SUNY DOWNSTATE HEALTH SCIENCES UNIVERSITY/UNIVERSITY HOSPITAL OF BROOKLYN
POLICY AND PROCEDURE

No. SAF-28-C

Subject: **University Police Department Policy on New York State Executive Order 202.17, 202.18 and 202.34 Enforcement: Requirement of Appropriate Face Covering Within SUNY Downstate Health Sciences University**

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The JC Standards:
EC 02.01.01 The hospital managers safety and security risks
IC 02.01.01 The hospital implements its infection prevention and control plan.

Committee Approval:
Environment of Care
Executive Performance Improvement Council
Medical Executive Committee

Issued by: University Police Department

I. PURPOSE

The purpose of this policy is to ensure compliance with New York State Executive Orders 202.17, 202.18 and 202.34 ("Executive Order") requiring face coverings when in public.

II. APPLICABILITY

The policy as outlined applies to all persons entering and/or inside our facility, including but not limited to:

- Employees
- Faculty
- Students
- Residents/Trainees
- Vendors
- Contractors

- Visitors

III. DEFINITION(S)

Definition of 'Appropriate Face Covering':

- A surgical or cloth face mask/covering both the nose and mouth. It should be able to contain the wearer's respiratory droplets and help protect the general public.[1] Masks with exhaust valves are strictly prohibited.[2]

IV. POLICY/ PROCEDURES/GUIDELINES

Pursuant to

- Governor Andrew Cuomo, on March 7, 2020, declared a State of Emergency in New York due to the spread of the Coronavirus (COVID-19); and

- New York State Executive Order 202.17, effective Friday, April 17, 2020, requires any individual over the age of two (2) and able to medically tolerate a face-covering to cover their nose and mouth with a mask or cloth face- covering when in a public place and unable to maintain, or when not maintaining, social distance; and

- New York State Executive Order 202.18 effective April 17, 2020 requires that any person utilizing public or private transportation carriers or other for-hire vehicles who is over the age of two (2) and able to medically tolerate a face covering, shall wear a mask or face covering over the nose and mouth during any such trip; any person who is operating such public or private transport, shall likewise wear a face covering or mask which covers the nose and mouth while there are any passengers in such vehicle; and

- New York State Executive Order 202.34, issued on May 28, 2020, allows businesses and building owners to deny admission and/or remove or have removed from their premises any individual(s) who refuse(s) to comply with New York State Executive Order 202.17:

[1] Aa SUNY Downstate is an academic medical facility, there may be instances where certain cloth face coverings may not be appropriate for this setting, although they may be permissible under the New York State Executive Order. If there is a question/dispute as to the appropriateness of a face covering, the Office of Employee and Labor Relations should be contacted. OELR will consult with the campus Epidemiologist for a decision on whether the face covering is appropriate for this environment.

[2] In instances where an employee's workplace activities require a higher degree of protection for face covering requirements, the employee's supervisor will provide the appropriate Personal Protective Equipment (PPE).

SUNY Downstate Health Sciences University ("SUNY Downstate") requires all individuals entering and/or inside our facility, or using our transportation (shuttle) services, including but not limited to employees, faculty, residents, trainees, students, vendors, contractors and/or visitors, to wear appropriate face coverings as defined above in the respective Executive Orders. This rule does not apply when an employee is in their individual office working alone. On those occasions where a person does not have the appropriate face covering, Downstate will provide a face covering. Any person(s) refusing to wear an appropriate face covering may be subject to the following actions:

- **Entrance to the facility** – After being given an opportunity by the SUNY Downstate University Police Department ("University Police") to comply with the Executive Orders, an individual may be denied entrance into the facility and/or removed by a University Police representative and escorted off campus for non-compliance in violation of the Executive Order. In the event the individual is an employee, the violation may be referred to the Office of Employee and Labor Relations ("OELR") for investigation. If the person is a State employee, that individual may be subject to Administrative action. If employee is a non-State employee, the violation will be referred to the appropriate employer for action.

- **Inside the facility** – An individual, after being given an opportunity to comply with the Executive Order by first a supervisor and/or faculty member, if applicable, and then by University Police, may be removed by University Police and escorted off campus for non-compliance in violation of the Executive Order. In the event the individual is an employee, the violation may be referred to OELR for investigation. If the person is a State employee, the individual may be subject to Administrative action. If the person is a non-State employee, the violation will be referred to the appropriate employer for action.

- **Shuttle Services**: An individual, after being given an opportunity to comply with the Executive Order by University Police, may be denied entry and/or ejected from the shuttle for non-compliance in violation of the Executive Order.

If a State employee, Resident and/or student has a medical condition which prevents them from wearing an appropriate face covering, prior to return to campus they may discuss alternative options that will permit compliance with New York Executive Orders 202.17, 202.18 and 202.34:

- State employee(s) and/or Resident(s): the employee is required to contact the SUNY Downstate – Americans with Disabilities Act (ADA) Coordinator, at ADA@Downstate.edu.

- Student(s): the student is required to contact the SUNY Downstate – Office of Student Affairs at StudentAffairs@downstate.edu.

All accommodations must be in place prior to return to campus.

If you have any questions, please contact University Police at extension 2626.

V. RESPONSIBILITIES

A. Employees, Faculty, Students, Vendors, Contractors, Visitors, etc.:

i. All persons entering and/or inside the facility (except in an employee's personal office) or utilizing our transportation services must comply with Executive Order 202.17 and 202.18 by wearing an appropriate face covering as defined above.

B. Supervisors:

i. Supervisory staff will have an obligation to ensure that employees under their supervision are compliant with Executive Order 202.17.

1. If a violation occurs within their Department, the employee will first be directed by their supervisor to wear a mask or appropriate face covering. If the employee does not have an appropriate face covering available, the supervisor will provide one for use, if available.

2. If the employee refuses to wear the appropriate face covering, after given an opportunity to comply, the supervisor will contact University Police at extension 2626.

3. For resident or fellow trainees, the supervising Attending will contact the Graduate Medical Education Office at extension 1984, in which case the Designated Institutional Officer (DIO) will work in conjunction with the Program Director (PD) and/or Chair to rectify the noncompliance. If there is continued refusal, the DIO and/or PD will contact University Police.

B. Faculty:

i. Faculty have an obligation to ensure compliance by students with New York State Executive Order 202.17.

1. If a violation occurs while in the classroom, lab, clinical site, or other academic space, the student will first be directed by the Faculty member to wear a mask or appropriate face covering. If the student does not have an appropriate face covering available, the Faculty member will provide one for use, if available.

2. If the student refuses to wear the appropriate face covering, after given an opportunity to comply, the Faculty member will contact University Police at extension 2626.

C. University Police Department:

i. University Police Department representatives (defined as officers, lieutenants and investigators) have an obligation to ensure that all persons attempting to enter, and/or inside the facility or utilizing our transportation ("shuttle") services are compliant with Executive Orders 202.17 and 202.18.

1. If an individual does not have an appropriate face covering available, University Police will offer to that individual the opportunity to comply with the Executive Order 202.17 and 202.18, i.e. provided with an appropriate face covering to wear in the building or while riding on the shuttle.

2. If an individual refuses to wear an appropriate face covering after being given an opportunity to comply, University Police representatives will deny entry and/or escort them from the premises and/or the shuttle bus. Prior to taking action, under Executive Order 202.34, these steps must be followed:

a) The offending individual refuses to wear an appropriate face covering; and

b) The University Police representative will read the 'Report of Non-Compliance' to the offending individual (if an employee, the officer will request employee's employment information). The University Police representative will issue a violation and provide the employee with a copy of the violation for their records; and

c) The University Police representative will complete an 'Incident Report,' including the 'Report of Non-Compliance'; and

d) The University Police representative will escort the employee/person from SUNY Downstate pursuant to the authority vested in them under Executive Order 202.34; and

e) If the individual is an employee, a copy of the 'Incident Report' and 'Report of Non-Compliance' will be immediately provided to the OELR for review and

investigation, or referral to the appropriate employer, as necessary.

f) If the individual is a Resident, a copy of the Incident Report will be provided to the Office of Graduate Medical Education.

g) If the individual is a student, a copy of the "Incident Report" and 'Report of Non-Compliance' will be provided to the Office of Student Affairs.

D. Office of Employee & Labor Relations:

i. If the individual is an employee or a contractor of SUNY Downstate, the Office of Employee & Labor Relations (OELR) will review the 'Incident Report' and 'Report of Non-Compliance' for investigation and possible administrative action by the appropriate entity, i.e. SUNY Downstate, University Physicians of Brooklyn, Research Foundation, Sodexo, contracting agency, etc., up to and including the termination of the employee's employment from State service (where applicable) under the following:

1. State employee(s): OELR will contact the employee's department to inform the supervisor of the denial of entry for violating the Executive Order. Upon their return to work, the employee will be required to report to OELR before returning to their Department; or

2. Non-State employees: OELR will refer the violation to the contracting agency for Administrative action.

3. Residents: A copy of the Incident Report will be provided to the Office of Graduate Medical Education.

B. Office of Student Affairs:

i. If the individual is a student, the Office of Student Affairs will review the 'Incident Report' and 'Report of Non-Compliance' for investigation and possible administrative action by the appropriate entity, i.e. college, school, etc., up to and including dismissal of the student from the academic program, under the following:

1. Students: The Office of Student Affairs will investigate the issue and initiate Administrative action in collaboration with their school/college.

E. ADA and/or Disability Coordinator:

i. The ADA Coordinator (for employees) or Disability Coordinator (for students) will provide information and review requests for alternative face covering options pursuant to the Americans with Disabilities Act ("ADA") that will permit compliance with Executive Orders 202.17 and 202.18.

VI. ATTACHMENTS

- Attachment A:
  - NYS Executive Order 202.17, 202.18 and 202.34 – Enforcement Protocol
- Attachment B:
  - NYS Executive Order 202.17, 202.18 and 202.34 – Report of Non-Compliance

VII. REFERENCES

- Governor Andrew Cuomo – Executive Order 202.17
  - https://www.governor.ny.gov/news/no-20217-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency
- Governor Andrew Cuomo – Executive Order 202.18
  - https://www.governor.ny.gov/news/no-20218-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency
- Governor Andrew Cuomo – Executive Order 202.34
  - https://www.governor.ny.gov/news/no-20234-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency

Date Reviewed	Revision Required (Circle One)		Responsible Staff Name and Title
	Yes ○	No ○	
	Yes ○	No ○	
	Yes ○	No ○	
	Yes ○	No ○	

ATTACHMENT "A"

SUNY DOWNSTATE HEALTH SCIENCES UNIVERSITY
NEW YORK STATE EXECUTIVE ORDER(S) 202.17, 202.18 & 202.34

ENFORCEMENT PROTOCOL

All persons, including but not limited to employees, faculty, students, vendors, contractors and/or visitors, who have been observed not wearing an appropriate face covering (i.e. surgical or cloth mask covering both the nose and mouth, and NOT a mask with an exhaust valve), and either (i) attempting to enter the building and/or shuttle or (ii) inside the facility will be subject to the following enforcement measures:

a. The individual is engaged by a member of the University Police Department ("University Police") and offered the opportunity to comply with the Executive Orders 202.17 or 202.18, i.e. provided an appropriate face covering to wear in the building or on the SUNY Downstate shuttle; and
b. The individual refuses to wear an appropriate face covering:

Pursuant to the authority vested in our institution under Executive Order 202.34:

i. If on the Downstate shuttle, the individual will be refused entry and/or will be ejected from the vehicle by the operator.
ii. If the refusal occurs on the campus, the individual may be denied entry into and/or escorted from the facility by University Police representative. The University Police representative must read the 'Report of Non-Compliance' to the individual and request the information necessary to complete both a 'Report of Non-Compliance' and 'UPD Incident Report'.[3]
    i. Employee(s): A copy of the 'Incident Report' and 'Report of Non-Compliance' will be immediately provided to the Office of Employee & Labor Relations ("OELR") for review and investigation. The employee may be subject to Administrative action by the appropriate entity, i.e. SUNY Downstate, University Physicians of Brooklyn, Research Foundation, Sodexo, contracting agency, etc., up to and including the termination of their employment.[4]
    ii. Resident(s): A copy of the 'Incident Report' and 'Report of Non-Compliance' will be provided to the Office of Graduate Medical Education for review.
    iii. Student(s): A copy of the 'Incident Report' and 'Report of Non- Compliance' will be provided to the Office of Student Affairs for review.

If a State employee, Resident and/or student has a medical condition which prevents them from wearing an appropriate face covering, prior to return to campus they may discuss alternative options that will permit compliance with New York State Executive Orders 202.17 and 202.18.

[3] If an employee, Resident or student, University Police will provide them with a copy of the "Report of Non-Compliance" for their records.

[4] If a State employee: OELR will contact the employee's department and notify the supervisor that the employee was denied entry and that when the employee returns they are to report to the OELR. If a non-State employee: OELR will refer the incident to the contracting Agency for Administrative action.

- **State employees and/or Residents**: the employee is required to contact the SUNY Downstate – Americans with Disabilities Act (ADA) Coordinator, at ADA@Downstate.edu.

- **Students**: the student is required to contact the Disability Coordinator in the SUNY Downstate – Office of Student Affairs at StudentAffairs@downstate.edu.

ATTACHMENT "B"

SUNY DOWNSTATE HEALTH SCIENCES UNIVERSITY
NEW YORK STATE EXECUTIVE ORDER (S) 202.17, 202.18 & 202.34

REPORT OF NON-COMPLIANCE

You are in violation of New York State Executive Order 202.17 (or New York Executive Order 202.18, where applicable) issued on April 15, 2020, requiring all individuals to cover both their nose and mouth with a mask or cloth face covering, unless the individual is under the age of two (2) or has a medical condition which would prevent them from wearing a face covering.. You were provided with an opportunity to comply with the Executive Order and you refused. Your failure to comply with this Executive Order is considered insubordination.

- You will be escorted from SUNY Downstate Health Sciences University pursuant to the authority vested in our institution under Executive Order 202.34, allowing businesses and building owners to deny admission and/or remove or have removed from their premises any individual(s) who refuse(s) to comply with Executive Order 202.17; and

- You are directed to provide the University Police representative with your name, title, department and supervisor, so that an 'Incident Report' may be generated. A copy of the Incident Report will be given to the Office of Employee and Labor Relations for review. If you are a State employee, Resident and/or student, you may be subject to Administrative action. If you are a non-State employee, the matter will be referred to the appropriate employer for action.

If you have any questions, you may contact either University Police at 718-270-2626 or the Office of Employee & Labor Relations at 718-270-3019 for more information.

Date/Time:	**Name:**
Title / Department (if applicable):	**Supervisor (if applicable):**
Intake Performed By:	