

THE CITY UNIVERSITY OF NEW YORK

Office of the General Counsel and Vice Chancellor for Legal Affairs

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**Briefing
Memorandum No. 3**

April 19, 1991

To: College Presidents
Chancellor's Cabinet

From: Vice Chancellor Robert E. Diaz 

Re: LaMarre et al. v. Murphy et el.
Supreme Court, New York County
Index No. 27488/90

The Supreme Court, New York County, has denied the plaintiffs' (Trustee LaMarre and the University Student Senate) motion for a preliminary injunction in the above referenced matter.

Plaintiffs sought a preliminary injunction enjoining the implementation of the tuition increase authorized by the Board of Trustees at its December 6, 1990 meeting. Plaintiffs asserted eight cause of actions in support of their application. We filed a motion seeking to dismiss each cause of action. Judge DeGrasse granted our cross motion to dismiss the complaint for failure to state a claim as to six of the grounds asserted. The claims dismissed alleged violations of the Education Law (failure to provide an agenda of the meeting and adopting changes in tuition charges prior to the enactment of the annual budget); the Open Meetings Law (holding a special meeting without advanced public written notice); and CUNY's bylaws (passing a resolution without holding a public hearing).

The two remaining cause of actions relate to the sufficiency of the notice given prior to the Board's meeting on December 6, 1990. The Judge concluded that these two cause of actions relate to factual, as opposed to legal questions and ruled that it would be inappropriate to dispose of these two charges at this time.

We will now submit the factual information sought by Judge DeGrasse so that we may favorably dispose of the remaining causes of action.

A copy of the decision is available upon request.

c: Legal Affairs Designees

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