



Vice President for Student Affairs

POLICIES AND PROCEDURES

Administrative Residence Hall Room Search Policy

Working Draft Policy 11-04-09

POLICY:

Under certain limited circumstances, residence hall rooms may be searched, including a beyond plain sight search, to quickly diffuse or eliminate a situation that poses serious risk to students and the College community. This policy provides a mechanism for approving and conducting such searches.

SCOPE:

This policy applies to all Utica College residence halls and to all off-campus residences managed by the Office of Residence Life.

REASON FOR POLICY:

This policy provides a mechanism to permit specified College staff to go beyond the College's normal right to enter residence hall rooms to check general conditions, to perform custodial service, to make repairs, to clear a space for a new resident, to handle emergencies, to ensure compliance with College rules and regulations, or if there is reason to believe that a health or fire hazard exists. Entry under the above conditions will not be used as a means to thoroughly search a room (i.e. beyond plain sight) for prohibited items, with the exceptions of items in plain sight as noted in Utica College's residence hall contract.

Students have an expectation of privacy that extends to the premises occupied by students and the personal possessions of students. Occasionally, however, in order to maintain the safety and security of our students, as well as the safety of our employees and guests, quick action to enter and search a room, including conducting a search that may include a "beyond in plain sight search," becomes necessary to quickly diffuse or eliminate a situation that poses serious risk to students and the College community. This policy delineates a procedure for the rare situations where this action is a necessity, while preserving as much as possible the integrity of individuals and their rights to privacy. These procedures follow accepted methods supported by residence life, student discipline, campus safety, and other related professional organizations.

Where there is legitimate reason, College officials will search a room with the consent of the occupying student or with written authorization of the appropriate College administrators. "Legitimate reason" means that reasonable cause exists that the student is participating in an illegal activity and/or an activity that will endanger the student, other members of the College community, or College property.

DEFINITIONS:

Plain sight search – Employees entering the room may look around to observe items that may have been left in plain sight that can be observed without moving any furniture, opening drawers, dressers, closets, suitcases, bags, etc.

Beyond plain sight search – In addition to observing items that may have been left in plain sight that can be observed without moving any furniture or items, furniture or items that may conceal item(s) sought such as drawers, dressers, closets, suitcases, bags, etc. may be opened and searched to a reasonable degree, as much as possible without causing damage to any such items. Searches conducted under the authorization of an Administrative Residence Hall Room Search do authorize a “beyond plain sight search,” and such searches may be conducted with or without the presence, approval, or consent of the occupant(s).

PROCEDURE:

Process for requesting an administrative residence hall room search:

- All requests for administrative residence hall room searches (Appendix A) will be submitted for approval to the Vice President for Student Affairs and Dean of Students or the Associate Dean of Students by the Director of Residence Life or his/her designee after consultation with the Director of Campus Safety or his/her designee. (Local police or other law enforcement agencies seeking to search a residence hall room must legally obtain a search warrant.)
- A student’s room may be thoroughly searched (i.e. beyond plain sight) only if a student and/or staff member provides concrete information that the search of a particular room is likely to yield evidence of a serious violation of community standards by one of the students residing in that room or a person using that room as a guest. “**Concrete information**,” for the purposes of this policy, includes information known from direct observation or information from a reliable source. There must be “reasonable cause” to believe a student is using his/her room for purposes in violation of federal, state, and local laws or College policies. “**Reasonable cause**” is defined as “facts and circumstances beyond a mere suspicion,” that the one of two situations exist: 1) there is a clear indication that the Code of Student Conduct is being violated and the room is being used for a purpose contrary to College policies and regulations in a manner that endangers one or more members of the College community, and/or 2) an emergency exists that makes it necessary for a staff member to search a room for a particular item, such as a discarded sleeping pill bottle or a particular telephone number or address. In an emergency situation, word-of-mouth approval will suffice and a formal search approval form can be filed at a later date.
- When a member of the Residence Life professional staff feels that such “reasonable cause” exists after consulting with the Director of Residence Life, Director of Campus Safety, and/or the Associate Dean of Students, s/he will complete a search authorization request form (see Appendix A), specifying the applicant, date, facts, and circumstances constituting “reasonable cause,” materials to be sought and seized, and names of the Residence Life professional staff members who will conduct the search. Any search of this nature will be carried out by two members of the Residence Life professional staff and one Campus Safety staff member.
- Permission to conduct this search may be obtained from the Vice President for Student Affairs and Dean of Students or the Associate Dean of Students. (If they cannot be reached, permission may be granted by the Provost, Vice President for Financial Affairs, Senior Vice President, or President.) If the Vice President or the Associate Dean of Students feels such “reasonable cause” does exist, s/he will issue an administrative search permission form (in duplicate) to be used by two authorized Residence Life professional staff members and the Campus Safety staff member who will jointly conduct the search. The Director of Residence Life and the Director of Campus Safety or their respective designees must be present.
- In the absence of reasonable cause for such action, a general search or a search of a number of rooms in a given area is prohibited.

In conducting the search, the Campus Safety officer and Residence Life staff members will usually attempt to have the occupants present. If present, the occupant(s) should be:

- Informed that any material found may be used in College disciplinary hearings, a court of law, or both,
- Presented with a copy of the administrative search warrant,

- Given the reason for the search and materials to be seized if found,
- Given the opportunity to open drawers, luggage, etc. as required during the room search (unless the student becomes uncooperative), and
- Made aware that, should a search for specific materials uncover other substances indicating illegal activity or violation of campus regulations, those materials will also be seized.

After a search is completed:

- The Campus Safety officer should complete an inventory form (see Appendix B) with an explanation of the material seized, if any, and ownership specified in detail.
- The original inventory form will be retained by Campus Safety with the material confiscated. Copies of this completed form will be given to the Director of Residence Life, the Associate Dean of Students, and the student(s) whose material has been seized.
- Any evidence found in the course of the administrative search will be secured in the Office of Campus Safety and may be used in the College's disciplinary system.
- The President should be notified in a timely manner that such a search has been authorized and conducted.

Appealing a search:

- A student who believes this policy has been violated may appeal to the President of the College.
- The appeal must be in written form and must be presented to the President's office within 10 days of the actual occurrence.
- The President may designate an alternate to review and act upon such appeals.

While these procedures are intended for internal protection and control, nothing herein is intended to limit the ability of bona fide law enforcement or external judicial agencies from seeking and obtaining legal search warrants for use on the Utica College campus. The College and its members are not immune from normal citizenship requirements. There may also be situations where the College, through its Office of Campus Safety or its legal counsel, may proactively seek a legal search warrant from local law enforcement agencies.

It is acknowledged that such a thorough search conducted without a search warrant from a law enforcement agency, as provided by this policy, may preclude the College's ability to seek external prosecution of the student(s), based upon items found. There may also be situations where the College, through its Office of Campus Safety or its legal counsel, may proactively seek a legal search warrant from local law enforcement agencies.

RESPONSIBILITY:

It is the responsibility of all Residence Life staff, Campus Safety Staff, and staff of the Office of Student Affairs to fully comply with the provisions of this policy to protect the safety of members of the College community while ensuring student rights to privacy are appropriately balanced.

ENFORCEMENT:

Enforcement of Utica College policies is the responsibility of the office listed in the "Resources/Questions" section of each policy. The responsible office will contact the appropriate authority regarding faculty or staff members, students, vendors, or visitors who violate policies.

RESOURCES/QUESTIONS:

Questions regarding this policy and any suggestions for amendments to the policy should be addressed to the Vice President for Student Affairs and Dean of Students.

Please note that other Utica College policies may apply or be related to this policy. To search for related policies, use the Keyword Search function of the online policy manual.

Todd S. Hutton, President

Date

Effective Date: October 14, 2009 (as a working policy)
Promulgated: November 4, 2009

Last Revised:
Promulgated:

APPENDIX A

Request Form

Administrative Residence Hall Search Authorization

Room/Building to be searched: _____

Item(s) sought: _____

Reasonable cause for search:

- Report of weapon
- Report of stolen property
- Report of illegal drugs
- Other: _____

Utica College staff member requesting search: _____

Date of request: _____ Time of request: _____ am / pm

Search sought: with student(s) present (if possible), or
 without student(s) present

Student occupant(s) of room: _____

Search Approval:

Search authorized by: _____

(If by telephone, person verifying the above person's phone approval):

Date of approval: _____ Time of approval: _____ am / pm

Note: Must be approved by Vice President for Student Affairs or Associate Dean of Students. If they cannot be reached, may be approved by Provost, Vice President of Financial Affairs, Senior Vice President, or President.

Distribution of completed form: student occupant(s) of room, Director of Campus Safety, Associate Dean of Students, Director of Residence Life, and person who authorized the search

APPENDIX B

Inventory of Material Confiscated

As a Result of Search Conducted in Response to
Administrative Residence Hall Search

Date search conducted: _____

Time search conducted: _____ am / pm

Room # and Building searched: _____

List occupant(s) of room who were present during search (name & student ID #):

List known occupant(s) of room not present during search (name & student ID #):

Item(s) confiscated (include detailed description; if none, so specify):

Names of Residence Life professional staff members conducting search (must be 2):

_____ & _____

Signatures of Residence Life professional staff members conducting search:

_____ & _____

Printed name of Campus Safety Officer conducting search: _____

Signature of Campus Safety Officer conducting search: _____

Attach a copy of completed Appendix A - Request Form - Administrative Residence Hall Search
Authorization

Disposition:

- Secure all items confiscated, with a copy of this form, in Office of Campus Safety.
- Provide copies of Appendix A and Appendix B to student occupant(s) of room, Director of Campus Safety, Associate Dean of Students, Director of Residence Life, and person who authorized the search .