

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

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PROFESSIONAL STAFF CONGRESS/CUNY, :
LOCAL 2334, AFT, AFL-CIO, BARBARA :
BOWEN as President of the Professional Staff :
Congress/CUNY, TERRENCE MARTELL as :
Chair of the University Faculty Senate and :
Chair of the Baruch College Faculty Senate, :
:

Petitioners, :

-against- :

CITY UNIVERSITY OF NEW YORK, and the :
BOARD OF TRUSTEES of the City University :
of New York, BARUCH COLLEGE, LEHMAN :
COLLEGE, JOHN JAY COLLEGE OF :
CRIMINAL JUSTICE, COLLEGE OF STATEN :
ISLAND, QUEENSBOROUGH COMMUNITY :
COLLEGE, BOROUGH OF MANHATTAN :
COMMUNITY COLLEGE, YORK COLLEGE, :
NEW YORK CITY COLLEGE OF :
TECHNOLOGY, NEW COMMUNITY :
COLLEGE, MEDGAR EVERS COLLEGE, :
LAGUARDIA COMMUNITY COLLEGE, :
HOSTOS COMMUNITY COLLEGE, CITY :
COLLEGE, BRONX COMMUNITY COLLEGE, :
MITCHELL WALLERSTEIN as President of :
Baruch College, RICARDO FERNANDEZ as :
President of Lehman College, JEREMY TRAVIS :
as President of John Jay College of Criminal :
Justice, WILLIAM FRITZ as Provost and Senior :
Vice President for Academic Affairs of College :
of Staten Island, DIANE CALL as President of :
Queensborough Community College, ANTONIO :
PEREZ, as President of Borough of Manhattan :
Community College, :

Respondents. :

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NOTICE OF PETITION

Index No. 103414-2012

Date Purchased
and Filed:

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NYS SUPREME COURT - CIVIL

PLEASE TAKE NOTICE, that upon the annexed Verified Petition of Barbara Bowen
and the above-named petitioners dated July 31, 2012, and upon all papers and proceedings

heretofore filed and had herein, an application will be made at the New York County Courthouse, located at 60 Centre Street, New York, New York, Room 130, on September 18, 2012, at 9:30 a.m., in the forenoon of that day, or as soon thereafter as counsel may be heard, for an Order and Judgment pursuant to Article 78 of the Civil Practice Law and Rules, for an order declaring that the actions of the defendant colleges in the development, approval and submission of curricula and Pathways implementation plans to the Chancellor violated the Open Meetings Law, an order declaring that defendant colleges' development, approval and submission of curricula and Pathways implementation plans to the Chancellor is void, an order requiring the members of the defendant colleges and defendant college presidents to participate in a training session conducted by the staff of the committee on open government concerning the obligations imposed by the Open Meetings Law, an order awarding the petitioners costs and reasonable attorneys fees, an order enjoining defendants from further implementation of Pathways to the extent such implementation is based, in whole or in part, on the actions of public bodies in violation of the Open Meetings Law, and, and any other and further appropriate relief, including Petitioner's costs and reasonable attorneys' fees

PLEASE TAKE FURTHER NOTICE that answering papers must be served on
counsel for Petitioner no later than seven days before the return date herein.

Dated: July 31, 2012
New York, New York

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Attorneys for Plaintiffs

TO: CITY UNIVERSITY OF NEW YORK
BOARD OF TRUSTEES of the City University of New York
BARUCH COLLEGE
LEHMAN COLLEGE
JOHN JAY COLLEGE OF CRIMINAL JUSTICE
COLLEGE OF STATEN ISLAND
QUEENSBOROUGH COMMUNITY COLLEGE
BOROUGH OF MANHATTAN COMMUNITY COLLEGE
YORK COLLEGE
NEW YORK CITY COLLEGE OF TECHNOLOGY
NEW COMMUNITY COLLEGE
MEDGAR EVERS COLLEGE
LAGUARDIA COMMUNITY COLLEGE
HOSTOS COMMUNITY COLLEGE
CITY COLLEGE
BRONX COMMUNITY COLLEGE
MITCHELL WALLERSTEIN as President of Baruch College
RICARDO FERNANDEZ as President of Lehman College
JEREMY TRAVIS as President of John Jay College of Criminal Justice
WILLIAM FRITZ as Provost and Senior Vice President for Academic Affairs of
College of Staten Island
DIANE CALL as President of Queensborough Community College
ANTONIO PEREZ, as President of Borough of Manhattan Community College
535 East 80th Street
New York, NY 10075

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

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PROFESSIONAL STAFF CONGRESS/CUNY, :
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BOWEN as President of the Professional Staff :
Congress/CUNY, TERRENCE MARTELL as :
Chair of the University Faculty Senate and :
Chair of the Baruch College Faculty Senate, :

Plaintiffs, :

-against- :

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Queensborough Community College, ANTONIO :
PEREZ, as President of Borough of Manhattan :
Community College, :

Defendants. :

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VERIFIED PETITION

Index No. 103414-2012

Plaintiffs, PROFESSIONAL STAFF CONGRESS/CUNY, LOCAL 2334,
AFT, AFL-CIO, BARBARA BOWEN as President of the Professional Staff

Congress/CUNY, Local 2334, AFT, AFL-CIO, TERRENCE MARTELL as Chair of the University Faculty Senate and Chair of the Baruch College Faculty Senate, (collectively, “Plaintiffs”) by their attorneys, Meyer, Suozzi, English & Klein, P.C., and Emery Celli Brinkerhoff & Abady, LLP as and for their Complaint, allege as follows:

PRELIMINARY STATEMENT

1. In late June of 2011, the Board of Directors of the City University of New York (“CUNY Board”) passed a resolution establishing the Pathways to Degree Completion Initiative (“Pathways” or “2011 Resolution”). The passage of the 2011 Resolution, among other things, is the basis of a separate lawsuit asserting a cause of action for breach of contract pending in New York State Supreme Court on or about March 30, 2012, Index No. 151021/2012 (the “Contract Action”). Plaintiffs bring this action to challenge defendants’ violations of the Open Meetings Law in connection with the implementation of the 2011 Resolution. Pursuant to the 2011 Resolution, each of CUNY’s undergraduate institutions was required to develop and submit a plan for the implementation of Pathways to CUNY’s Chancellor in compliance with the mandates of the 2011 Resolution (a “Pathways implementation plan”). The individual colleges’ Pathways implementation plans required the development of new curricula and curricular changes. Plaintiffs bring this lawsuit because the defendants developed, approved and submitted those curricula or curricular changes in violation of the Open Meetings Law.

2. The Contract Action challenges Pathways based upon violations of a settlement agreement between the parties. The settlement agreement guarantees and preserves the role of faculty in setting academic policy and shared governance at

CUNY. This lawsuit is not based upon the role of faculty guaranteed by the settlement agreement, CUNY's bylaws, or college governance plans. Rather, it is based solely upon defendants' violations of the Open Meetings Law in connection with the implementation of Pathways.

3. The Open Meetings Law requires the performance of public business in a open and public manner. As CUNY has acknowledged, the Open Meetings Law and relevant court precedent requires that development and approval of CUNY's curricula be done in compliance with the Open Meetings Law. Such compliance requires, among other things:

- that meetings on the development and approval of college curricula be open to the public;
- that the public receive proper notice of such meetings;
- that minutes of such meetings are taken and published.

4. Each of the defendant colleges has a governance plan that requires the development and approval of its curricula through that college's faculty senate or academic council, and that process is subject to the Open Meetings Law. At Baruch College, John Jay College of Criminal Justice, the College of Staten Island, Queensborough Community College, and Borough of Manhattan Community College the faculty senate or academic council held public meetings where a Pathways curriculum was not approved. At defendant Lehman College, no vote to approve a Pathways curriculum was held. Accordingly, the last public meeting in compliance with the Open Meetings Law by defendants Baruch College, John Jay College of Criminal

Justice, College of Staten Island, Queensborough Community College, Borough of Manhattan Community College, and Lehman College resulted in a rejection or failure to adopt a Pathways curriculum.

5. Nevertheless, each defendant college submitted a Pathways curriculum or a Pathways implementation plan to the CUNY Chancellor. Defendants' development, adoption, and submission of Pathways curricula and Pathways implementation plans, in secret, violated the Open Meetings Law.

6. Plaintiffs bring this lawsuit to challenge defendants' violations of the Open Meetings Law and seek an order (i) declaring the actions of the defendants void, (ii) requiring defendants to participate in a training session concerning the obligations imposed by the Open Meetings Law, and (iii) awarding Plaintiffs' costs and reasonable attorneys fees.

PARTIES

7. The Professional Staff Congress/CUNY, Local 2334, AFT, AFL-CIO ("PSC") is a labor union with a principal place of business at 61 Broadway, New York, New York 10006. It is the certified bargaining representative of CUNY's faculty and professional staff.

8. Barbara Bowen is the democratically elected President of the PSC.

9. The University Faculty Senate ("Faculty Senate") is the democratically elected Faculty governance body in academic matters of university-wide concern at CUNY. The Faculty Senate is comprised of approximately 120 Senators representing CUNY's approximately 19,000 full- and part-time faculty, and it provides a

representative, collective faculty voice from CUNY's campuses. The Faculty Senate, which is established pursuant to Section 8.10 of the CUNY Bylaws, is "responsible, subject to the [CUNY] board, for the formulation of policy relating to the academic status, role, rights, and freedoms of the faculty, university level educational and instructional matters, and research and scholarship activities of university-wide import." Members of the Faculty Senate's Executive Committee serve as voting members of the CUNY Board's committees.

10. The Senators serving on the Faculty Senate are democratically elected by CUNY's faculty.

11. Terrence Martell is the democratically elected Chair of the Faculty Senate and the Chair of the Baruch College Faculty Senate.

12. CUNY is a public university with eleven senior colleges, seven community colleges, a law school, a School of Professional Studies, a Graduate Center, and a school of journalism. It has a principal place of business at 535 East 80th Street, New York, NY 10075. It is established pursuant to Article 125 of the New York Education Law Sections 6201 *et seq.*

13. The CUNY Board is CUNY's governing body. CUNY operates pursuant to Bylaws.

14. Each college within CUNY has its own faculty or academic council or senate ("College Senates") which, pursuant to CUNY Bylaw §§ 8.5 and 8.6, are responsible for, among other things, "the formulation of policy relating to the admission and retention of students including health and scholarship standards therefor, student

attendance including leaves of absence, curriculum, awarding of college credit, granting of degrees. It shall . . . conduct the educational affairs customarily cared for by a college faculty.” College Senates “shall be the primary body responsible for formulating policy on academic matters.”

15. CUNY, the CUNY Board, and each college within CUNY is subject to the Open Meetings Law.

16. Baruch College is a senior college within CUNY.

17. At Baruch College, the Baruch College Faculty Senate, chaired by Martell, is responsible for the duties set forth in Paragraph 11.

18. John Jay College of Criminal Justice (“John Jay”) is a senior college within CUNY.

19. At John Jay, its College Council is responsible for the duties set forth in Paragraph 10.

20. The College of Staten Island (“CSI”) is a senior college within CUNY.

21. At CSI, its Faculty Senate is responsible for the duties set forth in Paragraph 10.

22. Queensborough Community College (“QCC”) is a community college within CUNY.

23. At QCC, its Academic Senate is responsible for the duties set forth in Paragraph 11.

24. Borough of Manhattan Community College ("BMCC") is a community college within CUNY.

25. At BMCC, its Academic Senate is responsible for the duties set forth in Paragraph 11.

26. Lehman College ("Lehman") is a senior college within CUNY.

27. At Lehman, its College Senate is responsible for the duties set forth in Paragraph 11.

28. York College ("York") is a senior college within CUNY.

29. At York, its College Senate is responsible for the duties set forth in Paragraph 11.

30. New York City College of Technology ("City Tech") is a senior college within CUNY.

31. At City Tech, its College Council is responsible for the duties set forth in Paragraph 11.

32. The New Community College ("NCC") is a community college within CUNY.

33. At NCC, its College Council is responsible for the duties set forth in Paragraph 11.

34. Medgar Evers College ("Medgar Evers") is a senior college within CUNY.

35. At Medgar Evers, its College Council is responsible for the duties

set forth in Paragraph 11.

36. LaGuardia Community College ("LaGuardia") is a community college within CUNY.

37. At LaGuardia, its College Senate is responsible for the duties set forth in Paragraph 11.

38. Hostos Community College ("Hostos") is a community college within CUNY.

39. At Hostos, its College Senate is responsible for the duties set forth in Paragraph 11.

40. City College is a senior college within CUNY.

41. At City College, its Faculty Senate and Faculty Councils are responsible for the duties set forth in Paragraph 11.

42. Bronx Community College ("BCC") is a community college within CUNY.

43. At BCC, its College Senate is responsible for the duties set forth in Paragraph 11.

JURISDICTION AND VENUE

44. This Court has jurisdiction pursuant to CPLR §§ 301 and 7804.

45. Venue is proper in New York County pursuant to CPLR § 503(a).

FACTUAL BACKGROUND

A. Pathways is Passed, Requiring Each College to Develop A Curriculum that Comply With Pathways' Mandates

46. In late June, 2011, the CUNY Board passed Pathways. The passage and implementation of Pathways is being challenged in a separate lawsuit against CUNY and the CUNY Board, docketed as Index No. 151021/2012.

47. Pathways, among, other things, established a task force to recommend a general education "core curriculum" of thirty credits that must be adopted by all CUNY campuses.

48. Under Pathways, the core curriculum identifies the educational disciplines that make up the general education program and determines the number of credits to be allocated to each discipline.

49. Pathways also requires each college awarding a baccalaureate degree to allocate up to twelve (12) optional credits among several pre-determined disciplines in addition to its thirty-credit common core general education requirements.

50. Each college within CUNY is required to create a core curriculum that is consistent with the general education program structure identified in Paragraphs 47-49.

51. On or about December 1, 2011, the task force issued its final recommendation to the Chancellor regarding the development of the Pathways general education program.

52. On or about December 12, 2011, the Chancellor adopted the task force's final recommendation.

B. The Individual College's Governance Plans

53. Pursuant to CUNY Bylaw 8.6, "Each college shall have a faculty or academic council, which shall be the primary body responsible for formulating policy on academic matters. The composition of a college's faculty or academic council shall be set forth in its governance plan approved by the board of trustees."

54. Pursuant to CUNY Bylaw 8.11, "the provisions of duly adopted college governance plans shall supersede any inconsistent provisions contained in this article."

55. All colleges within CUNY have college governance plans, including Baruch, CSI, BMCC, Lehman, QCC, and John Jay.

C. Baruch College

56. Baruch College's governance plan, approved by the CUNY Board in 1999, provides that its faculty senate "shall be responsible for the formulation and recommendation of policy relating to the academic status, role, rights, freedoms and responsibilities of the instructional staff, [and] college-level educational and instructional matters..." A copy of Baruch College's governance plan is attached as Exhibit 1.

57. Baruch College's governance plan provides for the establishment of one or more committees on curriculum for each school within Baruch, and such committees "have the responsibility for reviewing and approving all courses of study...all curricula and majors...and student admission and graduation requirements..."

58. Baruch's governance plan requires that its curriculum committees

develop and approve any curriculum designed to meet the Pathways requirements, and that such curriculum be approved by a vote of its faculty senate.

59. On or about March 3, 2011, in a meeting open to the public and held in accordance with the Open Meetings Law, Baruch's faculty senate passed a resolution stating that "the Pathways Proposal as it now stands should be withdrawn, because it will weaken the curriculum and lower the academic standards at Baruch College."

60. To date, Baruch's faculty senate has not approved or adopted a Pathways curriculum.

61. Upon information and belief, in April 2012, the President of Baruch, Mitchell Wallerstein, on behalf of Baruch, submitted a Pathways curriculum to the Chancellor. Wallerstein's submission is attached as Exhibit 2.

62. For the reasons set forth in Paragraphs 63 to 70 below, Wallerstein's submission of a Pathways curriculum to the Chancellor violated the Open Meetings Law.

63. Defendants Baruch College and Wallerstein failed to hold a public meeting to adopt the the Pathways curriculum that Wallerstein submitted to the Chancellor on behalf of Baruch.

64. Defendants Baruch College and Wallerstein failed to provide notice of a public meeting in connection with the Pathways curriculum that Wallerstein submitted on behalf of Baruch.

65. Defendants Baruch College and Wallerstein failed to hold meetings

in an appropriate facility which could adequately accommodate members of the public who wish to attend such meetings, in connection with the Pathways curriculum submitted by Wallerstein to the Chancellor.

66. Defendants Baruch College and Wallerstein failed to hold meetings in a facility that permitted barrier-free physical access to the physically handicapped, in connection with the Pathways curriculum which Wallerstein submitted to the Chancellor.

67. Defendants Baruch College and Wallerstein failed to hold meetings open to being photographed, webcast, or otherwise recorded and/or transmitted by audio or video means, in connection with the Pathways curriculum Wallerstein submitted to the Chancellor.

68. Defendants Baruch College and Wallerstein took no minutes nor made minutes available to the public in connection with the Pathways curriculum Wallerstein submitted to the Chancellor.

69. Baruch and Wallerstein were required to hold public meetings, and provide notice of same, in compliance with the Open Meetings Law, in connection with the Pathways curriculum submitted by defendants Baruch and Wallerstein to the Chancellor.

70. Baruch's failure to hold public meetings and/or provide notice of same in connection with the Pathways curriculum submitted to the Chancellor by defendants Baruch and Wallerstein violates the Open Meetings Law.

D. The College of Staten Island

71. CSI's governance plan, approved by the CUNY Board in 2009,

provides that its faculty senate “shall be responsible for the principal academic policy decisions of the College including admissions criteria, academic programs, degree requirements, and graduation requirements. . . . Recommendations from the Faculty Senate regarding educational matters shall be forwarded to the College Council and to the Administration for action and/or implementation....” CSI’s governance plan is attached as Exhibit 3.

72. CSI’s governance plan provides for Curriculum Committees which “shall review, evaluate, and recommend all departmental and interdepartmental undergraduate programs including majors, minors, premajors, and concentrations, and the courses within such programs. All departmental programs shall originate in the appropriate department....Decisions reached by the Curriculum Committees are forwarded to the Executive Committee of the Faculty Senate for presentation to and action by the Faculty Senate.”

73. CSI’s governance plan also provides for an Undergraduate Curriculum Committee which “shall recommend, evaluate, and review all departmental and interdepartmental undergraduate programs including majors, minors, premajors, and concentrations, and the courses within such programs. All departmental programs shall originate in the appropriate department.”

74. On or about May 17, 2012, in meeting open to the public and held in accordance with the Open Meetings Law, CSI’s faculty senate passed a resolution calling for the repeal of Pathways and “affirm[ing] that it will not implement a Pathways curriculum under the current guidelines...”

75. To date, CSI’s faculty senate has not approved or adopted a

Pathways curriculum.

76. On or about March 29, 2012, Provost and Senior Vice President for Academic Affairs, William Fritz, on behalf of CSI, submitted a plan for the implementation of Pathways to the Chancellor. Fritz's March 29 submission is attached as Exhibit 4.

77. On or about May 31, 2012, Fritz, on behalf of CSI, submitted a Pathways curriculum to the Chancellor. Fritz's May 31 submission is attached as Exhibit 5.

78. For the reasons set forth in Paragraphs 79 to 86 below, Fritz's submission of a Pathways curriculum violated the Open Meetings Law.

79. Defendants CSI and Fritz failed to hold a public meeting to adopt the Pathways curriculum which Fritz submitted on behalf of CSI.

80. Defendants CSI and Fritz failed to provide notice of a public meeting to adopt the Pathways curriculum that Fritz submitted on behalf of CSI.

81. Defendants CSI and Fritz failed to ensure that meetings held in connection with the Pathways curriculum which Fritz submitted to the Chancellor were held in an appropriate facility which could adequately accommodate members of the public who wished to attend such meetings.

82. Defendants CSI and Fritz failed to ensure that meetings held in connection with the Pathways curriculum which Fritz submitted to the Chancellor were held in a facility that permitted barrier-free physical access to the physically handicapped.

83. Defendants CSI and Fritz failed to provide that the meetings held in connection with the Pathways curriculum Fritz submitted to the Chancellor were open to being photographed, webcast, or otherwise recorded and/or transmitted by audio or video means.

84. Defendants CSI and Fritz took no minutes nor made minutes available to the public in connection with the Pathways curriculum Fritz submitted to the Chancellor.

85. CSI and Fritz were required to hold public meetings, and provide notice of same, in compliance with the Open Meetings Law, in connection with the Pathways curriculum submitted by defendants CSI and Fritz to the Chancellor.

86. CSI's failure to hold public meetings and/or provide notice of same in connection with the Pathways curriculum submitted to the Chancellor by defendants CSI and Fritz violated the Open Meetings Law.

E. Borough of Manhattan Community College

87. BMCC's governance plan, approved by the CUNY Board in 2010, provides that its purpose is to "codify the rules and regulations under which the faculty of the Borough of Manhattan Community College operates. The major duties of this faculty are to assume responsibility, subject to the by-laws of the Board of Trustees, for the formulation of policy relating to curriculum, the granting of degrees, student affairs, student discipline and student admission." BMCC's governance plan is attached as Exhibit 6.

88. BMCC governance plan provides that its faculty senate "shall be

responsible for the principal academic policy decision of the college including admissions criteria, academic programs, degree requirements and graduation requirements.”

89. BMCC’s governance plan also “[recognizes] the legislative authority of the [faculty senate] in matters of curriculum and degree requirements...”

90. On or about March 28, 2012, in a meeting open to the public and held in accordance with the Open Meetings Law, BMCC’s faculty senate passed a resolution calling for the repeal of Pathways and “its replacement by an alternative plan to facilitate student transfer without compromising the academic standards of degree programs at BMCC and CUNY.”

91. To date, BMCC’s faculty senate has not approved or adopted a Pathways curriculum.

92. Upon information and belief, in April or May 2012, the President of BMCC, Antonio Perez, on behalf of BMCC, submitted a Pathways implementation plan to the Chancellor containing changes to BMCC’s curriculum. Perez’s submission is attached as Exhibit 7.

93. For the reasons set forth in Paragraphs 94 to 101 below, Perez’s submission of a Pathways curriculum violated the Open Meetings Law.

94. Defendants BMCC and Perez failed to hold a public meeting to adopt the Pathways curriculum that Perez submitted to the Chancellor on behalf of BMCC.

95. Defendants BMCC and Perez failed to provide notice of a public

meeting in connection with the Pathways curriculum that Perez submitted to the Chancellor on behalf of CUNY.

96. Defendants BMCC and Perez failed to ensure that meetings held in connection with the Pathways curriculum which Perez submitted to the Chancellor were held in an appropriate facility which could adequately accommodate members of the public who wish to attend such meetings.

97. Defendants BMCC and Perez failed to ensure that meetings held in connection with the Pathways curriculum which Perez submitted to the Chancellor were held in a facility that permitted barrier-free physical access to the physically handicapped.

98. Defendants BMCC and Perez failed to provide that that the meetings held in connection with the Pathways curriculum which Perez submitted to the Chancellor were open to being photographed, webcast, or otherwise recorded and/or transmitted by audio or video means.

99. Defendants BMCC and Perez took no minutes nor made minutes available to the public in connection with the Pathways curriculum which Perez submitted to the Chancellor.

100. BMCC and Perez were required to hold public meetings, and provide notice of same, in compliance with the Open Meetings Law, in connection with the Pathways curriculum submitted to the Chancellor by defendants BMCC and Perez.

101. BMCC's failure to hold public meetings and/or provide notice of same in connection with the Pathways curriculum submitted to the Chancellor by

defendants BMCC and Perez violated the Open Meetings Law.

F. Lehman College

102. Pursuant to Lehman's governance plan, adopted by the CUNY Board in 2003, the Lehman College Senate "shall be responsible for the formulation of academic policy and for legislative and advisory functions related to the programs, standards, and goals of the College." Lehman's governance plan is attached as Exhibit 8.

103. The Lehman College Senate's legislative functions provide that it "shall have the following legislative responsibilities: a) To carry out by legislation the aforesaid policy functions..."

104. The "aforesaid policy functions" referred to in Paragraph 76 provide that the Lehman College Senate "shall have the power to formulate policy, to make policy recommendations, and to review the implementation of policy concerning a) Academic affairs, including the development of curricula; degree requirements; inter-disciplinary programs; admission and grading practices and standards; and the awarding of credits, degrees and honors..."

105. Pursuant to Lehman's governance plan, the adoption of curricula or changes thereto can be accomplished only by a vote of the Lehman College Senate conducted in accordance with the Open Meetings Law.

106. On or about November 16, 2011, in meeting open to the public and held in accordance with the Open Meetings Law, Lehman's faculty senate passed a resolution that "condemns the Pathways process that is damaging to the academic

reputation of Lehman College at the City University of New York and the careers of our graduates” and “recommends that the Pathways program be scrapped and that the colleges be assisted in establishing collaborations to enhance articulation and the academic quality of CUNY baccalaureate degrees.”

107. To date, no committee of the Lehman College Senate has approved or adopted a Pathways curriculum.

108. To date, the Lehman College Senate has not approved or adopted a Pathways curriculum.

109. Upon information and belief, on or about March 30, 2012, the President of Lehman, Ricardo Fernandez, on behalf of Lehman, submitted a Pathways implementation plan to the Chancellor containing changes to Lehman’s curriculum. Fernandez’s submission is attached as Exhibit 9.

110. For the reasons set forth in Paragraphs 111 to 118 below, Fernandez’s submission of a Pathways curriculum violated the Open Meetings Law.

111. Defendants Lehman and Fernandez failed to hold a public meeting to adopt the Pathways curriculum that Fernandez submitted on behalf of Lehman.

112. Defendants Lehman and Fernandez failed to provide notice of a public meeting in connection with the Pathways curriculum which Fernandez submitted to the Chancellor on behalf of Lehman.

113. Defendants Lehman and Fernandez failed to hold meetings in connection with the Pathways curriculum which Fernandez submitted to the Chancellor in an appropriate facility which could adequately accommodate members of the public

who wish to attend such meetings.

114. In connection with the Pathways curriculum which Fernandez submitted to the Chancellor, defendants Lehman and Fernandez failed to hold meetings in a facility that permitted barrier-free physical access to the physically handicapped.

115. In connection with the Pathways curriculum submitted by Fernandez to the Chancellor, defendants Lehman and Fernandez failed to hold which were open to being photographed, webcast, or otherwise recorded and/or transmitted by audio or video means.

116. Defendants Lehman and Fernandez took no minutes nor made minutes available to the public in connection with the Pathways curriculum submitted to the Chancellor by Fernandez.

117. Lehman and Fernandez were required to hold public meetings, and provide notice of same, in compliance with the Open Meetings Law, in connection with the Pathways curriculum submitted by defendants Lehman and Fernandez.

118. Lehman's failure to hold public meetings and/or provide notice of same in connection with the Pathways curriculum submitted by defendants Lehman and Fernandez violated the Open Meetings Law.

G. John Jay College

119. John Jay's governance plan, adopted by the CUNY Board in 2008, provides that "The College Council shall be the primary governing body of John Jay College of Criminal Justice. It shall have the authority to establish policy on all matters except those specifically reserved by the Education Law or by the Bylaws of the Board

of Trustees of the City University of New York to the President or to other officials of John Jay College or of [CUNY] or to the [CUNY Board].” John Jay’s governance plan is attached as Exhibit 10.

120. John Jay’s governance plan provides that “Subject to the provisions of state law, College Council committee meetings are open to the public.”

121. John Jay’s governance plan provides that there “shall be a Committee on Undergraduate Curriculum and Academic Standards which shall consider all matters relating to the undergraduate curriculum of the College and shall make recommendations to the College Council on such matters as: proposed programs; additions, deletions and modifications of courses and existing programs; distribution; core requirements; basic skills; academic standards; and policies pertaining to student recruitment and admissions.”

122. John Jay’s governance plan provides that there “shall be a Council of Undergraduate Program Coordinators which shall provide a formal means to represent the concerns of those responsible for undergraduate majors and shall provide a formal means for reviewing matters of concern such as program review and revisions, staffing, curriculum development and the scheduling of courses.”

123. John Jay’s governance plan provides that “Each department shall have control of its own educational policies consistent with the provisions of the College Council, the Bylaws of the CUNY Board of Trustees and the New York State Education Law”, and that “Each department shall elect a Curriculum Committee consisting of full-time member of the faculty...”

124. Pursuant to John Jay's governance plan, the adoption of curriculum or changes thereto can only be accomplished, at a minimum, by a vote of the Committee on Undergraduate Curriculum and Academic Standards, followed by a vote of the College Council, conducted in accordance with the Open Meetings Law.

125. To date, the Committee on Undergraduate Curriculum and Academic Standards has not approved or adopted a Pathways curriculum.

126. To date, John Jay's College Council has not approved or adopted a Pathways curriculum.

127. On or about April 20, 2012, in meeting open to the public and held in accordance with the Open Meetings Law, John Jay's Committee on Undergraduate Curriculum and Academic Standards voted against a proposed Pathways curriculum.

128. As a result of the April 20 vote of John Jay's Committee on Undergraduate Curriculum and Standards, the proposed Pathways curriculum could not be placed before the College Council for a vote.

129. To date, John Jay's faculty senate has not approved or adopted a Pathways curriculum.

130. On or about April 1, 2012, the President of John Jay, Jeremy Travis, on behalf of John Jay, submitted a plan for the implementation of Pathways to the Chancellor. Travis' April 1 submission is attached as Exhibit 11.

131. On or around May 8, 2012, the President of John Jay, Jeremy Travis, on behalf of John Jay, submitted a Pathways curriculum to the Chancellor. A copy of the correspondence announcing this submission is attached as Exhibit 12.

132. For the reasons set forth in Paragraphs 133 to 140 below, Travis' submission of a Pathways curriculum violated the Open Meetings Law.

133. Defendants Travis and John Jay failed to hold a public meeting to adopt the Pathways curriculum that Travis submitted to the Chancellor on behalf of John Jay.

134. Defendants Travis and John Jay failed to provide notice of a public meeting in connection with the Pathways curriculum Travis submitted to the Chancellor on behalf of John Jay.

135. Defendants Travis and John Jay failed to hold meetings in an appropriate facility which could adequately accommodate members of the public who wish to attend such meetings, in connection with the Pathways curriculum submitted by Travis to the Chancellor.

136. Defendants Travis and John Jay failed to hold meetings in a facility that permitted barrier-free physical access to the physically handicapped, in connection with the Pathways curriculum submitted by Travis to the Chancellor.

137. Defendants Travis and John Jay failed to hold meetings that were open to being photographed, webcast, or otherwise recorded and/or transmitted by audio or video means, in connection with the Pathways curriculum submitted by Travis to the Chancellor.

138. Defendants John Jay and Travis took no minutes nor made minutes available to the public in connection with the Pathways curriculum Travis submitted to the Chancellor.

139. John Jay and Travis were required to hold public meetings, and provide notice of same, in compliance with the Open Meetings Law, in connection with the Pathways curriculum submitted by defendants John Jay and Travis.

140. Travis' failure to hold public meetings and/or provide notice of same in connection with the Pathways curriculum submitted by defendants John Jay and Travis violated the Open Meetings Law.

H. Queensborough Community College

141. QCC's governance plan, adopted by the CUNY Board in 1976, provides that "each constituency has the right to concern itself in areas that are its responsibility, this document sets forth the organization of the various bodies within the College, and guarantees their autonomy on matters within their jurisdiction...this Governance document also provides for the organization of an Academic Senate which shall include students, faculty, alumni, and administrators which shall be the voice of the academic community of [QCC] in all matters affecting the welfare of the institution." QCC's governance plan is attached as Exhibit 13.

142. QCC's governance plan provides that the "Academic Senate shall be the voice of the academic community of [QCC] in all matters which shall appropriately be brought before it, including:...Educational Objectives of the College...formulation of the policy relating to the admission and retention of students, subject to the guidelines of the Board of Trustees, and curriculum, awarding of college credits, and granting of degrees.... [and] Such other areas as affect the welfare of the institution."

143. QCC's governance plan provides for a Curriculum Committee.

144. Pursuant to QCC's governance plan, the adoption of curricula or changes thereto can be accomplished only by a vote of the Academic Senate, conducted in accordance with the Open Meetings Law.

145. On or about March 13, 2012, in meeting open to the public and held in accordance with the Open Meetings Law, QCC's faculty senate passed a resolution questioning the process by which Pathways was created, asserting that Pathways' "curricular changes are harmful to the academic reputation of [QCC and CUNY], the careers of our graduates and faculty, and to shared governance and academic freedom" and recommends the suspension of Pathways and that it be "fundamentally rethought".

146. To date, no committee of QCC's Academic Senate has approved or adopted a Pathways curriculum.

147. To date, QCC's Academic Senate has not approved or adopted a Pathways curriculum.

148. Upon information and belief, in or around April 2012 or May 2012, the President of QCC, Diane Call, on behalf of QCC, submitted a Pathways implementation plan to the Chancellor containing changes to QCC's curriculum. Call's submission is attached as Exhibit 14.

149. For the reasons set forth in Paragraphs 150 to 157 below, the Pathways Call's submission of a Pathways curriculum violated the Open Meetings Law.

150. Defendants QCC and Call failed to hold a public meeting to adopt the Pathways curriculum that Call submitted to the Chancellor on behalf of QCC.

151. Defendants QCC and Call failed to provide notice of a public meeting in connection with the Pathways curriculum Call submitted to the Chancellor on behalf of QCC.

152. Defendants QCC and Call failed to hold meetings in an appropriate facility which could adequately accommodate members of the public who wish to attend such meetings, in connection with the Pathways curriculum which Call submitted to the Chancellor.

153. Defendants QCC and Call failed to hold meetings in a facility that permitted barrier-free physical access to the physically handicapped, in connection with the Pathways curriculum submitted by Call to the Chancellor.

154. Defendants QCC and Call failed to hold meetings that were open to being photographed, webcast, or otherwise recorded and/or transmitted by audio or video means, in connection with the Pathways curriculum which Call submitted to the Chancellor.

155. Defendants QCC and Call took no minutes nor made minutes available to the public in connection with the Pathways curriculum which Call submitted to the Chancellor.

156. QCC and Call were required to hold public meetings, and provide notice of same, in compliance with the Open Meetings Law, in connection with the Pathways curriculum submitted to the Chancellor by defendants QCC and Call.

157. QCC's failure to hold public meetings and/or provide notice of same in connection with the Pathways curriculum submitted by defendants QCC and Call

violated the Open Meetings Law.

I. York College

158. York College's governance plan, adopted by the CUNY Board in 1986, provides that the York College Senate is "the legislative body of York College....The York College Senate shall exercise all legislative powers granted to the College....As the College legislative agency, the Senate jurisdiction shall include the following areas: A. Curriculum and other educational matters including academic standards." York's governance plan is attached as Exhibit 15.

159. York's governance plan provides for several standing committees, including a Committee on College Curriculum and a Committee on Academic Standards.

160. To date, no committee of the York College Senate has approved or adopted a Pathways curriculum or a Pathways implementation plan containing changes to York's curriculum.

161. To date, the York College Senate has not approved or adopted a Pathways curriculum or a Pathways implementation plan containing changes to York's curriculum.

162. Upon information and belief, in or around April 2012 or May 2012, York administration submitted a Pathways implementation plan to the Chancellor containing changes to York's curriculum. York's submission is attached as Exhibit 16.

163. For the reasons set forth in Paragraphs 164 to 171 below, York's submission of a Pathways implementation plan containing changes to York's curriculum

violated the Open Meetings Law.

164. Defendant York failed to hold a public meeting to adopt the Pathways implementation plan and curriculum changes that were submitted to the Chancellor.

165. Defendant York failed to provide notice of a public meeting in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor on behalf of York.

166. Defendant York failed to hold meetings in an appropriate facility which could adequately accommodate members of the public who wish to attend such meetings, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor.

167. Defendant York failed to hold meetings in a facility that permitted barrier-free physical access to the physically handicapped, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor.

168. Defendant York failed to hold meetings that were open to being photographed, webcast, or otherwise recorded and/or transmitted by audio or video means, in connection with the Pathways implementation plan and curriculum changes which submitted to the Chancellor.

169. Defendant York took no minutes nor made minutes available to the public in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor.

170. Defendant York was required to hold public meetings, and provide

notice of same, in compliance with the Open Meetings Law, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor by defendant York.

171. York's failure to hold public meetings and/or provide notice of same in connection with the Pathways implementation plan and curriculum changes submitted by defendant York violated the Open Meetings Law.

J. New York City College of Technology

172. City Tech's governance plan, adopted by the Board in 1998, provides that "the College Council shall be the body which establishes College policy on all matters except those specifically reserved by the laws of the state of New York, [CUNY's By-Laws], and the collective negotiation agreements in force." City Tech's governance plan is attached as Exhibit 17.

173. City Tech's governance plan provides for a Curriculum Committee that "shall be responsible for the evaluation of curriculum, the review of proposals for the development and modification of curriculum and formulation of curriculum policy."

174. To date, no committee of the City Tech College Council has approved or adopted a Pathways implementation plan and curriculum changes.

175. To date, the City Tech College Council has not approved or adopted a Pathway implementation plan and curriculum changes.

176. Upon information and belief, on or about April 1, 2012, the Provost and Vice President for Academic Affairs, Bonne August of City Tech, on behalf of City Tech, submitted a Pathways implementation plan to the Chancellor containing changes

to City Tech's curriculum. August's submission is attached as Exhibit 18.

177. For the reasons set forth in Paragraphs 178 to 185 below, City Tech's submission of a Pathways implementation plan and curriculum changes violated the Open Meetings Law.

178. Defendants City Tech and August failed to hold a public meeting in connection with the Pathways implementation plan and curriculum changes which August submitted to the Chancellor on behalf of City Tech.

179. Defendants City Tech and August failed to provide notice of a public meeting in connection with the Pathways implementation plan and curriculum changes August submitted to the Chancellor on behalf of City Tech.

180. Defendants City Tech and August failed to hold meetings in an appropriate facility which could adequately accommodate members of the public who wish to attend such meetings, in connection with the Pathways implementation plan and curriculum changes which August submitted to the Chancellor.

181. Defendants City Tech and August failed to hold meetings in a facility that permitted barrier-free physical access to the physically handicapped, in connection with the Pathways implementation plan and curriculum changes submitted by August to the Chancellor.

182. Defendants City Tech and August failed to hold meetings that were open to being photographed, webcast, or otherwise recorded and/or transmitted by audio or video means, in connection with the Pathways implementation plan and curriculum changes which August submitted to the Chancellor.

183. Defendants City Tech and August took no minutes nor made minutes available to the public in connection with the Pathways implementation plan and curriculum changes which City Tech and August submitted to the Chancellor.

184. City Tech and August were required to hold public meetings, and provide notice of same, in compliance with the Open Meetings Law, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor by defendants City Tech and August.

185. City Tech's failure to hold public meetings and/or provide notice of same in connection with the Pathways implementation plan and curriculum changes submitted by defendants City Tech and August violated the Open Meetings Law.

K. Medgar Evers

186. Medgar Evers' governance plan, adopted by the CUNY Board in 1992, provides that "the Medgar Evers College Council is established as the legislative body of the College. It is responsible for policy formulation on all matters not reserved" by the New York State Education Law or CUNY's Bylaws. Medgar Evers' governance plan is attached as Exhibit 19.

187. Medgar Evers' governance plan provides that the "College Council shall administer policy functions concerning the following: a. Academic affairs, including the development of curriculum, interdisciplinary programs and the awarding of credit. b. Academic requirements and regulations governing academic standing... d. Long-range planning to achieve the overall goals of the College..."

188. Medgar Evers' governance plan provides for a standing Curriculum

Committee that “shall recommend college-wide policy in matters pertaining to academic programs, including new curricula, and changes in existing curricula....”

189. Medgar Evers’ governance plan provides for a standing Committee on Academic Standards and Regulations that “shall recommend policy on governing academic regulations of the College, including ...graduate certification. It shall also be responsible for recommending policy on college-wide requirements for all academic programs offered in the College.”

190. To date, no committee of the Medgar Evers College Council has approved or adopted a Pathways implementation plan and curriculum changes.

191. To date, the Medgar Evers College Council has not approved or adopted a Pathways curriculum.

192. Upon information and belief, on or about April 2, 2012, Medgar Evers submitted a Pathways implementation plan to the Chancellor containing changes to Medgar Evers’ curriculum. Medgar Evers’ submission is attached as Exhibit 20.

193. For the reasons set forth in Paragraphs 194 to 201 below, Medgar Evers’ submission of a Pathways implementation plan and curriculum changes violated the Open Meetings Law.

194. Defendant Medgar Evers failed to hold a public meeting to adopt the Pathways implementation plan and curriculum changes that were submitted to the Chancellor on behalf of Medgar Evers.

195. Defendant Medgar Evers failed to provide notice of a public meeting in connection with the Pathways implementation plan and curriculum changes

submitted to the Chancellor on behalf of Medgar Evers.

196. Defendant Medgar Evers failed to hold meetings in an appropriate facility which could adequately accommodate members of the public who wish to attend such meetings, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor.

197. Defendant Medgar Evers failed to hold meetings in a facility that permitted barrier-free physical access to the physically handicapped, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor.

198. Defendant Medgar Evers failed to hold meetings that were open to being photographed, webcast, or otherwise recorded and/or transmitted by audio or video means, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor.

199. Defendant Medgar Evers took no minutes nor made minutes available to the public in connection with the Pathways implementation plan and curriculum changes which Medgar Evers submitted to the Chancellor.

200. Medgar Evers was required to hold public meetings, and provide notice of same, in compliance with the Open Meetings Law, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor by defendant Medgar Evers.

201. Medgar Evers' failure to hold public meetings and/or provide notice of same in connection with the Pathways implementation plan and curriculum changes submitted by defendant Medgar Evers violated the Open Meetings Law.

L. LaGuardia

202. LaGuardia's governance plan, adopted by the CUNY Board in 2009, provides that "the College Senate shall have responsibility, subject to guidelines and policies established by the CUNY Board of Trustees, to formulate policy pertaining to the operation of [LaGuardia], including the following: A. Establish and protect academic standards of the College; B. Set qualifications for degrees, requirements for matriculation, and scholarship standards...; C. Review the operations of the College's curriculum, approve new curricula and courses, and review modifications of existing curricula...." LaGuardia's governance plan is attached as Exhibit 21.

203. LaGuardia's governance plan provides for a standing Curriculum Committee and that "All aspects of the formulation, development, evaluation, and modification of course and program proposals must be approved by the Curriculum Committee, prior to submission and review by the Senate."

204. LaGuardia's governance plan provides for a standing Academic Standing Committee that "shall review and recommend to the Senate regulations and policies concerning academic standing, matriculation processes, degree requirements, and grading systems."

205. To date, no committee of LaGuardia's College Senate has approved or adopted a Pathways implementation plan and curriculum changes.

206. To date, the LaGuardia College Senate has not approved or adopted a Pathways curriculum.

207. Upon information and belief, in or around April 2012 or May 2012,

LaGuardia submitted a Pathways implementation plan to the Chancellor containing changes to LaGuardia's curriculum. LaGuardia's submission is attached as Exhibit 22.

208. For the reasons set forth in Paragraphs 209 to 216 below, LaGuardia's submission of a Pathways implementation plan and curriculum changes violated the Open Meetings Law.

209. Defendant LaGuardia failed to hold a public meeting to adopt the Pathways implementation plan and curriculum changes submitted to the Chancellor on behalf of LaGuardia.

210. Defendant LaGuardia failed to provide notice of a public meeting in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor on behalf of LaGuardia.

211. Defendant LaGuardia failed to hold meetings in an appropriate facility which could adequately accommodate members of the public who wish to attend such meetings, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor.

212. Defendant LaGuardia failed to hold meetings in a facility that permitted barrier-free physical access to the physically handicapped, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor.

213. Defendant LaGuardia failed to hold meetings that were open to being photographed, webcast, or otherwise recorded and/or transmitted by audio or video means, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor.

214. Defendant LaGuardia took no minutes nor made minutes available to the public in connection with the Pathways implementation plan and curriculum changes which LaGuardia submitted to the Chancellor.

215. LaGuardia was required to hold public meetings, and provide notice of same, in compliance with the Open Meetings Law, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor by defendant LaGuardia.

216. LaGuardia's failure to hold public meetings and/or provide notice of same in connection with the Pathways implementation plan and curriculum changes submitted by defendant LaGuardia violated the Open Meetings Law.

M. Hostos

217. Hostos' governance plan, approved by the CUNY Board in 1995, provides that "the College Senate will, in consultation with the administration and other groups in the College, recommend policy on all College matters, except for those within the domain of the President or any other Officer of the College or the City University of New York, as set forth in the By-Laws [sic] of the Board of Trustees. The Senate shall be specifically responsible for the formulation of academic policy..." Hostos' governance plan is attached as Exhibit 23.

218. Hostos' governance plan provides for a standing Curriculum Committee that "shall have the following duties: a. To evaluate and recommend new courses-in accordance with Board of Trustees guidelines. b. To evaluate and recommend any modifications of current courses in the curriculum, including credits,

hours, titles, course descriptions, language of instruction, prerequisites, co-requisites, etc... g. To present to the College Senate, for its approval, any items voted upon and recommended by the committee.”

219. To date, no committee of Hostos’ College Senate has approved or adopted a Pathways implementation plan and curriculum changes.

220. To date, the Hostos College Senate has not approved or adopted a Pathways curriculum.

221. Upon information and belief, in or around April 2012 or May 2012, Hostos submitted a Pathways implementation plan to the Chancellor containing changes to Hostos’ curriculum. Hostos’ submission is attached as Exhibit 24.

222. For the reasons set forth in Paragraphs 223 to 230 below, Hostos’ submission of a Pathways implementation plan and curriculum changes violated the Open Meetings Law.

223. Defendant Hostos failed to hold a public meeting to adopt the Pathways implementation plan and curriculum changes submitted to the Chancellor on behalf of Hostos.

224. Defendant Hostos failed to provide notice of a public meeting in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor on behalf of Hostos.

225. Defendant Hostos failed to hold meetings in an appropriate facility which could adequately accommodate members of the public who wish to attend such meetings, in connection with the Pathways implementation plan and curriculum changes

submitted to the Chancellor.

226. Defendant Hostos failed to hold meetings in a facility that permitted barrier-free physical access to the physically handicapped, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor.

227. Defendant Hostos failed to hold meetings that were open to being photographed, webcast, or otherwise recorded and/or transmitted by audio or video means, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor.

228. Defendant Hostos took no minutes nor made minutes available to the public in connection with the Pathways implementation plan and curriculum changes which Hostos submitted to the Chancellor.

229. Hostos was required to hold public meetings, and provide notice of same, in compliance with the Open Meetings Law, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor by defendant Hostos.

230. Hostos' failure to hold public meetings and/or provide notice of same in connection with the Pathways implementation plan and curriculum changes submitted by defendant Hostos violated the Open Meetings Law.

N. City College

231. City College's governance plan provides that the "Governance of The City College is the concern of all its members. All its constituencies – students, faculty, and administration – contribute to the maintenance and development of the

College; each of the constituencies has its particular area of concern.” City Colleges’ governance plan is attached as Exhibit 25.

232. City College’s governance plan provides that “Because each constituency has the right to govern itself in areas that are its exclusive concern and responsibility, this document sets forth the powers and organization of various bodies within the College and guarantees their autonomy on matters exclusively within their jurisdiction....”

233. City College’s governance plan provides that the “Faculty shall be responsible for and conduct all the educational affairs customarily cared for by a College Faculty...The Faculties and Faculty Councils shall be responsible for the formulation of policy relating to the admission and retention of students, subject to guidelines of the Board of Trustees, and curriculum, awarding of College credits, and granting of degrees.”

234. City College’s governance plan provides for a standing “committee on educational policy” and Curriculum Committees for each of its various schools.

235. City College’s governance plan provides that the “Faculty Senate shall, in addition to the powers and duties implied in the creating of the standing committees...be the authentic voice of the Faculty...in all matters...including...all College-wide matters...the allocation of educational resources for educational objectives...the Faculty responsibilities (i.e., admissions policy, retention standards, credits, curriculum and degree requirements, the granting of degrees and personnel matters)...”

236. To date, no committee of City College's Faculty Senate has approved or adopted a Pathways implementation plan and curriculum changes.

237. To date, the City College Faculty Senate has not approved or adopted a Pathways implementation plan and curriculum changes.

238. To date, none of Faculties or Faculty Councils of City College's various schools have adopted a Pathways implementation plan and curriculum changes.

239. In or around April 2012 or May 2012, City College submitted a Pathways implementation plan to the Chancellor containing changes to City College's curriculum. City College's submission is attached as Exhibit 26.

240. For the reasons set forth in Paragraphs 241 to 248 below, City College's submission of a Pathways implementation plan and curriculum changes violated the Open Meetings Law.

241. Defendant City College failed to hold a public meeting to adopt the Pathways implementation plan and curriculum changes submitted to the Chancellor on behalf of City College.

242. Defendant City College failed to provide notice of a public meeting in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor on behalf of City College.

243. Defendant City College failed to hold meetings in an appropriate facility which could adequately accommodate members of the public who wish to attend such meetings, in connection with the Pathways implementation plan and curriculum

changes submitted to the Chancellor.

244. Defendant City College failed to hold meetings in a facility that permitted barrier-free physical access to the physically handicapped, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor.

245. Defendant City College failed to hold meetings that were open to being photographed, webcast, or otherwise recorded and/or transmitted by audio or video means, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor.

246. Defendant City College took no minutes nor made minutes available to the public in connection with the Pathways implementation plan and curriculum changes which City College submitted to the Chancellor.

247. City College was required to hold public meetings, and provide notice of same, in compliance with the Open Meetings Law, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor by defendant City College.

248. City College's failure to hold public meetings and/or provide notice of same in connection with the Pathways implementation plan and curriculum changes submitted by defendant City College violated the Open Meetings Law.

O. Bronx Community College

249. BCC's governance plan, adopted by the CUNY Board in 2010, provides that the BCC "College Senate shall, subject to the Bylaws of the [CUNY Board] and the provisions of [the BCC governance plan], be responsible for the establishment

of academic policy and for legislative and advisory functions related to the programs, operations, and goals of the College.” BCC’s governance plan is attached as Exhibit 27.

250. BCC’s governance plan provides the College Senate “shall have legislative power with regard to: a. Academic affairs, including curricula, degree requirements, admissions, and grading structure....”

251. BCC’s governance plan provides for a standing Committee on Academic Standing to “Formulate policy regarding maintenance of matriculation, grading structure, satisfaction of requirements for degrees, diplomas and certificates, attendance, and advanced standing.”

252. BCC’s governance plan provides for a standing Committee on Curriculum to “Establish and evaluate curricular requirements...Evaluate and approve new courses and curricula and revisions of courses and curricula currently offered by the College...Approve and evaluate all new programs to be offered by the College...Assemble information on all courses...and develop procedures for the evaluation of effectiveness of these courses.”

253. To date, no committee of BCC’s College Senate has approved or adopted a Pathways implementation plan and curriculum changes.

254. To date, the BCC College Senate has not approved or adopted a Pathways implementation plan and curriculum changes.

255. On or around April 1, 2012, the President, Carole M. Berotte Joseph, of BCC, on behalf of BCC, submitted a Pathways implementation plan to the

Chancellor containing changes to BCC's curriculum. Joseph's submission is attached as Exhibit 28.

256. For the reasons set forth in Paragraphs 257 to 264 below, BCC's submission of a Pathways implementation plan and curriculum changes violated the Open Meetings Law.

257. Defendants BCC and Joseph failed to hold a public meeting to adopt the Pathways implementation plan and curriculum changes implementation plan and curriculum changes that Joseph submitted to the Chancellor on behalf of BCC.

258. Defendants BCC and Joseph failed to provide notice of a public meeting in connection with the Pathways implementation plan and curriculum changes Joseph submitted to the Chancellor on behalf of BCC.

259. Defendants BCC and Joseph failed to hold meetings in an appropriate facility which could adequately accommodate members of the public who wish to attend such meetings, in connection with the Pathways implementation plan and curriculum changes which Joseph submitted to the Chancellor.

260. Defendants BCC and Joseph failed to hold meetings in a facility that permitted barrier-free physical access to the physically handicapped, in connection with the Pathways implementation plan and curriculum changes submitted by Joseph to the Chancellor.

261. Defendants BCC and Joseph failed to hold meetings that were open to being photographed, webcast, or otherwise recorded and/or transmitted by audio or video means, in connection with the Pathways implementation plan and

curriculum changes which Joseph submitted to the Chancellor.

262. Defendants BCC and Joseph took no minutes nor made minutes available to the public in connection with the Pathways implementation plan and curriculum changes which BCC and Joseph submitted to the Chancellor.

263. BCC and Joseph were required to hold public meetings, and provide notice of same, in compliance with the Open Meetings Law, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor by defendants BCC and Joseph.

264. BCC's failure to hold public meetings and/or provide notice of same in connection with the Pathways implementation plan and curriculum changes submitted by defendants BCC and Joseph violated the Open Meetings Law.

O. NCC

265. NCC's governance plan was approved by the CUNY Board on or about June 25, 2012.

266. On or about April 2, 2012, NCC submitted a Pathways implementation plan to the Chancellor containing changes to NCC's curriculum. NCC's submission is attached as Exhibit 29.

267. For the reasons set forth in Paragraphs 268 to 275 below, NCC's submission of a Pathways implementation plan and curriculum changes violated the Open Meetings Law.

268. Defendant NCC failed to hold a public meeting to adopt the Pathways implementation plan and curriculum changes submitted to the Chancellor on

behalf of NCC.

269. Defendant NCC failed to provide notice of a public meeting in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor on behalf of NCC.

270. Defendant NCC failed to hold meetings in an appropriate facility which could adequately accommodate members of the public who wish to attend such meetings, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor.

271. Defendant NCC failed to hold meetings in a facility that permitted barrier-free physical access to the physically handicapped, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor.

272. Defendant NCC failed to hold meetings that were open to being photographed, webcast, or otherwise recorded and/or transmitted by audio or video means, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor.

273. Defendant NCC took no minutes nor made minutes available to the public in connection with the Pathways implementation plan and curriculum changes which NCC submitted to the Chancellor.

274. NCC was required to hold public meetings, and provide notice of same, in compliance with the Open Meetings Law, in connection with the Pathways implementation plan and curriculum changes submitted to the Chancellor by defendant NCC.

275. NCC's failure to hold public meetings and/or provide notice of same in connection with the Pathways implementation plan and curriculum changes submitted by defendant NCC violated the Open Meetings Law.

Q. Defendants' Procedures Violated the Open Meetings Law

276. Each defendant college's governance plan provides that its faculty or academic council must develop and approve any changes to the college's curriculum.

277. The Open Meetings Law applies to changes to the curricula at the defendant colleges.

278. Pathways requires all CUNY colleges to submit to the Chancellor, by April 1, 2012, a Pathways implementation plan including the development of a curriculum that satisfies Pathways course requirements adopted by the Chancellor on December 12, 2011.

279. The development of a curriculum by CUNY's constituent colleges that complies with Pathways required changes to each defendant college's curriculum.

280. The changes to each college's curriculum in conformance with Pathways necessitated approval by each college's faculty senate and/or the appropriate committees thereof, as dictated by each college's governance plan.

281. None of the faculty senates or academic councils of the defendant colleges approved a curriculum or curriculum changes in compliance with Pathways.

282. The faculty senates or academic councils of Baruch, Lehman, CSI, John Jay, BMCC and QCC passed resolutions rejecting Pathways and/or Pathways curricula through processes conducted publicly and in compliance with the Open

Meetings Law.

283. At no time before or since the resolutions passed by the faculty senates or academic councils of the defendant colleges rejecting Pathways did those colleges adopt or approve Pathways curricula pursuant to their college governance plans or in open meetings, as required by the Open Meetings Law.

284. In or around April 2012 or May 2012, the defendant colleges submitted to the Chancellor Pathways implementation plans with curriculum changes and/or new curricula purporting to meet the course requirements of the 2011 Resolution.

285. In light of the foregoing allegations, the curricula submitted to the Chancellor by the defendant colleges were not developed or approved in accordance with the Open Meetings Law.

286. In light of the foregoing allegations, the Pathways implementation plans with curriculum changes submitted to the Chancellor by the defendant colleges were not developed or approved in accordance with the Open Meetings Law.

AS AND FOR A FIRST CAUSE OF ACTION

287. The Plaintiffs repeat and reallege each allegation contained in the foregoing paragraphs as though fully set forth herein.

288. Defendants' development and approval of curricula in connection with the 2011 Resolution without public meetings violated the Open Meetings Law.

289. Defendants' submission to the Chancellor of curricula in connection

with the 2011 Resolution without public meetings violated the Open Meetings Law.

290. Defendants' development, approval and submission of Pathways implementation plans with curriculum changes without public meetings violated the Open Meetings Law.

291. Defendants' failure to provide notice of public meetings in connection with the development, approval and submission of curricula and implementation plans in connection with the 2011 Resolution violated the Open Meetings Law.

292. Defendants' failure to take or publish minutes in connection with the development, approval and submission of curricula and Pathways implementation plans in connection with the 2011 Resolution violated the Open Meetings Law.

293. Defendants' failure to ensure that meetings held in connection with the development, approval and submission of curricula and Pathways implementation plans in connection with the 2011 Resolution were held in an appropriate facility which could adequately accommodate members of the public who wish to attend such meetings violated the Open Meetings Law.

294. Defendants' failure to ensure that meetings held in connection with the development, approval and submission of curricula and Pathways implementation plans in connection with the 2011 Resolution were held in a facility that permitted barrier-free physical access to the physically handicapped violated the Open Meetings Law.

295. Defendants' failure to provide that meetings held in connection with

with the 2011 Resolution without public meetings violated the Open Meetings Law.

290. Defendants' development, approval and submission of Pathways implementation plans with curriculum changes without public meetings violated the Open Meetings Law.

291. Defendants' failure to provide notice of public meetings in connection with the development, approval and submission of curricula and implementation plans in connection with the 2011 Resolution violated the Open Meetings Law

292. Defendants' failure to take or publish minutes in connection with the development, approval and submission of curricula and Pathways implementation plans in connection with the 2011 Resolution violated the Open Meetings Law.

293. Defendants' failure to ensure that meetings held in connection with the development, approval and submission of curricula and Pathways implementation plans in connection with the 2011 Resolution were held in an appropriate facility which could adequately accommodate members of the public who wish to attend such meetings violated the Open Meetings Law.

294. Defendants' failure to ensure that meetings held in connection with the development, approval and submission of curricula and Pathways implementation plans in connection with the 2011 Resolution were held in a facility that permitted barrier-free physical access to the physically handicapped violated the Open Meetings Law.

295. Defendants' failure to provide that meetings held in connection with

the development, approval and submission of curricula and Pathways implementation plans in connection with the 2011 Resolution were open to being photographed, webcast, or otherwise recorded and/or transmitted by audio or video means violated the Open Meetings Law.

296. As a result of the foregoing, the actions of the defendant colleges in the development, approval and submission of curricula and curriculum changes to the Chancellor violated the Open Meetings Law and should be declared void.

WHEREFORE, the Plaintiffs respectfully request that they be awarded judgment against the Defendants as follows:

- (a) An order declaring that the actions of the defendant colleges in the development, approval and submission of curricula and Pathways implementation plans to the Chancellor violated the Open Meetings Law;
- (b) An order declaring that defendant colleges' development, approval and submission of curricula and Pathways implementation plans to the Chancellor is void;
- (c) An order requiring the members of the defendant colleges and defendant college presidents to participate in a training session conducted by the staff of the committee on open government concerning the obligations imposed by the Open Meetings Law;
- (d) An order awarding the Plaintiffs costs and reasonable attorneys fees;

(e) An order enjoining defendants from further implementation of Pathways to the extent such implementation is based, in whole or in part, on the actions of public bodies in violation of the Open Meetings Law:

(f) An order awarding the Plaintiffs such other and further relief as is just, proper and equitable.

Dated: July ____, 2012
New York, New York

Respectfully submitted,

MEYER, SUOZZI, ENGLISH & KLEIN, P.C.

By: Hanan B. Kolko
Hanan B. Kolko
Steven E. Star
1350 Broadway, Suite 501
New York, New York 10018-0822
212-239-4999

– and –

EMERY CELLI BRINKERHOFF & ABADY, LLP
Richard D. Emery
Eisha Jain
75 Rockefeller Plaza, 20th Floor
New York, New York 10019
212-763-5000

Attorneys for Plaintiffs

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

----- X
PROFESSIONAL STAFF CONGRESS/CUNY, :
LOCAL 2334, AFT, AFL-CIO, BARBARA :
BOWEN as President of the Professional Staff :
Congress/CUNY, TERRENCE MARTELL as :
Chair of the University Faculty Senate and :
Chair of the Baruch College Faculty Senate, :

Petitioners, :

-against- :

CITY UNIVERSITY OF NEW YORK, and the :
BOARD OF TRUSTEES of the City University :
of New York, BARUCH COLLEGE, LEHMAN :
COLLEGE, JOHN JAY COLLEGE OF :
CRIMINAL JUSTICE, COLLEGE OF STATEN :
ISLAND, QUEENSBOROUGH COMMUNITY :
COLLEGE, BOROUGH OF MANHATTAN :
COMMUNITY COLLEGE, YORK COLLEGE, :
NEW YORK CITY COLLEGE OF :
TECHNOLOGY, NEW COMMUNITY :
COLLEGE, MEDGAR EVERS COLLEGE, :
LAGUARDIA COMMUNITY COLLEGE, :
HOSTOS COMMUNITY COLLEGE, CITY :
COLLEGE, BRONX COMMUNITY COLLEGE, :
MITCHELL WALLERSTEIN as President of :
Baruch College, RICARDO FERNANDEZ as :
President of Lehman College, JEREMY TRAVIS :
as President of John Jay College of Criminal :
Justice, WILLIAM FRITZ as Provost and Senior :
Vice President for Academic Affairs of College :
of Staten Island, DIANE CALL as President of :
Queensborough Community College, ANTONIO :
PEREZ, as President of Borough of Manhattan :
Community College, :

Respondents. :

----- X
STATE OF NEW YORK)
:ss.:
COUNTY OF NEW YORK)

VERIFICATION

Index No. 103414-2012

Barbara Bowen being duly sworn, deposes and says:

1. I am the President of the Professional Staff Congress/CUNY, Local 2334, AFT, AFL-CIO, and a Petitioner named in this proceeding.

2. I have read the foregoing and know the contents thereof. The same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true. The basis for those matters stated upon information and belief is review of records, pleadings and discussions with others.

Barbara E. Bowen
Barbara Bowen

Sworn to before me this
31st day of July 2012

Peter Zwiebach
Notary Public

PETER ZWIEBACH
NOTARY PUBLIC-STATE OF NEW YORK
No. 022W6158695
Qualified in Queens County
My Commission Expires January 08, 2015

AFFIDAVIT OF PERSONAL SERVICE

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

Andre Anderson, being duly sworn, deposes and says:

1. I am not a party in this action.
2. I am over 18 years of age.
3. I reside in Nassau County, New York.

4. On **July 31, 2012**, I served the foregoing **REQUEST FOR JUDICIAL INTERVENTION, NOTICE OF PETITION, VERIFIED PETITION AND VERIFICATION** upon:

Frederick Schaffer, General Counsel
City University of New York
535 East 80th Street
New York, NY 10075

By hand delivering 23 copies addressed to each of the defendant colleges and individuals at the address above set forth.

Sworn to before me this
1st day of August 2012


NOTARY


ANDRE ANDERSON

KAREN KOLESSAR
Notary Public, State of New York
No. 01KO6160922
Qualified in Richmond County
Commission Expires Feb. 12, 2015

TO: CITY UNIVERSITY OF NEW YORK
 BOARD OF TRUSTEES of the City University of New York
 BARUCH COLLEGE
 LEHMAN COLLEGE
 JOHN JAY COLLEGE OF CRIMINAL JUSTICE
 COLLEGE OF STATEN ISLAND
 QUEENSBOROUGH COMMUNITY COLLEGE
 BOROUGH OF MANHATTAN COMMUNITY COLLEGE
 YORK COLLEGE
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