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June 24, 2010

Honorable Henry Pitman
United States Magistrate Judge
Southern District of New York
United States Courthouse
500 Pearl Street
New York, New York 10007

**Re: Hollander v. Members of the Board of Regents, et al.,
10 Civ. 09277 (LTS) (HP)**

Your Honor:

This Office represents the Board of Regents of the University of the State of New York; its Chancellor, Merryl Tisch; David Steiner, Commissioner of New York State Education Department¹; and Elsa Magee, Acting President of the New York State Higher Education Services Corporation, collectively the State Defendants. The State Defendants concur with, and adopt, the views expressed in the Federal Defendants' June 20, 2011 letter that the factual material outside the pleadings cited by the parties is appropriate to consider on a motion to dismiss, that conversion to a motion for summary judgment is unnecessary, and that, whether the motion is converted or not, the State Defendants do not intend to offer additional material.

Thank you for your consideration in this matter.

Respectfully submitted,

Clement J. Colucci
Assistant Attorney General

¹ Since this action commenced, John King has replaced David Steiner as Commissioner. Although the caption names the individual defendants in both their official and individual capacities, the body of the complaint seeks only injunctive and declaratory relief of a type only an official-capacity defendant could implement.

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cc: Roy Den Hollander, Esq.
Jean-David Barnea, Esq.