August 13, 2015

MEMORANDUM

To: College Presidents

From: Vita Rabinowitz, Executive Vice Chancellor for Academic Affairs and University Provost
Frederick P. Schaffer, General Counsel and Senior Vice Chancellor for Legal Affairs
Frank Sanchez, Vice Chancellor for Student Affairs
Gloriana B. Waters, Vice Chancellor for Human Resources Management

Re: Education Program Requirements for Students and New Employees Regarding Sexual Misconduct

I. Introduction

In light of Governor Cuomo’s recently enacted New York State legislation to combat sexual violence on college campuses, this memorandum updates the June 16, 2014 memorandum clarifying the legal requirements for educating students and employees on issues relating to sexual misconduct. As you are aware, CUNY’s constituent schools are required to provide comprehensive education and awareness programs for all incoming students and new employees. Pursuant to federal law and the new New York State law, these education and awareness programs must include: (1) the nature of sexual harassment, which includes sexual assault, domestic and dating violence and certain forms of stalking (hereinafter “sexual harassment/assault”); (2) the laws applicable to these offenses; (3) CUNY’s policies on sexual harassment/sexual assault, including our prohibition on all forms of sexual misconduct and interpersonal violence, reporting procedures, disciplinary procedures, possible penalties and best practices for preserving evidence; (4) the meaning of consent in the context of sexual harassment/assault; (5) bystander intervention; (6) risk reduction; and (7) the availability of counseling for victims of sexual harassment/assault.

Failure to provide such training could result in the loss of State aid pursuant to the new law, as well as significant fines or the loss of federal funds under federal law. CUNY’s Sexual Misconduct Policy and the educational programs that all CUNY schools were required to implement for the 2014-2015 academic year are, in large part, compliant with the new New York State legislation. However, there are important changes that must be implemented for full compliance. Pursuant to the New York State statute, CUNY’s constituent schools must require certain groups of students, set forth below, to participate in these programs. CUNY’s campuses must begin preparing to implement in the Fall 2015 semester, and fully implement by the Spring 2016 semester, the new state law requirements. In addition, as set forth below, both the federal
and state laws require CUNY’s constituent schools to provide ongoing educational and awareness programs for all students.

II. Statutory Requirements

A. Students and Employees Who Are Required to Receive Training

Educational programs for new and incoming students (including transfer and graduate students) and new employees on sexual harassment and sexual assault were required to have been implemented beginning in the fall 2014 academic semester, pursuant to the Violence Against Women Reauthorization Act of 2013. Until the passage of the new New York State law, colleges were required only to offer these programs to new and incoming students. Now, however, effective for the Spring 2016 semester, New York State law provides that colleges must require the following groups to participate in educational programs covering these issues.

- all new and incoming students (including transfers and graduate students)
- all student leaders and student officers of campus organizations/clubs recognized by the college
- all student athletes participating in intercollegiate competition
- all students who are members of groups identified by the campus as high-risk populations
- new employees (required by federal law)
- all students participating in study abroad programs or other CUNY-sponsored travel, whether domestic or abroad (required by state law)

The new law further requires that student organizations and clubs may not be recognized by the college until all leaders and officers have received this training, and that similarly, athletes must receive this training before being allowed to participate in intercollegiate competitions.

B. Educational Requirements For All Other Students

In addition to the educational programs in which incoming students, leaders of recognized student groups, student-athletes and groups containing at-risk student populations are required to participate, federal and state law further require colleges to offer to all students and employees ongoing prevention and awareness campaigns. With respect to these ongoing programs, campuses are required to:

- use a variety of educational methods, for example:
  - in-person workshops
  - online seminars
  - panel presentations
  - role-playing opportunities
- where appropriate, offer specific training for certain student groups such as:
  - international students
  - students who are also college employees
  - online or distance education students
III. Education Resources

A. Resources for Students

At a minimum, each CUNY campus must require the groups of students listed in Section II (A) above\(^1\) to: (1) complete the Haven online training program that has been made available to each campus at a relatively small fee and (2) participate in a presentation, either in person or online, that covers the CUNY-specific information provided in the PowerPoint presentation that CUNY Central has prepared and posted on CUNY’s Title IX Website. These programs should also be made available to all students.

Information on the process for obtaining Haven has been previously provided, but if you have further questions, please contact David Jones, Director of Student Conduct and Residence Life, at (646) 664-8800.

CUNY has updated the online PowerPoint in order to ensure compliance with the new New York State legislation. Before using, each college should be sure to add campus-specific information, such as the location and contact information for the Title IX coordinator, public safety, student affairs, mental health services and any other campus-based resources. Campuses are also encouraged to add graphics or other information that will make the presentation more engaging for students. However, before substantively changing or omitting information from the presentation, each campus must consult with an attorney in the Office of the General Counsel. Please feel free to contact Associate General Counsels Rachel Nash at (646) 664 9217 or Dan Simonette at (646) 664-9215. Similarly, if you believe the needs of your campus require any other substantive modification to the minimum requirements set forth above, please contact Rachel Nash or Dan Simonette.

B. Resources for Employees

As you know, CUNY has prepared a CUNY-specific PowerPoint presentation for employees that was sent to the Human Resources Office of each campus. An updated version has been sent to all HR offices. All new employees should receive training that covers the topics in this presentation. In addition, Haven includes a module for employees that we encourage you to use in conjunction with the PowerPoint presentation.

IV. Education Plans and Record Keeping

A. Education Plans

To ensure compliance with these laws, all CUNY campuses are required to submit to Dean Jennifer Rubain from CUNY’s Office of Recruitment and Diversity, by January 15, 2016 an education plan for the 2015-2017 academic years. This plan, developed by the Title IX Coordinators, Chief Student Affairs Officers, HR Directors, and Public Safety Directors, should cover: (1) the educational programs that will be required for incoming students, responsible and

---

\(^1\) Training for students and employees participating in CUNY-sponsored travel off campus and abroad will be addressed in a separate communication.
new employees, student leaders of recognized clubs and organizations, student-athletes, students doing study abroad or other CUNY-sponsored travel, and students who are members of groups identified as at-risk populations; (2) the method the college will use to require these groups to participate in the educational programs; (3) the approximate number of people that the college expects will be required to receive training; (4) the time frame for implementing this required participation; (5) the educational programs that will be offered to all other members of the student population and the time frame for making these programs available; and (6) the individuals who will be responsible for implementing the educational programs and conducting any in-person or online training sessions. We will be providing a template for these education plans.

B. Annual Progress Reports

In addition, CUNY campuses must continue to maintain records that record the participants in the educational programs, the nature of the educational programs offered, the materials used or distributed, the manner in which the programs are publicized and offered to students, and the venues/forums where they are offered, which may include the internet and other forms of social media. Each campus will be required to submit an annual progress report to Dean Rubain containing this information. We will be providing a template for the annual progress report. The first progress report is due June 30, 2016.

V. Conclusion

In alignment with the University’s protocol on responding to incidents of sexual harassment/sexual assault, the Title IX Coordinator, Chief Student Affairs Officer, Director of Public Safety and Human Resources Director on each campus need to continue to work together to provide these educational plans and annual progress reports set forth above.

Please feel free to contact Deputy to the Vice Chancellor Paulette Dalpapes from CUNY’s Office of Student Affairs at (646) 664-8800, or Dean Jennifer Rubain from CUNY’s Office of Recruitment and Diversity at (646) 664-3296, or Rachel Nash from CUNY’s Office of General Counsel at (646) 664-9217, with any questions.

cc: Chancellor Milliken
    Cabinet
    Chief Academic Officers
    Chief Student Affairs Officers
    Title IX Coordinators
    Legal Designees
    HR Directors
    Labor Designees
    Bill Barry, University Director of Public Safety
    Directors of Public Safety