

## **ROOM ENTRY, SEARCH, AND SEIZURE**

All college facilities, including the residence halls, are the property of Nyack College. Any area or property located on Nyack College premises and under the control or custody of a full-time or part-time student is subject to search.

Included in the definition are:

- College-owned buildings and residences
- Student-owned, operated, or controlled motor vehicles located on college premises, and
- Any personal property located or contained in these structures or vehicles.

While the College consistently strives to respect the elements of personal privacy, Nyack College Staff reserve the right to enter and inspect residential space at any time under the following circumstances:

- Regular maintenance, safety and health inspections
- If there is reasonable cause to believe a violation of college policy, local, state or federal law is occurring
- Emergencies such as:
  - o Incident to and following an arrest
  - o For and in pursuit of a fleeing dangerous criminal suspect
  - o Under urgent necessity (i.e. persistent loud screaming, medical emergencies)
  - o Necessary to prevent loss or destruction by seizing an item (i.e. paintball guns, BB-guns, etc.)

The search may include, but is not limited to: opening drawers and refrigerators, examining furnishings and personal effects, searching an adjoining bathroom or suite, and seizure of tobacco, alcohol, drugs and pornographic materials. Residence Life has the right to do a walk-through of rooms as needed to ensure compliance with school standards. Residents are not permitted to refuse a Residence Life Staff member to enter their rooms.

NOTE: Residents must get dressed and be fully clothed if a Residence Life Staff member, a facilities worker, etc. must enter their room.

### **Justification for Search**

Any search conducted by Nyack College personnel must be based upon one or more of the following grounds: emergency, health and safety considerations, or suspected violation of college policy or local, state or federal law. A search may be authorized under the following conditions:

- Voluntary Consent- In most circumstances, it is desirable to obtain the prior voluntary consent of the individual residing in the area or property to be searched. While the student housing contract reserves broad authority for a search by college personnel, consent normally is to be sought prior to initiating a search. Consent by one roommate

to the search of jointly occupied residential space is adequate, even if other roommates are absent.

- **Reasonable Suspicion-** It is the responsibility of residence life professional staff to decide if there is a substantial likelihood that evidence of unauthorized activity will be located in the place to be searched. This decision may be based on any credible information developed during ongoing investigation, received through indirect means, or reported by residence life personnel or other college students or employees. The residence life professional staff person is to evaluate all information for reliability and relevancy prior to requesting authorization to conduct a search.
- **Plain View-** Evidence of a violation of either college policy, local, state, or federal law, or which indicates health and safety concerns, may sometimes be observed in plain view within a residential space or vehicle. Evidence that is seen in plain view may be seized and will justify a search of the area in which the evidence is located.
- **Emergency-** Immediate entry without student consent is appropriate in emergency situations where pressing necessity or urgency require prompt action. In such a situation, delay might jeopardize the health and safety of a person or result in concealment, disposal or destruction of evidence or unauthorized activity. If it is reasonably believed that a student is concealing evidence of unauthorized or illegal activity on her/his person, it is permissible for the residence life staff person to ask the student to empty out her/his pockets and/or turn them inside out. If the student refuses, the staff person is authorized to contact the local police for their assistance with the incident. The staff person will complete a report articulating the exact circumstances surrounding the situation.

### **Scope of Search**

The search may include, but is not limited to, opening drawers and refrigerators, examining furnishings and personal effects, searching an adjoining bathroom or suite, and seizure of any item that is in violation of community lifestyle expectations, including, but not limited to alcohol, drugs and drug paraphernalia, and pornographic materials.

A search by Nyack College personnel that discloses any item reasonably believed to constitute a controlled substance or drug paraphernalia, regardless of quantity or type, will result in an off campus law enforcement agency being contacted. Residence life or campus safety personnel will secure the site and remain at the scene pending arrival of a law enforcement officer who will assume jurisdiction over the incident.

### **Searches by Nyack College Personnel**

- No search, whether consensual or non-consensual, shall be undertaken without the prior approval of the on-call residence life professional staff person unless emergency conditions are present.

- All searches shall be conducted by at least one residence life professional staff person. Whenever possible, the residence life staff person shall be accompanied by a residence director, and a campus safety officer.
- Whenever possible, the residence life professional staff person should not search the residence of a student of the opposite sex unless accompanied by a resident director or campus Safety officer of the same sex as the student.
- A written report describing justification, conduct and results of a search will be provided to the dean of students and the director of campus safety within 24 hours of the search.

### **Searches by Law Enforcement Agencies**

A search may be made by a municipal or state police officer, sheriff, or federal law enforcement officer only pursuant to warrant or under circumstances in which a search without a warrant is legally permissible. No Nyack College personnel will assist in the search, but a campus safety officer or student development staff person will accompany the searching officer. The accompanying Nyack College personnel is responsible to notify the dean of students' office as soon as possible that the search has occurred.

### **Seizure of Property**

Items which constitute evidence that is discovered in plain view or as a result of a permissible search may be seized for use in college disciplinary proceedings and/or local, state, or federal criminal proceedings. A receipt shall be given to the person from whom the property was seized, or left on the premises in a conspicuous place.