To: College Presidents

From: Vice Chancellor Robert E. Diaz

Re: Impact of Higher Education Act Amendments of 1992 on Student Disciplinary Proceedings

As a result of the enactment of the Higher Education Act Amendments of 1992, effective July 3, 1993, student disciplinary proceeding involving charges of sexual assault\(^1\) will be changed in the following manner:

- the accuser and the accused are entitled to the same opportunities to have others present during the disciplinary proceeding; and

- both the accuser and the accused shall be informed of the outcome of any student disciplinary proceeding brought alleging a sexual assault (20 U.S.C. 1092 (f)(7)(B)(iv)).

Accordingly, in a disciplinary proceeding involving a charge of sexual assault, any opportunity to have others present during the disciplinary proceeding must be accorded equally to the accuser and the accused. Thus, even in a closed hearing, the accuser may appear accompanied by a person of his/her choice.\(^2\) In addition, the accuser as well as the accused is to be informed of the outcome of the disciplinary proceeding.

\(^1\)Conduct constituting sexual assault is encompassed by the sections of the New York State Penal Law regarding sex offenses set forth in attachment I of Student Advisory Memorandum No. 10 dated August 15, 1991.

\(^2\)However, if the accuser is also a witness, this person may be precluded from the hearing until after his/her testimony.
Attached is a form which you may utilize to advise the accuser of these requirements. In addition, campus student affairs officers should furnish a copy of these requirements to the Chair of the Faculty-Student Disciplinary Committee whenever facts constituting sexual assault are alleged in the charges.

Encl.

c: Cabinet
   Chief Student Affairs Administrators
   Legal Affairs Designees

H:SAW#15.ET/ip
Dear ____________:

This is to advise you that you may have someone accompany you when you appear at the disciplinary hearing against ____________. In addition, you shall be informed of the outcome of this disciplinary proceeding.

Please call ________________ if you have any questions.

Very truly yours,