Date: September 8, 1980
From: Office of the University Counsel and Vice Chancellor for Legal Affairs
Subject: Withholding Student Transcripts - Bankruptcy

The Attorney General has reexamined an earlier opinion and has now advised that State University may not withhold the transcript of a student indebted to the University who has discharged the debt in bankruptcy. This represents a change in the policy set forth in a Memorandum to Presidents, Vol. 77, No. 21 (December 20, 1977), and the Administrative Procedures Manual, Item No. 010.2.

The Attorney General's formal opinion, dated June 9, 1980, is based upon a provision of the new federal Bankruptcy Act forbidding any act designed to collect a discharged debt. The new ruling applies to any and all unpaid obligations owed to the University by a discharged debtor regardless of whether such obligations were incurred prior or subsequent to the enactment of the revised Bankruptcy Act.

It should also be noted that under the revised Bankruptcy Act, an educational loan (as distinguished from other forms of indebtedness such as tuition, fees, etc.) cannot be discharged in bankruptcy unless (1) the loan first became due five years before the date of the filing of the bankruptcy petition, or (2) excepting the debt from discharge would impose an undue hardship on the debtor and the debtor's dependents. Thus, under the new law, a student who has obtained an educational loan cannot avoid repayment by seeking discharge in bankruptcy unless one of these two specific conditions is present.

This memorandum supersedes the 1977 Memorandum to Presidents only on the subject of bankruptcy. Item No. 010.2 of the Administrative Procedures Manual will be revised to reflect this change and to provide additional guidance. All other procedures governing the payment or satisfaction of authorized charges and obligations remain unchanged (§302.1(j) of Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York).

Sanford H. Levine

cc: Business Officers, State-operated Campuses
This memorandum addressed to:

Presidents, State-operated Campuses

Copies for information sent to:

Presidents, Community Colleges
Deans, Statutory Colleges
President Neville
Vice Provost Spencer