



State University of New York

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## Memorandum to Presidents

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Date: November 30, 1987

From: Office of the University Counsel and  
Vice Chancellor for Legal Affairs

Subject: State Administrative Procedure Act

To: Presidents, State-operated Campuses

Vol. 87 No. 12

This Memorandum updates the September 20, 1976 Memorandum to Presidents (Vol. 76, No. 21) to reflect recent amendments to the State Administrative Procedure Act relating to rulemaking and declaratory rulings.

The State Administrative Procedure Act (the Act) governs the adoption of rules and regulations that affect the public generally. For example, the adoption of tuition regulations by the Board of Trustees must comply with the terms of the Act. At the campus level, the Act covers traffic and parking regulations and supplemental rules for maintenance of public order adopted by Councils and approved by the Board of Trustees. Rules relating to internal management, such as the student conduct and behavior rules adopted by Councils, which affect only students and not the general public, are not subject to the requirements of the Act. The Act does not apply to the community colleges.

The new amendments to the Act (chapter 610 of the Laws of 1987) lengthen the rulemaking period, by requiring a longer period for public comment (45 days instead of 30) and by delaying the effective date of a rule until final publication in the State Register, rather than the date of adoption by the Board of Trustees. In addition, the law now requires publication of a response to the public comments the University receives on each proposed rule.

As a result of these changes, please note that four to six weeks in lead time must be added to the process of adopting rules and regulations which fall under the requirements of the Act. With respect to traffic and parking regulations,

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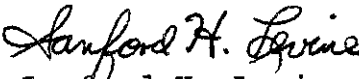
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sufficient additional lead time should be planned to prevent delay in the adoption and implementation of new or amended regulations.

The Act also has been amended to expand the scope of declaratory rulings that may be issued by a State agency concerning the rights of a petitioner under the agency's regulations. Appropriate conforming amendments to the State University Trustees' regulations governing declaratory rulings will be submitted for approval at a future Board of Trustees meeting (Part 313 of Title 8, Official Compilation of Codes, Rules and Regulations of the State of New York).

Under the revised statute and regulations, the University may issue a declaratory ruling, on request of any person, concerning whether the University should take action pursuant to a rule (as well as whether a particular rule enforced by the University is applicable). If the University declines to issue a ruling or rules that action need not be taken, a petitioner can seek review of that decision by the State Office of Business Permits and Regulatory Assistance, which must issue an advisory opinion, and by a court.

Any questions regarding rulemaking or declaratory rulings should be directed to the Office of University Counsel (518-443-5400).

  
Sanford H. Levine

cc: Vice Presidents for Administration  
Directors of Public Safety

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