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**The Council of the City of New York**

Briefing Paper of the Human Services Division

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**Committee on Higher Education**

Hon. Inez D. Barron, Chair

April 9, 2021

**Oversight: The Research Foundation of CUNY**

**Introduction**

 On April 9, 2021, the Committee on Higher Education, chaired by Council Member Inez D. Barron, will hold an oversight hearing on the *Research Foundation of the City University of New York* (“RFCUNY” or “Foundation”). The Committee will seek an overview of RFCUNY and its operations, as well as its relationship with each City University of New York (“CUNY” or “University”) campus’ research foundation. Witnesses invited to testify include representatives from the CUNY administration, CUNY campus grants offices, the Professional Staff Congress of CUNY, the University Faculty Senate, the University Student Senate, advocacy groups and organizations, and other interested stakeholders.

**Background**

*Overview and Governance of CUNY*

CUNY was established in 1961 pursuant to New York State (“State”) legislation that united seven existing municipal colleges and a graduate school into a formally integrated citywide system of public higher education.[[1]](#footnote-1) Today, CUNY is the largest urban public university in the United States (U.S.), providing accessible, high quality education to more than 271,000 degree-seeking students and 228,000 adult and continuing education students at 25 colleges across New York City (“NYC” or “City”).[[2]](#footnote-2) With more than 1,400 academic programs, 200 majors leading to associate and baccalaureate degrees, and 800 graduate degree programs, CUNY offers learning opportunities at every level, from certificate courses to Ph.D. programs, in a system that now comprises seven community colleges, 11 senior colleges, the Macaulay Honors College, five graduate and professional schools, and an assortment of research centers, institutes and consortia.[[3]](#footnote-3)

Pursuant to State Education Law, CUNY must be maintained as an “independent system of higher education.”[[4]](#footnote-4) As such, all educational work at CUNY, including that of its senior and community colleges as well as its graduate and professional educational units, are governed exclusively by a 17-member Board of Trustees.[[5]](#footnote-5) Of these Trustees, ten are appointed by the Governor with the advice and consent of the State Senate, and five are additionally appointed by the Mayor. The remaining two Trustees serve by virtue of their offices as Chairpersons of the University Student Senate and University Faculty Senate, respectively.[[6]](#footnote-6) Consequently, the Board of Trustees has broad representative authority over CUNY’s educational and related administrative functions, particularly as they relate to certain funds such as “gifts of money, endowments, fees, interest and other income not derived from public taxation or the public credit” for University purposes.[[7]](#footnote-7) As discussed below, however, the oversight, administration, and dispersal of certain grants revenue among CUNY’s constituent institutions is facilitated by a separate, independently-chartered nonprofit with its own board of directors called the Research Foundation of CUNY(“RFCUNY” or “Foundation”).

*History, Intent and Governance of RFCUNY*

RFCUNY was established in January 1963 as a private not-for-profit educational corporation chartered by the state of New York to provide a variety of services to CUNY in support of its research mission.[[8]](#footnote-8) Accordingly, the Foundation was granted the following purposes:

1. *To assist in developing and increasing the facilities of [CUNY] to provide more extensive educational opportunities and service to its constituent colleges, students, faculties, staffs and alumni, and to the general public, by making and encouraging gifts, grants, contributions and donations of real and personal property to or for the benefit of [CUNY];*
2. *To receive, hold and administer gifts or grants, and to act without profit as trustee of educational or charitable trusts of benefit to and in keeping with the educational purposes and objects of [CUNY];*
3. *To finance the conduct of studies and research in any and all fields of intellectual inquiry of benefit to and in keeping with the educational purposes and objects of [CUNY] and/or its constituent colleges, and to enter into contractual relationships appropriate to the purposes of the [Foundation];[[9]](#footnote-9)*

Functionally, RFCUNY is a separate legal entity operated by its own management team and governed by a Board of Directors, which adopted bylaws that now include a fourth purpose:

1. *To provide prudent stewardship of research funds to satisfy the requirements of the State, the City, sponsors, and [CUNY].[[10]](#footnote-10)*

Accordingly, RFCUNY provides support for CUNY faculty and staff research efforts, including identifying and obtaining external support (pre-award) from government and private sponsors, and the administration of all such funded programs (post-award).[[11]](#footnote-11) Additionally, the Foundation assists with management of planned giving and capital construction and renovation of facilities.[[12]](#footnote-12) For Fiscal Year (FY) 2020, RFCUNY reported an estimated 11,100 full and part-time employees and nearly $581 million in contributions and grants.[[13]](#footnote-13)

In keeping with its mission to work for the benefit of the integrated University,[[14]](#footnote-14) the RFCUNY Board of Directors is derived from the University’s central leadership as well as from several of its constituent institutions. CUNY’s Chancellor serves as the Board’s Chairperson while the CUNY Graduate Center President serves as Vice-Chairperson.[[15]](#footnote-15) Other members of the RFCUNY Board currently include the Brooklyn College president, several faculty members from four different senior and community colleges, and a former CUNY deputy chancellor.[[16]](#footnote-16) Notably, the RFCUNY Board currently has one member from private industry, a Senior Vice President of a pharmaceutical company.[[17]](#footnote-17) Yet, despite being mostly representative of CUNY leadership and faculty, any overlap between RFCUNY’s Board of Directors and CUNY’s Board of Trustees appears to be minimal.[[18]](#footnote-18)

While RFCUNY serves the University, most CUNY senior colleges and several graduate institutions have established at least one non-profit foundation to raise and provide funds separate and apart from its other sources of revenue.[[19]](#footnote-19) For example, the Brooklyn College Foundation was founded in 1958 with the express purpose of raising funds for the enhancement of education at Brooklyn College.[[20]](#footnote-20) It is separately incorporated as a non-profit corporation in the State with its own board of directors and is registered as a charitable organization with the U.S. Government.[[21]](#footnote-21) Similarly, CUNY’s School of Law is affiliated with the CUNY School of Law Foundation, which serves as a “philanthropic partner” to the law school and is also guided by a separate board,[[22]](#footnote-22) as organized pursuant to State law and the Internal Revenue Code.[[23]](#footnote-23) While the relationship between RFCUNY and these separately incorporated entities is unclear and will be a question for the hearing, RFCUNY expressly works in concert with a number of campus “grants offices” as described below.

**RFCUNY and CUNY Campuses**

Each senior and community college, along with the majority of CUNY’s graduate and professional schools, maintains a “grants office” or equivalent that serves as an office of record for that school’s grants and contract submissions and which do not appear to be separately incorporated entities.[[24]](#footnote-24) CUNY schools that do not have an on-campus grants office includes the CUNY School of Labor and Urban Studies and the Macaulay Honors College.[[25]](#footnote-25) RFCUNY works closely with each campus grants office to support their respective faculty and staff in identifying and obtaining research funding from government and private sponsors as well as in providing post award support.[[26]](#footnote-26) Support can include legal contracting services designed to ensure that all research funding agreements are negotiated and drafted to protect research staff, CUNY and RFCUNY from certain legal, ethical and other risks associated with sponsored research. Support can also include employment oversight, accounting, audit and reporting, purchasing and even facility construction and renovation, among others.[[27]](#footnote-27) Notably, RFCUNY also helps to ensure compliance with research standards involving human subjects, animal care, environmental and radiological safety, and conflicts of interest. The extent to which RFCUNY provides these services in conjunction with each on campus grants office, and whether there is any relationship with campuses’ various separately-incorporated entities, is an area that today’s hearing will explore.

**Finance**

Over the past six fiscal years, the City Council has awarded a total of $16.3 million, or an average of $2.7 million a year, to support programs and initiatives administered through the Foundation. In FY 2021, the Council designated a total of $2.8 million to support some of the following program areas, higher education, education public safety, and cultural organizations.

**Issues and Concerns**

In 2016, the *New York Times* reported that they obtained documents that indicated the 21st Century Foundation at the City College of New York (“City College” or “CCNY”) paid for some of then-CCNY President Lisa Staiano-Coico’s personal expenses, including fruit baskets, housekeeping services and rugs, upon assuming office in 2010.[[28]](#footnote-28) The 21st Century Foundation was then reimbursed for more than $150,000 from RFCUNY.[[29]](#footnote-29) Juxtaposed with steep budget cuts that have let campus facilities fall into states of disrepair, increasingly crowded classrooms, and dwindling course selections—all of which have threatened City College’s reaccreditation—such spending, usually earmarked for research, has concerned the CUNY community[[30]](#footnote-30) and led to the U.S. attorney for the Eastern District of New York initiating an investigation into the matter.[[31]](#footnote-31) Staiano-Coico resigned in 2016, a day after the *New York Times* presented a 2011 memo concerning her reimbursements, which appeared to be fabricated, “possibly to mislead prosecutors.”[[32]](#footnote-32)

Staiano-Coico denied any wrongdoing, and the federal investigation ended without any indictments.[[33]](#footnote-33) However, a 2016 interim report by the State Inspector General found a “need for significant strengthened uniform controls and oversight to ensure the fiscal and ethical integrity of CUNY’s operations and mitigate the misuse, waste, and abuse of resources in the CUNY system.”[[34]](#footnote-34) Accordingly, the Office of the Inspector General (OIG) recommended that CUNY immediately implement centralized spending policies to increase organization and uniformity of action and reduce the potential for fiscal mismanagement.[[35]](#footnote-35) Additionally, OIG recommended that the University institute more controls over the relationships between all CUNY-based foundations and their partner colleges to ensure proper fiscal oversight of the foundation funds managed by those schools.[[36]](#footnote-36) It is unclear whether the OIG investigation has concluded.

A month after the *New York Times* first reported on RFCUNY reimbursing CCNY’s 21st Century Foundation for more than $150,000, it reported that the University launched an investigation into whether a recent $500,000 donation was improperly diverted.[[37]](#footnote-37) The review had been requested by senior faculty members who found that the Martin and Toni Sosnoff Fund for the Arts, which is part of the holdings of the 21st Century Foundation, contained only $76 when it should have had roughly $600,000.[[38]](#footnote-38) The internal review found that then-President Staiano-Coico did not overstep her authority when she used more than $600,000 of money traditionally earmarked for arts programming to pay adjunct salaries.[[39]](#footnote-39)

In January 2021, The College of Staten Island (“CSI”) agreed to repay $98,237.86 in federal assistance to resolve a federal investigation concerning allegedly fabricated research results.[[40]](#footnote-40) The federal assistance at issue had been applied for by RFCUNY, on behalf of CSI, and was awarded to the college in 2015 pursuant to a cooperative agreement with the United States National Oceanic and Atmospheric Administration (“NOAA”).[[41]](#footnote-41) Under this agreement, CSI certified, in part, that it was capable of managing the research project and ensuring the work would be done. However, in 2018, NOAA notified CSI that the work required under the agreement had not been done and the principal investigator had allegedly submitted fabricated results.[[42]](#footnote-42) CSI launched an investigation into the matter as did the United States Attorney’s Office.[[43]](#footnote-43) The US Attorney’s Office concluded that CSI failed to ensure proper management and completion of the research required under the cooperative agreement.[[44]](#footnote-44) CSI has since agreed to modify its policies and procedures concerning the supervision of federal funded research products and repay the awarded federal assistance.[[45]](#footnote-45)

**Conclusion**

At today’s hearing, the Committee on Higher Education will seek an overview of RFCUNY and its operations, as well as its relationship with each campus’ research foundation. This includes basic data on where funding is sourced, how it is distributed, how it is spent and, if possible, a demographic breakdown of award recipients. The Committee will also seek clarity around how foundations may spend money for non-research purposes, more specifically for the employment of Foundation staff. This includes a demographic breakdown of RFCUNY employees, information concerning full- and part-time employees, their salaries, and lines of employment.

1. CUNY, *Mission & History* (n.d.), *available at* <https://www.cuny.edu/about/history/>. [↑](#footnote-ref-1)
2. CUNY, *About* (n.d.), *available at* <https://www.cuny.edu/about/>. [↑](#footnote-ref-2)
3. CUNY, *Academics* (n.d.), *available at* <https://www.cuny.edu/academics/>. [↑](#footnote-ref-3)
4. NY Educ Law § 6201 (2015). [↑](#footnote-ref-4)
5. *Id.,* see also, NY Educ Law § 6204 (1). [↑](#footnote-ref-5)
6. *Id.* [↑](#footnote-ref-6)
7. NY Educ Law § 6206 (6). [↑](#footnote-ref-7)
8. State of New York, “Absolute Charter of RESEARCH FOUNDATION OF THE CITY UNIVERSITY OF NEW YORK (Number 8302)” Board of Regents, Education Department (Jan. 24, 1963), *available at* <https://www.rfcuny.org/RFWebsite/media/2419/rf-charter.pdf>. [↑](#footnote-ref-8)
9. *Id.* [↑](#footnote-ref-9)
10. Research Foundation of the City University of New York, Board of Directors, BYLAWS (as revised, Jan. 21, 2010), *available at* <https://www.rfcuny.org/filesdirectory/News/Documents/Bylaws.pdf>. [↑](#footnote-ref-10)
11. Research Foundation of the City University of New York, OVERVIEW (n.d.), *available at* <https://www.rfcuny.org/RFWebsite/about/overview/>. [↑](#footnote-ref-11)
12. *Id.* [↑](#footnote-ref-12)
13. RFCUNY website, *available at* <https://www.rfcuny.org/RFWebsite/>. [↑](#footnote-ref-13)
14. Research Foundation of the City University of New York, Board of Directors, BYLAWS, § 2, Purposes, (as revised, Jan. 21, 2010), *available at* <https://www.rfcuny.org/filesdirectory/News/Documents/Bylaws.pdf>. [↑](#footnote-ref-14)
15. *Id.,* § 2, Membership (outlining the initial membership of the RFCUNY Board of Directors); *see also* currently serving Board of Directors, RFCUNY Governance, *available at* <https://www.rfcuny.org/RFWebsite/about/governance/>. [↑](#footnote-ref-15)
16. *Id.* [↑](#footnote-ref-16)
17. *Id.* [↑](#footnote-ref-17)
18. *Supra* note 5. [↑](#footnote-ref-18)
19. *See* The City University of New York Foundation Guidelines, Policy 3.011: College Foundation Guidelines (n.d.), *available at* <http://policy.cuny.edu/policyimport/manual_of_general_policy/article_iii_fiscal_affairs/policy_3.011_college_foundation_guidelines/document.pdf>. [↑](#footnote-ref-19)
20. Brooklyn College Foundation website, FAQ, *available at* <http://www.brooklyn.cuny.edu/web/support/foundation/about/faq.php>. [↑](#footnote-ref-20)
21. *Id.* [↑](#footnote-ref-21)
22. <https://publicsquare.law.cuny.edu/support/foundation>. [↑](#footnote-ref-22)
23. *Id., see also,* New York Charities Bureau, The City University of New York School of Law Foundation, Inc., [https://www.charitiesnys.com/RegistrySearch/show\_details.jsp?id={2036362A-6C5E-4A77-9286-0E9AB79FDA28}](https://www.charitiesnys.com/RegistrySearch/show_details.jsp?id=%7b2036362A-6C5E-4A77-9286-0E9AB79FDA28%7d). [↑](#footnote-ref-23)
24. RFCUNY website, <https://www.rfcuny.org/RFWebsite/about/cuny-campus-grants-offices/>. [↑](#footnote-ref-24)
25. *Id.* [↑](#footnote-ref-25)
26. RFCUNY Overview, available at <https://www.rfcuny.org/RFWebsite/about/overview/>. [↑](#footnote-ref-26)
27. *Id.* [↑](#footnote-ref-27)
28. David Chen, “Dreams Stall as CUNY, New York City’s Engine of Mobility, Sputters” NY Times (May 28, 2016), *available at* <https://www.nytimes.com/2016/05/29/nyregion/dreams-stall-as-cuny-citys-engine-of-mobility-sputters.html>. [↑](#footnote-ref-28)
29. *Id.* [↑](#footnote-ref-29)
30. *Id.* [↑](#footnote-ref-30)
31. David Chen, “Finances of City College’s President Are Under Federal Investigation” NY Times (Jul. 14, 2016), *available at* <https://www.nytimes.com/2016/07/15/nyregion/finances-of-city-colleges-president-are-under-federal-investigation.html>. [↑](#footnote-ref-31)
32. David Chen, “At Troubled City College, President’s Job Remains Unfilled” NY Times (Jul. 28, 2017), *available at* [*https://www.nytimes.com/2017/07/28/nyregion/city-college-president-job.html?searchResultPosition=10*](https://www.nytimes.com/2017/07/28/nyregion/city-college-president-job.html?searchResultPosition=10). [↑](#footnote-ref-32)
33. Melissa Klein, “Embattled CCNY president quietly moved to CUNY School of Medicine” NY Times (Nov. 10, 2018), *available at* <https://nypost.com/2018/11/10/embattled-ccny-president-quietly-moved-to-cuny-school-of-medicine/>. [↑](#footnote-ref-33)
34. State of New York, Office of the Inspector General Catherine Leahy Scott*, Investigation of the City University of New York: Interim Report* (Nov. 2016), *available at* <https://ig.ny.gov/sites/g/files/oee571/files/2016-12/CUNYInterim.pdf>. [↑](#footnote-ref-34)
35. *Id.* [↑](#footnote-ref-35)
36. *Id.* [↑](#footnote-ref-36)
37. David Chen, “$76 Where There Should Be $600,000: Missing City College Donation Prompts Inquiry” NY Times (Aug. 30, 2016), *available at* <https://www.nytimes.com/2016/08/31/nyregion/76-where-there-should-be-600000-missing-city-college-donation-prompts-inquiry.html>. [↑](#footnote-ref-37)
38. *Id.* [↑](#footnote-ref-38)
39. David Chen, “City College Leader Didn’t Misuse Donation, Review Finds” NY Times (Sept. 15, 2016), *available at* <https://www.nytimes.com/2016/09/16/nyregion/city-college-leader-didnt-misuse-donation-review-finds.html>. [↑](#footnote-ref-39)
40. USDOJ, “College of Staten Island Agrees to Settle Claims Related to Research Misconduct” (Jan. 21, 2021), *available at* <https://www.justice.gov/usao-edny/pr/college-staten-island-agrees-settle-claims-related-research-misconduct>. [↑](#footnote-ref-40)
41. *Id*. [↑](#footnote-ref-41)
42. *Id*. [↑](#footnote-ref-42)
43. *Id.* [↑](#footnote-ref-43)
44. *Id*. [↑](#footnote-ref-44)
45. *Id*. [↑](#footnote-ref-45)