment Coordinator or Deputy Coordinator speak to the accused regarding the allegations of sexual harassment and counsel the accused as to appropriate behavior; arranging for a meeting between the complainant and the accused, with a third party present, to discuss and resolve the allegations; having the accused write a letter of apology. Whenever possible, an informal resolution should be acknowledged in writing and signed by the complainant. The accused should also be asked to sign such an acknowledgement.

b. If no informal resolution of a complaint is achieved, the Sexual Harassment Coordinator shall conduct a formal investigation of the complaint. It is recognized, however, that complaints may be resolved by mutual agreement of the complainant, the accused, and the college at any time in the process.

Investigations of Sexual Harassment Complaints

While the investigation of sexual harassment complaints may vary depending upon the nature of each case, it is recommended that an investigation include the following, to the extent feasible:

a. The Sexual Harassment Coordinator should interview the complainant, preferably with a Deputy Coordinator present. The complainant may bring the person to whom he or she originally brought the complaint to the interview. The complainant should be informed that an investigation is being commenced, that interviews of the accused and possibly other people shall be conducted, and that the President shall determine what action, if any, to take after the investigation is completed.

b. The Sexual Harassment Coordinator should interview the accused, preferably with a Deputy Coordinator present. The accused should be advised that a complaint of sexual harassment has been received, that an investigation has begun, which may include interviews with third parties, and that the President will determine what action, if any, to take after the investigation is completed. The accused should be advised of the nature of the allegations against him or her and be given an opportunity to respond. In addition, the accused should be advised that any sexual harassment or other retaliation against the complainant or others is prohibited. If such behavior is engaged in, the accused shall be subject to severe discipline, up to and including termination of employment or, if the accused is a student, permanent dismissal from the University. An accused employee who is covered by a collective bargaining agreement may consult with a union representative and have a union representative present during the interview.

c. In addition to interviews with the complainant, the accused, and those persons named by them, it should be determined whether there are others who may have relevant information regarding the events in question and whether there is documentary evidence that may be relevant to the complaint. Persons interviewed should be advised that information related to the complaint should be kept confidential and not disclosed further, except as necessary during the complaint process.

d. In the event that a complaint is anonymous, the complaint should be investigated as thoroughly as possible under the circumstances.

e. While some complaints of sexual harassment may require extensive investigation, whenever possible, the investigation of most complaints should be completed within 60 days of the receipt of the complaint.

Action Following Investigation of Sexual Harassment Complaints

a. Promptly following the completion of the investigation, the Sexual Harassment Coordinator shall report his or her findings to the President, and in the event that the accused is a student, to the Chief Student Affairs Officer.

b. Following such report, the President shall review the complaint investigation report and authorize such action as he or she deems necessary to properly correct the effects of or to prevent further harm to an affected party or others similarly situated. The President's review of the report and authorization that action be taken shall be documented in writing, which may be issued electronically. In addition to initiating disciplinary proceedings, corrective action may include, but is not limited to, transferring a student to another class section, transferring an employee, or granting a benefit wrongfully withheld. The action authorized by the President shall be final.

c. For each investigation, the President will sign a form that will go into the investigation file, stating: "I have reviewed the report of the investigation of the discrimination complaint filed by [complainant] on [date] and authorize the Affirmative Action Officer/Compliance and Diversity Officer/Sexual Harassment Coordinator to take appropriate action based on the findings in the report."

d. The complainant and the accused should be apprised in writing of action taken as a result of the complaint.

Immediate Preventive Action

The President may, in extreme cases, take whatever action is appropriate to protect the college community.

False Complaints

In the event that the Sexual Harassment Coordinator concludes that a complainant made a complaint of sexual harassment with knowledge that the allegations were false, the Sexual Harassment Coordinator shall state this conclusion in his or her report. The failure to substantiate a sexual harassment complaint, however, is not in and of itself sufficient to demonstrate that a complaint was false.

Records and Reports

a. The Sexual Harassment Coordinator shall keep the President informed regarding complaints of sexual harassment and shall provide the information necessary to prepare the annual report.

b. Records regarding complaints of sexual harassment shall be maintained in a secure location.

Applicability of Procedures

a. These Procedures are applicable to all of the units and colleges of the University. The Hunter College Campus Schools may make modifications to these procedures, subject to approval by the University, as appropriate to address the special needs of their elementary and high school students.

b. These Procedures are intended to provide guidance to the Presidents for implementing the University policy against sexual harassment; these procedures do not create any rights or privileges on the part of any others.

For more information about Baruch College's policy, please go to the following webpage:

<http://www.baruch.cuny.edu/studentaffairs/StudentLife/handbook/harassment.htm>

M. Drugs and Alcohol Policy

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 this 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.

1. 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 in any CUNY residence hall, regardless of whether the student is of lawful age, except for students living in the Graduate School and University Center's graduate housing facilities who may lawfully possess and consume alcoholic beverages. For purposes of this policy, a CUNY residence hall means a residence hall owned and/or operated by CUNY, or operated by a private management company on CUNY's behalf. 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.

2. 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.

3. Students

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

4. 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.

5. Responsibilities of Colleges/Units

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

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