

**GOVERNORS STATE UNIVERSITY
ANTI-DISCRIMINATION, HARASSMENT, AND RETALIATION POLICY**

I. Purpose of Policy

Governors State University (the “University”) is committed to maintaining a community in which students and employees can learn and work together in an atmosphere free from all forms of unlawful discrimination and harassment on the basis of an individual’s actual or perceived membership in one or more protected classes under state and federal law and/or retaliation. Such unlawful discrimination and harassment violate the dignity of the individual and the integrity of the University as an institution of higher learning and, thus, will not be tolerated. The University is committed to taking all appropriate steps to eliminate unlawful discrimination and harassment, prevent their recurrence, and address their effects. Further, the University is committed to preventing any and all unlawful retaliation against an individual exercising a lawful right and address the effects of any such unlawful retaliation in the event it does occur.

II. Scope of Policy

This Policy prohibits all forms of unlawful discrimination and harassment against students, employees, and applicants for admission or employment based on their actual or perceived membership in any one or more of the following protected classes:

- Age
- Ancestry
- Arrest Record Status
- Citizenship Status
- Color
- Disability (Physical or Mental)
- General Identity or Expression
- Marital or Civil Union Status
- Military or Veteran Status
- National Origin
- Order of Protection Status
- Pregnancy
- Race
- Religion
- Sex
- Sexual Orientation
- Unfavorable Discharge from Military Service

*Amended to match the substance of Governors State University Board of Trustees Regulations § II.A.20 as adopted by the GSU Board of Trustees on Dec. 10, 2021.

(each a “Protected Status”) including all Prohibited Conduct as defined below in Section III.A, below. It applies to all members of the University community, including students, faculty, staff, administrators, trustees, members, consultants, vendors, visitors, and others engaged in business with the University (the “GSU Community”). It applies to conduct on or off campus property that substantially interferes with the mission of the University, including but not limited to, interference with the safety and well-being of self or others and/or interference with the academic pursuits or employment environment of the University’s students or employees. This Policy does not replace federal and state mandated laws and regulations, and, where there is a conflict, the provisions of applicable law and regulations will govern.

III. University Prohibition of Unlawful Discrimination, Harassment, and Unlawful Retaliation

A. Prohibited Conduct

No person shall, on the basis of Protected Status, be subjected to unlawful discrimination or harassment under any academic, extracurricular, research, occupational training, employment program, or activity operated by the University, or in any other terms, conditions, or privileges of employment and education, including, but not limited to, in the following aspects of employment at the University:

- Recruitment and hiring;
- Job posting and advertisements;
- Promotion, transfer, layoff, recall, and renewal of employment;
- Assignment and classification;
- Testing;
- Selection for training or apprenticeship;
- Discharge;
- Discipline;
- Tenure;
- Compensation;
- Disability accommodations;
- Retirement plans, disability leave, and fringe benefits; and
- Use of University facilities and property;

and including, but not limited to, in the following aspects of education at the University:

- Application and admission to the University;
- Participation in University student programs and organizational activities;
- Treatment in the classroom;
- Course evaluation and grading;

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- Academic activities external to the classroom;
- Counseling or other mental health services;
- Career and internship planning and placement services;
- Financial assistance;
- Athletics;
- Disability accommodations;
- Campus housing; and
- Access to University facilities.

Further, no person shall be subject to unlawful retaliation for the purpose of interfering with any right or privilege secured by law or this Policy, or because the person has made a report or complaint, testified, assisted, or participated or refused to participate, in any manner, in an investigation, proceeding, or hearing under this Policy and the associated “Reporting and Investigation Procedures for Regulation II.A.20 and Policy 52 on Anti-Discrimination, Harassment, and Retaliation” (the “Procedures”) or under any applicable law.

It shall be a violation of this Policy for any member of the GSU Community to engage in such unlawful discrimination, harassment, and/or unlawful retaliation (“Prohibited Conduct”). *The University reserves the right to impose any level of sanction or discipline, up to and including suspension, dismissal or termination, for any offense under this Policy, including engaging in any Prohibited Conduct.*

B. Definitions

For purposes of this Policy, the following definitions apply:

- a) “Unlawful discrimination” means discrimination against a person because of that person’s actual or perceived race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, gender expression, marital or civil union status, order of protection status, disability, military or veteran status, sexual orientation, pregnancy, unfavorable discharge from military service, arrest record, citizenship status, or any other basis prohibited by law. *See* § 1-103(Q) of the Illinois Human Right Act, 775 ILCS 5 (“IHRA”).
- b) “Harassment” means any unwelcome conduct on the basis of a person’s actual or perceived race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, gender expression, marital or civil union status, order of protection status, disability, military or veteran status, arrest record, pregnancy, unfavorable discharge from military service, arrest record, or citizenship status or any other basis prohibited by law that has the purpose or effect of substantially interfering with that person’s work or academic

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performance or creating an intimidating, offensive, or hostile environment. *See* IHRA at § 2-101(E-1).

By way of illustration, and not as a limitation, the following types of conduct could amount to harassment if based on a person's actual or perceived Protected Status:

- Offensive jokes;
 - Slurs;
 - Epithets or name calling;
 - Physical assault(s);
 - Threats;
 - Intimidation, ridicule or mockery;
 - Insults or put-downs;
 - Offensive objects or pictures;
 - Deliberate touching, leaning over, or cornering;
 - Offensive looks or gestures; or
 - Letters, telephone calls, personal e-mails, texts, or other materials of an offensive nature.
- c) “Unlawful retaliation” means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, change in the terms or conditions of employment or education of any person that is taken in retaliation for a person's involvement in protected activity or for the purpose of interfering with any right or privilege secured by this Policy and relevant law; “unlawful retaliation” also means intimidation, threats, coercion, or harassment made in retaliation for a person's involvement in protected activity or for the purpose of interfering with any right or privilege secured by this Policy and relevant law. *See* § 15-5 of the Illinois State Officials and Employees Ethics Act, 5 ILCS 430 (“Ethics Act”); IHRA at § 6-101(A); *see also* § 20.2 of the Illinois Whistleblower Act, 740 ILCS 174 (“Whistleblower Act”).

For purposes of this definition, protected activities include: (a) the disclosure or threatened disclosure to a supervisor or to a public body of an activity, policy, or practice the person reasonably believes is in violation of this Policy or any law, rule, or policy; (b) the provision of information to the University or any public body or agency conducting an investigation, hearing, or inquiry into any violation of this Policy or any law, rule, or policy; and (c) the assistance of or participation in a proceeding to enforce the provisions of this Policy or applicable law. *See* Ethics Act at § 15-10; *see also* Whistleblower Act at §§ 15, 20, 20.1.

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- d) “Race” means the physical characteristics commonly associated with a person’s race such as a person’s color, hair, facial features, height, weight, race-linked illnesses, and cultural characteristics related to race or ethnicity. *See EEOC Compliance Manual*, Doc. No. 915.003, at 15 (2006).
- e) “Color” means the pigmentation, complexion, shade, or tone of a person’s skin. *See EEOC Compliance Manual*, Doc. No. 915.003, at 15 (2006).
- f) “National origin” means the place in which a person or one of that person’s ancestors was born. *See IHRA* at § 1-103(K).
- g) “Ancestry” means a person’s forebears, lineage, or their line of familial descent. *See Black’s Law Dictionary* (11th ed. 2019).
- h) “Age” means the chronological age of a person who is at least 40 years old. *See IHRA* at § 1-103(A).
- i) “Sex” means the status of being male or female. *See IHRA* at § 1-103(O).
- j) “Marital or civil union status” means the legal status of being married, in a civil union, single, separated, divorced, or widowed. *See IHRA* at § 1-103(J).
- k) “Order of protection status” means a person’s status as being a person protected under an order of protection issued pursuant to certain Illinois statutes, or an order of protection issued by a court of another state. *See IHRA* at § 1-103(K-5).
- l) “Disability” means a determinable physical or mental characteristic of a person, including one that necessitates the person’s use of a guide, hearing or support dog, the history of such characteristic, or the perception of such characteristic by the person complained against, which may result from disease, injury, congenital condition of birth or functional disorder, and which characteristic is unrelated to the person’s ability to perform the duties of a particular job or position. *See IHRA* at § 1-103(I).
- m) “Military or veteran status” means a person’s status on active duty in or status as a veteran of the United States Armed Forces, status as a current member or veteran of any reserve component of the United States Armed Forces, or status as a current member or veteran of the Illinois Army National Guard or Illinois Air National Guard. *See IHRA* at § 1-103(J-1).

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- n) “Sexual orientation” and “gender identity or expression” mean the actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity or expression of a person, whether or not traditionally associated with the person's designated sex at birth. *See* IHRA at § 1-103(O-1).
- o) “Pregnancy” means pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth. *See* IHRA at § 1-103(L-5).
- p) “Unfavorable military discharge” means discharges from the United States Armed Forces, their Reserve components, or any National Guard or Naval Militia that are classified as RE-3 or the equivalent, but does not mean discharges characterized as RE-4 or “Dishonorable.” *See* IHRA at § 1-103(P).
- q) “Citizenship status” means the status of being: (1) a born U.S. citizen; (2) a naturalized U.S. citizen; (3) a U.S. national; or (4) a person born outside the U.S. and not a U.S. citizen who is not an unauthorized alien and who is protected from discrimination under a federal law. *See* IHRA at § 2-101(K).
- r) “Religion” means all aspects of religious observance and practice, as well as belief. *See* IHRA at § 2-101(F).
- s) “Arrest record” means: (1) an arrest not leading to a conviction; (2) a juvenile record; or (3) criminal history record information ordered expunged, sealed, or impounded under Section 5.2 of the Criminal Identification Act. *See* IHRA at § 1-103(B-5).

C. Limited Exceptions

Academic freedom, as stated in the Governing Policies of the Board of Trustees, allows for discussion or inclusion of germane, sensitive issues such as those relating to sexual relationships or race relations within the context of teaching, research, or other academic activities. Such discussions do not constitute harassment, and they do not contribute to a hostile environment. Academic freedom, however, does not protect persons who violate this Policy and/or state and federal law by discriminating against or harassing others on the basis of a Protected Status.

IV. Reports of Unlawful Discrimination, Harassment, or Unlawful Retaliation, and the University’s Response

A. Reporting Prohibited Conduct

Any member of the GSU Community who witnesses, is subjected to, or becomes aware of unlawful discrimination, harassment, or unlawful retaliation should immediately report the

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incident. Prohibited Conduct may be reported internally to University personnel, including the University Office of the General Counsel (“OGC”), the University Human Resources Department, the University Office of the Dean of Students, or any University Supervisor (as defined below). Alternatively, members of the GSU Community may use the University’s Ethics Hotline to submit reports of Prohibited Conduct (see the Procedures for more information).

Individuals also may report Prohibited Conduct externally to the Office of Executive Inspector General (“OEIG”); and/or the Illinois Department of Human Rights (“IDHR”); the U.S. Equal Employment Opportunity Commission (“EEOC”); and the U.S. Department of Education Office for Civil Rights (“OCR”).

In addition to the information provided below, please refer to the Procedures for information related to reporting Prohibited Conduct.

a) University Personnel

Office of the General Counsel. The OGC includes the University Chief Diversity Officer and the University Director of Compliance and Ethics Officer, either of whom will accept any report of Prohibited Conduct (whether or not the person reporting is the person alleged to be the target of the Prohibited Conduct). They are also available to discuss any concerns members of the GSU Community have regarding actual or suspected unlawful discrimination, harassment, and unlawful retaliation, this Policy, or the Procedures. The OGC also includes the University’s General Counsel, who is available to advise University Supervisors (as defined below) on the University’s legal risks and responsibilities. Reports of Prohibited Conduct received by any University employee or Supervisor shall immediately be referred to the General Counsel for consideration and, if appropriate, referral to appropriate personnel for investigation. Where appropriate, the General Counsel will assign the complaint to the appropriate personnel for investigation depending on a number of factors, including the identity of the complaining party, the identity of the responding party, actual and perceived conflicts of interest, and workloads.

Human Resources Department. Members of the University’s Human Resources Department also will accept any report of Prohibited Conduct and promptly and without prejudice accept and submit same to the General Counsel.

Supervisors. Supervisory personnel of faculty, staff, or students, including academic chairs, academic deans, directors, vice presidents, and assistant or associate vice presidents (collectively, “Supervisors”), are responsible for ensuring this Policy is enforced in their areas. Supervisors must promptly and without prejudice accept and report to the General Counsel all complaints of

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Prohibited Conduct they receive. They must also report to the Chief Diversity Officer or the Director of Compliance and Ethics Officer any incidents or conduct that they observe or about which they hear that may constitute a violation of this Policy.

Office of the Dean of Students. Members of the Office of the Dean of Students also will accept any report of Prohibited Conduct and promptly and without prejudice accept and submit same to the General Counsel.

Title IX Coordinator. With respect to Prohibited Conduct based on a person's sex or sexual orientation, or gender identity or expression, reports of same may be made to the University's Title IX Coordinator as explained in Section II.A.21 of the University Board of Trustees' Regulations and University Policy 78, and associated reporting and grievance procedures, which are published on the University's Title IX webpage (www.govst.edu/TitleIX/).

ADA Advisory Committee. With respect to Prohibited Conduct based on a person's disability, reports of same may be made to any member of the University's ADA Advisory Committee, which is made up of the University's ADA Compliance Officers and the Director of Student Disability Services.

b) The Office of Executive Inspector General

The primary role of the OEIG, which has jurisdiction over executive branch agencies (including the University and its employees), is to investigate allegations of misconduct and to make reports of its findings to the affected agencies. The OEIG investigates, when appropriate, alleged violations of laws committed by any employee of, or those doing business with, an entity under its jurisdiction. Under the Illinois State Officials and Employees Ethics Act, *see* 5 ILCS 430/20-63, the OEIG is tasked with accepting and investigating complaints of unlawful discrimination, harassment, and unlawful retaliation submitted by State employees. Such a complaint may be filed with the OEIG in writing or orally as described at:

<https://www2.illinois.gov/oeig/complaints/Pages/process.aspx>

c) The Illinois Department of Human Rights

The IDHR administers the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.*, which prohibits various types of discrimination and harassment in Illinois, including discrimination with respect to employment. It investigates charges of employment discrimination filed against employers that are units of State

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government. A discrimination charge can be initiated by calling, writing, or appearing in person at the IDHR’s Chicago or Springfield office within 300 days of the date the alleged discrimination took place, as described at:

<https://www2.illinois.gov/DHR/filingacharge/pages/employment.aspx>

d) The U.S. Equal Employment Opportunity Commission

The EEOC enforces the federal laws, such as Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000e *et seq.*), which prohibit employment discrimination and retaliation on the basis of a federally recognized Protected Status. Employees who believe they have been unlawfully discriminated against, harassed, or unlawfully retaliated against at work can file a “charge of discrimination” against their employer with the EEOC. All the laws enforced by EEOC, except for the Equal Pay Act (29 U.S.C. § 206(d)), require an employee to file a charge of discrimination with us before being able to file a job discrimination lawsuit against his or her employer. There are time limits by which charges of discrimination must be filed with the EEOC depending on the type of discrimination alleged. Timely charges of discrimination can be filed online, in person, or by mail, as described at:

<https://www.eeoc.gov/how-file-charge-employment-discrimination>

Additional information about how the EEOC can help employees is available at:

<https://www.eeoc.gov/employees-job-applicants>

e) The U.S. Department of Education Office for Civil Rights

For students, the OCR enforces the federal laws—such as Title VI of the Federal Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d *et seq.*) and Title IX of the Federal Education Amendments of 1972, as amended (20 U.S.C. § 1681)—that prohibit discrimination, harassment, and retaliation (on the basis of several federally recognized Protected Statuses) in programs or activities that receive federal financial assistance from the U.S. Department of Education (“DOE”). A student who believes he or she has been unlawfully discriminated against, harassed, or unlawfully retaliated against by an educational institution receiving federal funds from the DOE, or any other person who believes a student has been unlawfully discriminated against, harassed, or unlawfully retaliated against, may file a complaint of discrimination with the DOE. A

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timely compliant can be filed online, by mail, by email, or by fax, as described at:

<https://www2.ed.gov/about/offices/list/ocr/docs/howto.html>

More details about the OCR's jurisdiction can be found on its website at:

<https://www2.ed.gov/about/offices/list/ocr/frontpage/pro-students/protectingstudents.html>

B. False Reporting and Frivolous Complaints

Given the potentially severe consequences that a charge of Prohibited Conduct may have for the responding party, the University deems it a severe offense knowingly to submit a false report or frivolous complaint. Committing such offense may subject the reporter/complaining party to disciplinary action, up to and including suspension, dismissal, or termination. False reports and frivolous complaints refer to cases where a reporter/complaining party is using a claim of Prohibited Conduct to accomplish some end other than stopping Prohibited Conduct. In addition to discipline from the University, a reporter/complaining party who makes a claim that is later found to have been intentionally false or made maliciously without regard for the truth may also be in violation of State criminal statutes and/or civil defamation laws.

The provision does not apply to reports made in good faith, even if the facts alleged in the report are not ultimately substantiated by an investigation. Each University employee is expected to report conduct they observe or learn of that may constitute Prohibited Conduct without regard to whether they are certain such conduct occurred.

Further, any individual who is later proven to have intentionally given false or misleading information during the course of an investigation or hearing conducted pursuant to this Policy may be subject to disciplinary action, up to and including termination or dismissal.

C. Complaint Resolution Process

The University takes all reports and complaints of alleged Prohibited Conduct very seriously. Accordingly, the University has adopted and published the Procedures to provide for the prompt, equitable, and impartial resolution of student and employee reports and complaints alleging unlawful discrimination, harassment, and/or unlawful retaliation. The Procedures are incorporated into this Policy by reference and are published on the University website.

As the Procedures explain in detail with respect to reports/complaints involving employee respondents:

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- a) Upon being notified of a report (involving an employee respondent) filed pursuant this Policy, the General Counsel (or designee) opens a file on the incident alleged in the report and reviews the allegations in the report to determine whether the alleged incident meets the definition of Prohibited Conduct. If the incident alleged in the report fails to meet the definition of Prohibited Conduct, the incident file will be closed.
- b) If the initial assessment determines that the incident alleged in the report meets the definition of Prohibited Conduct, then the General Counsel will contact the complainant to assist him or her in filing a formal complaint, if the complainant desires to do so. If the complainant does not wish to proceed with a formal complaint, the General Counsel will determine whether a formal complaint and the resolution process should nonetheless go forward.
- c) If the complainant files a formal complaint, informal resolution thereof may be an option. The University will provide the parties with written notice of the reported Prohibited Conduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the University. The University will obtain voluntary, written confirmation that all parties wish to resolve the matter through an informal resolution before proceeding with same. The ultimate determination of whether an informal resolution is available or successful is to be made by the General Counsel. If a formal complaint is successfully resolved by an informal resolution, copies of all relevant materials will be added to the incident file and the file will be closed. However, the General Counsel has the authority to reopen an incident file if any party thereto fails to abide by the resolution agreement and may take appropriate responsive/disciplinary actions.
- d) If an informal resolution is not pursued or is unsuccessful, then written notice of an investigation and allegations will be sent to the parties.
- e) All investigations are to be thorough, reliable, impartial, prompt, and fair. They involve interviewing all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary. The burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the University and not the parties. Ultimately, the investigator will write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence, but including no conclusions, analysis, or recommendations with respect thereto (appendices including relevant physical or documentary evidence will be included with the report).

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- f) Once the investigation report is shared with the parties, the General Counsel will refer the matter for a hearing and assign one or more appropriate decisionmakers to oversee the hearing process.
- g) At the hearing, the decisionmaker has the authority to hear and make determinations on all allegations of Prohibited Conduct and may also hear and make determinations on any additional alleged policy or regulation violations that have occurred in concert with the unlawful discrimination, harassment, and/or unlawful retaliation. First, the investigator will present a summary of the investigation report. Then, the parties and witnesses may provide relevant information in turn, beginning with the complainant.
- h) After the hearing is complete, the decisionmaker will issue a written determination regarding whether there are any violations. To reach this determination, the preponderance of evidence burden of proof must be applied.
- i) Where the decisionmaker finds that, by a preponderance of the evidence, this Policy was violated, the decisionmaker will confer with the Human Resources Department for appropriate discipline or sanction.
- j) Any party may file with the General Counsel a written request for appeal from the decisionmaker's responsibility determination within seven (7) days of delivery of the responsibility determination.

When a report/complaint of Prohibit Conduct involves a respondent who is a student, resolution of the report/complaint will be conducted in accordance with the procedures applicable to "Nonacademic Grievances" set forth in University Academic Policy 5 and in accordance with all applicable provisions of the Student Code of Conduct (University Academic Policy 4) and the Student Handbook.

D. Confidentiality

All reports of and investigations into incidents of Prohibited Conduct are treated as confidential to the greatest extent possible without compromising the investigative process, and disclosure of information is restricted to a need-to-know basis. However, the University cannot guarantee confidentiality in all matters, and the identity of the complaining party is usually revealed to the persons involved during the investigation (including the responding party and any witnesses).

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E. Supportive Measures

In order to address the effects Prohibited Conduct can have on the targets thereof, the University will make all reasonable efforts to promptly offer and implement appropriate and reasonable supportive measures to the involved parties upon notice of alleged Prohibited Conduct.

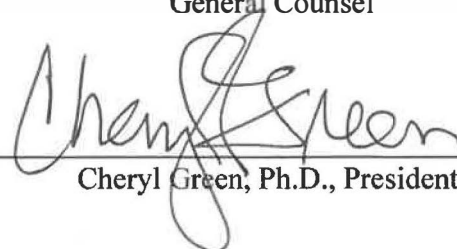
Supportive measures are non-disciplinary, non-punitive individualized services offered as determined by the University to be appropriate and reasonably available, and without fee or charge to the parties to restore or preserve access to the University's education program or activity, including measures designed to protect the safety of all parties or the University's educational environment, and/or prevent further Prohibited Conduct. Supportive measures may include counseling services available at the University, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

The University will maintain the privacy of the supportive measures, provided that privacy does not impair the University's ability to provide the supportive measures. The University will act to ensure as minimal an academic or employment impact on the parties as possible. The University will implement measures in a way that does not unreasonably burden the other party, and after considering the complaining party's wishes with respect to supportive measures and explaining the process for filing a formal complaint.

Employees are also encouraged to take advantage of the resources available to Employees through the Employee Assistance Program ("EAP"), which is a free and confidential resource. More information is available on the Illinois Central Management Services Employee Assistance Program website at:

<https://www2.illinois.gov/cms/benefits/StateEmployee/Pages/EmployeeAssistanceProgram.aspx>

RECOMMENDED: **Therese King** Digitally signed by Therese King
Nohos
Date: 2022.03.21 15:05:00
-05'00' DATE: _____
Nohos
Therese King Nohos,
General Counsel

APPROVED:  DATE: 3/23/22
Cheryl Green, Ph.D., President

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