CUNY MAINTENANCE OF PUBLIC ORDER POLICY

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HR.038 - CUNY Maintenance of Public Order Policy

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6.4 Maintenance of Public Order

The Board of Trustees in compliance with Chapter 191 of the Laws of 1969 (Henderson Act) adopts the following rules and regulations for the maintenance of public order on college campuses and other college property used for educational purposes (BTM,1990,06-25,006, C):

6.4.1 Rules Governing Members of the Academic Community and Visitors

A member of the academic community shall not intentionally obstruct and/or forcibly prevent others from the exercise of their rights. Nor shall he or she interfere with the institution's educational processes or facilities, or the rights of those who wish to avail themselves of any of the institution's instructional, personal, administrative, recreational, and community services. (BTM,1990,06-25,006, C)

Individuals are liable for failure to comply with lawful directions issued by representatives of the University/college when they are acting in their official capacities. Members of the academic community are required to show their identification cards when requested to do so by an official of the college. (BTM,1990,06-25,006, C)

Unauthorized occupancy of University/college facilities or blocking access to or from such areas is prohibited. Permission from appropriate college authorities must be obtained for removal, relocation and use of University/college equipment and/or supplies. (BTM,1990,06-25,006, C)

Theft from or damage to University/college premises or property, or theft of or damage to property of any person on University/college premises is prohibited. (BTM,1990,06-25,006, C)

Each member of the academic community or an invited guest has the right to advocate his or her position without having to fear abuse—physical, verbal, or otherwise—from others supporting conflicting points of view. Members of the academic community and other persons on the college grounds shall not use language or take actions reasonably likely to provoke or encourage physical violence by demonstrators, those demonstrated against, or spectators. (BTM,1990,06-25,006, C)

Action may be taken against any and all persons who have no legitimate reason for their presence on any campus within the University/college, or whose presence on any such campus obstructs and/or forcibly prevents others from the exercise of their rights, or whose presence interferes with the institution's educational processes or facilities, or the rights of those who wish to avail themselves of any of the institution's instructional, personal, administrative, recreational, and community services. (BTM,1990,06-25,006, C)

Disorderly or indecent conduct on University/college-owned or -controlled property is prohibited. (BTM,1990,06-25,006, C)

No individual shall have in his or her possession a rifle, shotgun or firearm or knowingly have in his or her possession any other dangerous instrument or material that can be used and is intended to inflict bodily harm on an individual or damage upon a building or the grounds of the University/college without the written authorization of such educational institution. Nor shall any individual have in his or her possession any other instrument or material that can be used and is intended to inflict bodily harm on any individual or damage upon a building or the grounds of the University/college. (BTM,1990,06-25,006, C)
Any action or situation that recklessly or intentionally endangers mental or physical health or involves the forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization is prohibited. (BTM,1990,06-25,006, C)

The unlawful manufacture, distribution, dispensation, possession, or use of illegal drugs or other controlled substances by University students or employees on University/college premises, or as part of any University/college activities is prohibited. Employees of the University must also notify the college personnel director of any criminal drug statute conviction for a violation occurring in the workplace not later than five days after such conviction. (BTM,1990,06-25,006, C)

The unlawful possession, use, or distribution of alcohol by students or employees on University/college premises or as part of any University/college activities is prohibited. (BTM,1990,06-25,006, C)

6.4.2 Sanctions

6.4.2.1 Definitions

a) Admonition: An oral statement to the offender that he or she has violated university rules
b) Warning: Notice to the offender, orally or in writing, that continuation or repetition of the wrongful conduct within a period of time stated in the warning, may be cause for more severe disciplinary action
c) Censure: Written reprimand for violation of a specified regulation, including the possibility of more severe disciplinary sanctions in the event of a conviction for the violation of any University regulation within a period stated in the letter of reprimand
d) Disciplinary Probation: Exclusion from participation in privileges or extracurricular University activities as set forth in the notice of disciplinary probation for a specified period of time
e) Restitution: Reimbursement for damage to or misappropriation of property. Reimbursement may take the form of appropriate service to repair or otherwise compensate for damages
f) Suspension: Exclusion from classes and other privileges or activities, as set forth in the notice of suspension, for a definite period of time
g) Expulsion: Termination of student status for an indefinite period. The conditions of readmission, if any is permitted, shall be stated in the order of expulsion
h) Complaint to Civil Authorities
i) Ejection

Admonition, warning, censure, and disciplinary probation shall be in addition to any other penalty provided by law or The City University. (BTM,1990,06-25,006, C)

6.4.2.2 Students

Any student engaging in any manner in conduct prohibited under this policy shall be subject to the following range of sanctions defined in this policy (BTM,1990,06-25,006, C):

a) Admonition
b) Warning
c) Censure
d) Disciplinary probation
c) Restitution
f) Suspension
g) Expulsion
h) Ejection
i) Arrest by the civil authorities

6.4.2.3 Faculty and Staff

Any tenured or non-tenured faculty member, or other member of the instructional staff, or member of the classified staff engaging in any manner in conduct prohibited under this policy shall be subject to the following range of penalties (BTM,1990,06-25,006, C):

a) Warning
b) Censure
c) Restitution
d) Fine not exceeding those permitted by law or by the Bylaws of the University
e) Suspension with or without pay pending a hearing before an appropriate college authority
f) Dismissal after a hearing
g) Ejection
h) Arrest by the civil authorities

For engaging in the unlawful manufacture, distribution, dispensation, possession, or use of illegal drugs or other controlled substances on University/college premises, or as part of any University/college activities, such an individual may, alternatively, be required to participate satisfactorily in an appropriately licensed drug treatment or rehabilitation program. A tenured or non-tenured faculty member, or other member of the instructional staff, or member of the classified staff charged with engaging in any of these activities shall be entitled to be treated in accordance with applicable provisions of the Education Law or the Civil Service Law, or the applicable collective bargaining agreement, or the Bylaws or written policies of the University. (BTM,1990,06-25,006, C)

6.4.2.4 Visitors

Any visitor, licensee, or invitee, engaging in any manner in conduct prohibited under this policy shall be subject to ejection, and/or arrest by the civil authorities. (BTM,1990,06-25,006, C)

6.4.2.5 Organizations

Any organization that authorizes the conduct prohibited under this policy shall have its permission to operate on campus rescinded. (BTM,1990,06-25,006, C)

6.4.3 Dissemination of Rules and Regulations
A copy of these rules and regulations is filed with the Regents of the State of New York and with the Commissioner of Education. These rules and regulations are to be incorporated in each college bulletin. (BTM,1990,06-25,006, C)

6.4.4 Security Services On Campuses

All security and safety services provided on college-owned or leased facilities shall be the responsibility of the college President. (BTM,1994,03-21,004, K)

College responsibility for security and public safety applies to any building or property owned or controlled by the college and used by the college in direct support of, or related to, its educational purposes, and any building or property owned or controlled by student organizations recognized by the college. This includes student union buildings and other entities that bear the name of the college. (BTM,1994,03-21,004, K)

All security or security related functions at events in college facilities, such as performances, speeches, conferences, meetings, classes, and other special events, shall be managed by the college. No private security personnel, such as bodyguards or escorts acting in a security capacity—with the exception of security guards contracted for by the college—shall perform any campus security or security related functions. The use of armed private security guards is prohibited. (BTM,1994,03-21,004, K)

After consultation with the campus faculty and student constituencies, as well as with the appropriate University offices, the colleges are to establish security and safety guidelines for persons or organizations appearing at campus events or using campus facilities, consistent with this policy. Contracts for speakers or space rentals should contain conditions whereby events may be canceled or payments or deposits may be forfeited for failure to comply with college security policies and procedures. Additionally, any person or organization violating such an agreement may be denied future access to any University campus or related facility in addition to any other applicable college or lawful sanctions. (BTM,1994,03-21,004, K)

This policy does not apply to federal, state, county, or municipal sworn law enforcement officers, or to foreign or international law enforcement personnel who are officially charged with the responsibility of providing security for particular individuals, or who are involved in a law enforcement capacity—e.g. crowd control in conjunction with the security officers of the college. (BTM,1994,03-21,004, K)

This policy, which applies to all facilities and events whether fees are paid to speakers or funded through student fees, is not intended to limit or abridge individual access to or attendance at college events. (BTM,1994,03-21,004, K)

In the event that private security is necessary and requires an exception to this policy, such exceptions must be approved by the college President and the Chancellor and reported to the Board of Trustees' Committee on Fiscal Affairs, Facilities, and Contract Review at the earliest practicable time. (BTM,1994,03-21,004, K)

6.4.5 Campus Peace Officers
The Board of Trustees of the University has the power to appoint campus officers who shall have the powers of peace officers as set forth in the Criminal Procedure Law within the geographical area of the City of New York. The powers of such peace officers include making arrests, searches and issuing appearance tickets, but not the power to carry firearms. It is appropriate to authorize the Chancellor to withhold these powers of peace officers when they are undergoing background checks and training and to suspend them while they are under investigation for misconduct or poor performance, under a disciplinary penalty, and other circumstances. (BTM,2004,11-29,009,___)

The Board of Trustees authorizes the Chancellor or his or her designee to withhold and make the initial designation, and to suspend and reinstate the authority and powers as peace officers—under the Criminal Procedure Law of New York State—of campus peace officers who have been appointed by the Board of Trustees. (BTM,2004,11-29,009,___)

6.4.6 Outside Law Enforcement Intervention

A college president, or his or her designee, shall consult with the Chancellor or his or her designee prior to involving law enforcement agencies during a campus protest, including summoning the police, except in cases of immediate danger to personal safety or to property. In considering such action, the President, or his or her designee, shall make all possible efforts to consult with the student body president(s) and the chair of the faculty governance body. The Chancellor shall endeavor to consult with the student trustee on the President's intent to call the police. (BTM,1991,01-28,007, A)

The Chancellor shall develop a process to be followed by the colleges and the central office prior to calling the police. (BTM,1991,01-28,007, A)

6.4.7 Violent Felony Offenses and Missing Students

Each college shall adopt and implement a plan providing for the investigation of any violent felony offense occurring at, or, on the grounds of each such institution, and providing for the investigation of a report of any missing student who resides in a facility owned or operated by the college. Such plans shall provide for the coordination of the investigation of such crimes and reports with the New York City Police Department. (BT1999-11-22,006, A)

The Chancellor is authorized to execute such agreements as are necessary with the New York City Police Department providing for the prompt investigation of such violent felony offenses and missing student reports. The plans of each college shall include compliance with the terms of such agreement(s). (BT1999-11-22,006, A)

Each college plan must provide for the coordination of the investigation of such reports between the University Public Safety Peace Officer Service and the New York City Police Department in accordance with a written agreement. The University intends to have a master agreement for all of the University colleges with the Police Department. Although the law requires that college plans also include provisions for the reporting and investigation of missing students, this is limited to students residing in dormitories (i.e., facilities owned or operated by the college). (BT1999-11-22,006, A)