

**SUFFOLK COUNTY COMMUNITY COLLEGE**

**BOARD OF TRUSTEES**

**EXECUTIVE SESSION MINUTES**

**June 18, 2015**

At a duly noticed meeting of the Board of Trustees of Suffolk County Community College held at the Culinary Arts and Hospitality Center, 20 East Main Street, Riverhead, New York on June 18, 2015, the Board of Trustees convened in executive session at 9:55 A.M.

<u>Attendance:</u>	<u>Present</u>	<u>Absent</u>	<u>Recused</u>
Dafny J. Irizarry			X
Theresa Sanders	X		
Bryan Lilly	X		
Gardy Amilcar	X		
Gordon D. Canary	X		
Paul V. Pontieri, Jr.	X		
Bergre Escorbores		X	
Anne D. Shybunko-Moore	X		
James Morgo	X		
Denise Lindsay Sullivan		X	

Also Present: Steven G. Leventhal, Esq., Special Counsel to the Board of Trustees

Upon a motion duly made and seconded, the Trustees indicated as present, by a vote of seven in favor and none against, resolved to consider the following Resolution I as an exception to the regular meeting agenda.

Upon a motion duly made and seconded, the following resolution was adopted.

### **RESOLUTION I**

WHEREAS, the Sexual Harassment Policy and Grievance Procedure of Suffolk County Community College (the "College") provides, in pertinent part, that:

... It is the policy of the college to protect the confidentiality of members of the college community who may be involved in sexual harassment complaint procedures, in so far as that is reasonably practicable. Specifically, the identity of the individual making the complaint (complainant), the identity of the accused (respondent) and information relating to the harassment complaint will be disseminated only to those individuals who have a legitimate need to know, or as reasonably necessary for the purpose of investigating or resolving the complaint....

WHEREAS, in or about May 2014, a student (the "Complainant") made a complaint alleging that she had been sexually harassed by an employee of Suffolk County Community College (the "College");

WHEREAS, on or about June 4, 2014, the Complainant alleged that information relating to her harassment complaint had been disseminated by Chairperson Irizarry to a specific person whom she identified (the "Recipient");

WHEREAS, the Recipient had no legitimate need to know information relating to the harassment complaint;

WHEREAS, dissemination to the Recipient of information relating to the harassment complaint was not reasonably necessary for the purpose of investigating the complaint;

WHEREAS, an investigation of the facts and circumstances of the dissemination to the Recipient of information relating to the harassment complaint was undertaken and a report of the investigation (the "Investigative Report") was reviewed by the Board of Trustees;

WHEREAS, Chairperson Irizarry was provided with a copy of the Investigative Report and a copy of the College Sexual Harassment Policy and Grievance Procedure;

WHEREAS, Chairperson Irizarry, by counsel, provided a written response to the Investigative Report, and the response was reviewed by the Board of Trustees;

WHEREAS, on May 21, 2015, Chairperson Irizarry was afforded an opportunity to address the Board of Trustees in person;

WHEREAS, neither the College Bylaws nor the Code of Ethics and Conflict of Interest Policy of the Board of Trustees establish procedures for the

investigation and determination of allegations of misconduct by a Trustee, or for the imposition of sanctions upon a finding that such misconduct occurred.

WHEREAS, upon referral from the Board of Trustees, the Suffolk County Board of Ethics concluded that it lacked jurisdiction in this matter.

WHEREAS, the Board of Trustees was represented by special counsel in connection with this matter; and

WHEREAS, the vote on this resolution was deferred for more than thirty minutes following its introduction.

NOW, THEREFORE, BE IT RESOLVED, that:

1. The Board of Trustees reaffirms the Sexual Harassment Policy and Grievance Procedure which provides, in pertinent part, that:

As an institution of higher learning, Suffolk County Community College is dedicated to providing an environment conducive to intellectual and personal growth. Members of the College Community are encouraged to participate in all aspects of academic life. For the college, this means a firm institutional commitment to academic freedom as well as a commitment to the highest standards of professional and interpersonal behavior and respect among members of the community. Thus, there is zero tolerance for any form of sexual harassment....

Sexual harassment is a form of discrimination prohibited by both state and federal law. The college will not tolerate sexual harassment under any circumstances. Whenever an alleged violation of this policy is brought to the college's attention, an investigation will be undertaken and, if a violation is found, prompt corrective action will be taken. All members of the college community should contact the appropriate college office, as set forth below, if they believe a violation of this policy has occurred.

2. Confidentiality in the grievance procedure is essential if victims of sexual harassment are to feel empowered to seek the protections afforded by the Sexual Harassment Policy.
3. Confidentiality in the grievance procedure also protects those who may be wrongfully accused of sexual harassment.
4. A violation of the confidentiality provision of the Sexual Harassment Policy and Grievance Procedure may reasonably be expected to seriously undermine the College's response to complaints of sexual harassment.
5. The Board of Trustees recognizes the many contributions made by Chairperson Irizarry to the welfare of the College and the College community, and notes that she denies any breach by her of the confidentiality provision of the Sexual Harassment Policy and Grievance Procedure.
6. The Board of Trustees finds that there is reasonable cause to believe that Chairperson Irizarry violated the confidentiality provision of the Sexual Harassment Policy and Grievance Procedure by disseminating information relating to a harassment complaint to a person who had no legitimate need to know, and to whom dissemination of such information was not reasonably necessary for the purpose of investigating the complaint; but, in the absence of established procedures for the

investigation and determination of allegations of misconduct by a Trustee, the Board is without a mechanism for making any further determination.

7. The Board of Trustees expresses its strongest disapproval of the improper dissemination of information concerning a complaint of sexual harassment, particularly if committed by a policy making leader of the College community.
8. The Board hereby declares that it is a current, policy making priority of the Board of Trustees to develop and adopt a clear and comprehensive Code of Ethics applicable to all College officers and employees and, in particular, to develop and adopt procedures for the investigation and determination of allegations of misconduct by a Trustee, and for the imposition of sanctions upon a finding that such misconduct occurred.
9. The Board shall consider, in public session, the adoption of a resolution recommending to the Suffolk County Legislature that the jurisdiction of the Suffolk County Board of Ethics be broadened so that the Board of Ethics may serve as a resource to assist the College in ensuring both the reality and the appearance of integrity in its governance and administration, and in the discharge by College officers and employees of their official duties.

The following votes were duly recorded:

	<u>Aye</u>	<u>Nay</u>	<u>Abstained</u>	<u>Recused</u>	<u>Absent</u>
Dafny J. Irizarry				X	
Theresa Sanders	X				
Bryan Lilly	X				
Gardy Amilcar			X		
Gordon D. Canary	X				
Paul V. Pontieri, Jr.	X				
Bergre Escorbores					X
Anne D. Shybunko-Moore	X				
James Morgo	X				
Denise Lindsay Sullivan					X

Upon a motion duly made and seconded, the Trustees indicated as present, by a vote of seven in favor and none against, resolved to consider the following Resolution II as an exception to the regular meeting agenda.

Upon a motion duly made and seconded, the following resolution was adopted.

## RESOLUTION II

WHEREAS, on or about March 4, 2015, a complaint was made by Chairperson Irizarry, alleging that College General Counsel engaged in a prohibited conflict of interest by attending certain executive sessions of the Board of Trustees and "at least one" committee of the Board of Trustees, and "may have" provided advice in connection with a complaint that Chairperson Irizarry had improperly disseminated information concerning a complaint of sexual harassment.

WHEREAS, College General Counsel was provided with a copy of the complaint made by Chairperson Irizarry;

WHEREAS, College General Counsel provided a written response to the complaint made by Chairperson Irizarry, and the response was reviewed by the Board of Trustees;

WHEREAS, upon receipt of the complaint that Chairperson Irizarry had improperly disseminated information concerning a complaint of sexual harassment, College General Counsel referred the matter to the Personnel Committee for investigation.

WHEREAS, the Board of Trustees and the Governance Committee were represented in this matter by special counsel; and

WHEREAS, the vote on this resolution was deferred for more than thirty minutes following its introduction.



NOW, THEREFORE, BE IT RESOLVED, that:

1. The Board of Trustees finds that there is no reasonable cause to believe that College General Counsel engaged in a prohibited conflict of interest by attending certain executive sessions of the Board of Trustees or committees of the Board of Trustees.
2. The Board of Trustees further finds that there is no reasonable cause to believe that College General Counsel engaged in a prohibited conflict of interest in his referral to the Personnel Committee of the complaint that Chairperson Irizarry had improperly disseminated information concerning a complaint of sexual harassment.

The following votes were duly recorded:

	<u>Aye</u>	<u>Nay</u>	<u>Abstained</u>	<u>Recused</u>	<u>Absent</u>
Dafny J. Irizarry				X	
Theresa Sanders	X				
Bryan Lilly	X				
Gardy Amilcar			X		
Gordon D. Canary	X				
Paul V. Pontieri, Jr.	X				
Bergre Escorbores					X

	<u>Aye</u>	<u>Nay</u>	<u>Abstained</u>	<u>Recused</u>	<u>Absent</u>
Anne D. Shybunko-Moore	X				
James Morgo	X				
Denise Lindsay Sullivan					X

Upon a motion duly made and seconded, the Trustees indicated as present, by a vote of seven in favor and none against, resolved to consider the following Resolution III as an exception to the regular meeting agenda.

Upon a motion duly made and seconded, the following resolution was adopted.

### **RESOLUTION III**

WHEREAS, on or about March 4, 2015, a complaint was made by Chairperson Irizarry, alleging that Deputy General Counsel engaged in a prohibited conflict of interest by attending certain executive sessions of the Board of Trustees and “at least one” committee of the Board of Trustees, and “may have” provided counsel in connection with a complaint that Chairperson Irizarry had improperly disseminated information concerning a complaint of sexual harassment.

WHEREAS, it was further alleged that Deputy General Counsel improperly disseminated information concerning a complaint of sexual harassment by leaving unattended a legal pad containing notes of an interview related to a complaint of sexual harassment.

WHEREAS, Deputy General Counsel was provided with a copy of the complaint made by Chairperson Irizarry;

WHEREAS, Deputy General Counsel provided a written response to the complaint made by Chairperson Irizarry, and the response was reviewed by the Board of Trustees;

WHEREAS, the Board of Trustees and the Governance Committee were represented in this matter by special counsel; and

WHEREAS, the vote on this resolution was deferred for more than thirty minutes following its introduction.

NOW, THEREFORE, BE IT RESOLVED, that:

1. The Board of Trustees finds that there is no reasonable cause to believe that Deputy General Counsel engaged in a prohibited conflict of interest by attending certain executive sessions of the Board of Trustees or committees of the Board of Trustees.
2. The Board of Trustees finds that there is no reasonable cause to believe that Deputy General Counsel violated the confidentiality provision of the Sexual Harassment Policy and Grievance Procedure by disseminating information relating to a harassment complaint to a person who had no legitimate need to know, and to

whom dissemination of such information was not reasonably necessary for the purpose of investigating the complaint.

The following votes were duly recorded:

	<u>Aye</u>	<u>Nay</u>	<u>Abstained</u>	<u>Recused</u>	<u>Absent</u>
Dafny J. Irizarry				X	
Theresa Sanders	X				
Bryan Lilly	X				
Gardy Amilcar			X		
Gordon D. Canary	X				
Paul V. Pontieri, Jr.	X				
Bergre Escorbores					X
Anne D. Shybunko-Moore	X				
James Morgo	X				
Denise Lindsay Sullivan					X

Upon a motion duly made and seconded, the Trustees indicated as present, by a vote of seven in favor and none against, resolved to consider the following Resolution IV as an exception to the regular meeting agenda.

Upon a motion duly made and seconded, the following resolution was adopted.

**RESOLUTION IV**

WHEREAS, the vote on this resolution was deferred for more than thirty minutes following its introduction.

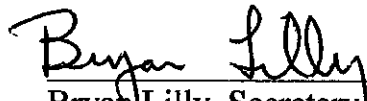
NOW, THEREFORE, BE IT RESOLVED, that:

1. These Executive Session Minutes are hereby approved and adopted by the Board of Trustees.

The following votes were duly recorded:

	<u>Aye</u>	<u>Nay</u>	<u>Abstained</u>	<u>Recused</u>	<u>Absent</u>
Dafny J. Irizarry				X	
Theresa Sanders	X				
Bryan Lilly	X				
Gardy Amilcar	X				
Gordon D. Canary	X				
Paul V. Pontieri, Jr.	X				
Bergre Escorbores					X
Anne D. Shybunko-Moore	X				
James Morgo	X				
Denise Lindsay Sullivan					X

The forgoing is a true copy of the minutes approved and adopted by the  
Board of Trustees on the date first set forth above.

  
Bryan Lilly, Secretary  
Dated: June 18, 2015