



The Chancellor

March 10, 2010

To: Presidents and Deans  
Cabinet  
Financial Aid Administrators

From: Matthew Goldstein *MG*

Re: Student Financial Aid: Model Code of Conduct

As you are aware, Attorney General Andrew Cuomo conducted an investigation in 2006-07 regarding the relationships between lenders that offer student loans and higher education institutions. That investigation uncovered questionable practices on the part of certain lenders and institutions. The attorney general entered into settlement agreements with a number of higher education institutions, and those agreements mandated that the institutions adopt a code of conduct governing their relationships with lenders in order to ensure the integrity and fairness of the student loan process. CUNY did not enter into any agreement with the attorney general to adopt a code of conduct. As a matter of best practice, however, in April 2007 CUNY and its constituent colleges adopted a Model Code of Conduct.

Since then, there have been legislative initiatives at both the state and federal levels governing student financial aid. New York enacted the Student Lending, Accountability, Transparency and Enforcement Act (SLATE) that, among other requirements, incorporated a model code of conduct into New York State Education Law. More recently, the federal government, through the Higher Education Opportunity Act (HEOA), regulated private, alternative loans for the first time and specifically required higher educational institutions receiving Title IV funding (federal financial aid) to adopt model codes of conduct with provisions similar to those outlined in SLATE. Prompted by the enactment of these laws, we re-examined our model code provisions and have decided to make certain revisions, many of which are stricter than those required by law.

Most significant is an outright ban on preferred lenders. While neither SLATE nor HEOA bars preferred lenders, they both impose rigorous requirements on higher education institutions that wish to favor particular lenders. At CUNY, we have determined that it is neither in the institution's nor the students' best interests to recommend particular lenders that offer alternative loans. Therefore, the revised Model Code prohibits CUNY employees from recommending specific lenders for private loans.

CUNY's revised Model Code of Conduct is outlined below. In order to comply with HEOA, I am requesting that CUNY and its colleges display the code prominently on their websites. In addition, I request that all employees with responsibilities related to student financial aid be informed in writing of the provisions of this code on an annual basis. If you have any questions about the provisions of the code, please contact the CUNY Office of the General Counsel: 212-794-5426. Thank you.

## Model Code of Conduct

- The provisions of this Model Code of Conduct apply to all employees of CUNY or of any of its constituent colleges or units.
- Conflicts of interest between the responsibilities of employees involved in student financial aid and such employees' relationships with lenders are strictly prohibited.
- For purposes of this Model Code, a lender is defined as (i) any entity that itself or through an affiliate engages in the business of making loans to students, parents, or others in order to finance higher education expenses or to securitize such loans; (ii) any entity, or association, that guarantees such loans; or (iii) any industry, trade, or professional association that receives money from any such entity.
- No employee may accept a gift from a lender. A gift is defined as any gratuity, favor, discount, entertainment, hospitality, loan or other item having a monetary value of more than a nominal amount. It includes a gift of services, transportation, lodging, or meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.
- No employee may accept any compensation of any kind or reimbursement of expenses for serving as a member of a lender's advisory board.
- Neither CUNY nor any of its colleges may accept anything of value from a lender in exchange for any advantage or consideration provided to the lender related to its education loan activity. This prohibition includes, but is not limited to, a ban on (i) revenue sharing by a lender with CUNY or a college; (ii) acceptance of computer hardware for which below market value is paid; and (iii) acceptance of printing costs or services. Revenue sharing means an arrangement whereby a lender pays a higher education institution a percentage of the principal of each loan directed toward the lender from a borrower at the institution.
- Neither CUNY nor any of its colleges may use preferred lenders. Preferred lenders include either lenders with which CUNY or a CUNY college enters into a formal agreement or lenders that CUNY or a CUNY college informally recommends to students. Therefore, CUNY employees may neither adopt preferred lender lists nor, more informally, recommend particular lenders to students seeking advice on alternative loan providers.
- Neither CUNY nor any of its colleges shall link or otherwise direct potential borrowers to any electronic Master Promissory Notes or other loan agreements in an electronic format that incorporates any preferred lender list or similar device into the electronic medium, including any drop-down menus of possible lenders for the student to select. Instead, students must be presented with the opportunity to enter the lender code or name for any lender offering the relevant loan.

- If CUNY ever enters the “School as Lender” program as permitted under federal law, it may not treat School as Lender loans any differently than if the loans originated directly from another lender. The School as Lender program allows higher education institutions to function directly as a lender to its students.
- Neither CUNY nor any of its colleges shall enter into agreements with lenders to provide “opportunity loans.” Opportunity loans are loans provided up to a specified amount to students with poor or no credit history, or international students, whom the lender claims would otherwise not be eligible for the lender’s alternative loan program. Opportunity loans may not be in the borrower's best interest because of the high interest rate on the loans.
- No employee or agent of a lender may staff a CUNY or college financial aid office. Neither CUNY nor any of its colleges may identify an employee or agent of a lender as an employee or agent of CUNY or one of its colleges.