NEW YORK
THE STATE OF LEARNING

THE STATE EDUCATION DEPARTMENT THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

OFFICE OF PROFESSIONAL DISCIPLINE
ONE PARK AVENUE, NEW YORK, NEW YORK 10016-5802

September 20, 1991

Claude B. ~~Amarick~~, D.O.
Physician AMARNICK
95-12 101st Avenue
Ozone Park, New York 11416

Re: License No. 132689

Dear Dr. Amarick:

Enclosed please find Commissioner's Order No. 12295/10853. This Order goes into effect five (5) days after the date of this letter.

If the penalty imposed by the Order in your case is a revocation, surrender, or an actual suspension (suspension which is not wholly stayed) of your license, you must deliver your license and registration to this Department within ten (10) days after the date of this letter. Your penalty goes into effect five (5) days after the date of this letter even if you fail to meet the time requirement of delivering your license and registration to this Department.

If the penalty imposed by the Order in your case is a revocation or a surrender of your license, you may, pursuant to Rule 24.7 (b) of the Rules of the Board of Regents, a copy of which is attached, apply for restoration of your license after one year has elapsed from the effective date of the Order and the penalty; but said application is not granted automatically.

Very truly yours,

DANIEL J. KELLEHER
Director of Investigations
By:
Gustave Martine
GUSTAVE MARTINE
Supervisor

DJK/GM/er

CERTIFIED MAIL - RRR

cc: Thomas A. Conway, Esq.
Roemer & Featherstonhaugh
99 Pine Street
Albany, New York 12207

REPORT OF THE
REGENTS REVIEW COMMITTEE

CLAUDE AMARNICK

CALENDAR NOS. 12295/10853

The University of the State of New York

IN THE MATTER

of the

Disciplinary Proceeding

against

CLAUDE AMARNICK **Nos. 12295/10853**

who is currently licensed to practice
as a physician in the State of New York.

REPORT OF THE REGENTS REVIEW COMMITTEE

CLAUDE AMARNICK, hereinafter referred to as respondent, was licensed to practice as a physician in the State of New York by the New York State Education Department.

A copy of the 1987 statement of charges, which was amended at the hearing, is annexed hereto, made a part hereof, and marked as Exhibit "A".

After a hearing was conducted in 13 sessions over a 20 month period, the hearing committee rendered a report of its findings, conclusions, and recommendation, a copy of which, without attachment, is annexed hereto, made a part hereof, and marked as Exhibit "B". The hearing committee sustained, in whole or in part, 39 of the specifications as follows: respondent practicing fraudulently (first, third, and fourth, and, to the extent

indicated by it, second and fifth); negligence on more than one occasion* (seventh and, to the extent indicated by it, sixth); unprofessional conduct for excessive tests, treatment or use of treatment facilities (eighth through twenty-first and twenty-third); unprofessional conduct for record-keeping violations (twenty-fourth through thirty-ninth) and unprofessional conduct for moral unfitness to the extent indicated by it (fortieth). It also concluded that respondent was not guilty of the remaining charges. The hearing committee recommended that respondent's license to practice medicine in the State of New York be revoked.

The Commissioner of Health recommended to the Board of Regents that the findings of fact of the hearing committee be accepted in full and the conclusions of the hearing committee be accepted with certain changes and amendments which made citations and which deleted and added a phrase as to a particular finding. Regarding the twenty-fourth through thirty-ninth specifications as to unprofessional conduct for record-keeping violations, the Commissioner of Health recommended the amendment that sixteen different citations be made with respect to paragraphs 8(i) through 8(xvi) of the charges. Thus, he recommended the citation to one

*The hearing committee report, on page 3, also referred to incompetence on more than one occasion. However, such charges were withdrawn by petitioner.

finding of fact for each of these sixteen "paragraphs". The Commissioner of Health further recommended that the hearing committee's recommendation to revoke respondent's license to practice medicine in the State of New York be accepted. A copy of the recommendation of the Commissioner of Health is annexed hereto, made a part hereof, and marked as Exhibit "C".

The Regents Review Committee rendered five recommendations in its report in this matter. The Board of Regents voted on July 27, 1990 to accept the five recommendations of the Regents Review Committee as follows:

1. The findings of fact of the hearing committee and the recommendation of the Commissioner of Health as to those findings of fact be accepted:
2. The conclusions of the hearing committee be modified;
3. The conclusions of the Commissioner of Health accepting the conclusions of the hearing committee be modified and the conclusions of the Commissioner of Health changing the hearing committee report not be accepted inasmuch as the changes relate to the support for the conclusions rather than the conclusions themselves;
4. Respondent is guilty, by a preponderance of the evidence, of the twenty-fourth through thirty-eighth specifications, guilty of the third through fifth and fortieth specifications to the extent indicated by the

Regents Review Committee and not guilty of the remaining specifications and charges; and

5. The measure of discipline recommended by the hearing committee and Commissioner of Health be accepted and respondent's license to practice as a physician in the State of New York be revoked upon each specification of the charges of which respondent was found guilty, as aforesaid.

A copy of the July 27, 1990 vote of the Board of Regents is annexed hereto, made a part hereof, and marked as Exhibit "D".

By its decision, dated May 2, 1991, the Appellate Division, Third Department, modified the prior determination of the Board of Regents by annulling so much thereof as found respondent guilty of the third, fourth, fifth, and fortieth specifications; remitted the matter for the purposes of assessing the appropriate penalty necessary and further proceedings not inconsistent with the Court's decision; and, as so modified, confirmed the determination of the Board of Regents. Amarnick v. Sobol, 569 N.Y.S.2d 780. A copy of the decision of the Appellate Division is annexed hereto, made a part hereof, and marked as Exhibit "E".

The Board of Regents voted on May 24, 1991 to remit this matter to a Regents Review Committee solely with respect to the issue of the penalty to be imposed upon respondent based upon the prior determination of the Board of Regents as to the issue of

guilt as modified by the Court. A copy of the May 24, 1991 vote of the Board of Regents is annexed hereto, made a part hereof, and marked as Exhibit "F".

On June 27, 1991, respondent appeared before us and was represented by his attorney, Thomas A. Conway, Esq., who presented oral argument on behalf of respondent. Roy Nemerson, Esq., presented oral argument on behalf of the Department of Health. We accepted into the record respondent's brief for reconsideration of penalty and petitioner's reply to respondent's submission on remand.

On remand, we have only considered respondent's guilt as to the 15 specifications, constituting the twenty-fourth through the thirty-eighth specifications, regarding respondent's record-keeping violations and we have disregarded all references to fraud, negligence, incompetence, excessive testing, and moral unfitness. Thus, contrary to respondent's assertion on page 6 of his brief, this remand is not based upon the "single sustained specification".

We disagree with respondent's further assertion that the matter must be remanded to a new hearing committee for "necessary findings and determination of penalty". Respondent's brief page 26. By Education Law §6510-a, the Board of Regents renders the final determination whether or not they accept the hearing committee report and Commissioner of Health recommendation. The remittal herein did not require or find necessary a remand to a new

hearing committee. We agree that this matter, commenced in 1987, should not be delayed to obtain other recommendations when findings of fact and conclusions have already been recommended and thereafter rendered.

The Board of Regents accepted all of the hearing committee's ninety-nine findings of fact and its conclusions as to the twenty-fourth through thirty-eighth specifications. While the hearing committee's findings were lacking regarding the charges of fraud and moral unfitness, the findings of fact and conclusions regarding respondent's guilt as to the twenty-fourth through thirty-eighth specifications involving record-keeping are established in this matter being reviewed solely for an assessment of the penalty to be imposed. Respondent may not attack the adequacy or sufficiency of the findings of fact and conclusions of guilt regarding respondent's record-keeping violations. Similarly, petitioner may not have us consider any of its proposed findings of fact which were not adopted in the determination.

The hearing committee's findings of fact included four "general" findings (ninety-sixth through ninety-ninth). These findings show that respondent's reports of studies, impressions and conclusions were exactly alike in nine patient cases; patient records were very similar in the evaluations in 15 patient cases; findings did not reflect expected variations between individual patients in 15 patient cases and are not consistent with information in the records in thirteen patient cases; and tests and

test results were not recorded in five patient cases. The records maintained by respondent were not complete, consistent, or particularized as to the individual patient. Therefore, respondent's record-keeping practices of failing to accurately reflect the evaluation and treatment of the patient in these 15 patient cases demonstrates respondent's lack of concern for these patients and his professional responsibilities.

Respondent seeks to limit his record-keeping violations to these four findings. While such findings would, in our opinion, alone support the penalty we recommend, further findings were rendered, accepted, and confirmed as to respondent's record-keeping violations.

In addition, the hearing committee's specific findings as to two patient cases show respondent's undated "To Whom It May Concern" report in Patient C's record was identical, word for word, except for the patient's name, with the undated "To Whom It May Concern" report in Patient B's record. See findings 15 and 23. Moreover, respondent's records failed to contain particular information regarding Patients A, B, H, M, and N. See findings 6, 16, 17, 48, 76, and 85. We note that, in both the cases of Patients H and M, respondent's consultation reports failed to refer to certain hospitalizations and, in the case of Patient N, failed to record any recommendation concerning the management of the patient's problems.

Furthermore, the hearing committee's specific findings as to five patient cases shows that respondent's records were inconsistent or inaccurate (Patients F, I, J, M, and O - findings 38, 53, 58, 79, and 92). We note the hearing committee's reference to the significant inconsistency described in finding 38 and to respondent's consultation report and bill, showing testing and billing for an extremity which was not present, described in finding ninety-two.

8 N.Y.C.R.R. §29.2(a)(3) provides an objectively meaningful information standard. Schwarz v. Board of Regents of the University of the State of New York, 89 A.D.2d 311 (3rd Dept. 1982). lv. denied 57 N.Y.2d 604. The purpose of this record-keeping requirement is, at least in part, to provide meaningful medical information to other practitioners should the patient transfer to a new physician or should the treating physician be unavailable for any reason. Id.; See also Suslovich v. New York State Education Department, ___ A.D.2d ___ (3rd Dept. June 6, 1991). Clearly, as shown above, the individual circumstances, involving the fifteen patients in issue were not recorded by respondent in a meaningful or accurate manner even though, as respondent acknowledged as to the test reports, the records were used for planning, continuity of patient care, and communicating with third parties including physicians and professionals contributing to the patient's care.

We agree with petitioner's claim that the record demonstrates the "magnitude, frequency, and pervasiveness of the wrongdoing" and respondent's "lack of recognition regarding the seriousness of his misconduct." Petitioner's reply pages 3-4. Respondent's record-keeping failures were committed with respect to 15 different patients over a 17 month period. Respondent's own witness acknowledged that he would not keep records the way respondent did. The hearing committee concluded, at page 19 of its report, that respondent's Exhibits B1 through B14 and B16 consisted of scratch notes which were "at best inadequate, incomplete and illegible." The hearing committee also concluded that respondent's records, such as his usage of the same detailed report for at least three different patients, reflect adversely on respondent's credibility.

In our unanimous opinion, respondent's irresponsible record-keeping practices placed his patients at risk in obtaining appropriate medical care and information, and represented an unacceptable pattern regarding respondent's records as to the evaluation and treatment of these fifteen patients.

However, we reject the notion raised by petitioner at oral argument that, due to respondent having been determined to be not credible as a witness, the penalty to be imposed should be harsher than the penalty which would otherwise be imposed for the misconduct sustained. Although respondent's credibility in this proceeding had a bearing in the prior Board of Regents

determination as to respondent's guilt, such issue has no bearing at this time regarding the appropriate penalty to be imposed. Ahsaf v. Nyquist, 37 N.Y.2d 182 (1975). Accordingly, the penalty we recommend is based on consideration of the "factual allegations underlying the sustained misconduct", Hodge v. New York State Department of Education, ___ A.D.2d ___ (3rd Dept. April 4, 1991), rather than on conduct upon which respondent was not charged.

The extent of the penalty to be imposed by the Board of Regents in the exercise of its discretion is, contrary to respondent's assertion, not limited by the Court's prior decision in this matter, as long as such penalty is not inconsistent with that decision, as distinguished from the limitation placed in Sarosi v. Sobol, 155 A.D.2d 125 (3rd Dept. 1990) on the extent of the penalty which may be imposed on remand. The Court did not reach this penalty issue when it remanded this matter for further proceedings.

Furthermore, the penalties imposed by the Board of Regents in other matters cited by respondent also do not circumscribe the discretion of the Regents and do not hold that penalties "such as suspension and greater are only appropriate to culpable conduct far more serious than the record-keeping" charges at issue herein. In fact, two of the cases cited by respondent, Matter of Loffredo, Cal. No. 10550; and Matter of Nunez, Cal. No. 10899, do not relate to or involve any record-keeping charges and in Matter of Powell, Cal. No. 11418, cited by respondent, the separate acts of record-

keeping violations there related to only two patients and to other circumstances distinguishable from this matter. In our unanimous opinion, it cannot be fairly said that the record-keeping violations here do not exceed the seriousness of the violations in Powell. In any event, as respondent acknowledged, this Committee examines each case on its own merits and is not strictly bound to prior penalties for similar offenses. See, Mujtaba v. New York State Education Department, 148 A.D.2d 810 (3rd Dept. (1987)).

In arriving at the penalty to be imposed, we have considered all the circumstances herein, including the misconduct occurring over an 18 month period from April 1984 (Patient A) to August 1985 (Patient O); the charges being brought in 1987 and the hearing committee report not being issued until December 1989; respondent being not guilty of all non record-keeping charges as well as not guilty of record-keeping as to Patient P; respondent not being found to have acted intentionally or knowingly and there being no finding that respondent did not perform the tests or performed the tests improperly; the effect this proceeding has already had on respondent; and the majority of the hearing committee's findings of fact, as acknowledged by petitioner at oral argument, not supporting the record-keeping violations and therefore not being a basis for the imposition of a penalty.

We unanimously recommend the following to the Board of Regents:

1. The hearing committee's recommendation and the Health

Commissioner's recommendation as to the measure of discipline not be accepted; and

2. As an appropriate measure of discipline at this time and under the circumstances herein, respondent's license to practice as a physician in the State of New York be suspended for three years upon each specification of the charges of which respondent was previously found guilty, said suspensions to run concurrently, that execution of the last two years of said concurrent suspensions be stayed at which time respondent be placed on probation for two years under the terms set forth in the exhibit annexed hereto, made a part hereof, and marked as Exhibit "G".

Respectfully submitted,

EMLYN I. GRIFFITH

JANE M. BOLIN

PATRICK J. PICARIELLO

Chairperson

Dated: 7 21 91

May 2, 1991 61761

In the Matter of CLAUDE AMARNICK,
Petitioner,
v

THOMAS SOBOL, as Commissioner of Education of the State of New York, et al.,
Respondents.

YESAWICH JR., J.

Proceeding pursuant to CPLR article 78 (initiated in this court pursuant to Education Law § 6510-a [4]) to review a determination of respondent Commissioner of Education which revoked petitioner's license to practice medicine in New York.

In 1987, the State Board for Professional Medical Conduct (hereinafter State Board) charged petitioner, a licensed osteopath since 1977, with 40 specifications of professional misconduct involving 16 patients. Petitioner was accused of practicing his profession both fraudulently and negligently, ordering excessive or unwarranted tests, and failing to maintain accurate records.

A hearing on the charges was held by a Hearing Committee designated by the State Board. The Hearing Committee unanimously concluded that petitioner was not a credible witness and found that he (1) had conducted tests which were neither requested by the referring physician nor medically necessary, (2) did not complete comprehensive physical examinations, (3) neglected to forward testing results to the referring doctor, and (4) filed no-fault insurance claim form reports which were at variance with the patient's medical records. Additionally, the Hearing Committee observed that petitioner's electromyographic test results for some patients were exactly alike, that petitioner's records for all but one of the 16 patients contained very similar upper and lower extremity abnormalities, that petitioner's test findings did not reflect the expected variations between patients, and that petitioner submitted bills for eight patients yet did not record the tests performed or their results. At the conclusion of the hearing, which spanned 21 months, the Hearing Committee sustained 39 of the charges and recommended that petitioner's license be revoked.

Thereafter, the Regents Review Committee (hereinafter RRC) accepted the Hearing Committee's findings of fact but modified its conclusions because the findings did not support certain of the charges. The RRC recommended that 19 of the specifications be affirmed - specifically those alleging fraud, failure to maintain adequate records and engaging in conduct evidencing moral unfitness while practicing medicine - that those remaining specifications be

dismissed and that petitioner's license be revoked. Respondent Commissioner of Education ultimately issued an implementing order, after which petitioner instituted this proceeding to annul the determination. Petitioner maintains that the statement of charges was deficient, that the findings of fact are not supported by substantial evidence and hence the charges are not sustainable, that he was denied a fair hearing and that the penalty is excessive.

Initially, we find the statement of charges (see, Public Health Law § 230 [10] [b]) specific enough, in light of all the relevant circumstances, to apprise petitioner of the misconduct with which he was charged to enable him to adequately defend himself (see, Matter of Block v Ambach, 73 NY2d 323, 333); accordingly, the statement sufficiently met the fair notice mandates of the statute. Contrary to petitioner's suggestion, the statute contains no requirement that each element of the misconduct charge be identified.

There is merit, however, to petitioner's argument that the factual findings adopted by respondents do not support the determination that petitioner practiced his profession fraudulently, as charged in specifications 3, 4 and 5 (Education Law § 6509 [2]). The fraud contemplated by the statute requires "a knowing, intentional or deliberate act" (Matter of Brestin v Commissioner of Educ., 116 AD2d 357, 359). Taken together, the four factual findings, which underlie respondents' conclusion that petitioner practiced his profession fraudulently, establish only that petitioner failed to record test results in some instances, while in others he recorded results which were either identical or very similar to those of other patients, and thus did not reflect expected patient variations. In light of the absence of any finding that petitioner acted intentionally or knowingly, the Commissioner's determination as to these three specifications must be annulled (see, id., at 360). And inasmuch as specification 40, which ascribes moral unfitness to petitioner, is premised upon a finding that petitioner practiced fraud based on these very same events, it too must be annulled.

Respondents also relied upon these four factual findings to sustain specifications 24 through 38, which accuse petitioner of unprofessional conduct because of his failure to maintain records that accurately reflected the patients' evaluation and treatment (see, 8 NYCRR 29.2 [a] [3]). Inasmuch as scienter need not be shown to establish this charge (compare 8 NYCRR 29.1 [b] [6], with 8 NYCRR 29.2 [a] [3]), this portion of the determination should stand.

Petitioner's assertions that inadmissible evidence tainted the administrative proceedings and that he did not receive a fair hearing before an unbiased panel are unpersuasive. Even accepting petitioner's contention that improper evidence reached the Hearing Committee, petitioner has made no showing of any demonstrable ensuing prejudice and a review of the record discloses that he was not denied a fair hearing (see, Matter of Damino v Board of Regents of State of

N.Y., 124 AD2d 271, 272, lv denied 70 NY2d 613). Furthermore, Public Health Law § 230 (6) does not, as petitioner complains, require the Hearing Committee to have a physician on the panel who specializes in the charged physician's area of expertise (see, Matter of Rosenberg v Board of Regents of Univ. of State of N.Y., 96 AD2d 651, 652, lv denied 61 NY2d 608).

During the hearing, petitioner sought to have subpoenas issued to the State's medical expert, to the hospital at which the expert worked and to the State's investigator. The Hearing Officer refused to issue the subpoenas because they were aimed at collateral issues and would "piecemeal" or prolong the already extensive hearing. Petitioner also maintains that he was denied a fair hearing because his requests were rejected. While it may have been more judicious to have accommodated petitioner, the fact is that the right to have subpoenas issued is not an unqualified one (see, Matter of Irwin v Board of Regents of Univ. of State of N.Y., 27 NY2d 292, 297). Here, petitioner argued that he was foreclosed from presenting evidence which would have directly attacked the credibility of the State's expert. But petitioner had already been afforded ample opportunity to challenge the credibility of the State's witness during cross-examination. Given that the Hearing Committee reviewed the patients' records, that petitioner maintained separate handwritten "scratch notes" suggesting that the patients' records admittedly needed to be supplemented, and that petitioner's own witness acknowledged that he would not keep records the way petitioner did, it can hardly be said that denial of the subpoenas harmed petitioner in any appreciable way.

In conclusion, the annulment of specifications 3, 4, 5 and 40 makes a remittal for the purposes of assessing the appropriate penalty necessary.

Determination modified, without costs, by annulling so much thereof as found petitioner guilty of specifications 3, 4, 5 and 40; matter remitted to respondents for further proceedings not inconsistent with this court's decision; and, as so modified, confirmed.

CASEY, J.P., MIKOLL, YESAWICH JR., MERCURE and CREW III, JJ., concur.

EXHIBIT "G"

TERMS OF PROBATION
OF THE REGENTS REVIEW COMMITTEE

CLAUDE AMARNICK

CALENDAR NOS. 12295/10853

1. That respondent shall make quarterly visits to an employee of and selected by the Office of Professional Medical Conduct of the New York State Department of Health, unless said employee agrees otherwise as to said visits, for the purpose of determining whether respondent is in compliance with the following:

   a. That respondent, during the period of probation, shall be in compliance with the standards of conduct prescribed by the law governing respondent's profession;

   b. That respondent shall submit written notification to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, Empire State Plaza, Albany, NY 12234 of any employment and/or practice, respondent's residence, telephone number, or mailing address, and of any change in respondent's employment, practice, residence, telephone number, or mailing address within or without the State of New York;

   c. That respondent shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that respondent has paid all registration fees due and owing to the NYSED and respondent shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by respondent to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, no later than the first three months of the period of probation; and

   d. That respondent shall submit written proof to the New York State Department of Health,

addressed to the Director, Office of Professional Medical Conduct, as aforesaid, that 1) respondent is currently registered with the NYSED, unless respondent submits written proof to the New York State Department of Health, that respondent has advised DPLS, NYSED, that respondent is not engaging in the practice of respondent's profession in the State of New York and does not desire to register, and that 2) respondent has paid any fines which may have previously been imposed upon respondent by the Board of Regents; said proof of the above to be submitted no later than the first two months of the period of probation;

2. That respondent shall be subject to random selections of respondent's patient records, office records, and hospital charts to review respondent's professional performance;

3. That respondent shall, at respondent's expense, enroll in and diligently pursue a course of training in record-keeping, said course of training to be selected by respondent and previously approved, in writing, by the Director of the Office of Professional Medical Conduct, said course to be satisfactorily completed during the period of probation, such completion to be verified in writing and said verification to be submitted to the Director of the Office of Professional Medical Conduct;

4. If the Director of the Office of Professional Medical Conduct determines that respondent may have violated probation, the Department of Health may initiate a violation of probation proceeding and/or other proceedings.

ORDER OF THE COMMISSIONER OF
EDUCATION OF THE STATE OF NEW YORK

CLAUDE AMARNICK

CALENDAR NOS. 12295/10853

The University of the State of New York

IN THE MATTER

OF

CLAUDE AMARNICK
(Physician)

DUPLICATE ORIGINAL VOTE AND ORDER NOS. 12295/10853

Upon the report of the Regents Review Committee, a copy of which is made a part hereof, the record herein, under Calendar Nos. 12295/10853, and in accordance with the provisions of Title VIII of the Education Law, it was

VOTED (September 13, 1991): That, in the matter of CLAUDE AMARNICK, respondent, the recommendation of the Regents Review Committee be accepted as follows:

1. The hearing committee's recommendation and the Health Commissioner's recommendation as to the measure of discipline not be accepted; and
2. As an appropriate measure of discipline at this time and under the circumstances herein, respondent's license to practice as a physician in the State of New York be suspended for three years upon each specification of the charges of which respondent was previously found guilty, said suspensions to run concurrently, that execution of the last two years of said concurrent suspensions be stayed at which time respondent be placed on probation for two years under the terms prescribed by the Regents Review Committee;

and that the Commissioner of Education be empowered to execute,

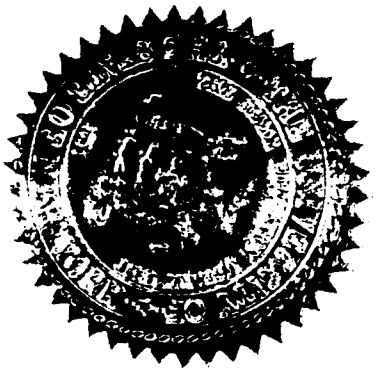
for and on behalf of the Board of Regents, all orders necessary to carry out the terms of this vote;

and it is

ORDERED: That, pursuant to the above vote of the Board of Regents, said vote and the provisions thereof are hereby adopted and **SO ORDERED**, and it is further

ORDERED that this order shall take effect as of the date of the personal service of this order upon the respondent or five days after mailing by certified mail.

IN WITNESS WHEREOF, I, Thomas Sobol, Commissioner of Education of the State of New York, for and on behalf of the State Education Department and the Board of Regents, do hereunto set my hand and affix the seal of the State Education Department, at the City of Albany, this 19th day of September, 1991.



Thomas Sobol
Commissioner of Education