MEMORANDUM

To: Chancellor
Cabinet
College Presidents
Administrative Council
Chief Student Affairs Officers
Legal Affairs Designees
Financial Aid Directors

From: Frederick P. Schaffer

Re: New State Legislation: The Student, Lending, Accountability, Transparency, and Enforcement Act ("SLATE")

This memorandum summarizes key provisions of the Student Lending, Accountability, Transparency and Enforcement Act ("SLATE"), new state legislation that governs potential conflicts of interest between higher education institutions and their employees and lending institutions that provide student loans. Under the law, the New York State Department of Education ("SED") is charged with enforcement responsibility, including the authority to issue implementing regulations. The law goes into effect on December 1, 2007, and we expect the regulations to be issued shortly before that effective date. Assuming that SED's regulations clarify certain implementation issues, I will update you on those issues after issuance of the regulations.
must disclose the process for selection of lenders and the order of placement of lenders on the list; (iii) the list must state that borrowers may select the lender of their choice, regardless of whether the lender appears on the list; and (iv) the list must be reviewed and updated annually.

**Revenue Sharing Agreements**

Like the Model Code, SLATE bans revenue sharing agreements between lenders and higher education institutions. Revenue sharing refers to an arrangement whereby a lender pays a higher education institution a percentage of the principal of each loan extended by the lender to a borrower at the institution. These agreements are prohibited in *all cases* – even if the agreements are with lenders who provide advantageous loans to our students. Thus, no CUNY campus may enter into any such agreements with a lender.

**Prohibition on Gifts**

The statute prohibits lenders from giving gifts to higher education institutions and prohibits institutions and their employees from accepting gifts. There is a significant overlap between SLATE and State ethics law (N.Y. Public Officers Law §§ 73 and 74), although SLATE is broader because it bans gifts to the institution itself, not just to individual employees. Gifts are defined as including, but not limited to (i) any money, service, loan, entertainment, honoraria, hospitality, lodging costs, meals, registration fees, travel expenses, discount, forbearance or promise; (ii) gifts provided in kind, by purchase of a ticket, payment in advance, or reimbursement after expenses have been incurred; (iii) any computer hardware for which the recipient pays below-market prices; and (iv) any printing costs or services.

The definition of “gift” does not include food, refreshments, training or information material furnished to an institution’s employee as an integral part of a training session, if such
training contributes to the professional development of an employee. Before sending an employee to a training session run by a lender, however, please consult with my office to ensure compliance with both SLATE and State ethics law.

In addition, the prohibition on gifts does not affect the private philanthropic activities of banks or other lenders that are unrelated to educational loans. For example, if a bank buys a table at a college foundation’s fundraising event, in a context completely unrelated to its student loan function, that donation should be permissible. Once again, please consult with my office regarding any questions about the specific reach of this provision.

**Reporting Requirements**

SLATE’s reporting requirements are broad and somewhat ambiguous, and we hope that SED will provide significant regulatory guidance on those requirements. In addition to prohibiting the receipt of gifts, as explained above, the statute also requires that employees report to SED all “offers” of gifts. Once SED clarifies this requirement, we will draft a form to be used for this purpose, as well as devise a centralized reporting mechanism to relieve individual employees of the obligation to submit those forms to SED.

In addition, the statute requires that financial aid officials and those who “benefit” from the activities of a college's financial aid office report any participation in or financial interest in a lender. We expect SED to define the term “benefit” further, so that we will be able to provide guidance on exactly who needs to make this financial disclosure. We are also not sure at this juncture whether SED will be providing specific forms, or whether each institution will need to draft its own form. Finally, we hope to receive guidance from SED as to whether covered
employees who have no financial interest in lenders will nonetheless need to file financial
disclosure forms.

**Enforcement and Penalties**

The statute requires SED to enforce any violations of the statute through administrative
hearings. Civil penalties of a maximum of $50,000 per violation or series of violations may be
assessed against institutions, while penalties of a maximum of $7500 per violation or series of
violations may be assessed against individual employees. The monies collected will be used for
two purposes: (i) to repay students who paid an inflated price for a loan because of a violations
of the statute; and (ii) to operate a grant program to award institutions funds to initiate
educational programs for prospective borrowers.

Please feel free to contact Hilary Klein of my office at Hilary.Klein@mail.cuny.edu or
212-794-5382 if you have any questions concerning implementation of this new law.