POLICY STATEMENT

No one shall be permitted to commit any act that interferes with the educational process and/or the daily operation within the Upstate Medical University. Campus visitors who commit any act that interferes with the educational process and/or the daily operation within the Upstate Medical University shall be dealt with through campus and/or civil authorities. In compliance with Section 6450 of the Education Law of the State of New York, the "Rules for the Maintenance of Public Order" define the rules, conduct and procedures regarding peaceful assembly and the maintenance of order on campus.

REASON FOR POLICY

Free inquiry and free expression are indispensable to the objectives of a higher educational institution. Similarly, experience has demonstrated that the traditional autonomy of the educational institution (and the accompanying institutional responsibility of the maintenance of order) is best suited to achieve these objectives. These rules shall not be construed to prevent or limit communication between and among faculty, students and administration, or to relieve the institution of its special responsibility for self regulation in the preservation of public order. Their purpose is not to prevent or restrain controversy and dissent but to prevent abuse of the rights of others and to maintain that public order appropriate to a college or university campus without which there can be no intellectual freedom, and they shall be interpreted and applied to that end.

RULES FOR THE MAINTENANCE OF PUBLIC ORDER

Application of Rules

These rules shall apply to all state-operated institutions of the State University of New York. These rules may be supplemented by additional rules for the maintenance of public order heretofore or hereafter adopted for any individual institution approved and adopted by the State University Trustees and filed with the Commissioner of Education and board of Regents, but only to the extent that such additional rules are not inconsistent herewith. The rules hereby adopted shall govern the conduct of students, faculty and other staff, licensees, invitees, and all other persons, whether or not their presence is authorized upon the campus of any institution to which such rules are applicable and also upon or within any premises or property, under the control of such institutions, used in the teaching, research, administration, service, cultural, recreation, athletic, and other programs and activities, providing, however, that charges against any student for violation of these rules upon the premises of any such institution other than the one at which he is in attendance shall be heard and determined at the institution in which he is enrolled as a student.

Prohibited Conduct

No person, either singly or in concert with others, shall:

1. Willfully cause physical injury to any other person, nor threaten to do so for the purpose of compelling or inducing such other person to refrain from any act which they have a lawful right to do or to do any act which they have a lawful right not to do.
2. Physically restrain or detain any other person, nor remove such person from any place where they are authorized to remain.
3. Willfully damage or destroy property of the institution or under its jurisdiction or remove or use such property without authorization.
4. Without permission, express or implied, enter into any private office of an administrative officer, member of the faculty or staff member.
5. Enter upon and remain in any building or facility for any purpose other than its authorized uses or in such manner as to obstruct its authorized use by others.
6. Without authorization, remain in any building or facility after it is normally closed.
7. Refuse to leave any building or facility after being required to do so by an authorized administrative officer.
8. Obstruct the free movement of persons and vehicles in any place to which these rules apply.
9. Deliberately disrupt or prevent the peaceful and orderly conduct of classes, lectures and meetings or deliberately interfere with the freedom of any person to express their views, including invited guests.
10. Knowingly have in their possession upon any premises to which these rules apply, any rifle, shotgun, pistol, revolver, or other firearm or weapon without the written authorization of the chief administrative officer whether or not a license to possess the same has been issued to such person.
11. Willfully incite others to commit any of the acts herein prohibited with specific intent to procure them to do so.
12. Section 6450 (l) of the Education Law requires that the provisions of this Part which prohibit reckless or intentional endangerment to health or forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization shall be deemed to be part of the bylaws of all organizations which operate upon the campus of any state-operated institution or upon the property of any state-operated institution used for educational purposes. The statute further requires that each such organization shall review these bylaws annually with individuals affiliated with the organization.
Freedom of Assembly and Speech

Picketing and Demonstrations

1. No student, faculty, or other staff member or authorized visitor shall be subject to any limitation or penalty solely for the expression of their views nor for having assembled with others for such purpose. Peaceful picketing and other orderly demonstrations in public areas of grounds and buildings will not be interfered with. Those involved in picketing and demonstrations may not, however, engage in specific conduct in violation of the provisions of the preceding section.

2. In order to afford maximum protection to the participants and to the institutional community, each state-operated institution of the State University of New York shall promptly adopt and promulgate, and thereafter, continue in effect as revised from time to time, procedures appropriate to such institution for the giving of reasonable advance notice to such institution of any planned assembly, picketing or demonstration upon the grounds of such institution, its proposed locale and intended purpose provided, however, that the giving of such notice shall not be made a condition precedent to any such assembly, picketing, or demonstration and provided, further, that this provision shall not supersede nor preclude the procedures in effect at such institution for obtaining permission to use the facilities thereof.

Penalties

A person who shall violate any of the provisions of these rules or of the rules of any individual institution supplementing or implementing these rules shall:

1. If they are a licensee or invitee, have their authorization to remain upon the campus of other property withdrawn and shall be directed to leave the premises. In the event of their failure or refusal to do so shall be subject to ejection.
2. If they are a trespasser or visitor without specific license or invitation, be subject to ejection.
3. If they are a student, be subject to expulsion or such lesser disciplinary action as the facts of the case may warrant, including suspension, probation, loss of privileges, reprimand, or warning.
4. If they are a faculty member having a term or continuing appointment, be guilty of misconduct and be subject to dismissal or termination of their employment or such lesser disciplinary action as the facts may warrant including suspension without pay, or censure.
5. If they are a staff member in the classified service of the civil service, described in Section 75 of the Civil Service Law, be guilty of misconduct, and be subject to the penalties prescribed in said section.
6. If they are a staff member other than one described in paragraph (4) and (5), be subject to dismissal, suspension without pay, or censure.

Procedure

1. The chief administrative officer or their designee shall inform any licensee or invitee who shall violate any provisions of these rules or the rules of any individual institution supplementing or implementing these rules that their license or invitation is withdrawn and shall direct them to leave the campus or other property of the institution. In the event of their failure or refusal to do so, such officer shall cause their ejection from such campus or property.
2. In the case of any other violator, who is neither a student nor faculty or another staff member, the chief administrative officer or their designee shall inform them that they are not authorized to remain on the campus or other property of the institution and direct them to leave such premises. In the event of their failure or refusal to do so such officer shall cause them ejection from such campus or property. Nothing in this subdivision shall be construed to authorize the presence of any such persons at any time prior to such violation nor to affect their liability to prosecution for trespass or loitering as prescribed in the Penal Law of the State of New York.
3. In the case of a student, charges for violation of any of the rules of any individual institution supplementing or implementing these rules shall be presented and shall be heard and determined in the manner hereinafter provided in Section 9 (Notice, Hearing, and Determination of Charges Against Students) of these rules.
4. In the case of a faculty member having a continuing or term appointment, charges of misconduct in violation of these rules, or of any individual institution supplementing or implementing these rules, shall be made, heard, and determined in accordance with Article XIV (Termination of Service), Title D (Termination for Cause) of the Policies of the Board of Trustees of the State University of New York.
5. In the case of a staff member who holds a position in the classified service of the civil service, described in Section 75 of the Civil Service Law, charges of misconduct in violation of these rules or of the rules of any individual institution supplementing or implementing these rules shall be made, heard, and determined as prescribed in that section.
6. Any other faculty or staff member who shall violate any provision of these rules or the rules of any individual institution supplementing or implementing these rules shall be dismissed, suspended, or censured by the appointing authority prescribed in the policies of the Board of Trustees of the State University of New York.

Enforcement Program

1. The chief administrative officer shall be responsible for the enforcement of these rules or the rules of any individual institution supplementing or implementing these rules and they shall designate the other administrative officers who are authorized to take action in accordance with such rules when required or appropriate to carry them into effect.
2. It is not intended by a provision herein to curtail the right of students, faculty, or staff to be heard upon any matter affecting them in their relations with the institution. In the case of any apparent violation of these rules by such persons which, in the judgment of the chief administrative officer or their designee, does not pose any immediate threat of injury to person or property, such officer may make reasonable effort to learn the cause of the conduct in question and to persuade those engaged therein to desist and to resort to permissible methods for the resolution of any issues which may be present. In doing so, such office shall warn such persons of the consequences of persistence in the prohibited conduct, including their ejection from any premises of the institution where their continued presence and conduct is in violation of these rules or the rules of any individual institution supplementing or implementing these rules.
3. In any case where violation of these rules or the rules of any individual institution supplementing or implementing these rules does not cease after such warning or in other cases of willful violation of such rules, the chief administrative officer or their designee shall cause the ejection of the violator from any premises which they occupy in such violation and shall initiate disciplinary action as herein before provided.
4. The chief administrative officer or their designee may apply to the public authorities for any aid which they deem necessary in causing the ejection of any violator of these rules or the rules of any individual institution supplementing or implementing these rules and they may request the State University Council to apply to any court of appropriate jurisdiction for an injunction to restrain the violation or threatened violation of such rules.

Communication
In matters of the sort to which these rules are addressed, full and prompt communication among all components of the institutional community, faculty, students, and administration, is highly desirable. To the extent that time and circumstances permit, such communication should precede the exercise of the authority, discretion, and responsibilities granted and imposed in these rules. To these ends, each state-operated institution of the State University shall employ such procedures and means, formal and informal, as will promote such communication.

Notice, Hearings, and Determination of Charges Against Students
1. The term “chief administrative officer”, as used in these rules, shall be deemed to mean and include any person authorized to exercise the powers of that office during a vacancy therein or during the absence or disability of the incumbent.

2. Whenever a complaint is made to the chief administrative officer of any state-operated institution of the State University of New York of a violation by a student, or students, of these rules or the rules of any individual institution supplementing or implementing these rules, or whenever they have knowledge that such a violation may have occurred, they shall cause an investigation to be made and the statements of the complainants, if any, or of any other persons having knowledge of the facts, reduced to writing. If they are satisfied from such investigation and statements that there is reasonable ground to believe that there has been such a violation they shall prepare or cause to be prepared charges against the student or students alleged to have committed such violation which shall state the provision prescribing the offense and shall specify the ultimate facts alleged to constitute such offense.

3. Such charges shall be in writing and shall be served on the student or students named therein by delivering the same to them personally, if possible, or, if not, by mailing a copy of such charges by registered mail to such student or students at their usual place or places of abode while attending college and also to their home address or addresses, if different.

4. The notice of charges so served shall fix a date for hearing thereon not less than ten nor more than fifteen days from the date of service which shall be the date of mailing where necessary to effect service by mail. Failure to appear in response to the charge on the date fixed for hearing, unless there has been a continuance for good cause shown, shall be deemed to be an admission of the facts stated in such charges and shall warrant such action as may then be appropriate thereon. Before taking such action the Hearing Committee, hereinafter referred to, shall give notice to any student who has failed to appear, in the manner prescribed in paragraph (c) of its proposed findings and recommendations to be submitted to the chief administrative officer and shall so submit such findings and recommendations ten days thereafter unless the student has meanwhile shown good cause for their failure to appear, in which case a date for hearing shall be fixed.

5. Upon demand of any time before or at the hearing the student charged or their representative, duly designed, shall be furnished a copy of the statements taken by the chief administrative officer in relation to such charges and with the names of any other witnesses who will be produced at the hearing in support of the charges, provided however, that this shall not preclude the testimony of witnesses who were unknown at the time of such demand.

6. The chief administrative officer may, upon the service of charges, suspend the student named therein, pending the hearing and determination thereof, whenever, in their judgment, the continued presence of such student would constitute a clear danger to themselves or to the safety of persons or property on the premises of the institution or would pose an immediate threat of disruptive interference with the normal conduct of the institution’s activities and functions, provided, however, that the chief administrative officer shall grant an immediate hearing on request of any student so suspended with respect to the basis for such suspension.

7. There shall be constituted at each state–operated institution a Hearing Committee to hear charges against students of violation of these rules or of the rules of any individual institution supplementing or implementing these rules. Such committee shall consist of three members of the administrative staff and three members of the faculty, designated by the chief administrative officer, and three students who designated by the chief administrative officer, and three students who shall be designated by the members named by the chief administrative officer. Each such member shall serve until their successor or replacement has been designated. No member of the committee shall serve in any case where they are or has been directly involved in the events upon which the charges are based. In order to provide for cases where there may be such a disqualification and for cases of absence or disability, the chief administrative officer shall designate an alternate member of the administrative staff and an alternate member of the faculty, and their principal designee shall designate an alternate student member, to serve in such cases. Any five members of the committee may conduct hearings and make findings and recommendations as herein provided. At any institution where the chief administrative officer determines that the number of hearings which will be required to be held is, or may be, so great that they cannot otherwise be disposed of with reasonable speed, they may determine that the Hearing Committee shall consist of six members of the administrative staff and six members of the faculty to be designated by them and of six students who shall be designated by the members so designated by them. In such event the chief administrative officer shall designate one of such members as chairperson who may divide the membership of the committee into three divisions each consisting of two members of the administrative staff, two faculty members and two students and may assign charges among such divisions for hearing. Any four members of each such division may conduct hearings and make recommendations as hereinafter provided.

8. The Hearing Committee shall not be bound by technical rules of evidence but may hear or receive any testimony or evidence which is relevant and material to the issues presented by the charges and which will contribute to a full and fair consideration thereof and determination thereon. A student against whom the charges are made may appear by and with representatives of their choice. They may confront and examine witnesses against them and may produce witnesses and documentary evidence on their own behalf. There may be present at the hearing: the student charged and their representatives and witnesses; other witnesses; representatives of the institutional administration and, unless the student shall request a closed hearing, such other members of the institutional community or other persons, or both, as may be admitted by the Hearing Committee. A transcript of the proceedings shall be made.
Within twenty days after the close of a hearing, the Hearing Committee shall submit a report of its findings of fact and recommendations for disposition of the charges to the chief administrative officer, together with a transcript of the proceedings, and shall at the same time transmit a copy of its report to the student concerned or their representative. Within ten days thereafter the chief administrative officer shall make their determination thereon. Final authority to dismiss the charges or to determine the guilt of those against whom they are made and to expel, suspend, or otherwise discipline them shall be vested in the chief administrative officer. If they shall reject the findings of the Hearing Committee in whole or in part they shall make new findings which must be based on substantial evidence in the record and shall include them in the notice of their final determination which shall be served upon the student or students with respect to whom it is made.

Rules for Organizations
1. Organizations which operate upon the campus of any state-operated institution or upon the property of any state-operated institution used for educational purposes shall be prohibited from authorizing the conduct described in section 6450 (1) of the Education Law (see 4. below)
2. Procedure. The chief administrative officer at each state-operated institution shall be responsible for the enforcement of this section, and, as used herein, the term chief administrative officer shall include any designee appointed by said officer.
   a. Whenever the chief administrative officer has determined on the basis of a complaint or personal knowledge that there is reasonable grounds to believe that there has been a violation of this section by any organization, the chief administrative officer shall prepare or cause to be prepared written charges against the organization which shall state the provision prescribing the conduct and shall specify the ultimate facts alleged to constitute such violation.
   b. Such written charges shall be served upon the principal officer of the organization by registered or certified mail, return receipt requested, to the organization’s current address and shall be accompanied by a notice that the organization may respond in writing to the charges within ten days of receipt of said notice. The notice of the charge so served shall include a statement that the failure to submit a response within ten days shall be deemed to be an admission of the facts stated in such charges and shall warrant the imposition of the penalty described in subdivision (3) herein shall be submitted to the chief administrative officer and shall constitute the formal denial or affirmation of the ultimate facts alleged in the charge. The chief administrative officer may allow an extension of the ten day response period.
   c. Upon written request by an authorized representative of the organization, the chief administrative officer shall provide the representative organization an opportunity for a hearing. A hearing panel designated by the chief administrative officer shall hear or receive any testimony or evidence which is relevant and material to the issues presented by the charge and which will contribute to a full and fair consideration thereof and determination thereon. The organization’s representative may confront and examine witnesses against it and may produce witnesses and documentary evidence on its behalf. The hearing panel shall submit written findings of the fact and recommendations for disposition of the charge to the chief administrative officer within twenty days after the close of the hearing.
   d. Final Authority to dismiss the charges or to make a final determination shall be vested in the chief administrative officer. Notice of the decision shall be in writing; shall include reasons supporting such decision; and shall be served on the principal officer of the organization by mail in the manner described in paragraph (2) above within a reasonable time after such decision is made.
3. Penalties. Any organization which authorizes the prohibited conduct described in subdivision (1) of section 535.3 shall be subject to the recission of permission to operate upon the campus or upon the property of the state-operated institution used for educational purposes. The penalty provided in this subdivision shall be in addition to any penalty which may be impose pursuant to the Penal Law and any other provision of law, or to any penalty to which an individual may subject pursuant to this part.
4. Bylaws. Section 6450 (1) of the Education Law requires that the provisions of the part which prohibits reckless or intentional endangerment to health, or forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization shall be deemed to be part of the bylaws of all organizations, which operate upon the campus of any state-operated institution or upon the property of any state-operated institution or educational purposes. The statute further requires that each such organization shall review these bylaws annually with individuals affiliated with the organization.
5. Distribution. Copies of the provisions of the part which prohibit reckless or intentional endangerment of health, or forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization, shall be given to all students enrolled in each state-operated institution.

Procedures for the Giving of Reasonable Advance Notice to this Institution of any Planned Assembly, Picketing, or Demonstration upon the Grounds of this Institution Statement of Purpose
Nothing here intended, nor shall be construed, to limit or restrict the freedom of speech nor peaceful assembly. Free inquiry and free expression are indispensable to the objectives of a higher educational institution. No student, faculty, or other staff member or authorized visitor shall be subject to any limitation or penalty solely for the expression of their views nor for having assembled with others for such purpose. Peaceful picketing and other orderly demonstrations in public areas of ground and building will not be interfered with. Those involved in picketing and demonstrations may not, however, engage in specific conduct in violation of college rules, regulations, or policy.

The following procedures are adopted and promulgated in compliance with Section 4(b) (Freedom of Speech and Assembly: Picketing and Demonstrations) of the Rules and Regulations for the Maintenance of Public Order on Premises of State-Operated Institutions of the State University of New York, which is officially Park 535.4 (b) of Chapter V of Title 8 of the Official compilation of Codes, Rules and Regulations of the State of New York in order to afford maximum protection to the institutional community and to the participants in any planned assembly, picketing, or demonstration; provided, however, that the giving of the notice required in these procedures shall not be a condition precedent to any such assembly, picketing, or demonstration, and provided, further, that these procedures shall neither supersede nor preclude the procedures in effect at this institution for obtaining permission to use the facilities thereof.
These procedures shall not be construed to prevent or limit communication between and among faculty, students, and administration. Their purpose is not to prevent or restrain controversy and dissent but to prevent abuse of the rights of others and maintain the public order appropriate to a college or university campus without which there can be no intellectual freedom, and they shall be interpreted and applied to that end.

**Notice Required**

Advance notice to this institution of any planned assembly, picketing, or demonstration upon the grounds of this institution must be submitted in writing to the Dean of Student Affairs no later than 3:00 p.m. on the last business day prior to the planned assembly, picketing, or demonstration; provided, however, that in those cases in which the procedures in effect at this institution for obtaining permission to use the facilities thereof require the completion and timely submission of the proper room reservation form, said completion and timely submission of room reservation form shall constitute compliance with the requirements of these procedures.

Upon receipt of the notice required by this Section of these procedures, the Dean of Student Affairs shall promptly notify such other college offices and/or personnel of the content of said notice as shall be deemed necessary and appropriate under all the facts and circumstances then appearing.

**Contents of Notice** With respect to the planned assembly, picketing, or demonstration, said notice shall clearly set forth:

1. the date and time thereof;
2. the proposed locale thereof;
3. the intended purpose thereof;
4. the anticipated duration thereof;
5. the anticipated number of people taking part therein; and
6. the name(s), local address(es), and telephone number(s) of the sponsor(s) and/or organizer(s) hereof.

**Definitions**

*Grounds of this Institution*: as used in these procedures, the phrase "grounds of this institution" shall include the campus of this institution and also any other premises or property, under the control of this institution used in its teaching, research, administration, service, cultural, recreational, athletic, or other programs and activities as provided in Section 2 (Application of Rules) of the Rules and Regulations for the Maintenance of Public Order on Premises of State-Operated Institutions of the State University of New York (Part 535.2 of Chapter V of Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York).

*Business Day*: as used in these procedures, the phrase, "business day" shall exclude all Saturdays and Sundays, all national holidays, and all days recognized and observed by the Civil Service Employees Association as vacation days for Civil Service employees.

**Penalties and Procedures**

Any person who shall violate, or who shall fail or refuse to meet or comply with, any of the provisions of these procedures shall be subject to the penalties and procedures provided in Section 5 (Penalties) and Section 6 (Procedure) of the Rules and Regulations for the Maintenance of Public Order on Premises of State-Operated Institutions of the State University of New York (Part 535.5 and 535.6 of Chapter V of Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York).

**RESPONSIBILITIES**

Student policies and their effectiveness are reviewed annually as the Student Handbook is updated.