

 <p>Category: Student Affairs</p> <p>Responsible Office: <a href="#">University Life</a></p>	<p><b>Policy Title:</b> Student Conduct Regulations</p> <p>Document Number: 3654</p> <p>Effective Date: October 27, 1982</p> <p>This policy item applies to: State-Operated Campuses</p>
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## Summary

This policy sets forth the guidelines for state-operated campuses of the State University of New York (University) to follow in their regulation of student conduct and behavior. It also discusses the application of the University's Board of Trustees' rules of the maintenance of public order found in 8 NYCRR Part 535 to student disciplinary cases.

## Policy

### In General

NYS Education Law §356 authorizes the councils at the University's state-operated campuses, subject to the supervision of the University's trustees, to make regulations governing student conduct and behavior ("student conduct regulations"). Pursuant to 8 NYCRR Part 500, the trustees have directed the councils to consult with the president and with faculty members and students to promulgate or review and ratify the student conduct regulations. Such regulations should exist on every campus.

Many provisions of the regulations will duplicate portions of the trustees' rules of the maintenance of public order ("public order rules") found in 8 NYCRR Part 535 and many will prohibit forms of conduct which are not covered in the public order rules as, for example, theft, falsification of records and academic dishonesty. (See section below entitled, "Application of the Maintenance of Public Order Rules to Student Disciplinary Cases").

It is important to understand that student conduct regulations are not valid unless they have been adopted by the college council in accordance with the trustee policy. Moreover, since standards of due process of law frequently change, campus presidents may wish to consult with the office of the University counsel regarding the validity of such regulations in the light of most recent judicial decisions. Consultation may be particularly desirable in light of case law which has increased the risk that school officials may be held personally liable for violating the constitutional rights of students.

### Chancellor's Guidelines

Pursuant to the authority delegated by the Trustees, the chancellor established the following guidelines for councils to follow in promulgating and amending student conduct regulations.

### **The Manner in Which the Regulations are Developed**

The regulations shall recognize that students have, within the law, the right of free expression and advocacy and that the University seeks to encourage and preserve freedom of expression and inquiry within the entire University. The regulations shall also recognize the obligation of students to conduct themselves lawfully, maturely and responsibly and shall take into account the responsibility of the University to maintain standards of student conduct essential to the orderly conduct of the University's function as an educational institution. The ways in which students or student groups may use the name of the University or identify their association with it shall also be provided for in the regulations.

### **Recognition of the Rights and Responsibilities of Students**

In order to encourage, maintain and assure adequate communication with and participation by the administration, faculty and students at the respective campuses, the council shall act after consultation with the president of its campus and with representatives of faculty and students in promulgating or in reviewing and ratifying regulations on student conduct. In the regulations, the council may confer upon student groups, faculty committees, administrative officers, or combinations thereof appropriate responsibilities concerning student conduct and behavior. Authority for the administration of regulations at a campus shall rest with the campus president.

### **The Need for Due Process**

Where regulations govern student disciplinary proceedings, they should reflect the basic concepts of procedural fairness and should make certain that no student shall be expelled or suffer other major disciplinary action as defined by the council for any offense, other than failure to meet required academic standing, without being first given appropriate advance notice of the charges against him or her and a hearing before an impartial body or officer as established by the council or president at such campus. While a formal judicial hearing is not required, the hearing should be of such nature as to give the hearing body or officer, as the case may be, full opportunity to hear both sides of the issue in considerable detail. The student may waive in writing the requirements of a hearing.

### **Availability of the Rules and Regulations**

The regulations established by a council at a particular campus, in the manner described above, shall be published and made available to the whole academic community of that campus and shall be given full force and effect as rules and regulations of the University applicable to that campus.

### **Periodic Review by the Chancellor**

The chancellor shall, from time to time, review the regulations established by the councils for consistency with rules and policies of the University's Trustees and shall report thereon to the trustees at such time and in such manner as it shall direct.

### **Use of Narcotics**

The regulations on each campus shall expressly forbid the illegal use of narcotics and dangerous drugs on campus, and the regulations further shall make clear that the institution, through cooperation with appropriate health and law enforcement agencies, will provide no sanctuary for those who violate state and federal narcotics laws.

### **Application of the Maintenance of Public Order Rules to Student Disciplinary Cases**

A federal court decision supports the view that the Trustees' public order rules found in 8 NYCRR Part 535 do not necessarily preempt student conduct regulations in every instance where student behavior could be punished under either set of rules or regulations. The decision clearly indicates, however, that the campus may not: (1) discipline students without a consistent and complete adherence to the public order rules or student conduct regulations, (2) punish a student twice for the same offense by processing a case under both sets of rules, or (3) initiate proceedings under one set of rules and then file charges based on the other, even though it may be contemplated that any penalty to be imposed by the first tribunal would be superseded by the second.

The most difficult question is whether an offense should be treated under the public order rules or the student conduct regulations in a specific case. The campus student conduct regulations may be more suitable than the public order rules for resolution of cases involving minor and isolated incidents of physical violence or vandalism. When cases of that nature arise, the campus would best rely on its student conduct regulations. In other cases, where the public order rules are applicable (e.g., obstructing free movement of persons; refusal to leave school buildings, etc.), and in any case falling under the coverage of the rules where an expulsion or an immediate suspension is contemplated, the public order rules might best be applied.

Any offense against the criminal law of the state may be prosecuted by law enforcement authorities independent of

any internal university proceedings, and in addition to any University sanction.

On October 27, 1982, the public order rules were amended to permit the delegation by the campus president or chief administrative officer of some or all of the responsibilities for administering these rules as applied to students; and in those special circumstances where suspension is authorized pending the hearing and determination of charges, to authorize the lesser sanction of a limited suspension of a student from a portion of the premises or facilities of the campus. These revisions to the public order rules, specifically, 8 NYCRR §535.9, provide increased administrative flexibility in this area of campus operations. Further, the changes are consistent with other procedural provisions of the public order rules affecting organizations and non-students.

Campus publications incorporating student conduct regulations should include the full text of the complete set of public order rules found in 8 NYCRR Part 535.

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## Definitions

**Chief Administrative Officer** - includes any person authorized to exercise the powers of that office during a vacancy therein or during any absence or disability of the incumbent and for purposes of 8 NYCRR §535.9, governing student disciplinary proceedings, also includes any designee appointed by said officer.

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## Other Related Information

There is no related information relevant to this policy.

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## Procedures

There are no procedures relevant to this policy.

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## Forms

There are no forms relevant to this policy.

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## Authority

The following link to FindLaw's [New York State Laws](#) is provided for users' convenience; it is not the official site for the State of New York laws.

[NYS Education Law §356\(3\)\(g\)](#) (Councils of state-operated institutions; powers and duties)

In case of questions, readers are advised to refer to the New York State Legislature site for the menu of [New York State Consolidated](#).

[Board of Trustees Established Guidelines - Student Conduct \(8 NYCRR Part 500\)](#)

[Board of Trustees Rules - Maintenance of Public Order \(8NYCRR Part 535\)](#)

State University of New York Board of Trustee Resolution 82-261, adopted October 27, 1982.

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## History

Memorandum to presidents from the offices of the vice chancellor for employee relations and educational services and University Counsel and vice chancellor for Legal Affairs, 82-13, dated December 13, 1982.

State University of New York Board of Trustee Resolution 82-261, adopted October 27, 1982, amended the public order rules.

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Memorandum to presidents from the office of the University counsel and vice chancellor for legal affairs, 77-11, dated May 23, 1977.

State University of New York Board of Trustee Resolution 67-157, adopted May 11, 1967, established guidelines for the regulation of student conduct and behavior.

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### **Appendices**

There are no appendices relevant to this policy.