

Boricua College’s Response to Education Law Article 129-B, 2nd Edition

In response to, and in order to comply with Education Law Article 129-B, signed into Law on July 5, 2015 by Governor Cuomo, Boricua College has put together and distributed the following handbook titled, “Boricua College’s Response to Education Law Article 129-B” to all members (students, faculty and staff) of the Boricua College community – effective Fall 2015, this material also appears on the Boricua College website. The Boricua College’s Response to Educational Law Article 129B, 2nd Edition, serves to answer the questions posed in the Notice of Audit Pursuant to NYS Education Law Article 129B, covering Sections 1-13.

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SEXUAL ASSAULT PREVENTION AND RESPONSE

In accordance with The Clery Act (1990) and The New York State Campus Safety Act (1999), as well as NYS Education Law Article 129-B (2015), Boricua College will educate the student community about sexual assault during mandatory freshman orientation each first semester of a student entering Boricua College, beginning Fall 2015, and every semester thereafter. Employees, (including educators, administrators and staff) will obtain training in Educational Law 129-B during Faculty and Staff Development conducted July of every year.

If you are a victim of a sexual assault at Boricua College, your first priority should be to get to a safe place. You should then obtain necessary medical treatment. The New York City Police Department (NYPD) strongly advocates that a victim of sexual assault report the incident in a timely manner to the Police Department by calling 911. Boricua College faculty and staff (employees) will assist victims with notification of NYPD if the victim requests their assistance. Time is a critical factor for evidence collection and preservation. Filing a police report with NYPD officer(s), or informing an employee of Boricua College will not obligate the victim to prosecute, nor will it subject the victim to scrutiny or judgmental opinions from officers or Boricua College employees.

Filing a police report will:

- Ensure that a victim of sexual assault receives the necessary medical treatment and tests, at no expense to the victim;
- Provide the opportunity for collection of evidence helpful in prosecution, which cannot be obtained later (Ideally, a victim of sexual assault should not wash, douche, use the toilet, or change clothing prior to a medical/legal exam);
- Assure the victim has access to free confidential counseling from counselors specifically trained in the area of sexual assault crisis intervention.

In accordance with NYS Education Law Article 129-B, Boricua College will make interim accommodations (academic or otherwise) for a student or employee who has filed a complaint alleging a violation of the sexual misconduct policy and will take any other interim actions that are appropriate to ensure the safety and security of the campus community, including but not limited to informing the College Community of the transgression. A sexual assault victim has the right (See Student Bill of Rights, Pg. 9) to any employee including but not limited to the Vice Presidents, Deans, Department Chairpersons, etc. In order to abide by confidentiality guidelines, Boricua College suggest that a sexual assault victim report the transgression to the individuals listed on the page 19, since these members of the Boricua College community have been properly trained on Confidentiality and Privacy. If a victim of sexual assault wishes to have NYPD involved, Police Sex Crimes Unit will be notified as well; all Sex offenses on Boricua College property will be investigated by NYPD as well as the Directors of Environmental Services at each respective location.

Boricua College has established disciplinary proceedings, pg. 12, as well as separate and distinct policies and procedures governing cases involving sexual misconduct, these are detailed in the Student Handbook, Employee Handbook as well as the Administrative Manual and appear below. The Student Handbook, Employee Handbook as well as the Administrative Manual provides that the complainant and the respondent in a sexual misconduct case each may bring a

representative and will be informed in writing of the outcome of the investigation. Further, both parties have the ability to appeal the determination. A detailed description of the grievance procedures is also provided. A student and/or employee found responsible of violating the College's sexual misconduct policy may be suspended and/or expelled and or terminated from the College for the first offense. Furthermore in accordance with NYS Education Law Article 129-B, student(s) found guilty of sexual misconduct will also have a notation on their transcript.

POLICY ON SEXUAL ASSAULT, EDUCATION AND PREVENTION

This Policy applies to students, faculty, staff, visitors, and applicants for admission to or employment with Boricua College, who allege sexual harassment, sexual misconduct, sexual violence or other prohibited conduct by any member of the College community or any third party who visits or otherwise has some relationship with the College. This Policy protects individuals in connection with all the academic, educational, extracurricular, and other programs of Boricua College, whether those programs take place in a College facility, at an off-campus class or program sponsored by the College. Additionally, the Sexual Assault, Dating Violence, Sexual Harassment, Sexual Violence Policy protects individuals that experience prohibited conduct off-campus when the conduct has continuing effects on the individual in the College setting. Incidents should be reported to the College as soon as possible after an incident occurs, but there is no statute of limitations for reporting an incident to the College. The College also encourages students, and employees (faculty and staff) to report domestic violence, stalking, sexual assault or sexual violence to the local police.

PREVENTION OF SEXUAL ASSAULT

In accordance with The Clery Act (1990) and The New York State Campus Safety Act (1999), as well as NYS Education Law Article 129-B. Boricua College is committed to providing programs and services that educate all students and employees on the prevention of sexual assault.

Any sexual assault or physical abuse, including but not limited to rape, domestic violence, dating violence, sexual assaults or stalking as defined by New York law, whether committed by an employee, student, or member of the public, that occurs on Boricua College property, is a violation of College Policies and Procedures and is subject to all applicable punishment, including criminal procedures as well as employee or student discipline procedures. Students and employees who may be victims of sexual and other assaults will be treated with dignity and provided comprehensive assistance.

Students and employees who need information or assistance related to sexual assault prevention, sexual assault services and procedures related to the reporting of sexual assault incidents on campus may contact the individuals listed below.

STATEWIDE DEFINITION OF CONSENT

As per NYS Education Law Article 129-B, Boricua College adopts the statewide uniform definition of "affirmative consent," which provides: "Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can

be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender expression.”

Therefore Boricua College adopts a “yes means yes” standard. In other words, consent exists only if all parties assent to the sexual activity through words or actions that *clearly* indicate a willingness to participate in the activity.

REPORTING SEXUAL ASSAULT OR HARASSMENT INCIDENTS ON CAMPUS

Students and employees are expected to report all criminal acts, including sexual assault and harassment and safety hazards to any of the following individuals, these individuals have been trained to deal with Privacy and Confidentiality issues:

<p>BROOKLYN CAMPUS (GRAHAM CENTER) (718) 963-4112</p> <hr/> <p>John Guzman (PhD), Vice President of Academic Planning and Programming Aurea Morales, Director of Admissions Rafael Landron, Chairperson of Generic Studies Marisol Ortiz, ETC Coordinator</p> <p>Juan Rivera Pagan, Director of Environmental Services</p>	<p>BRONX CAMPUS (347) 964-8600</p> <hr/> <p>Shivaji Sengupta (PhD), Vice President / Academic Officer Irving Ramirez, Vice President of Information Technology Brenda Rodriguez, Director of Admissions Jose I. Lopez, Chairperson of Generic Studies Jesus Roman, ETC Coordinator Jose Vasquez, Director of Environmental Services</p>
<p>BROOKLYN CAMPUS (NORTHSIDE CENTER) (718) 782-2200</p> <hr/> <p>John Guzman (PhD), Vice President of Academic Planning and Programming Nelly Seda, ETC Coordinator Elias Rivera, Director of Environmental Services</p>	<p>MANHATTAN CAMPUS (212) 694-1000</p> <hr/> <p>Moises Peyrera, Chairperson of Generic Studies Wellington Ramos, ETC Coordinator Ismael Sanchez, Director of Admissions Carlos Andujar, Director of Environmental Services</p>

NOTE: In the event of an immediate threat or danger, the police, fire or medical services should be contacted by dialing 911. It is important that any incident is reported as completely as possible so as to result in the best utilization of the College's resources, and for prevention in the future.

STATEWIDE ALCOHOL AND/OR DRUG USE AMNESTY POLICY

In accordance with Article 129-B, Boricua College adopted the statewide uniform alcohol and/or drug use amnesty policy as part of their codes of conduct. Thereby any individual, including student or bystander, reporting instances of sexual misconduct in good faith will not be subject to alcohol and/or drug use policy violations occurring around the time of the alleged incident. This policy is intended to encourage reporting by eliminating students' hesitations to report sexual misconduct out of fear that their own conduct may subject them to disciplinary action.

STUDENTS' BILL OF RIGHTS

In accordance with NYS Education Law Article 129-B, Boricua College is committed to providing options, support and assistance to victims/survivors of sexual assault, domestic violence, dating violence, and/or stalking to ensure that they can continue to participate in Boricua College-wide and campus programs, activities, and employment. All victims/survivors of these crimes and violations, regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction, have the following rights, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad:

All students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure from the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from Boricua College courteous, fair, and respectful health care and counseling services, where available;
 1. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
 2. Describe the incident to as few institutional representatives as practicable and not to be required to unnecessarily repeat a description of the incident.

3. Be free from retaliation by Boricua College, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
 1. Access to at least one level of appeal of a determination;
 2. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process;
 3. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the College.

Options in Brief:

Victims/survivors have many options that can be pursued simultaneously, including one or more of the following:

- Receive resources, such as counseling and medical attention;
- Confidentially or anonymously disclose a crime or violation
- Make a report to:
 - An employee with the authority to address complaints, including the Title IX Coordinator, Vice Presidents, Deans, Department Chairpersons or a Human Resources employee;
 - Members of Environmental Services/Campus Security;
 - Local law enforcement; and/or
 - Family Court or Civil Court.

Copies of this, **Student Bill of Rights** is distributed annually, since Fall 2015, to students, it is also available on the Boricua College website, and posted throughout campus locations.

POLICY ON SEXUAL HARASSMENT

Boricua College is committed to creating and sustaining a College environment in which students, faculty, employees and staff can study and work in an open atmosphere, unhampered by discrimination.

Boricua College is committed to a policy of equal opportunity in all its educational activities, admissions, scholarship and loan programs and employment. It does not discriminate on the basis of race, color, national or ethnic origin, citizenship status, religion, sex, sexual orientation, age, mental or physical disability, or marital status.

As a necessary part of its commitment, Boricua College commits itself to prohibit sexual harassment and to confront and deal with it when it occurs.

DEFINITION OF SEXUAL HARASSMENT

Generally, sexual harassment is, conduct that uses power or authority in order to elicit sexual submission, or inappropriate sexual conduct that creates an intimidating, hostile or abusive environment for working, learning or enjoying other opportunities and activities. Sexual harassment can include a wide range of behaviors, from the actual coercing of sexual relations to inappropriate sexualization of the working or learning environment with words, materials or behavior. It may involve women being harassed by men, men being harassed by women, or harassment between persons of the same sex.

The Federal Equal Employment Opportunity Commission ("EEOC") has issued guidelines that provide a basic definition of sexual harassment. While the EEOC guidelines apply only to faculty and other employees, the College prohibits sexual harassment of any member of the College community, whether such harassment is aimed at or committed by students, faculty or other employees.

Based upon the EEOC guidelines, and for the purposes of this policy, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other expressive or physical conduct of a sexual nature, where:

- submission to such conduct is explicitly or implicitly made a term or condition of employment or status in a course, program or activity, or;
- submission to or rejection of such conduct is used as a basis for an employment or academic decision affecting the individual, or for a decision regarding an individual's status in a course, program or activity, or;
- such conduct has the purpose or effect, when judged from the perspective of a reasonable person in the position of the complaining individual, of substantially interfering with an individual's work performance, or with an individual's enjoyment of other College opportunities, programs and activities, or;
- such conduct has the purpose or effect, when judged from the perspective of a reasonable person in the position of the complaining individual, of creating an intimidating, hostile or offensive environment for working, learning, or enjoying other College opportunities, programs and activities.

Sexual harassment is generally found to be in two distinct forms. Quid pro quo sexual harassment occurs when an individual makes an explicit proposition for sexual favors in return for express or implied job benefits or academic decisions, or where rejection of such a proposition is to be used for, or negatively effects, job benefits or academic decisions. Hostile environment sexual harassment occurs when conduct (either through its severity and/or its repetitive or consistent nature) has the purpose or effect of substantially interfering with an individual's work or academic performance, or creates an intimidating, hostile or offensive working or learning environment. Unwanted flirtations, advances or propositions of a sexual nature, or unwelcomed comments of a sexual nature about an individual's body or clothing, whether conveyed orally, in writing or by electronic transmission, or unwelcomed touching, such as patting, pinching, hugging, or brushing against an individual's body are illustrations of the kinds of conduct, if engaged in by an individual repeatedly and consistently, which could constitute hostile environment sexual harassment.

According to both State and Federal laws and guidelines issued by the Equal Employment Opportunity Commission (EEOC), sexual harassment is a form of discrimination. Sexual harassment is misconduct that can change the course of careers, disrupt the climate of an entire

class, affect academic performance, and undermine the integrity of educational relationships. It is an abuse of power which confuses the boundaries of personal and professional roles and breaches trusting relationships which should exist among members of the College community.

1. It is the policy of Boricua College to provide its students and employees with learning and working environment free of sexual harassment and intimidation. This policy addresses interactions between a student and faculty, staff members, or other students. Because of the seriousness of these matters, Boricua College will make every effort to assure that sexual harassment does not occur and will take disciplinary actions up to and including dismissal or expulsion for policy violation. It is the responsibility of each College employee and student to maintain a level of conduct that is in compliance with College policy.
2. Sexual harassment includes, but is not limited to, the following:
 1. Making unsolicited written, graphic, verbal and/or physical contact with sexual overtones. Written examples: suggestive or obscene letters, notes, invitations, or electronic communications (e.g. text messages, emails, videos.) Graphic examples: prurient display of objects, pictures, cartoons, or posters. Verbal examples: derogatory comments, slurs, jokes, innuendos and epithets. Physical examples: indecent exposure, lewd acts, assault, touching, gestures, impeding or blocking movement.
 2. Continuing to express sexual interest after being informed that the interest is unwelcomed. (Mutual attraction is not considered sexual harassment.)
 3. Making reprisal, or implied threats of reprisal, following a negative response. This can include denial of, or actually withholding, support or opportunities normally provided in the form of counseling or other services, suggesting the assignment of a poorer grade than earned.
 4. Engaging in implicit or explicit coercive sexual behavior, which has the effect of controlling, influencing, or affecting the enrollment, grade, academic success, and/or learning environment of any student/employee.
 5. Offering favors or preferential treatment such as: assignment of better grades than earned; opportunities for extra credit; recommendations, favorable assigned duties or shifts; or other benefits in exchange for sexual favors.
3. Complaint Procedures
 1. Employee to Student or Student to Student
 - a) If a student complainant feels that a specific act or environment is offensive and in violation of this policy, the complainant should first notify the offender in an effort to stop the offensive behavior. If the behavior does not stop, or the complainant does not wish to confront the offender directly, the student should notify a confidential resource, such as those identified on **page 5 and 19**.
 - b) Once received, the complaint will be investigated and acted upon in accordance with **Initiation of Disciplinary Proceedings, see page 12**. The President's Office will be notified of all claims of sexual harassment at the time the complaint is received. Investigations involving employees

(faculty or staff) will be coordinated by the Director of Human Resources and Personnel.

2. Student to Employee (Faculty/Staff)

- a) If a faculty or staff member is the complainant and feels that a specific act committed or environment created by a student is offensive and in violation of this policy, the complainant should first notify the offender in an attempt to stop the behavior.
 - b) If the behavior continues, the complainant will then notify the Department Chairperson and/or Vice President(s) or designee, such as those individuals found on **page 5 and 19**. Such continued behavior constitutes a disruption of the learning and teaching environment.
 - c) Once received, the complaint will be investigated and acted upon in accordance with **Initiation of Disciplinary Proceedings, see page 12**. The President's will be notified of all claims of sexual harassment at the time the complaint is received. Investigations involving faculty or staff members will be coordinated by the Director of Human Resources and Personnel.
3. In accordance with the guidelines on sexual harassment of the Equal Employment Opportunity Commission, Boricua College intends: 1) to raise the subject of sexual harassment affirmatively in formal staff meetings, training and other arenas; 2) to express strong disapproval for the inappropriate behavior; and 3) to implement this policy fully.
4. Boricua College students and/or employees found to be in violation of this policy may be subject to full disciplinary measures up to and including dismissal or expulsion, as appropriate, pursuant to any and all established College procedures. Employees found to be in violation of this policy may be subject to full disciplinary measures up to and including dismissal or expulsion, as appropriate, pursuant to any and all established College procedures. Student(s) found to be in violation of sexual misconduct will have the following cited on their transcript: "suspended after the finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation." Should the student withdraw from Boricua College while the investigation of the complaint is pending, his or her transcript will note: "withdrew with conduct charges pending."

PROHIBITION OF HARASSMENT

1. All forms of harassment are contrary to basic standards of conduct between individuals and are prohibited by state and federal law, NYS Education Law Article 129-B as well as this policy, and will not be tolerated. Boricua College is committed to providing an academic and work environment that respects the dignity of individuals and groups. The College shall be free of sexual harassment and all forms of sexual intimidation and exploitation, including acts of sexual violence. It shall also be free of other unlawful

harassment, including that which is based on any of the following: race, religious creed, color, national origin, ancestry, physical disability, mental disability, genetic information, medical condition, marital status, sex, gender, gender identification, gender expression, age, or sexual orientation of any individual, military and veteran status, or because an individual is perceived to have one or more of the foregoing characteristics. This policy shall apply to all employees, students and any other individual who come onto Boricua College property.

2. Boricua College seeks to foster an environment in which all employees and students feel free to report incidents of harassment without fear of retaliation or reprisal. Therefore, the College strictly prohibits retaliation against any individual for filing a complaint of harassment or for participating in a harassment investigation. Such conduct is illegal and constitutes a violation of this policy. All allegations of retaliation will be swiftly and thoroughly investigated. If the College determines that retaliation has occurred, it will take all reasonable steps within its power to stop such conduct. Individuals who engage in retaliatory conduct may be subject to disciplinary action, up to and including termination or expulsion. Engaging in intimidating conduct or bullying against another student and/or employee through words or actions, including direct physical contact; verbal assaults, such as teasing or name-calling; social isolation or manipulation; and cyber bullying are strictly forbidden.
3. Any individual who believes that he or she has been harassed, bullied or retaliated against in violation of this policy and wishes to report such incidents should use the procedure provided in the Student Manual, Employee and/or Administrative Manual. Supervisors are mandated to report all incidents of harassment and retaliation that come to their attention to the Director of Human Resources and Personnel.
4. This policy applies to all aspects of the academic and work environment, including but not limited to classroom conditions, grades, academic standing, employment opportunities, scholarships, recommendations, disciplinary actions, and participation in any College activity. In addition, this policy applies to minors as well as adults, and to all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, reemployment, transfer, leave of absence, training opportunities, assignment of work hours and projects, and compensation.
5. The President shall ensure that the institution undertakes education and training activities to counter discrimination and to prevent, minimize and/or eliminate any hostile environment that impairs access to equal education opportunity or impacts the terms and conditions of employment.
6. The President has established procedures that define harassment throughout the College. The President has established procedures for students, employees and other members of the College community that provide for the investigation and resolution of complaints regarding harassment and discrimination. All participants are protected from retaliatory acts by the College, its employees, students and stakeholders.
7. Boricua College will promptly investigate and resolve complaints of harassment and will assure that any harm resulting from the harassment is addressed promptly by restoring any lost benefit or opportunity. All participants are protected from retaliatory acts by the College, its employees, students, and agents.
8. This policy and related written procedures are widely publicized and circulated to students, employee (faculty and staff) and administrators and also appear in the Student

Handbook, Faculty Manual, Employee Manual and the Administrators Manual and are also available for students and employees on the Boricua College website (www.boricuacollege.edu).

9. It is the responsibility of each individual to maintain a level of conduct that is compliant with this policy. Employees who violate the policy and procedures may be subject to disciplinary action up to and including termination. Students who violate this policy and related procedures may be subject to disciplinary measures up to and including expulsion.

MANDATORY DISCLOSURES AND RESOURCES FOR REPORTING INDIVIDUALS

As per Title IX and/or the Clery Act, NYS Education Law Article 129-B Article 129-B, Boricua College will ensure that all individuals who report incidents of sexual misconduct are advised of certain rights, appears in the above-mentioned section (Student Bill of Rights) including, but not limited to, their right to notify campus security and/or local law enforcement, their rights regarding reporting to confidential institution representatives (listed on page 19), and their right to consult the institution's Title IX Coordinator, Vice President / Academic Officer and other institution representatives for assistance and information. In addition, when a "Reporting Individual" discloses an incident of sexual misconduct to a Boricua College representative the Reporting Individual will be presented with a uniform statement of his or her rights to report or not report the incident, to be protected from retaliation, and to receive assistance and resources from the institution.

Pursuant to Article 129-B, Boricua College will provide Reporting Individuals with emergency access to a Title IX Coordinator or other school representative who, among other things, is trained in interviewing victims and privacy and confidentiality. In addition, Boricua College will provide Reporting Individuals with access to mental and physical health resources and information, including information on sexually transmitted diseases, sexual assault forensic examinations, and resources available through the New York State/City Office of Victim Services.

As per Article 129-B, Boricua College will provide certain protections and accommodations in response to incidents of sexual misconduct. For example, where the accused or respondent is a Boricua College student, Boricua College will consider the issuance of a "No Contact Order" in accordance with the institution's policies and procedures. Additionally, Boricua College will provide assistance in obtaining an order of protection, or equivalent. If the accused or respondent is a student determined to present a continuing threat to the health and safety of the institute community, Boricua College will impose an interim suspension on such student pending the outcome of a judicial or conduct proceeding consistent with Article 129-B and Boricua College's policy and procedures. Both parties are afforded the right to request a review of the institution's decision regarding a No Contact Order or interim suspension, and Boricua College will allow either party to submit evidence in support of this request.

INITIATION OF DISCIPLINARY PROCEEDINGS

1. **Filing an Incident Report:** An incident report is a detailed, written description of an alleged violation. A "Notice to the Accused" based on the Incidence Report, describing

the date, time, location, factual allegations, and potential sanctions associated with the alleged violation - will be given, via certified postal mail and personally, to all parties involved. All parties will be provided with reasonable notice of any and all meetings that require their attendance, an opportunity to offer evidence during an investigation and hearing, where appropriate, a full and fair record of any such hearing (e.g., a transcript or recording), and written notice of the findings of fact, decision, and sanction(s), if any. Such written notice must also include the rationale for the decision and sanction(s).

2. Any member of the College community may report an alleged violation in writing, to the Vice President and/or Dean of Academic Affairs or other individual assigned by the President, see page 3.
3. **Investigative Hearing:** Upon receipt of the written incident report, the Vice Presidents and/or Deans of Academic Affairs is authorized to conduct an investigation by questioning persons thought to have knowledge of the particular incident, including the alleged violator. If a person alleged to have committed a violation is questioned, he/she must be informed that he/she is being investigated and of the nature of the related incident.
4. **Notification of Charges:** If the Vice President and/or Dean of Academic Affairs finds sufficient reason to formally charge the student or employee, the charged student or employee will be notified of the charges in writing (by postal mail, return-receipt requested to last known mailing address and/or hand-delivered).
5. **Pre-Hearing Conference:** After the student/employee has been served the notice of charges, the Vice President and/or Dean of Academic Affairs, or designee, will hold conference(s) with the charged student(s)/employee(s) and the person(s) submitting the incident report, if necessary, to determine all the facts surrounding the incident.
6. **Dismissal of a Complaint:** If the Vice President and/or Dean of Academic Affairs finds insufficient reason to formally charge the student/employee, the Vice President and/or Dean are authorized to dismiss the complaint. The Vice President and/or Dean's decision to dismiss a complaint is final.

COLLEGE DISCIPLINARY PANEL

The President as needed will designate the Vice President and/or Dean and or other individuals that will administer the procedures of the Disciplinary Panel.

SCOPE OF AUTHORITY

The College has jurisdiction over all incidents referred to it or for which the penalty of suspension or expulsion from the College exists.

COMPOSITION OF PANEL

- a. The Panel will consist of members of the College community to be selected by the President in consultation with Vice Presidents, Deans, Associate Deans, Department Chairpersons and Administrative Department Directors.
- b. The President will elect a Chairperson from its membership with power to vote.
- c. The President shall serve in an ex-officio capacity.

HEARING GUIDELINES

- a. The Vice President and/or Dean of Academic Affairs are responsible for the administrative procedures of the College Disciplinary Panel.
- b. The Chairperson of the Disciplinary Committee is responsible for the orderly and proper functioning of the hearing.
- c. If a charged student/employee chooses not to attend the hearing or fails to present a defense the Panel, at its discretion, may complete its inquiry into the case in the absence of the charged student/employee. If the case is reviewed and culpability is determined, a sanction may be imposed as though the student/employee presented a defense.
- d. Hearings are not intended to be legal court proceedings. Accordingly, strict conformity to legal rules of evidence shall not be required.
- e. Hearings are private and will not be open to the members of the College or the public.
- f. All persons attending the hearing shall conduct themselves in an orderly and respectful manner. Disruptive persons will be ejected from the proceedings and may be appropriately charged.
- g. The College may document the hearings by any means deemed appropriate.
- h. The College Disciplinary Panel may request the appearance of any witness it deems appropriate.
- i. The Panel will not consider anonymous information.

HEARING PROTOCOL

- a. As per Article 129-B, Boricua College students and or employees undergoing proceeding to investigate sexual misconduct may exclude information about their prior sexual history with persons other than the other party. In addition, during the phase of the disciplinary process that determines responsibility, the parties may exclude from evidence their own mental health diagnosis and/or treatment.
- b. The Chairperson will call the proceeding to order.
- c. The Chairperson will explain the function of the hearing and advise the charged student/employee and the complainant of their rights before the Panel.
- d. The Vice President and/or Dean of Academic Affairs will read the incident report and any other statement submitted in relation to the incident.
- e. Panel members may then ask questions of the Vice President and/or Dean of Academic Affairs and the complainant, if present and offering information on his/her own behalf.
- f. No examination of witnesses by the parties, nor cross-examination, is permitted. Only the Panel members may question or examine the parties or the witnesses.
- g. The Chairperson will then offer the charged student/employee the opportunity to present information or remain silent. If the charged student/employee elects to present information, the student/employee is obligated to answer all relevant questions asked by authorized persons including the Vice President and/or Dean of Academic Affairs.
- h. The Panel may call witnesses to present information.
- i. Witnesses will be excused from the hearing room upon completion of their presentation and all questioning.

- j. The Panel may recall any witness it deems necessary.

PANEL DELIBERATION PROCEDURE

- a. Upon conclusion of all presentations, the Panel will meet in private to deliberate on the information presented.
- b. The deliberation will not be recorded.
- c. In the event of a determination of culpability, the sanction will be recommended by the Panel to the President from the list of available sanctions. The student's/employee's past disciplinary record and previous violations may be considered in determining sanctions.

NOTIFICATION OF DECISION

Written notification of the results of a disciplinary hearing specifying the decision, and where applicable, the sanction to the Vice President and/or Dean of Academic Affairs, and the sanctioned student/employee, as soon as is practical after the hearing.

RECORD OF PROCEEDINGS

- a. All written documents relating to the review of an incident are confidential.
- b. A copy of all material associated with the review of an incident will be retained by the Vice President and Dean of Academic Affairs for a period of five (5) years after a student/employee leaves the College, after which time all records except those involving suspension and expulsion will be destroyed.

APPEAL PROCESS (INCLUDING REMOVAL OF NOTATION FROM TRANSCRIPT)

Timing for Appeals

- (1) Once hearing proceedings are completed and a sanction imposed, the sanctioned **student/employee has the right to appeal** on the grounds listed below.
- (2) Appeals must be filed in writing with the Office of the Vice President and/or Dean of Academic Affairs within ten (10) business days of receipt of a decision.
- (3) The appeal shall specify the basis of the appeal.
- (4) Sanctions imposed will remain in effect pending appeal.
- (5) Failure to file a timely written appeal shall constitute a waiver of any right to appeal.

Grounds for Appeal

- (1) A decision may be appealed if it can be clearly and specifically demonstrated that sufficient grounds exists to show that the sanctioned student/employee was denied a fair hearing.
- (2) Sanctions may be appealed only when it can be specifically demonstrated that there is a flagrant discrepancy between the infraction and the imposed sanctions.

General Provisions

- (1) Students/employees are responsible for strict adherence to all deadlines and procedures for the filing of appeals.
- (2) No new information shall be considered on an appeal.
- (3) Documents filed in an appeal shall constitute a part of the record.
- (4) All documents relating to the proceedings from which the student/employee is appealing shall be available to the Vice President and/or Dean of Academic Affairs.

Review of Appeals

- (1) The Vice President and/or Dean of Academic Affairs, or designee, shall be responsible for reviewing all appeals.
- (2) The process to be used in reviewing an appeal, and for providing notification of the decision, will be determined by the Vice President and/or Dean of Academic Affairs, or designee, on a case by case basis taking into consideration the nature of the issues raised by each appeal. The student/employee filing the appeal will be given reasonable opportunity to comply with the process.
- (3) The decision of the President is final.

COLLEGE SANCTIONS

Boricua College is committed to providing an environment where sensitivity, tolerance, and respect are sustained for members of the College community and its neighbors. Imposed sanctions are intended to facilitate these goals. As per Article 129-B, past findings of domestic violence, dating violence, sexual assault, or stalking may, however, be considered in the sanctioning phase.

GENERAL PROVISIONS

- a. The sanctions listed below are recognized by the College in holding students and employees accountable for violations of the: 1. Student Code of Conduct, 2. Employee Code of Conduct and/or 3. Administrative Code of Conduct. It is understood that previous offences may be considered in determining penalties.
- b. Student(s) and / or employee(s) are held responsible for the actions of their guest(s) while on campus. Sanctions may be issued to the host when the guest is a not a student at Boricua College.
- c. Failure to comply with imposed sanctions subjects the student and/or employee to further disciplinary action.

IMMEDIATE SUSPENSION AUTHORITY

- a. **Emergency Suspension:** The President of the College, or a College officer authorized by the President, may impose upon a student and/or employee an immediate emergency suspension when, in the judgment of the President, or other College official designated by the President, such action appear necessary for reasons relating to a student's/ employee's physical or emotional safety and well-being, for reasons relating to the safety

and well-being of members of the College community, or to prevent damage or theft of College property.

- b. **Interim Suspension:** The President of the College, or College officer authorized by the President, may impose upon a student and/or employee an immediate interim suspension when, in the judgment of the President or his designee, such action appears necessary to deal with a continuing disturbance by a student(s) and/or employee(s) or, interference by a student and/or employee with any College activity or with the free movement of any member of the College community.
- c. **Duration of Suspension:** Interim or emergency suspension may remain in effect until a College Disciplinary Panel has taken action with regard to the student(s) and/or employee(s). However, the suspension may be lifted earlier by action of the President or the President's designee.
- d. **Expedited Hearing:** A student and/or employee suspended under the interim or emergency authority may request an expedited hearing before the Disciplinary Panel. The panel shall schedule a hearing within two (2) business days of the request or as soon thereafter as possible.

SANCTIONS

- a) **Oral Warning:** verbal notification to the student/employee that repetition of the wrongful conduct may be cause for more severe sanctions, and a clear instruction to desist.
- b) **Written Warning:** Written notification to the student/employee that continuation or repetition of the wrongful conduct may be cause for more severe disciplinary action within the period of time stated. A copy of the written warning letter will be placed in the student's/employee's file.
- c) **Fines:** Sum to be paid by the student/employee to the College Bursar for the violation of rules and regulations. Failure to do so may result in the withholding of a student's transcript and/or denial of either graduation or continued enrollment at the College; in the case of an employee the result will be withholding of check(s).
- d) **Restitution:** Reimbursement for damage or loss to either College or individual property. Failure to do so will result in the withholding of a student's transcript and/or denial of either graduation or continued enrollment at the College; in the case of an employee the result will be withholding of employee's check(s).
- e) **Disciplinary Probation:** Written notification to the student/employee that he/she is in official jeopardy. A further violation of the Student Code of Conduct, Employee Handbook and/or Administrative Manual regulations while on disciplinary probation may result in suspension or expulsion.
- f) **Restriction:** Denial of the use of certain College facilities or the right to participate in certain activities or privileges for a specified period of time.
- g) **Suspension:** Exclusion from class, exams or work and all functions of the College for a stated period of time. Suspension may require petition for readmission.
- h) **Expulsion:** Dismissal from the College; the student may not attend classes or take any examinations and must vacate College property by the effective date and time of expulsion. Readmission will not be considered.

- i) **Dismissal:** Relieved of employment duties; the employee must vacate the College property by the effective date and time of dismissal.

TRANSCRIPT NOTATIONS

As per Article 129-B, Boricua College will include notations on the transcripts of students found responsible through the institution's conduct process for crimes of violence, including, but not limited to, sexual violence, as set forth in 20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII) of the Clery Act. Transcript notations will state: "suspended after the finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation," as applicable. Should the student withdraw from Boricua College while the investigation of the complaint is pending, his or her transcript will note "withdrew with conduct charges pending." Higher education institutions must have in place written policies regarding such transcript notations, which, at a minimum, provide an appeals process for students seeking removal of such notations in accordance with Article 129-B.

ON-CAMPUS ASSISTANCE AND RESOURCES

As per Article 129-B, Boricua College has a Memorandum of Understanding with each of the local hospitals that serve our students, these include Presbyterian Hospital (Manhattan Campus), Lincoln Hospital (Bronx Campus) and Woodhull Hospital (Brooklyn Campus); these hospitals also serve as rape crisis centers.

CAMPUS CLIMATE ASSESSMENTS

Boricua College will conduct biennial anonymous campus climate assessments, next assessment scheduled for Fall 2017, to ascertain general awareness and knowledge of the provisions of Article 129-B, including, but not limited to, the role of the institution's Title IX coordinator, how and where to report sexual misconduct, the definition of affirmative consent, and utilization of the institution's policies and procedures addressing sexual misconduct. Boricua College will publish the results of such assessments on their websites in Spring 2018.

TRAINING FOR ADMINISTRATORS, STAFF, AND NEW AND CURRENT STUDENTS

Pursuant to Article 129-B, and in accordance with existing federal obligations, Boricua College has implemented and will continue student onboarding and ongoing education plan to educate the campus community about sexual misconduct. This plan includes: educating students about general awareness of sexual misconduct, consequences of violations Boricua College's policies, Boricua College's role in preventing and investigating such incidents, and the importance of bystander intervention.

In accordance with Article 129-B, Boricua College will continue providing training to all students, including, but not limited to, first-year, transfer, international, leaders and officers of student organizations recognized or seeking recognition from the institution. Boricua College

will also provide specific training to members of groups it identifies as high-risk populations. With respect to leaders and officers of student organizations such training is a prerequisite to their participation in a student organization.

REPORTING CRIMES – CONFIDENTIALITY AND PRIVACY ISSUES

Report any crime, including sexual assault and harassment, committed on campus or off campus but that will affect campus life to any of the following individuals, who have been properly trained to handle confidential or private issues:

<p>BROOKLYN CAMPUS (GRAHAM CENTER) (718) 963-4112</p> <hr/> <p>John Guzman (PhD), Vice President of Academic Planning and Programming Aurea Morales, Director of Admissions Rafael Landron, Chairperson of Generic Studies Marisol Ortiz, ETC Coordinator</p> <p>Juan Rivera Pagan, Director of Environmental Services</p>	<p>BRONX CAMPUS (347) 964-8600</p> <hr/> <p>Shivaji Sengupta (PhD), Vice President / Academic Officer Irving Ramirez, Vice President of Information Technology Brenda Rodriguez, Director of Admissions Jose I. Lopez, Chairperson of Generic Studies Jesus Roman, ETC Coordinator Jose Vasquez, Director of Environmental Services</p>
<p>BROOKLYN CAMPUS (NORTHSIDE CENTER) (718) 782-2200</p> <hr/> <p>John Guzman (PhD), Vice President of Academic Planning and Programming Nelly Seda, ETC Coordinator Elias Rivera, Director of Environmental Services</p>	<p>MANHATTAN CAMPUS (212) 694-1000</p> <hr/> <p>Moises Peyrera, Chairperson of Generic Studies Wellington Ramos, ETC Coordinator Ismael Sanchez, Director of Admissions Carlos Andujar, Director of Environmental Services</p>