STUDENT ADVISORY
MEMORANDUM NO. 95-3

October 6, 1995

To: College Presidents

From: Vice Chancellor Robert E. Diaz

Re: Student Disciplinary Procedures, Section 15.3 of Article XV of the CUNY Bylaws

Section 15.3 of Article XV of the CUNY Bylaws sets forth student disciplinary procedures when written complaints are filed against a student. Section 15.3 provides:

a. Any charge, accusation, or allegation which is to be presented against a student, and, which if proved, may subject a student to disciplinary action, must be submitted in writing in complete detail to the office of the dean of students promptly by the individual, organization or department making the charge.

b. The chief student affairs officer of the college or his or her designee will conduct a preliminary investigation in order to determine whether disciplinary charges should be preferred. The chief student affairs officer or his or her designee will advise the student of the charge(s) against him or her, consult with other parties who may be involved or who have information regarding the incident, and review other relevant evidence. Following this preliminary investigation, which shall be concluded within thirty (30) calendar days of the filing of the complaint, the chief student affairs officer or designee shall take one of the following actions:

(i) Dismiss the matter if there is no basis for the allegation(s) or the allegation(s) does not warrant disciplinary actions. The individuals involved shall be notified that the complaint has been dismissed;
(ii) Refer the matter to conciliation. If a matter is referred to conciliation the accused student shall receive a copy of the notice required pursuant to section 15.3.e. of this bylaw; or

(iii) Prefer formal disciplinary charges. (Emphasis added)

This section covers the procedure to be followed when a formal written charge is filed with the office of the dean of students against a student. Section 15.3.b provides that, when an individual, organization or department files a written charge against a student, the chief student affairs officer or designee must conduct a preliminary investigation and, should conclude this investigation within 30 calendar days. Following the conclusion of the preliminary investigation, one of the actions specified in subsection 15.3.b(i), (ii) or (iii) must be taken.

Section 15.3 does not cover routine and ongoing activities regularly undertaken by the school administration. For example, if the chief student affairs officer receives reports throughout the school year concerning incidents of misconduct by a student, he or she may respond to these reports in any manner he or she deems appropriate. In these circumstances, the chief student officer has the discretion to determine a course of action since no formal complaint is pending against the student. Appropriate actions might include counseling the student, giving oral or written warnings or preferring charges.

We recognize that, in certain circumstances, it may not be possible to complete an investigation within 30 days of receipt of a formal written charge. For example, witnesses may not be available during intersession or after the school year has ended. If an investigation cannot be completed within the 30 day period, at the end of the 30 days the chief student officer should notify the charging party and the charged student in writing that allegations or documents do not warrant discipline charges at this time because necessary witnesses were unavailable and have not been interviewed or necessary documents have not been received and reviewed, and thus, the matter is still being investigated. The notice should inform the student that the investigation will be completed as soon as possible. If the investigation is not completed within the next 30 day period, another notice should be sent to the charging party to apprise him or her of the status of the investigation and should again set forth the reasons why the investigation could not be completed. It is important that each such notice clearly demonstrate that the college has attempted in good faith to conclude the investigation, but has not been able to for good and legitimate reasons.

c: Chief Student Affairs Administrators
Legal Affairs Designees

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