

The City University of New York

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Administrative Advisory Memorandum No. 19

August 9, 1993

Memorandum

To: College Presidents
From: Robert E. Diaz 
Re: Recent Freedom of Information Law Ruling on Book Lists

This Memorandum will serve to update you on a January 19, 1993 Memorandum (Administrative Advisory Memorandum No. 17) issued by this office. In that memorandum, you were advised that this office, acting as Appeals Officer for the University under the Freedom of Information Law ("FOIL"), had earlier denied access to "a copy of the current semester's book list, as compiled by each of the college's professors," on various grounds, "including the fact that such lists are publicly available to anyone in the bookstore and are not agency records within the meaning of the statute." On May 20, 1993, the New York Law Journal reported a case, Encore College Bookstores, Inc. v. The State University of N.Y., Fashion Institute of Technology, in which a Justice of the Supreme Court* of the State of New York found that, if professors are required to submit a book list to any campus administrator, that information is then subject to FOIL and access must be granted.

In that case, however, defendant college does not appear to have made the argument that book lists, like course materials, do not constitute "agency records" within the meaning of FOIL. Accordingly, this office remains of the opinion that a request for book lists can be denied under the

*Despite its name, the Supreme Court in New York is a trial, not an appellate, court.

current state of the law. I recommend that Record Access Officers seek guidance when receiving a FOIL request for book lists. To receive such guidance, they may contact Michael D. Solomon, Esq. at 212-794-5322.

c: Records Access Officers

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