

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ONONDAGA

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In the Matter of

Index No.

LEGAL INSURRECTION FOUNDATION,

Petitioner,

-against-

**VERIFIED PETITION**

SUNY UPSTATE MEDICAL UNIVERSITY,

Respondent.

For a Judgment Under Article 78 of the Civil Prac-  
tice Law and Rules

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Petitioner Legal Insurrection Foundation (“LIF”), for its Verified Petition against Respondent SUNY Upstate Medical University (“Upstate Medical”), alleges as follows:

**Background**

1. Upon information and belief, in June 2020, Upstate Medical’s Chief Diversity Officer assembled a task force to do “the herculean task to make actionable recommendations to move Upstate in a bold new direction toward greater diversity, equity, inclusion and belonging.”

2. By the end of August, the 2020 Diversity Task Force completed a report containing its recommendations.

3. The Task Force first met by teleconference on June 19, 2020.

4. Groups of four to six Task Force members then worked separately and asynchronously on potential action items in 12 categories.

5. Just over a month after its initial meeting—on July 21 and 23, 2020—the Task Force submitted its preliminary report to the Upstate Medical’s Interim President and Executive Council, respectively, containing 65 action items.

6. Asked to consider the priority of the action items, the Task Force identified 28 immediate-term, 30 intermediate-term, and seven long-term action items in a revised report.

7. The Upstate Medical Executive Committee discussed the Task Force’s revised report at meetings on held on August 13 and 27, 2020.

8. The Task Force released the entire report to the Upstate Medical community on August 31, 2020.<sup>1</sup>

9. At that point, the Task Force invited members of the Upstate Medical community to volunteer to serve on “Implementation and Oversight Tiger Teams.”

10. Upstate Medical describes a “tiger team” as a “a specialized, cross-functional team brought together to solve or investigate a specific problem or critical issue.”

11. Seventy volunteers comprised Tiger Teams for (1) policy, bias reporting, and mitigation; (2) recruitment and retention; (3) patient, community and alumni services; (4) diversity organization, branding and messaging; and (5) education and training.

12. Two co-chairs led each Tiger Team.

13. On December 4, 2020, LIF and Free Beacon LLC submitted a Freedom of Information Law (“FOIL”) requests to Upstate Medical for records regarding

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<sup>1</sup> Exhibit A, Report of the Diversity Task Force, August 31, 2020.

the Task Force and Tiger Teams and their related activities, limited to the time period commencing May 1, 2020.<sup>2</sup>

14. To be clear what it was seeking, LIF broke the requests into 13 parts each describing specific records sought.

15. Among other things, the requests made clear the parties who may have records to be disclosed, including the Task Force Chair, the Tiger Team co-chairs, employees in the Office of Diversity and Inclusion, and Upstate Medical's Executive Committee.

16. In other words, LIF pointed the Upstate Medical FOIL officer directly to the individuals who should possess disclosable records.

17. Further, LIF identified records by category, including faculty meetings relating to the Task Force and the Tiger Teams and meetings related to the Task Force's August 31 report.

18. The requests included records identifying everyone involved in creating a list of Interview Questions for incoming students found on Upstate Medical's website.

19. LIF also requested records related to implementation as it relates to application forms for prospective students, prospective faculty, prospective staff, and prospective managerial administrators.

20. Finally, LIF requested orientation materials for incoming students regarding diversity, equity, inclusion, antiracism, social justice, bystander intervention for bias, race, identity or belonging, as found on Upstate Medical's website.

21. A week later Upstate Medical's FOIL Officer denied all the requests, stating that requests for "all records" or "all records received, reviewed, or

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<sup>2</sup> Exhibit B, LIF FOIL Request.

created” or “all copies” was too broad and did not reasonably describe the records sought as required by FOIL § 89(3).<sup>3</sup>

22. LIF filed a timely appeal by overnight mail sent on December 22, 2020.<sup>4</sup>

23. Among other things, LIF pointed Upstate Medical to FOIL itself, which states that a request cannot be denied because records may be voluminous or burdensome to review or copy.

24. LIF further noted courts have held that FOIL imposes a broad duty on government agencies to make records available to the public, especially if the request is not open-ended.

25. LIF established that the request was not too broad or open-ended because it requested records limited in scope from a short time frame—May 1, 2020 to the present.

26. LIF’s requests focused specifically on the Task Force, Tiger Teams, Office of Diversity and Inclusion, and Executive Committee, listed the individuals connected to those groups and their specific activities and related records, and provided numerous links to Upstate Medical’s own website to further identify the business units, events, and persons subject to the requests.

27. LIF thus identified the type of records with as much specificity as was possible, who at Upstate Medical likely had such records, and narrowed the time frame to the time in which such records likely were created and maintained.

28. Any response to the FOIL appeal was due on January 8, 2021.

29. Upstate Medical responded to the FOIL appeal on January 13, 2021.<sup>5</sup>

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<sup>3</sup> Exhibit C, LIF FOIL Appeal, December 22, 2020, p. 14.

<sup>4</sup> *Id.* at 1.

<sup>5</sup> Exhibit D, FOIL Appeal Response, January 13, 2021.

30. First, Upstate Medical argued that LIF conflated breadth with volume and asserted that the FOIL officer could not possibly identify records by subject matter based on LIF's confusing use of the verbs "received, reviewed, or created" when referring to specific subject matter in its requests 2, 3, 4, and 5.

31. Second, Upstate Medical argued that LIF's first request, for all records relating to the Diversity Task Force and Tiger Teams, and seventh request, for records relating to meetings relating to the Task Force's August 31 report, was confusing because LIF referenced website links to the Office of Diversity and Inclusion, the Task Force Report, and descriptions of the Tiger Team initiatives.

32. Third, regarding student, faculty, and staff application forms in requests 8, 9, 10, and 11 that ask questions regarding diversity, equity, inclusion, antiracism, social justice, bystander intervention for bias, race, identity or belonging, the appeals officer directed the FOIL Officer to collect and disclose the forms to LIF.

33. But the appeals officer denied the requests for records relating to the development, purpose, and necessity of the application forms and questions as sending the FOIL officer on a search for "a needle in a haystack" looking for records relating to the development, purpose, and necessity of application forms generally, which Upstate Medical claimed was a process that could date back to the founding of Harvard College in 1636.

34. Finally, the appeals officer ordered the FOIL Officer to disclose records for request 6 relating to faculty meetings regarding the Task Force and Tiger Teams, request 12 relating to incoming student orientation materials, and request 13 relating to identifying those involved in creating interview questions for incoming students.

35. Upstate Medical disclosed records relating to requests 8 through 13 on April 3, 2021. It further advised records relating to request 6 remain under review.

### **Parties**

36. Petitioner Legal Insurrection Foundation is a Rhode Island non-profit corporation based in Barrington, Rhode Island, and is qualified as tax exempt under 26 U.S.C. § 501(c)(3).

37. Respondent SUNY Upstate Medical University is an “agency” within the meaning of FOIL § 86(3).

### **Jurisdiction and Venue**

38. This Court has jurisdiction under CPLR 7804(b) and CPLR 506(b) because actions at issue in this case took place within Onondaga County and because Respondent has its main office in Onondaga County.

### **Cause of Action: Wrongful Denial of FOIL Request**

39. LIF repeats and re-alleges paragraphs 1 through 38 as if fully set forth in this paragraph.

40. Article 78 is the appropriate method of review of agency FOIL request denials.

41. LIF has a right to the records at issue under FOIL.

42. Upstate Medical improperly denied disclosure of the records LIF requested.

43. Upstate Medical’s failure to produce the records under the circumstances of the request is not justified under FOIL.

44. LIF has exhausted its administrative remedies and has no other remedy at law.

45. LIF has not made any prior application for the relief requested here.

**Relief Requested**

46. LIF respectfully requests that this Court issue an order:

- a. Declaring that: (i) Upstate Medical acted unlawfully in refusing to disclose the records; and that (ii) Upstate Medical must release the records within thirty (30) days of the date of the order;
- b. Awarding attorneys' fees and costs incurred in this litigation as allowed under FOIL; and
- c. Granting such other and further relief as this Court may deem just and proper.

Dated: Albany, New York  
April 8, 2021

Respectfully submitted,



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Albany, New York 12207  
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*Counsel for Petitioner*

**VERIFICATION**

STATE OF NEW YORK            )  
  :ss  
COUNTY OF ALBANY         )

Cameron J. Macdonald, being duly sworn, deposes and says:

I am the attorney for Legal Insurrection Foundation, Petitioner in the above-captioned action. I have reviewed the foregoing Petition and know its contents to be true to my knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters I believe them to be true based on my review of pertinent documents and conversations with persons with personal knowledge.

This verification is made by me rather than Petitioner because the Petitioner resides outside Albany County where I maintain my office.



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Cameron J. Macdonald



## **Exhibit A**



### **Office of Diversity and Inclusion**

#### Report of the 2020 Diversity Task Force

August 31, 2020

## **2020 Diversity Task Force**

### **Chair**

Daryll C. Dykes, PhD, MD, JD

*Chief Diversity Officer*

*Upstate Medical University*

### **Task Force Members**

David C. Amberg, PhD

Dale Avers, PT, DPT, PhD, FAPTA

Amy Caruso Brown, MD, MSc, MSCS

Mattie Cerio, LMSW

Nakeia Chambers, MEd

Rev. Terry Culbertson

Susan Furtney, MPH

Janell Gage BSN RN

Lauren J. Germain, PhD, MEd

Matthew Glidden, MD

Rachel Hopkins, MD

Jada McMahon, MSII

Sriram S. Narsipur, MD, FASN, FACP, MRCP

Sean Patterson, SPHR, SHRM-SCP

Guillermo Polanco, MSIII

Carl A. Thomas, Jr., MBA

Gregory Threatte, MD

Sarah Zainelabdin, MSIII

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4. Alumni Issues .....	55
5. Patient Issues .....	55
6. Community Issues.....	63
7. Curriculum and Training Issues.....	77
8. Access and Equity Issues.....	95
9. Bias Reporting Issues .....	113
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## Executive Summary

At the instruction of Interim President Dr. Mantosh Dewan, Chief Diversity Officer Dr. Daryll Dykes convened a Diversity Task Force comprised of Upstate Medical University students, faculty, and staff members. The Task Force was designed to be a time-limited but action-oriented group charged to examine issues of diversity, equity, and inclusion at Upstate, and make recommendations to move the university in a bold new direction.

The first meeting of the Task Force took place on June 19, 2020 via teleconference. Task force members then worked and communicated asynchronously over the subsequent four weeks to research and discuss issues related to diversity, equity, and inclusion at Upstate Medical University, and to brainstorm potential action items to address the issues identified. The potential action items were divided into the following 12 categories:

- Student, Resident and Fellow Issues
- Faculty Issues
- Staff Issues
- Alumni Issues
- Patient Issues
- Community Issues
- Curriculum and Training Issues
- Access and Equity Issues
- Bias Reporting Issues
- Policy Issues
- Branding, Communication and Space Issues
- ODI Reorganization and Diversity Consortium

Each category was assigned to a team of 4 to 6 Task Force members for further research and deliberation. Each team then produced a report of its findings, including its estimate of:

- each action item's **priority**, based on its perceived importance to our vision of diversity, equity, and inclusion; and
- each action item's **complexity**, based on practical, logistical, financial, and other considerations.

This process produced 65 discrete action items contained in a preliminary report submitted to Interim President Mantosh Dewan, MD, on July 21, 2020 and to the University Executive Council on July 23, 2020.<sup>1</sup> While the draft report was generally well-received, the reviewers cited two concerns:

- One reviewer opined that each proposed action item should be presented with consideration of the Task Force's assessment of its "priority" alone (i.e., without consideration of the Task Force's assessment of its "complexity").
- One reviewer noted some overlap between action items and action item categories.

To address the first concern, the Task Force members completed surveys to score each action item on a scale from 1 (lowest priority) to 10 (highest priority). Analysis of the data from this step revealed significant clustering of priority scores between 8 and 10, with no action item achieving an average priority score lower than 4. While this analysis illustrated Task Force Members' views that each action item is important, no conclusion could be drawn regarding the *relative* importance of any action item with respect to any other action item. Accordingly, the Task Force conducted a two-step survey to:

- First, categorize each action item into **Immediate-**, **Intermediate-**, and **Long-Term** priorities; and

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<sup>1</sup> See Appendix 1

- Second, within each category, rank order each action item from **Highest** to **Lowest** priority.

This process produced 28 immediate-term, 30 intermediate-term, and 7 long-term action items, reported from highest to lowest rank order priority, based on each action item's average ranking among task force members.

The Task Force considered the concern regarding some overlap among the various action items. However, the Task Force decided that further refinement and consolidation of action items within and between categories, as well as should occur at a subsequent implementation phase.

The revised report was discussed at University Executive Committee meetings on August 13 and August 27, 2020 and approved for distribution on August 27, 2020. This final report of the Task Force is released to the entire Upstate community on August 31, 2020.

## Task Force Recommendations

### Recommendation 1: Implementation and Oversight Teams

The action items presented in this report should be further evaluated, prioritized, developed, coordinated, and overseen by the Office of Diversity and Inclusion, in cooperation with the University Executive Committee, the President's Diversity Council, the College of Medicine Dean's Diversity Committee, and other stakeholders

This objective could be achieved through the work of Implementation and Oversight Tiger Teams<sup>2</sup> (IOTT) comprised of students, staff members and faculty members, including members of the Office of Diversity and Inclusion, the President's Diversity Council, and the College of Medicine Dean's Diversity Committee, having subject matter expertise, job responsibilities, or interests related to particular action items

The Task Force recommends the establishment of Implementation and Oversight Teams in the following five categories:



Each IOTT should be led by a volunteer member of the staff or faculty. Each IOTT chair will coordinate with other IOTT chairs to manage redundancies between groups and to coordinate

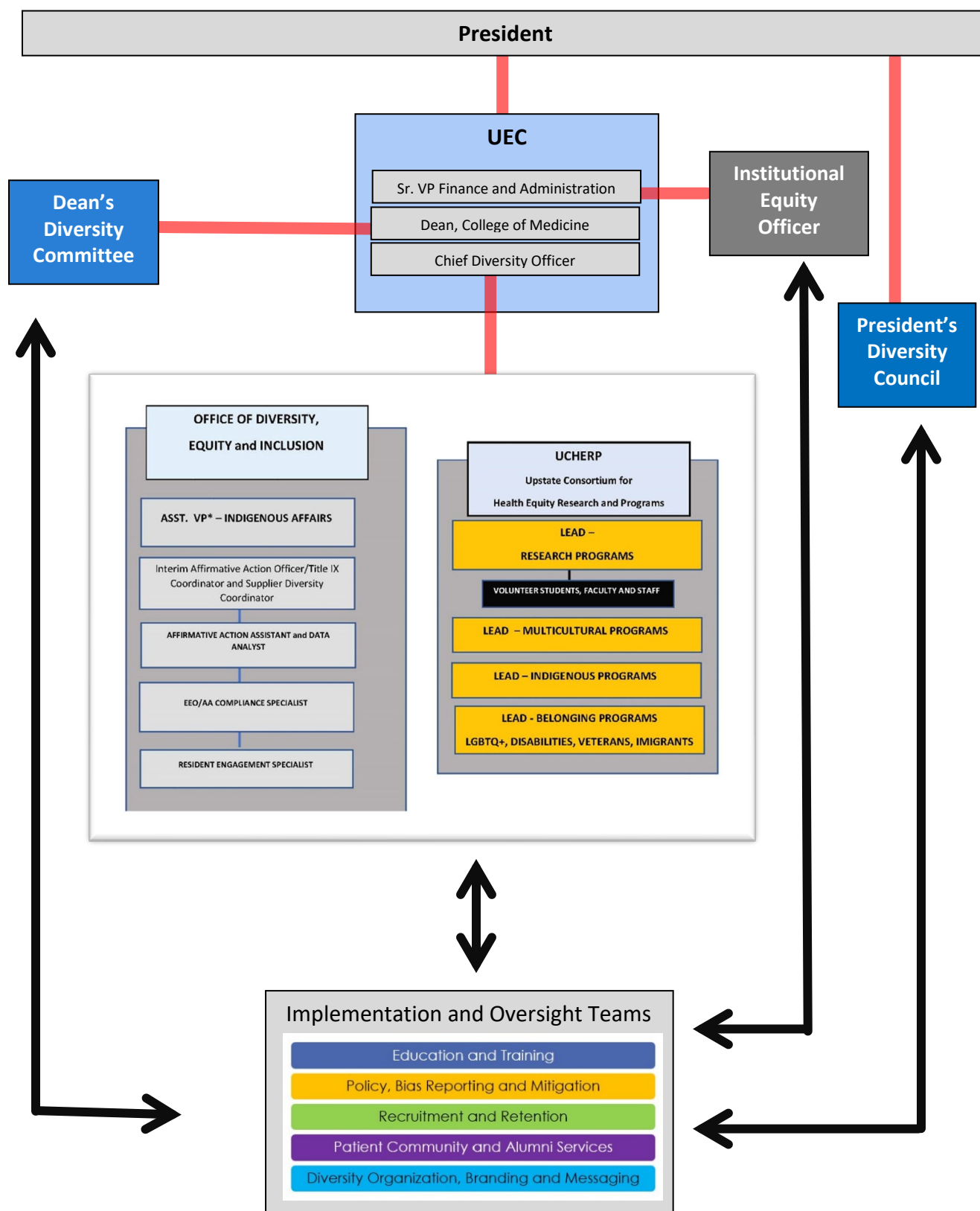
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<sup>2</sup> A **tiger team** is a specialized, cross-functional **team** brought together to solve or investigate a specific problem or critical issue. The term "**tiger team**" originates from the military and was made famous by NASA who deployed a **tiger team** during the Apollo 13 mission in 1970. <https://www.lucidchart.com/blog/what-is-a-tiger-team#:~:text=A%20tiger%20team%20is%20a,Apollo%2013%20mission%20in%201970.>



the group's activities with existing campus functions and programs. The IOTT chairs should report to the Chief Diversity Officer.

The following table illustrates the proposed relationships between the IOTTs and established university resources.



## Recommendation 2: Progress Reports to Campus Community

This report should serve as the basis of a “living document” available to the entire Upstate community to provide an easy method of tracking and reporting on diversity-focused initiatives in the Institution. The power of openness, and the being transparent about the failure the organization has made in the past and the importance of change, especially from leadership, can build trust and foster a sense of belonging.<sup>3</sup>

This could take the form of a web-based diversity initiative reporting system as described in action Item 11.4:

[Create a web-based diversity initiative reporting system to provide a method for accounting of the diversity initiatives around the Institution.](#)

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<sup>3</sup> [https://hello.cultureamp.com/hubfs/1703-Belonging/Culture-Amp\\_6-ways-to-foster-belonging.pdf](https://hello.cultureamp.com/hubfs/1703-Belonging/Culture-Amp_6-ways-to-foster-belonging.pdf)

## Priority Tables – By Implementation Categories

### Table 1: Education and Training

#### Immediate-Term

Rank	Item #	Description	Page
1	7.6	Systematically assess all Upstate curricular content for bias and implement appropriate changes to mitigate bias.	86
2	7.10	Implement experiential learning opportunities and other activities to promote interdisciplinary understanding of and respect for less-prominent roles at Upstate.	90
3	8.5	Perform a survey of the curriculum to eliminate inappropriate/offensive material and reduce heteronormative bias.	103

#### Intermediate-Term

Rank	Item #	Description	Page
1	2.5	Implement required longitudinal bias mitigation training for faculty.	40
2	2.6	Implement required faculty development focused on understanding and teaching content related to the role of racism and implicit bias in health disparities.	42
3	7.5	Implement longitudinal continuing education in bias mitigation for clinicians.	84
4	2.3	Offer a required short course for all incoming/newly hired faculty orienting them to social justice and to Upstate's mission and culture, including an introduction to local history related to social justice.	39

5	3.2	Implement longitudinal training in implicit bias and history of racism and relationship in creating and perpetuating social disparities of health for all employees.	53
6	7.3	Offer a required short course for all incoming students, trainees and faculty and staff, orienting them to social justice and to Upstate's mission and culture, including an introduction to local history related to social justice and brief training in bystander intervention for bias.	81
7	1.11	Improve opportunities and requirements for community service and civic engagement and value service with hour tracking and recognition.	34
8	2.2	Create systems of positive reinforcement to encourage faculty to go beyond cursory engagement in implicit bias and antiracism training.	37
9	10.1	Educate faculty and staff regarding the issue of protected speech for public employees.	119
10	7.2	Implement an annual campus-wide common reading program, including a shared monthly critical reflection point for the entire campus community.	80
11	7.4	Offer a required interprofessional course for all Upstate students, across all programs, addressing core issues related to diversity, equity, inclusion and belonging.	83
12	7.9	Implement a multi-level faculty educator development program, allowing for sustainable professional development with a focus on diversity.	89
13	8.7	Offer education and training for clinical faculty and other providers with a focus on increasing understanding of LGBTQ+ specific health needs and to reduce bias against this population. [Priority 2]	107
14	1.8	Create a social justice roundtable series and health equity M&M conferences.	30

Long-Term

Rank	Item #	Description	Page
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1	7.1	Increase the diversity of simulated patients, including sim manikins and standardized patient actors.	77
2	1.5	Create a “crash course” for International Students and Residents/Fellows who are Foreign Medical Graduates.	26
3	6.4	Upstate C.A.R.E.S – Series on Concentrated Poverty in Syracuse.	71
4	8.9	Develop new content to improve Upstate curricula related to care of LGBTQ+ people.	107

## Table 2: Policy, Bias Reporting, and Mitigation

### Immediate-Term

Rank	Item #	Description	Page
1	9.1	Coordinate the separate departments that investigate complaints of bias, discrimination, and harassment.	113
2	9.2	Enhance options for reporting and addressing bias or mistreatment ranging from minor to significant violations.	116
3	2.1	Introduce a new policy stating that no application for faculty appointment, promotion, or tenure at UMU shall be approved without proof of the faculty member's alignment with Upstate's commitment to diversity, equity, inclusion and belonging.	37
4	10.2	Include in the mission of each degree-granting program a clear and unequivocal commitment to graduating healthcare professionals who are committed to serving the underserved and adjust admissions and hiring criteria to reflect this.	120
5	1.7	Reconsider criteria for scholarships, honors, and recognitions.	28
6	9.3	Create and ombudsperson role as a confidential resource to support conflict resolution for students, faculty, and staff.	116
7	10.6	Design and implement a fair process, including remediation when possible, for how to respond to students, trainees, faculty, and staff who display biases, including racism, and other unprofessional conduct.	126
8	1.3	Add questions about social justice to admissions applications and interview sessions.	24
9	1.9	Survey students, residents, and fellows to assess learner experiences with bias and/or discrimination at Upstate, including their sense of "belonging."	32

10	<b>2.7</b>	Develop programs in the Office of Faculty Affairs and Faculty Development that are focused on supporting faculty from underrepresented groups.	43
11	<b>8.4</b>	Create a policy for supporting transgender students at SUNY Upstate including guidelines for students who begin transition after admission or while attending SUNY Upstate.	101
12	<b>8.1</b>	Reassess and improve programs and the environment for persons with disabilities, immigrants, veterans and other underserved populations of students, faculty, staff, patients, and visitors.	95
13	<b>1.1</b>	Increase learner representation in decision making.	22
14	<b>8.2</b>	Create a uniform policy regarding treatment and care of transgender and gender nonconforming patients and guests.	95
15	<b>8.3</b>	Create a uniform policy regarding workplace gender transition for SUNY Upstate Faculty and Staff.	98
16	<b>7.10</b>	Implement experiential learning opportunities and other activities to promote interdisciplinary understanding of and respect for less-prominent roles at Upstate.	90
17	<b>8.5</b>	Perform a survey of the curriculum to eliminate inappropriate/offensive material and reduce heteronormative bias.	103
18	<b>10.3</b>	Implement a policy for subsidizing the time of community members who come to campus to speak with learners.	122
19	<b>10.4</b>	SUNY Upstate University Police Department should provide the Upstate Community at large with a statement addressing UPD's stance on the current climate of police brutality as well as their commitment/plan to decrease racial inequity and injustice on campus, and action steps they are taking to ensure that no excessive use of force is used.	123

Intermediate-Term

08/31/2020

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Rank	Item #	Description	Page
1	10.5	Review all policies at UMU to assess alignment with the University's mission, vision, and values.	126
2	7.7	Mitigate bias in workplace-based assessment and narrative feedback focusing assessment on knowledge, behaviors, and skills, and educating assessors about how and why other perceptions are more prone to bias.	87
3	1.10	Create a communication link between first year URM, international, and LGBTQ+ identifying learners and interviewing/accepted students of the same identity.	33
4	7.9	Implement a multi-level faculty educator development program, allowing for sustainable professional development with a focus on diversity.	89
5	2.9	Appoint students to serve on departmental and higher-level search committees with the explicit goal of adding to the perspective of diversity and inclusion on those committees.	44
6	5.1	Develop mechanisms to consistently address knowledge gaps and attitudes perpetuating patient inequity of non-white patients by acknowledging racism as the linchpin of patient care inequity and social determinants of health and developing evidence-based guidelines of key clinical health disparities.	55
7	10.7	Institute the Belonging in All Policies (BiAP) Program at Upstate.	127
8	8.1	Reassess and improve programs and the environment for persons with disabilities, immigrants, veterans and other underserved populations of students, faculty, staff, patients, and visitors.	95
9	8.6	Support the formation of Upstate Chapters of National Organizations for students and faculty.	104

10	1.6	Create a “Safe Ride” program to bring Upstate students to their nearby home, or to an Upstate parking lot where they parked their car.	27
11	1.4	Establish a council of URM and ally residents and fellows.	25

## Long-Term

Rank	Item #	Description	Page
1	7.1	Increase the diversity of simulated patients, including sim manikins and standardized patient actors.	77
2	1.5	Create a “crash course” for International Students and Residents/Fellows who are Foreign Medical Graduates.	26
3	6.4	Upstate C.A.R.E.S – Series on Concentrated Poverty in Syracuse.	71
4	8.9	Develop new content to improve Upstate curricula related to care of LGBTQ+ people.	107
5	2.10	Develop an Upstate Diverse Fellows Program to transition BIPOC learners into faculty positions.	45
6	2.8	Reestablish and empower with resources the Faculty/Staff Association for Diversity.	43
7	2.4	Support a requirement that all medical professions must complete implicit bias training as a condition of holding or maintaining state licensure.	39

### Table 3: Recruitment and Retention

#### Immediate-Term

Rank	Item #	Description	Page
1	3.1	Establish institution-wide best practices for hiring and retention of diverse employees.	47

#### Intermediate-Term

Rank	Item #	Description	Page
1	6.3	Improve Pathway to Upstate Program.	69
2	6.5	Improve healthcare pipeline scholarship programs for Syracuse students.	73
3	1.2	Establish support groups, led by professionals, for Upstate learners that focus on well-being as well as specific topics like high stakes test anxiety.	22
4	2.11	Offer scholarships/financial support for potential BIPOC faculty.	46

#### Long-Term

Rank	Item #	Description	Page
1	8.9	Develop new content to improve Upstate curricula related to care of LGBTQ+ people.	107
2	2.10	Develop an Upstate Diverse Fellows Program to transition BIPOC learners into faculty positions.	45
3	2.8	Reestablish and empower with resources the Faculty/Staff Association for Diversity.	43

**Table 4: Patient, Community and Alumni Team**

## Immediate-Term

Rank	Item #	Description	Page
1	4.1	Reconnect Upstate BIPOC Alumni.	55

## Intermediate-Term

Rank	Item #	Description	Page
1	5.1	Develop mechanisms to consistently address knowledge gaps and attitudes perpetuating patient inequity of non-white patients by acknowledging racism as the linchpin of patient care inequity and social determinants of health and developing evidence-based guidelines of key clinical health disparities.	55

**Table 4: Diversity Organization, Branding and Messaging**

## Immediate-Term

Rank	Item #	Description	Page
1	12.2	Reorganize diversity leadership at the university and college levels.	146
2	9.3	Create and ombudsperson role as a confidential resource to support conflict resolution for students, faculty, and staff.	116
3	6.1	Create a Chief Diversity Officers' Alliance or Consortium.	63
4	11.1	Create a logo, special graphics and branding campaign around "Belonging" at Upstate.	128
5	11.3	Update ODI website to further consolidate existing diversity information from the Upstate website and borrow ideas and resources from other websites.	135
6	11.4	Create a web-based diversity initiative reporting system to provide a method for accounting of the diversity initiatives around the Institution.	141

## Intermediate-Term

Rank	Item #	Description	Page
1	12.1	Establish a university-wide consortium for health equity research and programs.	145
2	11.2	Redesign key physical spaces to promote belonging.	134

## Proposed Action Items and Descriptions

### 1. Student, Resident and Fellow Issues

#### 1.1 Increase learner representation in decision making.

**Discussion:** Learners from historically underrepresented groups are not always represented in decision-making that directly impacts them. This can lead to decisions that disproportionately impact students in these groups.

**Proposed Actions:**

- Include a student multicultural representative on all curriculum committees to advise on decisions like the type and use of high-stakes test prep materials.
- Include student advisory committee to financial aid to assist the office in understanding student needs and how to communicate and advise about them.
- Include resident and fellow representatives on GME decision-making bodies.

**Strengths:** Increase student voice, better understand student needs

**Weaknesses:** Additional burden on students to advise and inform

**Opportunities:** MD students have already elected multicultural representatives

**Threats:** Representation among each decision-making body varies, challenge to existing committee structures

#### 1.2 Establish support groups, led by professionals, for Upstate learners that focus on well-being as well as specific topics like high stakes test anxiety.

**Discussion:** Concerns related to overall wellness and mental health impact many health professionals and can disproportionately impact individuals from historically

marginalized groups. On July 2, 2020, the AMA made 8 recommendations to medical schools and residency programs related to addressing structural racism. Two of the recommendations were: a) “Heighten monitoring of learner well-being at all levels of medical education and minimize barriers to mental health care;” and b) “Implement a systems approach to promoting well-being that serves to complement the resilience of individuals.” (linked below)

**Proposed Actions:**

- Establish support groups, led by professionals, for Upstate learners that focus on well-being as well as specific topics like high stakes test anxiety.

**Links to additional documents and resources:**

AMA Statement: <https://www.ama-assn.org/delivering-care/public-health/protecting-underrepresented-students-and-residents-during-covid-19>

Duaa AbdelHameid, M.D. on the stresses she experiences as a Black female resident: <https://www.nejm.org/doi/full/10.1056/NEJMp2022773?medium=organic-social&source=nejmtwitter>

**Strengths:** Groups would be a point of connection and support for learners, existing counseling center and team

**Weaknesses:** Difficult to meet all learner needs

**Opportunities:** Work with new wellness dean (Dr. Nanavati)

**Challenges:** Scheduling groups would be difficult due to different schedules

Priority: High / Complexity: Low

### 1.3 Add questions about social justice to admissions applications and interview sessions.

**Discussion:** Interviewing for programs is an opportunity for students to identify traits and values in a school they may want to attend, and this is particularly true of the questions chosen during MMI. Students are aware of the intentionality behind these questions, which is their first glimpse into what the institution may deem important to know about an applicant. To set the tone and culture at Upstate for those interested in attending, it would be useful to set an expectation of knowledge/curiosity about social justice during interviews or within secondary responses. This would not only help gauge whether a student we are considering for an incoming class has interest or knowledge of the structural hardships within the surrounding community, and make a statement that if the student does not have this desire they may not want to consider Upstate. Some students, even if they don't have prior knowledge, just need the push to do some research when asked in an interview or for an application question in order to align their values with Upstate if it is the institution of their choice.

Example of a secondary question from Dartmouth SOM: "Geisel School of Medicine values social justice and diversity in all its forms. Reflect on a situation where you were the 'other'. (250 words)"

We could also use something a little more direct, such as, "Describe why you're interested in learning in Syracuse?" A question like this might encourage applicants to consider the demographics and history of the city and its people.

#### **Links to additional documents and resources:**

Document used by students to organize efforts:

[https://docs.google.com/spreadsheets/d/1xShZ0\\_3iiedb96jTqJbLuHyjTl\\_Pnx4gBjAK7\\_1Wp0MI/edit#gid=0](https://docs.google.com/spreadsheets/d/1xShZ0_3iiedb96jTqJbLuHyjTl_Pnx4gBjAK7_1Wp0MI/edit#gid=0)



**Strengths:** Ability to recruit and connect with prospective URM students; important to many students to see people who look like them at an institution they are looking to attend

**Weaknesses:** Not the only answer (may not even be the best) to increasing diversity in Upstate applicants

**Opportunities:** To possibly collect data and feedback on this method of recruitment to quantify the effect URM student interaction and familiarity has on URM matriculation to a program

**Challenges:** Compensation for the work, learner time away from studies and clinical care responsibilities

Priority: Moderate / Complexity: Low

#### 1.4 Establish a council of URM and ally residents and fellows.

**Problem:** There is little opportunity for residents and fellows from historically marginalized groups to connect, support one another and exercise agency outside of their departments.

**Proposed Action:**

- From welcoming new residents to the campus and Syracuse to having a space to discuss experiences and, when deemed necessary, have bargaining power, a council of URM residents and fellows would serve multiple functions in the Upstate community. According to an Upstate resident, many residents are connected within their departments, but do NOT have many opportunities to connect with other residents at the university. A Council of this nature would benefit from some funding for a few events throughout the year to connect residents to one another. The group could also report annually to Upstate

leadership on areas of interest and/or concern for residents and fellows. The council should introduce itself to all residents and fellows at orientation like WIMS does. Ideally, this group would have a budget for a couple of events/meetings annually.

**Links to additional documents and resources:**

Upstate could adapt this example for Program Coordinators for Residents and Fellows: <https://medschool.cuanschutz.edu/graduate-medical-education/directors-coordinators/program-coordinator-council>

**Strengths:** Establishes a sense of community

**Weaknesses:**

**Opportunities:** A sense of community may lead to greater levels of well-being and potentially even higher retention in the area

**Challenges:** Scheduling busy people

Priority: High / Complexity: Low

**1.5 Create a “crash course” for International Students and Residents/Fellows who are Foreign Medical Graduates.**

**Discussion:** Racism, sexism, heterosexism, ageism, ableism, and other -isms and structures that promote them can be culturally bound and defined. International Students and Residents/Fellows who are Foreign Medical Graduates might not be aware of the history of racism particular to this country and the implications on practice

**Proposed Action:**

- Create a “crash course” for International Students and Residents/Fellows who are Foreign Medical Graduates. If possible, the course should occur in person with a contact that the learners can keep in touch with if questions arise.

**Strengths:** Connection point, increased information, and support.

**Weaknesses:** Content may be difficult to decide upon and different content might be more useful to some than others.

**Opportunities:** Several faculty members who teach about these topics at Upstate or nearby institutions, currently many residents who are FMGs, Jennifer Abbot in Registrar’s Office is a support for international students.

**Challenges:** Additional time requirement for learners in transition, what content to include.

Priority: High / Complexity: Low

#### 1.6 Create a “Safe Ride” program to bring Upstate students to their nearby home, or to an Upstate parking lot where they parked their car.

**Discussion:** In the current climate, some students feel unsafe being escorted home by police at night when they leave campus. Additionally, some students report that escorts of this nature are not always available when they need them.

#### **Proposed Actions:**

- Many undergraduate institutions have an implemented program where students are paid to escort (whether by walking or by school-provided car/van) fellow students from campus to nearby homes. We are proposing the creation of a “Safe Ride” program where Upstate students could be brought to either their nearby apartment/home within a certain radius, or to an Upstate parking lot where they parked their car. This service would be available after dark

(times could vary depending on the season), or at a set time starting around 10 PM until 1 or 2 AM each night Monday through Friday. Riders will need to present school ID upon entering the vehicle.

**Links to additional documents and resources:**

<https://www.nyu.edu/life/travel-and-transportation/university-transportation/safe-ride-van-service.html>

<https://www.binghamton.edu/services/transportation-and-parking/alternative-transportation/safe-ride.html>

<https://www.shu.edu/public-safety/safe-ride.cfm>

**Strengths:** Promotes student safety, employs students

**Weaknesses:** Extent of use is unclear

**Opportunities:** Work study programs

**Challenges:** Perception that this need is already met by campus police

Priority: High / Complexity: Low

## 1.7 Reconsider criteria for scholarships, honors, and recognitions.

**Discussion:** Many of the honors, scholarships and recognitions offered by Upstate degree programs are based on class rank, test scores or a combination of both. National attention has been focused on the medical student honor society, Alpha Omega Alpha (AOA), and several respected institutions, including Mount Sinai, Harvard, Stanford, and UCSF, have disbanded the group. Mount Sinai's dean for medical education has stated: "AOA perpetuates systems that are deeply flawed...We can't justify putting people who are historically at a disadvantage at an even greater disadvantage. It just doesn't seem fair to dangle in front of our students an honorific

that we know people are not equally eligible for.” We recommend a timeline such that the first round of review and conversation with donors ends prior to 2021 award distribution.

**Proposed Actions:**

- Conduct an audit of student scholarship, honor, and award recognitions over the past 3 years to identify patterns and disparities.
- Re-consider criteria for all scholarships, honors, and recognitions across all programs at Upstate including AOA, Gold Humanism Honor Society, and those within other programs.
- Increase transparency of all award criteria.
- Encourage donors to re-consider rank-based award criteria in favor of supporting need-based awards and establish a process for encouraging new donors to support need-based awards (like processes in place at the University of Virginia).
- Consider utilizing the (P)RIME criteria (developed by Lou Pangaro and colleagues) in scholarship/honor awards.
- Add funding to SNMA awards.
- Based on the results of the above audit, make a recommendation as to whether AOA should be part of Upstate (see Mount Sinai position papers).

**Links to additional documents and resources:**

<https://www.aaup.org/article/why-standardized-tests-have-standardized-postracial-ideology#.Xw5Y0zpKjIU>

<https://www.beckershospitalreview.com/hospital-physician-relationships/mount-sinai-med-school-halts-100-year-tradition-after-accusations-of-racism.html>

<https://meded.ucsf.edu/news/ucsf-school-medicine-suspends-affiliation-alpha-omega-alpha-aoa-honor-society>

**Strengths:** System self-assessment to identify whether values are aligned with awards

**Weaknesses:** Systems and processes have a long history at Upstate; students fear that, as graduates of a less prestigious/well-known institution, they need the “boost” from honors like AOA when they apply to residency programs

**Opportunities:** Better align institutional and donor values with funds and recognitions

**Threats:** Alumni/donor backlash

Priority: High / Complexity: Moderate

## 1.8 Create a social justice roundtable series and health equity M&M conferences.

**Discussion:** Students have identified the need for more opportunities to (1) learn from community members, (2) observe and participate in interprofessional dialogue around social justice issues, and (3) engage in discussion and analysis of how health equity impacts real people and patients. These activities would increase the centrality of ethics content to enhance ethics learning across programs and strengthen IPE at Upstate.

### Links to additional documents and resources:

Perdomo J, Tolliver D, Hsu H, et al. Health Equity Rounds: An Interdisciplinary Case Conference to Address Implicit Bias and Structural Racism for Faculty and Trainees. MedEdPORTAL. 2019 Nov 22;15:10858.

**Strengths:** Rebecca Garden (Consortium for Culture and Medicine/Department of Public Health and Preventive Medicine) has successfully organized community panels

around topics like neighborhood violence and refugee experiences for several years; making sessions mandatory will enhance the quality of discussion by including perspectives of individuals who might not have made time to attend if it is optional; asking learners to complete a certain number of sessions within a series will allow for more flexibility for scheduling; content in diversity, equity and inclusion is ideally taught in an interprofessional format. This proposal is also part of a proposed interprofessional course by the Training and Curriculum Working Group and we endorse their proposal.

**Weaknesses:** Panels such as those proposed can be time-consuming to organize and administer—we need to assure that the educational benefits are matched to the resources required.

**Opportunities:** Roundtable discussions and other panels could be embedded within an interprofessional course, such as the “Belonging 101” course proposed by the Training/Curriculum Working Group; the “Health Equity Rounds” model has been used at several institutions, and the developer (Boston Medical Center) has expressed willingness to partner with institutions interested in establishing their own health equity rounds (Perdomo et al., 2019); the Department of Pediatrics (chair Greg Conners, Karen Teelin and Dr. Caruso Brown) is interested in being the pilot department for “Health Equity Rounds” and Chris Morley (chair of Public Health and Preventive Medicine) has also expressed interest in supporting “Health Equity Rounds” at Upstate; Darren Carboni and the Office of Interprofessional Education have expressed interest in supporting this type of venture and have additional funding and resources.

**Challenges:** Meaningful IPE efforts require buy-in across programs and colleges; community members’ time must be adequately compensated; requires support for the time of the faculty/staff organizing discussions; “Health Equity Rounds”

specifically requires a culture in which we can reflect on bias and injustice in a way that feels non-punitive.

Priority: High / Complexity: Moderate

### 1.9 Survey students, residents, and fellows to assess learner experiences with bias and/or discrimination at Upstate, including their sense of “belonging.”

**Discussion:** Experiences with diversity, equity, inclusion and belonging and with bias and discrimination among students, residents, and fellows at Upstate are not well understood or measured consistently across programs. The lack of information makes targeting necessary interventions and/or building on positive experiences difficult. Systematic surveys of these groups would provide helpful information to guide future initiatives; however, it is important that a survey only be implemented in a way that prohibits retaliation and that the institutional response to such a survey be transparent and include substantive changes.

#### **Proposed Actions:**

- Implement surveys to collect learner experiences with bias and/or discrimination at Upstate that also include a section on ‘sense of belonging’
- Implement surveys at times that make sense for each group of learners
- Request transparency in reporting
- Request transparent response from leadership and proposed action items

Links to additional documents and resources:

**Draft student survey:** <https://redcap.upstate.edu/surveys/?s=EWWF9NJEHF>

**Strengths:** Student initiated, simple method to collect data from many important stakeholders, no cost implementation (already designed in redcap, simple adjustments needed for residents and fellows)



**Weaknesses:** Response rates may be low due to fatigue, if no response from leadership can hurt trust in organization

**Opportunities:** Opportunity to better understand experiences of learners, opportunity to target interventions

**Challenges:** Implementation timeline, response rates

Priority: Moderate / Complexity: Low

1.10 Create a communication link between first year URM, international, and LGBTQ+ identifying learners and interviewing/accepted students of the same identity.

**Discussion:** It is unclear how Upstate Admissions and Welcome Programming Explicitly Supports URM, International, and LGBTQ+ identifying learners

**Proposed Actions:**

- Creation of a communication link between first year URM, international, and LGBTQ+ identifying learners and interviewing/accepted students of the same identity.

Potential and incoming learners from groups that are historically under-represented in each profession or specialty at Upstate (including but not limited to: URM, international, and LGBTQ+ identifying learners) do not currently have established links to current students, residents who have experienced the culture at Upstate that are supported by the institution

During Spring of 2020, some students in the first-year class created an initiative to converse with interviewing URM students with hopes of showing them that, should they consider attending Upstate, there are people here to support them. We identified that a large piece of what is deterring URM students is the location and fear

of lacking their cultural connection and necessities. This is a proposal for the admissions office to create a sustained effort for URM, LGBTQ+ identifying, and international students to meet with interviewing and accepted students. For this work, the students should be compensated accordingly whether that be a position in work study for coordinating the program with the admissions office, or lunch cards for the students each time they meet with candidates.

### 1.11 Improve opportunities and requirements for community service and civic engagement and value service with hour tracking and recognition.

**Discussion:** Learners have few opportunities to connect with the communities that Upstate serves; those who do engage in sustained service based upon the community's self-identified needs often receive little recognition of their contribution to the community.

#### **Proposed Actions:**

- Foster learner connections to the communities that Upstate serves and recognize student service by systematizing the logging of service hours.
- Value service by offering awards (recognition that they can include on future applications and curricula vitae) to students who complete a certain amount of service.
- In consultation with the Center for Civic Engagement, evaluate whether to add a requirement for civic engagement to all Upstate educational programs.

#### **Links to additional documents and resources:**

Brandeis community service model: <https://www.brandeis.edu/community-service/index.html>

Simone Seward and the Center for Civic Engagement (CCE):

<https://www.upstate.edu/engage/>

**Strengths:** Increases student connection to Syracuse community, recognizes service, which is something that Upstate says it values

**Weaknesses:** Little administrative support to monitor tracking (currently one person in CCE)

**Opportunities:** Connections to community might lead to increased numbers of graduates staying in the area; service could also be recognized in promotion and tenure pathways

**Threats:** Service “tourism” mentality and lack of continued support can hurt community organizations and institution’s reputation

Priority: Moderate / Complexity: Low

#### 1.12 Support MASI and the Union of Multicultural Clubs within the Campus Activities Building (CAB).

**Discussion:** Ms. Chambers’ leadership is a strength and our sub-committee believes the work of supporting multicultural clubs should be supported and funded separately than all clubs in general. Consider the Brandeis Intercultural Center (ICC) as a model for funding and supporting this work.

Links and information:

<https://www.brandeis.edu/now/2016/september/madeline-lopez-profile-bnow.html#:~:text=Brandeis%20University's%20Intercultural%20Center%20>

Brandeis InterCultural Center (ICC): <https://www.brandeis.edu/intercultural-center/>

The Brandeis Intercultural Center serves as the umbrella office for 15 diverse student clubs and organizations.

The center is dedicated to creating a haven of respect, education and celebration that aims to develop critical consciousness and awareness of the myriad cultures of Brandeis University. It also works to foster a welcoming community where diverse experiences and perspectives are valued and dedication to the understanding of cultures and ethnicities is essential.

Brandeis Affiliated Clubs and Orgs: <https://www.brandeis.edu/intercultural-center/clubs-organizations.html>

## 2. Faculty Issues

Currently there is a lack of meaningful and high-quality continuing education to ensure that faculty members possess the knowledge and skills required to create and sustain a clinical and academic environment that supports diversity, equity, inclusion and belonging at Upstate Medical University. Discussions about diversity and race can be sensitive and challenging and should not be addressed without preparation and context. It is important to note that educational and training efforts must be joined with organizational changes in practices and policies which are described in other sections of this report.

**Problem:** Currently there is a lack of meaningful and high-quality continuing education to ensure that faculty members possess the knowledge and skills required to create and sustain a clinical and academic environment that supports diversity, equity, inclusion and belonging at Upstate Medical University. Discussions about diversity and race can be sensitive and challenging and should not be addressed without preparation and context. It is important to note that educational and training

efforts must be joined with organizational changes in practices and policies which are described in other sections of this report.

**2.1 Introduce a new policy stating that no application for faculty appointment, promotion, or tenure at UMU shall be approved without proof of the faculty member's alignment with Upstate's commitment to diversity, equity, inclusion and belonging.**

**Description:** Proof of this commitment to diversity, equity, inclusion on the part of faculty would include both a written pledge to uphold these principles and evidence of participation in education, training, scholarly works or other evidence which substantiates such alignment to the satisfaction of the Faculty Appointments and Promotions Committee.

**Pros:** Making commitment to diversity, equity, and inclusion a part of the T&P process would create a positive incentive for faculty to engage in this issue and the training opportunities we will be developing for cultural competency.

**Cons:** The challenge of getting the members of the T&P committee to truly weigh this aspect of the faculty's portfolio on their decision rather than it merely becoming a check the box activity. Also, enforcement: what would be done if an otherwise highly achieving faculty member had made no effort in embracing equity, inclusion, and diversity? The pressure to promote them would be high, regardless.

**Recommendation:** This is a high priority action item that, if implemented, will send the right message to our faculty that this be recognized and weighted in all appointment, promotion, and tenure decisions.

**2.2 Create systems of positive reinforcement to encourage faculty to go beyond cursory engagement in implicit bias and antiracism training.**

**Description:** Ensure recognition of faculty who have completed more advanced training in anti-racism and implicit bias. This could include buttons to wear, announcements, testimonials from people who have participated in training, etc. Many faculty members already work with vulnerable and underserved populations. Putting a spotlight on these faculty and showcasing their work and how it aligns with our values could provide examples to encourage other faculty, house staff and students to engage in these activities as well. (4)

Priority: High / Complexity: Low.

**Existing Strengths and Opportunities:**

- Similar campaigns already in place on campus and in the hospital
- Relatively low-cost
- Especially useful if the decision is made not to mandate the continuing education above.

**Possible Weaknesses and Threats:**

**References:**

1. Carnes M et al. Promoting Institutional Change Through Bias Literacy. J Divers High Educ. 2012 June; 5(2): 63–77. doi:10.1037/a0028128.
2. Devine PG et al. Long-term reduction in implicit race bias: A prejudice habit-breaking intervention. J Exp Soc Psychol. 2012 November; 48(6): 1267–1278. doi:10.1016/j.jesp.2012.06.003.
3.  
[https://www.americanbar.org/groups/business\\_law/publications/blt/2020/04/implicit-bias](https://www.americanbar.org/groups/business_law/publications/blt/2020/04/implicit-bias)
4. examples of activities that fall in this category can be found here:

<https://www.upstate.edu/engage/students/service-learning.php>

<https://www.upstate.edu/engage/students/volunteer-opportunities.php>

**2.3 Offer a required short course for all incoming/newly hired faculty orienting them to social justice and to Upstate's mission and culture, including an introduction to local history related to social justice.**

**Description:** This proposal is being more fully described and developed in the Curriculum and Training working group. The Faculty Issues working group lends support to this concept to "set the tone" for incoming faculty and work toward creating a culture of belonging.

Priority: High / Complexity: High

**2.4 Support a requirement that all medical professions must complete implicit bias training as a condition of holding or maintaining state licensure.**

**Description:** Other states have recently implemented licensure rules requiring either all medical professionals (Michigan example) or a segment of medical professionals (California example) take implicit bias training. Campus leaders at the highest levels should advocate for this step to be taken in New York as well.

Priority: High / Complexity: Medium

**Existing Strengths and Opportunities:**

- As a State institution Upstate has liaisons to the central SUNY office and the ability to join with other SUNY medical campuses in communicating the need for change to state legislators and the governor.
- Having a State licensure mandate would make it much easier (and in fact necessary) to require faculty at Upstate to complete this training.

**Possible Weaknesses and Threats:**

- Given the ongoing Covid-19 Pandemic it will be necessary to convince the Governor and legislators that this is a priority.

**2.5 Implement required longitudinal bias mitigation training for faculty.**

**Description:** Any attempt at institutional change at Upstate must engage the faculty and address and mitigate implicit biases held by faculty. Faculty have a wide scope of influence; clinical faculty deliver patient care, supervise and teach medical students, residents and fellows, and have daily interactions with other healthcare professionals and staff, while basic science faculty teach medical and graduate students and supervise research personnel.

Therefore, we propose a requirement that all faculty participate in evidence-based implicit bias education. To be meaningful, this education must be conceived and delivered as continuing, rather than one-time, offerings and should be required at least annually for all faculty. Therefore, we must have a plan that is sustainable within the institution. This might involve a combination of partnering with outside sources and developing internal programming as well as both synchronous and asynchronous learning. While several models and programs for implicit bias exist, only a few have high-quality evidence of their effectiveness including those based on the concept of prejudice habit breaking. (1,2) This training, while standardized for the whole university might be implemented at the department or division level to improve communication within these units as a practical way to organize the training and to take advantage of the possibility of diffusion of ideas within these units.

In addition, a group of motivated and self-selected individuals might wish to pursue further training to become “allies” (3) with more developed skills in bias recognition and interruption in day-to-day situations. These would be faculty (and others)



charged with the challenging task of intervening in a sensitive and effective way when they see implicit bias in action.

Priority: High / Complexity: High

**Existing Strengths and Opportunities:**

- It is hard to imagine how we can move forward in our institution without introducing implicit bias training. Even well-meaning people harbor and act on biases every day. We have a moment of increased awareness and desire on the part of many faculty to improve the culture of diversity and inclusion in our institution.
- An expectation of professional development and required training already exists
- We have an existing pool of talented staff in ODI and Multicultural Affairs to assist in development of educational modules and training.
- A growing body of evidence to support best practices in this area.

**Possible Weaknesses and Threats:**

- Limited financial resources to commit to this effort.
- Multiple demands on the time, energy, and attention of faculty.
- Might be difficult to mandate the more in-depth and time-consuming training required to effect meaningful change.
- May need to create awareness about the importance of this education among faculty - some will feel they do not need it or even that it is not valuable.
- Poorly designed or implemented training could do more harm than good.
- There might be resistance on the part of faculty to topics that many find uncomfortable to talk about.

## 2.6 Implement required faculty development focused on understanding and teaching content related to the role of racism and implicit bias in health disparities.

**Description:** The idea of race *per se* as a risk factor for disease is one that has persisted in medical education and practice despite ample evidence that race is a social rather than a biological construct. Therefore, only a limited number of faculty are equipped to teach about racism and discrimination as causes of health disparities. Faculty require education in these topics both for their own ability to provide better care for their patients, and to be competent in imparting this knowledge to medical students, residents, and fellows. Faculty will be required to complete basic learning modules in these areas. An initial short course would be required of all faculty with annual review in the form of a short online module and quiz for reinforcement and dissemination of new information.

Faculty who are more deeply involved in education, such as basic science thread leaders, pre-clinical unit course directors, core faculty for medical student clinical rotations, residency and fellowship program directors, should undergo more advanced learning to encourage improved dissemination and reinforcement of these concepts.

Priority: High / Complexity: High

### Existing Strengths and Opportunities:

- As above, there is a renewed energy to move toward change and improvement in this area.
- Current members of the faculty who are well-versed in these areas. There is ongoing development of this material for medical students that could be developed for faculty simultaneously.

### Possible Weaknesses and Threats:

- Limited financial resources to commit to this effort.
- Multiple demands on the time, energy, and attention of faculty.
- May need to create awareness about the importance of this education among faculty - some will feel they do not need it or even that it is not valuable.
- There might be resistance on the part of faculty to topics that many find uncomfortable to talk about.
- Faculty may fear making inadvertent mistakes that will cause offense and harm to BIPOC students.

## 2.7 Develop programs in the Office of Faculty Affairs and Faculty Development that are focused on supporting faculty from underrepresented groups.

**Discussion:** These programs might include leadership training or referrals to such programs as well as formalized mentorship programs outside those already developed within a faculty member's department.

The links below are primarily HR programs and geared more toward general career development in healthcare organizations, but there are some material and links that are quite relevant to faculty.

Example of NYU Langones' office: <https://jobs.nyulangone.org/why-work-with-us/career-development/>

Example of Hopkin's office, it falls under the realms of Human Resources:  
[https://www.hopkinsmedicine.org/human\\_resources/education\\_programs/employees/center\\_career\\_dev.html](https://www.hopkinsmedicine.org/human_resources/education_programs/employees/center_career_dev.html)

Example of Seattle Children's office:  
<https://www.seattlechildrens.org/about/careers/professional-development/>

## 2.8 Reestablish and empower with resources the Faculty/Staff Association for Diversity.

**Discussion:** SUNY Upstate Medical University, as a public institution, is charged with improving the health of the community through education, research, and patient care. Upstate employees formed the Faculty and Staff Association for Diversity to increase awareness of the contributions made by faculty and staff of color. This association, formed in 1997, is an initiative of the President's Diversity Enhancement Program.

Membership is open to any person at Upstate who embraces the fundamental goal of increasing diversity on campus and who is willing to share their expertise, experience, and insights. A forum to engage faculty and staff in this fashion allows development of fertile ground to explore new ideas and relevant experience within the group. It establishes a mechanism to gauge the “temperature” of the culture in an informal and real-time way. Although low cost, such deliberate attempts to develop a community based forum to advance the cause of diversity and give a voice to under-represented minorities both on campus and in the community at large forms the basis for advancing the stated goals and initiatives whether developed internally or from external resources. A modest resource budget for meetings and special events sponsored by FSAD, most likely to be virtual in the COVID era, would permit rapid institution and development of projects. A direct reporting line to the Chief Diversity Officer in the Office of Diversity and Inclusion at Upstate would empower the group with a voice across all constituencies.

Priority: Medium

Complexity: Low

## 2.9 Appoint students to serve on departmental and higher-level search committees with the explicit goal of adding to the perspective of diversity and inclusion on those committees.

**Discussion:** Students with an interest in diversity and inclusion could bring a fresh view to hiring and search committees. Students are important stakeholders and can

bring fresh perspective, particularly with regard to the climate of diversity and inclusion on campus, and would likely be able to introduce issues for considerations that would not necessarily be recognized by other members of a search committee.

## 2.10 Develop an Upstate Diverse Fellows Program to transition BIPOC learners into faculty positions.

**Discussion:** Establish a prestigious “Diverse Fellows” program at Upstate that would provide a clear and accelerated path for BIPOC learners to obtain tenure track faculty positions. The focus would be on basic, translation and clinical researchers and would entail support to establish an independent research program. To use a basic scientist as an example, the support could include a small lab space, a technician, supply money, salary, and an appropriate mentorship team for a term of three years. During the three years, they would be expected to establish their research program and submit grants. Evaluation in year 3 would determine if the person progressed to a tenure track faculty position. This mechanism could be used for exceptionally accomplished learners completing their PhD, MD, and MD/PhD degrees and to clinical researchers completing their residencies or basic/translation researchers completing a post-doctoral fellowship.

**Pros:** It would demonstrate a clear commitment to diversifying our faculty. One of the anxieties of pursuing an academic career, is whether you will be able to land a tenure track position given how competitive the market is. This program would alleviate that concern by providing a clear path to the faculty and so I believe it would be successful in recruiting accomplished BIPOC scientists to our faculty.

**Cons:** Cost. Finding a home department for the transition to the faculty; Many chairs have clear ideas in what areas they want to hire, and they believe if they go to the broader market, they will get better candidates. Mentorship will be key, but we have no formalized junior faculty mentoring program in place at Upstate. Identifying lab space could also be challenging.

**Recommendation:** A Diverse Fellows program at Upstate would be a powerful statement to our internal community and external partners and community that we are serious about diversifying our faculty ranks. We would need to market this program as prestigious for those chosen to participate and funding would need to be identified. Perhaps the foundation could run a fundraising campaign for the program, they are particularly good at raising funds in our community and our community may be interested in this program

## 2.11 Offer scholarships/financial support for potential BIPOC faculty.

**Discussion:** We need to recognize the many structural barriers that BIPOC people encounter when embarking on academic pathways. Providing highly competitive scholarships to recruit BIPOC learners would begin to establish a more robust pipeline of faculty candidates.

**Pros:** Competitive scholarship offers should increase BIPOC applicants to our educational programs. It would ease the burden for learners that have economically challenging family situations that may require them to take additional employment.

**Cons:** Many institutions are competing for the same limited pool of BIPOC candidates through generous scholarship offers so it may not have much impact.

**Recommendation:** We should examine the scholarships we are currently awarding BIPOC students as compared to our peer competitors to determine if increasing their size would create a competitive advantage for recruiting. If so, then yes, we should implement this strategy.

## 2.12 Institute the Rooney Rule for all senior leadership and management positions at Upstate.

**Discussion:** The Rooney Rule, as instituted by the National Football League, requires at least one woman and one underrepresented minority to be considered in the slate

of candidates for either every open senior position in the NFL. Upstate should give serious consideration to adopting this initiative.

**Pros:** The Rooney rule would force search committees to take seriously a commitment to diversity and inclusion and to participate in the recruiting of diverse applicants into the pool. It would also help to create a list of known diverse candidates for other positions for which they would be qualified and could be considered.

**Cons:** Just because there are BIPOC candidates does not mean that bias will not be applied in choosing the finalists. Also, in many fields the pipeline of BIPOC candidates may not be high so what do you do if there are no BIPOC candidates in the pool? Would you keep the search open even though there is a critical need?

**Recommendation:** Implementation of the Rooney rule would be problematic and likely un-effective, so would recommend against.

### 3. Staff Issues

#### 3.1 Establish institution-wide best practices for hiring and retention of diverse employees.

**Discussion:** Recruitment of diverse employees is not seen as a University Hospital priority, despite serving the Syracuse community which is made up of the nation's poorest minority population, most of whom live within one mile of University Hospital. This population has unique needs, perspectives, and attitudes resulting from systemic racist policies. [1] As has been described above, stereotypes and biases prevail when employees have knowledge-gaps in the causes of social determinant of health. This knowledge-gap results in an inevitable disconnection between health care provider and patient with diverse employees feeling marginalized, devalued, and not heard. A consequence of this disconnect between patients and providers is that patients may feel they are getting unequal treatment from their health care providers.

Most healthcare providers at Upstate are white, highly educated, and live in suburbs surrounding Syracuse. This creates a barrier to understanding the various cultural needs of the patients they are serving. The patients and their families/caregivers need assurance that those who manage their care have a deeper understanding of and respect for their needs, and how social determinants of health have occurred. A lack of understanding, awareness, and respect can lead to patient care that lacks empathy and cultural humility. Syracuse has a staggering rate of poverty which largely effects the immediate areas around Upstate University hospital. While we lead the area in terms of employment, resources, research, and access to funding, there is a disconnect with the immediate local community. We can do better.

On the academic side, we need a diverse faculty to broaden our curricular approaches, to hold each other accountable, and to provide specific mentoring and support for diverse students. With encouragement, these same students may be faculty some day. [2] Competition is great for faculty with diverse backgrounds and we must be wholly devoted to this effort.

**Related Action Item: Establish institution-wide best practices for hiring, retention, and promotion of diverse employees.**

**Solutions under consideration:**

- Evaluate Diversity budget [5-6]

**Pros:** Speaks to University commitment to diversity

**Cons:** uncomfortable in presence of other priorities

Recommendation: Review and evaluate ODI budget

Final Priority/Complexity: High/low



- Establish a benchmark for diversity [7] at Upstate. Use a combination of the ethnic demographic of the City of Syracuse and/or Onondaga County among others to guide recruiting and hiring at all levels.

**Pros:** Quantitative data is hard to argue with.

**Cons:** time, cost, may require qualitative analysis.

Recommendation: Establish benchmarks

Final Priority/Complexity: High/High

- Review the hiring procedures and practices at Upstate Hospital for bias and inclusion.

**Pros:** Reveal inequities, streamline process

**Cons:** Time

Recommendations: Charge Human Resources and three individuals outside HR to review policies.

Final Priority/Complexity: Medium/Medium

- Survey employees regarding how diversity is handled at Upstate (e.g. onboarding, recruitment, professional development, mentoring, discipline, etc.)

**Pros:** We “don’t know what we don’t know,” we do not know the diversity pulse, responsive to current climate of becoming anti-racism

**Cons:** employee buy-in (survey fatigue), cost

Recommendation: Develop and administer survey

Final Priority/Complexity: High/medium

- Review previous surveys and focus group results for diversity-related issues, an untapped area.

**Pros:** Gain information that will guide action

**Cons:** Time and commitment (buy-in from administration)

Recommendation: Charge group with task and analysis (group could be semi-volunteers)

Final Priority/Complexity: Medium/medium

- Listening sessions (Belonging Focus Groups) to identify problems/challenges of diverse staff and professionals. Listening sessions will also aid in sharing experiences to improve white staff and professionals' awareness of issues of diverse employees.

**Pros:** Show that Upstate leadership is vested in acknowledging diverse experiences (positive and negative). Provides opportunity for diverse employees to be heard by those in leadership who have the power to create change.

**Cons:** uncomfortable, risky

Recommendation: Include all employees in staged sessions, attended by leadership and facilitated by someone from ODI.

Final Priority/Complexity: High/medium

- Develop a leadership and professional growth program specific for diverse staff. This program would provide models of diverse individuals who "have

made it.” This program would be a “grow your own”, supporting diverse Upstate staff to prepare for leadership positions.

**Pros:** The current leadership program is not offered to clinical staff who are not in management positions. A unique program would recognize that diverse staff need specific mentoring, may not have started with a level playing field, and have the untapped potential for growth and leadership.

**Cons: none**

**Recommendation:** Develop specific professional development program for diverse staff.

**Final Priority/Complexity:** High/Low

- Advertisement and outreach aimed at underrepresented groups. [3]

**Pros:** greater applicant pool

**Cons:** cost

Recommendation: use enclosed list to make advertising more robust

Final Priority/Complexity: Medium/Low

- Academic Hiring and Retention: Focused efforts on hiring and retaining diverse faculty that could include scholarships/financial support for potential diverse faculty and scholarships for higher degrees to support pursuit of higher degrees.

**Pros:** Acknowledges the barriers that may exist for some diverse applicants. Speaks to the commitment of being a diverse, anti-racist Institution.

**Cons:** May be favoritism, cost.

Recommendation: Explore options for financial support of diverse candidates and/or current faculty.

Final Priority/Complexity: Medium/Medium

- Search committee diversity volunteer. When there is no diversity on a search team, volunteer from a volunteer pool of trained diverse professionals would supplement the search committee. Their addition may add a perspective that is lacking in an all-white team.

**Pros:** Novel idea to enhance a broader look at hiring

**Cons:** Lack of expertise of specific situation, hostile environment, time commitment

Recommendation: Explore idea

Final Priority/Complexity: Low/Medium

### **Resources**

[1] Massey, D.S. Still the Linchpin: Segregation and Stratification in the USA. Race Soc Probl 12, 1–12 (2020). <https://doi.org/10.1007/s12552-019-09280-1>

[2] <https://www.insidehighered.com/advice/2018/07/19/advice-deans-department-heads-and-search-committees-recruiting-diverse-faculty>

[3]

<http://www.buffalo.edu/content/dam/www/equity/UBJobs%20DiversityRecruitmentWebsites.pdf>

[4] [https://www.visier.com/clarity/how-hr-can-tackle-diversity-using-the-rooney-rule/#:~:text=The%20Rooney%20Rule%20requires%20%E2%80%9Cat,from%20company%20to%20company\).%E2%80%9D](https://www.visier.com/clarity/how-hr-can-tackle-diversity-using-the-rooney-rule/#:~:text=The%20Rooney%20Rule%20requires%20%E2%80%9Cat,from%20company%20to%20company).%E2%80%9D)

[5]

[https://www.diversitybestpractices.com/sites/diversitybestpractices.com/files/attachments/2019/06/diversity\\_infrastructure\\_councils\\_and\\_di\\_budgets.pdf](https://www.diversitybestpractices.com/sites/diversitybestpractices.com/files/attachments/2019/06/diversity_infrastructure_councils_and_di_budgets.pdf)

[6] <http://senate.utk.edu/wp-content/uploads/sites/16/2015/12/Overall-Diversity-Funding.pdf>

[7]

[https://www.diversitybestpractices.com/sites/diversitybestpractices.com/files/attachments/2017/01/2016\\_dbp\\_executive\\_summary\\_.pdf](https://www.diversitybestpractices.com/sites/diversitybestpractices.com/files/attachments/2017/01/2016_dbp_executive_summary_.pdf)

### 3.2 Implement longitudinal training in implicit bias and history of racism and relationship in creating and perpetuating social disparities of health for all employees.

**Discussion:** Implicit bias refers to learned stereotypes and prejudices that operate automatically and unconsciously. Implicit bias may affect how providers and other clinicians interact with patients, prescribe treatment protocols or recommended treatment options (see Issue #2 below). Implicit bias can affect both perception and clinical decision making and adversely affects treatment outcomes.<sup>1</sup> Implicit biases are linked to discriminatory outcomes across all facets of an academic health science center.<sup>2</sup>

Development of implicit bias and racist attitudes can come from inaccurate and incomplete history. White people and others have been taught a history that downplays racist actions by political systems and communities with adverse effects on attitudes, beliefs, and that promoted structural inequities largely ignored or invisible to those with incomplete history education. Upstate happens to sit in the middle of the 15<sup>th</sup> Ward that was dismantled and disseminated during the 50's to allow for the construction of I81. And yet, many employees of Upstate had little to no knowledge of this significant history and how it created structural inequities that built and/or contributed to unequal housing, education, incomes, and employment of our community and how it has lasting effects on our health care institution.

Transformation to become an anti-racist institution requires a change in attitudes and behaviors of individuals within Upstate. Any effort that strives to achieve institutional

transformation must engage its people at all levels.<sup>3</sup> While implicit bias training most readily impacts those open to change, others may benefit from awareness of their bias, transitioning from non-contemplation to contemplation of change. However, implicit bias training should not be a one-shot deal as training is unlikely to produce an enduring change in attitudes or awareness. Conscious, goal-directed behavior over time is needed to produce lasting and enduring change.<sup>3</sup> Ongoing implicit bias training will communicate the institution's support for true transformation into a culture of anti-racism.

**Related Action Item: Implement longitudinal training in implicit bias and history of racism and relationship in creating and perpetuating social disparities of health for all employees. (curriculum/training issues)**

**Solutions Under Consideration:**

- Develop Bias Checklist/reminders for clinic use throughout Upstate

**Pros:** Simple, easy reminder that can be posted anywhere. Reinforces behavior.

**Cons:** One more piece of information, may get overlooked, will not be meaningful if culture does not change.

**Recommendation:** Explore ways to make implicit bias training real and in time. A checklist may be one way.

**Final Assessment of Priority/Complexity:** Low/moderate

- Develop mandatory program to reduce implicit race bias for all faculty and staff that includes history of the 15th Ward and resulting social health disparities.

**Pros:** Unified effort to get all onboard. Demonstrates Upstate's commitment to becoming an anti-racist institution. Allows all to be on same page, share common language and values.

**Cons:** Expensive, cumbersome, will be resistance, time issues.

**Recommendation:** Explore anti-bias training programs, select, and/or develop most feasible one for Upstate's complexity.

**Final Assessment of Priority/Complexity:** High/High

- Review individual lectures for race-related misinformation or omission of facts (e.g. pathology or causes of social health disparities) – related to curriculum/training issues

## RESOURCES

[1] <http://www.ihl.org/communities/blogs/how-to-reduce-implicit-bias>

[2] Devine, PG, Forscher, PS, Austin AJ, Cox WTL. Long term reduction in implicit race bias: a prejudice habit-breaking intervention. J. Exp Soc Psycho. 2012;48(6):1267-1278  
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3603687/>

[3] Carnes M, Devine PG, Issac C et al. Promoting institutional change through bias literacy. J. Divers High Educ. 2012;5(2):63-77

## 4. Alumni Issues

### 4.1 Reconnect Upstate BIPOC Alumni.

Efforts are underway to enhance relations with Upstate's alumni of color, including plans for a virtual reunion during the Fall of 2020. The Task Force recommends continued efforts, with support of the Office of Alumni Affairs, to further relations with alumni of color.

## 5. Patient Issues

### 5.1 Develop mechanisms to consistently address knowledge gaps and attitudes perpetuating patient inequity of non-white patients by acknowledging racism as the linchpin of patient care inequity and social

determinants of health and developing evidence-based guidelines of key clinical health disparities.

**Discussion:** Bailey<sup>1</sup> pointed out that we have been reluctant to call out racism as the cause of health inequities. As the Institute of Medicine's Unequal Treatment report<sup>2</sup> so clearly said, racial and ethnic minorities are less likely to receive preventative medical treatments and often receive lower-quality care in childbirth<sup>3</sup>, kidney diseases,<sup>4</sup> cancer treatment<sup>5</sup>, dermatology,<sup>6</sup> asthma,<sup>7</sup> chronic conditions such as diabetes and obesity,<sup>8</sup> cardiovascular care, mental health including childhood and race trauma and its links to violence,<sup>9-11</sup> and pain that result in worse outcomes.<sup>12</sup> One study found that a substantial number of medical students and residents held false beliefs about biological differences between white and black individuals (such as believing that black skin is "tougher" than white skin), and found that these beliefs predict racial bias in pain treatment recommendations.<sup>13</sup> The Institute of Medicine's report found evidence that stereotyping, biases, and uncertainty with interacting with minority patients of health care providers contribute to unequal treatment. Barriers in accessing care such as language, transportation, childcare, lack of familiarity with the health care structure, health care literacy, finances, etc. further contribute to health inequities. A relatively small number of minority patients are more likely to refuse recommended services, adhere poorly to treatment regimens, and delay seeking care, behavior as a result of a poor cultural match between patients and their providers, mistrust, misunderstanding of provider instructions, and poor interactions with healthcare systems. These behaviors and their consequences point for the need of a deep understanding of how health care systems are inadequate in providing patient-centered care for underrepresented minorities. These behaviors and health inequities must be addressed by implementing best practices equally, regardless of race, with score cards to track outcomes by race and exploring how our health care institution can best meet the needs of minority patients. It is a sad fact that little progress has been made on health inequities and health disparities since the 2003



Unequal Treatment report and the 2010 Institute of Medicine report How Far Have We Come.<sup>14</sup>

Structural racism informs the many ways society foster racial discrimination through housing, education, employment, media, health care, criminal justice, transportation, and other systems. Health care professionals must explicitly acknowledge that race and racism are at the root of these health disparities. Without this explicit acknowledgement, less-directed efforts to improve health outcomes will fall short of their intent. Furthermore, the institution must acknowledge present and past policies of redlining, eviction procedures, and disinvestment in low-income communities to address the underlying structural racism that perpetuates social disparities. The institution must become involved in the community's effort to address inequities because of the direct and indirect connections between health, equity, and social determinants.

Inequities in patient care can be addressed in part through a healthcare workforce that looks like the communities we serve. Racial concordance of patient and provider is associated with greater patient participation in care processes, higher patient satisfaction, and greater adherence to treatment.<sup>2</sup> The benefits of diversity are significant and illustrate a commitment to becoming an anti-racist institution with the potential for a positive effect on recruitment. The next action item will address this issue.

Racism can also be expressed by patients and is a problem in the health care system. In Great Britain, 75% of GPs from an under-represented background had experienced racism from patients.<sup>15</sup> Blatant racist comments and abuse appears on the rise, as experienced by health care staff.<sup>15</sup> While clinicians should be permitted to exercise their judgment in deciding how to respond, they should always expect institutional support.

**Related Action Item: Develop mechanisms to consistently address knowledge gaps and attitudes perpetuating patient inequity of non-white patients by acknowledging racism as the linchpin of patient care inequity and social determinants of health and developing evidence-based guidelines of key clinical health disparities cited above.**

**Solutions under consideration**

- Develop grand rounds by department and educational modules for health providers on issues with health disparities (e.g. childbirth<sup>3</sup>, kidney function,<sup>4</sup> cancer treatment<sup>5</sup>, dermatology,<sup>6</sup> asthma,<sup>7</sup> chronic conditions,<sup>8</sup> mental health including childhood trauma and links to violence,<sup>9-11</sup> and pain<sup>12</sup>)

**Pros:** We have the expertise and knowledge resources to advance evidence-based care.

**Cons:** Time

**Recommendation:** Charge appropriate clinical department with developing evidence-based guidelines for treatment of minority patients, track care provided in past 3 years and next 3 years to develop score card. Hold forums to explore clinicians' attitudes with intent to resolve gaps in education. Library staff can provide expertise.

**Final Assessment of Priority/Complexity: low**

- Include racism as the basis for any discussion about social determinants of health.<sup>16</sup>

**Pros:** Truth to power. Evidence-based. With acknowledgement, will be able to address needed solutions more accurately.

**Cons:** Uncomfortable

**Recommendation:** Develop policy that ANY discussion of social determinants of health must include the evidence for racism, bias, stereotyping, and institutional barriers.

**Final Assessment of Priority/Complexity:** High/low

- Increase the number of underrepresented minorities in the health professions.  
(see action item #3)
- Build partnerships with minority community members to enable patients to play a meaningful role in developing solutions to access and patient-centered care behaviors an issue (e.g. transportation and follow up care).

**Pros:** Empowers the folks that have felt disenfranchised and marginalized. Provides accurate information about needs and barriers. However, we have in-house expertise to make focus groups effective.

**Cons:** Takes more time, may be uncomfortable as conflicts in awareness and beliefs surface. Solutions may be complex. Requires accountability to follow-through.

**Recommendation:** Establish a patient-care board with community members representing our minority patient base as an advisory board to develop ways to address patient-care inequities and structural barriers.

**Final Assessment of Priority/Complexity:** High/Medium

- Make patient-care equity a scorecard measure – an institutional metric of quality. Measure health disparities within Upstate like the Health of Boston report.<sup>17</sup>

**Pros:** Knowledge is power. Provides a baseline to determine change over time. Provides accurate information that can inform action. Promotes accountability. We have in house expertise (e.g. student research projects, IT support, EPIC)

**Cons:** Time, expense (personnel, IT)

**Recommendation:** Choose 5 areas where highest disparities exist and collect retrospective data. Conduct annual re-evaluation. Generate report for community to promote transparency.

**Final Assessment of Priority/Complexity:** High/high

- Swiftly deal with racism remarks from patients to any staff member as inappropriate and not tolerated at Upstate. Use low threshold to initiate behavioral contracts for abusive patients demonstrating racist behaviors towards staff.<sup>18</sup>

**Pros:** Builds trust of health care providers and staff that institution delivers on its commitment to become an anti-racist institution. Provides supportive environment for all health care personnel.

**Cons:** Ethical issue of patient rights. Causes conflict. Takes time of patient providers and other personnel.

**Recommendation:** Develop policy on zero-tolerance of racist patient behavior that includes when and how to initiate behavioral contracts.

**Final Assessment of Priority/Complexity:** Moderate/High

- Hold all employees (staff, faculty, students) accountable for racist remarks, micro-trauma delivering behavior, perpetuation of racist views etc.

**Pros:** Enforces the zero-tolerance policy that will help Upstate become an anti-racist institution, safe for ALL. Legally defensible.<sup>19</sup>

**Cons:** To allow racist and biased behavior to prevail poisons the workplace particularly when they do not have institutional support.<sup>20</sup>

**Recommendation:** Develop a form of a zero-tolerance behavior and protocol like the one described in Issue 5 below.<sup>21-22</sup>

**Final Assessment of Priority/Complexity: High/Moderate**

**Resources**

1Bailey ZD, Kreiger N, Agenor M et al. Structural racism and health inequities in the USA: Evidence and interventions. The Lancet 2017, 389(10077):1453-1463

2Institute of Medicine. Unequal Treatment: Confronting Racial and Ethnic Disparities in Health Care. Washington DC: The National Academies Press.

<https://doi.org/10.17226/10260>. <https://www.nap.edu/catalog/10260/unequal-treatment-confronting-racial-and-ethnic-disparities-in-health-care>

3Martin N, Montagne R. Nothing protects Black women from dying in pregnancy and childbirth. ProPublica 2017 Dec 17. <https://www.propublica.org/article/nothing-protects-black-women-from-dying-in-pregnancy-and-childbirth>

4<https://medium.com/race-law-a-critical-analysis/the-kidneys-and-medical-racism-b16aecb3a827>

5 <https://www.commonwealthfund.org/publications/newsletter-article/2018/sep/focus-reducing-racial-disparities-health-care-confronting>

6Buster KJ, Stevens EI, Elmets CA. Dermatologic health disparities. Dermatol Clin. 2012;30(1):53-viii. doi:10.1016/j.det.2011.08.002

7<https://acaai.org/news/racism-factor-asthma-control-young-african-american-children>

8<https://news.berkeley.edu/2018/10/05/racial-discrimination-linked-to-higher-risk-of-chronic-illness-in-african-american-women/>

9[https://wellcomecollection.org/articles/XmipCBIAACAAfBOd?utm\\_source=Google&utm\\_medium=Google%20Ad%20Grant&utm\\_campaign=Stories&gclid=CjwKCAjwJLD4BRAiEiwAg5NBFIJP0g6NwhAnC1KhpNW7IirQrrOa4exoccZHqUGYG77oxv\\_IFnL1xoCnvgQAvD\\_BwE](https://wellcomecollection.org/articles/XmipCBIAACAAfBOd?utm_source=Google&utm_medium=Google%20Ad%20Grant&utm_campaign=Stories&gclid=CjwKCAjwJLD4BRAiEiwAg5NBFIJP0g6NwhAnC1KhpNW7IirQrrOa4exoccZHqUGYG77oxv_IFnL1xoCnvgQAvD_BwE)

10<https://www.nctsn.org/resources/complex-trauma-urban-african-american-children-youth-and-families>

11Jernigan MM Daniel JH. Racial trauma in the lives of Black children and adolescents: challenges and clinical implications. *Journal of Child & Adolescent Trauma*. 2011;492):123-141

12 Hoffman KM, Trawalter S, Axt JR, Oliver MN. Racial bias in pain assessment and treatment recommendations, and false beliefs about biological differences between blacks and whites. *PNAS*. 2016;113(16)4296-4301  
<https://www.pnas.org/content/113/16/4296>

13Devine, PG, Forscher, PS, Austin AJ, Cox WTL. Long term reduction in implicit race bias: a prejudice habit-breaking intervention. *J. Exp Soc Psycho*. 2012;48(6):1267-1278 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3603687/>

14 Institute of Medicine (US). *How Far Have We Come in Reducing Health Disparities? Progress Since 2000: Workshop Summary*. Washington (DC): National Academies Press (US); 2012. Available from:  
<https://www.ncbi.nlm.nih.gov/books/NBK100492/> doi: 10.17226/13383

15 Sokol D. Dealing fairly with racist patients. *BMJ*. 2019;367:l6575.

16Davidson KW, Kemper AR, Doubeni CA et al. Developing primary care-based recommendations for social determinants of health: methods of the US Preventive Services Task Force. *Annals of Internal Medicine*. 2020; July 14

17 [http://www.bphc.org/healthdata/health-of-boston-report/Documents/\\_HOB\\_16-17\\_FINAL\\_SINGLE%20PAGES.pdf](http://www.bphc.org/healthdata/health-of-boston-report/Documents/_HOB_16-17_FINAL_SINGLE%20PAGES.pdf)

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18 Volk ML, Lieber SR, Kim SY, Ubel PA, Schneider CE. Contracts with patients in clinical practice. Lancet. 2012;379(9810):7-9. doi:10.1016/S0140-6736(11)60170-0

<https://www.acpjournals.org/doi/pdf/10.7326/M20-0730>

19 <https://www.racism.org/articles/basic-needs/health/organization/100-other-organization/1673-patientrighttochoode>

20

<https://www.medpagetoday.com/publichealthpolicy/generalprofessionalissues/82975>

21 <https://journalofethics.ama-assn.org/article/how-should-organizations-support-trainees-face-patient-bias/2019-06>

22 <https://www.chausa.org/docs/default-source/hceusa/dealing-with-racist-patient-requests-law-rights-and-catholic-identity.pdf?sfvrsn=2>

## **6. Community Issues**

### **6.1 Create a Chief Diversity Officers' Alliance or Consortium.**

The Chief Diversity Officers Alliance / Consortium is a network of Chief Diversity Officers (CDO's) from anchor academic, business and community organizations in the Syracuse, NY area. Through this Alliance / Consortium CDO's will have a platform to coordinate efforts, share information and create a coalition style approach to identify and advance community-wide priorities addressing racial equity, racism, and inclusion. There is currently no mechanism for the CDOs or diversity leaders to convene in Central New York or to collectively engage youth leaders and student activists across our community. In addition, the alliance provides a forum to educate and share the progress of existing programs and strategies across our community to build on and that are supported by the Onondaga County Executive's Office, Mayor's Office, Gifford Foundation, Allyn Foundation, and the CNY Community Foundation among others.

PRIORITY: Highest / COMPLEXITY: Medium

## DISCUSSION

**The problem:** Much of the diversity and inclusion related work that local Central New York CDO's perform at their respective organizations is done with limited collaboration or coordination with organizations and institutions across the community.

The options we might consider to address the problem:

***"If you want to go fast go alone, if you want to go far go together."*** – African proverb.

The challenges of diversity, race relations, building community trust through corporate advocacy in neighborhoods with deep divides and high poverty rates, and other obstacles that CDO's encounter will be easier to manage when working in partnership with others. When multiple organizations push in one direction together, their impact will be exponentially greater than if one organization were to push alone. This is the thinking behind establishing the CDO Alliance / Consortium. Through initial



discussions with key stakeholders in the community, we recommend that the initial membership of this group includes the following institutions and organizations:

**Medical** - Crouse Hospital, St. Joseph's Hospital, SUNY Upstate Medical University

**Education** - Le Moyne College, Onondaga Community College, SUNY ESF, Syracuse City School District, Syracuse University

**Government** - City of Syracuse Mayor's Office, Onondaga County's Executive Office

Business – CenterState CEO

**Foundation** - Allyn Family Foundation, CNY Community Foundation, Gifford Foundation

We propose that these groups meet in 2020 and on a recurring basis thereafter (the frequency will be determined by the CDO Alliance). The foundations would be the ideal group to organize and communicate the initial meeting, so that all organizations would be seen as equal partners in the Alliance / Consortium. It is also important that this endeavor start small so that it can establish itself properly, before expanding beyond the initial 12 or 13 members.

**"If we are facing in the right direction, all we have to do is keep on walking."** – Buddhist proverb.

**The pros:** Providing a vehicle for collaboration, shared vision and establishing collective priorities/action plans amongst the lead diversity officers across greater Syracuse will benefit each institution and the community as a whole. The alliance has a better opportunity to secure public and private funding to create sustainable programs, services and initiatives to address equity and inclusion for the community vs. each institution individually.

**The cons:** Balancing the optimum number of participating organizations to create an effective and nimble group with the risk of alienating key stakeholders/organizations in the process is critical. Ensuring that candid discussion occurs in the first few meetings regarding core participants/representation and governance structure to allow for increased representation through sub-committees or short-term task forces will be important to minimize this risk.

Recommendation: We recommend that this initiative is launched by the Fall of 2020.

#### **REFERENCES / WEBSITES**

Allyn Foundation - <https://www.allynfoundation.org/>

CNY Community Foundation - <https://cnycf.org/equity#.XwXYBzpKhPYGifford>  
Foundation - <https://giffordfoundation.org/>

CenterState CEO - <https://www.centerstateceo.com/core-focus-areas/economic-inclusion>

County Executive's Office - <http://ongov.net/>

Crouse Hospital - <https://www.crouse.org/about/inside-crouse/diversity/diversity-inclusion-leadership/>

Le Moyne College - <https://www.lemoyne.edu/Values/A-Diverse-Learning-Community/Advisory-Council>

Mayor's Office - [http://www.syracuse.ny.us/City\\_Hall.aspx](http://www.syracuse.ny.us/City_Hall.aspx)

Onondaga Community College - <https://www.sunyocc.edu/diversity-services>

St. Joseph's Hospital -

[https://www.higherlevelofcare.org/?gclid=EAlaIqobChMIkY\\_gq\\_K96glVhcDICh0cGg0sEAAYASAAEgJBmPD\\_BwE#distinction?content=Distinction](https://www.higherlevelofcare.org/?gclid=EAlaIqobChMIkY_gq_K96glVhcDICh0cGg0sEAAYASAAEgJBmPD_BwE#distinction?content=Distinction)

Syracuse City School District -

<http://www.syracusecityschools.com/districtpage.cfm?pageid=11064>

Syracuse University - <https://news.syr.edu/blog/2019/05/13/keith-a-alford-appointed-syracuse-universitys-first-chief-diversity-and-inclusion-officer/>

## 6.2 Create a Community Advisory Board and Community Advisory Board Listening Forums.

The mission of the Upstate Community Advisory Board (CAB) is to create an intentional interface between Upstate and the surrounding community in order to promote ongoing dialogue, assessment of identified needs, advocacy for all voices, the sharing of resources that positively contributes towards building a healthy community and decreasing health disparities through sustained relationships in Syracuse and the greater Central New York region. The Community Advisory Board (CAB) is to be comprised of former patients and/or their loved ones, potential patients, Upstate staff and individuals from community based and non-profit organizations that have a vested interest and desire to contribute their mutual efforts towards this goal. The CAB will deliberately have representation from each of the four quadrants of the City of Syracuse with more representation from neighborhoods that have been identified as having greater health disparities. The CAB will have terms of membership and meet on a regular basis.

PRIORITY: Highest / COMPLEXITY: Medium

***The problem:*** Upstate has been a 'City on the Hill' that serves 17 counties; However, many of our staff come from the surrounding community, as do our patients. How

well our mission is shared and understood is not clear. We miss out both as a healthcare institution and mission field for shared service by not intentionally cultivating a clear method for relationship building that contributes to both domains.

***The options we might consider to address the problem:***

- Expand the existing Patient-Family Advisory Board through the Office of Patient Experience, or at least utilize the knowledge of that Office in the challenges of creating a workable Advisory Board.
- A second option is research best practices for the creation of a sustainable advisory council utilizing a Vizient poll to carefully lay a healthy foundation that will meaningfully contribute to our diversity initiatives. A third option is plunge in, create a list of potential members, or invite people to apply, and learn what works as we go.

***The pros and cons:*** There may be a sense of ‘let’s move on this’ that could bypass a more measured plan. Utilizing what was learned from the creation of the existing Board appears to be an easy win. The Vizient research also is free and probably would take little effort. The jumping in option may seem attractive with the desire to move forward quickly. However, there are multiple voices in our community that could hijack the intention of this Board if membership is not carefully thought out in advance, and Board leadership is not clearly established.

**REFERENCES:**

***Johns Hopkins Community Advisory Board:***

<https://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-health-equity/about-us/our-team/community-advisory-board/>

***Cleveland University Hospitals Community Advisory Board:***

<https://www.uhhospitals.org/locations/uh-rainbow-center-for-women-and-children/community-advisory-board>

### 6.3 Improve Pathway to Upstate Program.

The mission of the Pathway to Upstate Program is to cultivate exceptional underrepresented students from the City of Syracuse and place them in opportunities at SUNY Upstate. The task at hand is to develop these students, preparing them for eventual positions of leadership and influence within the organization. This program will help to diversify Upstate's employee population making it more representative of the community which it serves.

PRIORITY: High / COMPLEXITY: High

**Discussion:** Upstate must find a more effectively method to tap into the talents of the underrepresented youth of the City of Syracuse.

***The options we might consider to address the problem:*** The vocational focus of this program is yet to be determined areas within medical healthcare. Opportunities in high growth areas other than traditional healthcare, such as Information Technology, will be focused on as well. This program would function as an internship / apprenticeship style program allowing students to have different experiences and be exposed to different areas within Upstate. The explicit intent of the program is the development and placement of these students within Upstate after graduation from their respective programs/colleges. The design of this program and how exactly it functions from a strategic perspective should be determined by Upstate Executive Committee should they choose to adopt it. The two design versions are:

- ***Design Version 1:*** High caliber students would be identified in high school. Ideally this would occur in their junior or senior years of high school at Syracuse City School District High Schools. Naturally since the focus of this

program will be students in the Syracuse City Schools, the Syracuse City School District would be a major strategic partner. Ideally this program could eventually be housed in Syracuse's new STEAM (Science Technology Engineering Arts and Math) School. SUNY Empire State College will eventually administer a worker training and apprenticeship center based in the STEAM school and they would be a logical strategic partner as well.

- **Design Version 2:** The student applicants would be underrepresented current college students who have matriculated through Syracuse area high schools to colleges or universities. If the students were not former Syracuse City School District graduates, they must be from an economically disadvantaged household. Further qualifications for applicants: - full-time undergraduate student with at least 2 summers remaining before graduation, must be attending a regionally accredited college or university (preference given to SUNY schools), cumulative Grade Point Average of 3.0 or higher (freshmen are exempt from this), and career interest or major in the sciences, computer science/IT/MIS, and/or healthcare.

**The pros:** This program will help in diversifying our employee base. It will also emphasize Upstate's commitment to diversity, and its commitment to the prosperity of the neighborhoods surrounding its campus and its commitment to the City of Syracuse. If done correctly this will have a lasting impact on both Upstate and Syracuse for decades to come. It will be a high visibility program that could serve as a model to other organizations in the area.

**The cons:** Most of the cons have to do with the strategic and logistical complexity of this undertaking. This program would require partial dedicated staffing (ideally from the Office of Diversity and Inclusion). The program will require top down institutional buy-in and there would be some financial commitments from Upstate. These internships / apprenticeships would be paid and there must be a determination made

how this program would co-exist with other internship programs and/or scholarship programs.

**Recommendation:** Our recommendation is that this endeavor, or something similar in scope, be heavily considered by the Upstate Executive Committee. If there is an interest from the UEC, then they must decide on the desired outcomes. From there, the direction of this program can be chosen and type of design that the program has (Design Version 1, Design Version 2, or a hybrid model) can be customized to fit those outcomes.

#### REFERENCES:

The Urban Alliance Internship Program:

<https://theurbanalliance.org/our-programs/high-school-internship/>

Microsoft Internship for Women and Minorities:

<https://careers.microsoft.com/us/en/job/650947/Internship-Opportunities-for-Students-Explore-Microsoft-Internship>

INROADS, Inc.: <https://inroads.org/>

Year Up Internship Program: <https://www.yearup.org/about>

Federal Aviation Administration Minority Serving Institutions Internship Program:

[https://www.faa.gov/jobs/students/internships/minority/#:~:text=The%20MSI%20i  
nternship%20program%20provides,with%20Disabilities%20the%20opportunity%20t  
o](https://www.faa.gov/jobs/students/internships/minority/#:~:text=The%20MSI%20i,nternship%20program%20provides,with%20Disabilities%20the%20opportunity%20to)

#### 6.4 Upstate C.A.R.E.S – Series on Concentrated Poverty in Syracuse.

SUNY Upstate has a responsibility to the population that we serve to be aware and knowledgeable about the current challenges our community faces. Syracuse, NY ranks

number one in the nation for concentrated poverty among Blacks and Latinos. The neighborhoods that struggle the most are linked directly to the city's history, and Upstate's main campus is seated directly in the center of it all. This series would include a presentation on Syracuse's 15th ward, the history of redlining, and how the construction of I-81 contributed to concentrated poverty and its relation the social determinants of health.

**Community Acknowledgment Responsibility Educate & Empower Syracuse**

PRIORITY: High / COMPLEXITY: Medium

**Discussion:** Most healthcare providers at Upstate do not live in the city of Syracuse which creates a barrier to understanding the various cultural needs of the community. The city needs reassurance that those who manage their care have a deeper understanding of the community's needs, and how the social determinants of health relate to poverty. Lack of understanding can lead to care that lacks empathy and cultural humility. Syracuse has a staggering rate of poverty which largely effects the immediate areas around Upstate University Hospital. While we lead the area in terms of employment, resources, research, and access to funding, there is a disconnect with the community and we can do more.

***The options we might consider to address the problem:***

- Establish an educational series that is mandatory and is to be attended by all staff, both current and those onboarding. This presentation should echo the mission of the C.A.R.E.S series which is to show our **Community** that we **Acknowledge** the current struggles that exist, and that we have a **Responsibility to Educate and Empower** the **Syracuse** community that we serve. Upstate must send a message that we are here, we are aware, and we feel an obligation to change the narrative. It also sends a message to the



Upstate community we value our community and are committed to seeing positive change.

**Pros and cons:** This series would foster a stronger sense of community for both inside and outside of Upstate's campus. Upstate's message on being the "experts" on research and medical technology is lost on a community that is struggling to survive, but instead is geared towards recruitment. The narrative should reflect that we care enough about our community to utilize our resources in a manner that reverses the effects of the poverty and promotes health and health equity.

**Recommendation:** We recommend that this educational series be created and launched in February of 2020 during Upstate's Black History Month celebration.

#### REFERENCES AND RELATED DOCUMENTS:

Semeuls, Alana. "How to Decimate a City." The Atlantic, 2015.

<https://www.theatlantic.com/business/archive/2015/11/syracuse-slums/416892/>

Haas, David. "I-81 Highway Robbery: The razing of Syracuse's 15<sup>th</sup> Ward." Syracuse New Times, 2018. [https://www.syracusenewtimes.com/highway-robbery-5-](https://www.syracusenewtimes.com/highway-robbery-5-decades-ago-syracuse-neighborhoods-were-razed-to-construct-interstate)

[decades-ago-syracuse-neighborhoods-were-razed-to-construct-interstate](https://www.syracusenewtimes.com/highway-robbery-5-decades-ago-syracuse-neighborhoods-were-razed-to-construct-interstate)

81/#:~:text=In%20the%201950s%2C%20the%2015th,slums%20in%20the%20entire%20world.

Office of Disease Prevention and Health Promotion, Civic Participation:

<https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-health/interventions-resources/civic-participation>

Massey, Douglas S. "Still the Linchpin: Segregation and Stratification in the USA."

Race Soc Probl 12, 1–12 (2020). <https://doi.org/10.1007/s12552-019-09280-1>

#### 6.5 Improve healthcare pipeline scholarship programs for Syracuse students.

The goal of the Healthcare pipeline Scholarship is to identify high achieving underrepresented students from the Syracuse City School District High Schools. This program seeks to lower the financial burden of these students to higher education while helping Upstate connect promising future healthcare professionals.

PRIORITY: High / COMPLEXITY: High

**Discussion:** There is a lack of underrepresented and minority youth exploring healthcare as a career path. There is also the issue of the daunting cost of higher education which represents an additional challenge for the students who would be applying for this scholarship.

***The options we might consider to address the problem:***

- As an institution Upstate must encourage these students to consider healthcare as a potential field of study, and we must help to lower the financial hurdles to higher education. An Upstate Healthcare Scholarship is an ideal way to address this issue and to advance Upstate's commitment to diversity and to the youth of the City of Syracuse. In the first year one scholarship winner will be selected and if the selection process is competitive, we should consider a maximum of two scholarships. The amount awarded should be no less than \$2,500.00 and will be deposited directly to the bursar's office of the institution that the scholarship recipient attends.

**Qualifications:** Must be graduating from Syracuse City School District High School and entering as a full-time student into a 2 year or 4 year regionally accredited college/university (preference given to SUNY schools), student must have a cumulative Grade Point Average of 3.0 or higher, the student must have a major in the sciences or healthcare related field and an interest in healthcare.

- *Additional Options:* Some additional options that should be considered is a tour of various departments at Upstate for all the scholarship applicants. The winner of the scholarship should have the opportunity to shadow a healthcare professional for a morning/afternoon the summer prior to departing for school. There also should be strong consideration given to an internship opportunity during the summers. This would make this a true pipeline program.

***The pros:*** This program is another way for Upstate to emphasize its commitment to diversity, and to the prosperity of the City of Syracuse. This program is strategically aligned with Upstate's overall vision, strategy, and goal of increased diversity. It also shows that Upstate is willing to be creative in achieving our vision and goal.

***The cons:*** There are minimal cons for this program. Upstate will need minimal staffing for the oversight of the scholarship program and once annually there will need to be a committee to review applications for the scholarship/s. Marketing the scholarships will also be important, so the efforts of the Marketing Communications will be required.

***Recommendations:*** This is a scholarship that we highly recommend establishing. Additionally, we recommend that we establish a similar scholarship for a graduating senior from the Onondaga Nation High School.

#### **CURRENT UPSTATE MINORITY RELATED SCHOLARSHIPS:**

***Upstate University Medical Associates at Syracuse Scholarship:*** The focus of this scholarship is to enable an underprivileged or disadvantaged student at College of Medicine to pursue a medical career in Primary Care. Award: \$54,000 per academic year.

***Dr. Sarah Loguen Fraser Dean's Student Distinction Award:*** Given to an incoming African American female medical student with exemplary academic standing who best epitomizes the spirit and determination of Loguen Fraser. Award: an annual full-tuition scholarship for four years, plus housing at Upstate's on-campus residence and a stipend.

***Sarah Loguen Frazier Alumni Scholarship:*** Given annually to a first or second year Upstate medical student who holds similar ideals to Dr. Sarah Loguen Fraser. The scholarship is principally based on need, but the recipient must also have a genuine desire to provide service to the medically under-served. Award: Amount varies.

***IMT Diversity Scholarship:*** Given annually to a graduating senior from the Syracuse City School District who has an interest in Information Technology as a career. Student must be attending a SUNY institution.

Other notable scholarships:

***Jackie Robinson Foundation Scholarship:*** Respiratory Therapy, Award amount varies  
<https://www.jackierobinson.org/apply/>

***United Health Foundation / National Medical Fellowship Diverse Medical Scholars***

***Program AMS Minority Scholarships:*** NMF is offering selected medical students who identify with an ethnic minority group, a financial award pending completion of a 200-hour self-directs community health project. Award amount: \$7,000  
<https://nmfonline.org/about-our-scholarships-and-awards/programs/>

***Mae and Mary Legacy Foundation Scholarship:*** Charitable educational organization dedicated to the advancement of African Americans pursuing careers in medical and healthcare related fields. Award amount varies.  
<https://www.maeandmarylegacyfoundation.org/apply>

## 7. Curriculum and Training Issues

### 7.1 Increase the diversity of simulated patients, including sim manikins and standardized patient actors.

**Problem:** Students in the group noted the need for diversity among clinical vignettes and hands-on practice with simulated/standardized patients (SPs). In addition to diversity among the ways that simulated patients present, education programs of all levels should include more training and practice with LGBTQ+ as well as BIPOC communities.

**Description:** The lack of diversity in simulated content, simulated patients and manikins is not an issue unique to Upstate, but it is an important area for growth. “Medical education content suffers from implicit and sometimes explicit bias with regards to race, ethnicity, gender and other characteristics.” [1] This lack of diversity informs and even reinforces stereotypes, which then can play out in patient care. It is imperative that we diversify medical education content and simulated patient experiences to ensure that implicit and explicit biases do not influence a patient’s medical care.

Actors recruited to play simulated patients generally lack diversity in skin tone, age, weight, and gender identity; simulated manikins allow for choosing from a set menu of characteristics.[2] However, the option to diversify them is there and should be harnessed. Simulation is an important part of a student's education. Diversity in simulation not only assists with the development of knowledge, skills and attitudes when working with patients from diverse backgrounds but allows for a deeper understanding of health and social inequities across communities, populations, and cultures.[3]

Diversity within simulated encounters also gives learners opportunities to practice multiple forms of history taking and adjusting communication skills to fit the needs of different patient populations.

## Evidence:

- According to the website for the Upstate Simulation Center, Upstate has many sim manikins and task trainers. Only the skin tone of the SimMan 3G is noted “(2 light tone, 2 mid tone, 1 dark tone)” and all other photos are of light-toned manikins.
- Proposed Actions:
- To start, the working group recommends an audit of simulation and standardized patient cases for each year of each training program looking specifically at race, ethnicity, gender, disability status, weight, and age representation.
- All Upstate programs that use simulation of these forms should be required to use the Upstate Bias Checklist [1] to examine their curricula, identify gaps and propose action items to promote increased diversity in learner experiences.
- Following the audit, appropriate action items should be proposed to consider the following:
  - Race, ethnicity, gender, sexual orientation, disability status, body size, and age representation in standardized patient cases within each program to ensure that students have simulated experience treating many different patients.
  - Skin tone, gender, disability status, weight, and age representation among manikins.
  - The purchase of future manikins should be in consultation with ODI
  - All students should be trained in addressing the specific health needs of these communities and learning to look past stereotypes; and
  - Faculty should be trained to utilize inclusive language, as well as addressing the social context that leads to the development of these stereotypes.

Specific example from sub-committee meetings: sexual health histories

## Cited Sources

[1] Brown, A. E., Hobart, T. R., Botash, A. S., & Germain, L. J. (2019). Can a checklist ameliorate implicit bias in medical education? *Medical Education*, 53(5), 510-510. doi:10.1111/medu.13840

[2] Conigliaro, Rosemarie, Peterson, Kerstin & Stratton, Terry. (2020). Lack of Diversity in Simulation Technology: An Educational Limitation? *Simulation in Healthcare: The Journal of the Society for Simulation in Healthcare*, 15, 112-114. <https://doi.org/10.1097/SIH.0000000000000405>

[3] Dogra, N., Reitmanova, S., & Carter-Pokras, O. (2010). Teaching Cultural Diversity: Current Status in U.K., U.S., and Canadian Medical Schools. *Journal of General Internal Medicine*, 25(S2), 164-168. doi:10.1007/s11606-009-1202-7

Links to additional documents and resources:

[https://journals.lww.com/simulationinhealthcare/Abstract/2020/04000/Lack\\_of\\_Diversity\\_in\\_Simulation\\_Technology\\_An.8.aspx](https://journals.lww.com/simulationinhealthcare/Abstract/2020/04000/Lack_of_Diversity_in_Simulation_Technology_An.8.aspx)

<https://www.upstate.edu/academic-affairs/sim-center/equipment.php>

<http://my-wiley.com/MedicalEducation/pdf/2019/Volume53Issue5/510.pdf>

<https://tinyurl.com/UpstateBiasChecklist>

<http://www.glma.org/index.cfm?fuseaction=Page.viewPage&pageId=947&grandparentID=534&parentID=938>

SWOT

**Strengths:** Important part of education, many resources invested, Inclusive care provided for patients of different backgrounds and identities will lead to social conscient providers. It will provide a well-rounded education for students and educators

**Weaknesses:** Not all programs use simulations of these forms of learning and assessment, Standardizing the information and training given to each student group will be hard; additionally, the facilitators' biases could negatively influence how these cases are discussed.

**Opportunities:** Add diversity to standardized patient case descriptions and encourage future purchases of more diverse sim manikins

**Challenges:** Availability of standardized patients and cost of manikins

Priority: High / Complexity: Low

## 7.2 Implement an annual campus-wide common reading program, including a shared monthly critical reflection point for the entire campus community.

**Discussion:** A campus-wide reading program with year-long "conversations" around books that directly address systemic racism and other forms of structural violence will be offered, with different levels of engagement for students, trainees, faculty, and staff. A four-year rotation would assure that students in medicine participate in each "conversation" once during their time at Upstate. To better engage "reluctant readers" and busy employees, each month, the institution will share and publicize a short excerpt or quote from the book, or a thematically related article or podcast. Leaders will be encouraged to find a few minutes each month for reflection and dialogue within their teams (e.g., departmental meetings). Existing standing continuing education activities will also be harnessed with goal of having one in each category during the year address themes related to chosen book (e.g., Schwartz Rounds; existing journal clubs; Faculty Educator Development Series; departmental Grand Rounds) and at least one national speaker (the book's author, if available) will be invited to campus to speak at some point during the year. Examples of suitable books include: *Fatal Invention*, by Dorothy Roberts; *Medical Apartheid*, by Harriet Washington; *Black Man in a White Coat: A Doctor's Reflections on Race and Medicine*,



by Damon Tweedy; *Between the World and Me* by Ta-Nehisi Coates; *Dear America: Notes of an Undocumented Citizen*, by Jose Antonio Varga; *The Latecomer*, by Kao Kalia Yang; and *Know My Name*, by Chanel Miller.

#### Existing Strengths and Opportunities:

- Several Upstate leaders, including Leann Lesperance, Associate Dean for UME, have expressed interest in a greater role for the health humanities at Upstate and in a common reading program; and the Upstate faculty has existing expertise in health humanities that is under-utilized in the current curricula (e.g., Rebecca Garden).
- Current rising second-year students have organized their own summer reading curriculum, indicating that students are willing to read beyond what is required for their coursework.
- As noted above, there are many existing venues for continuing education that could be co-opted to support the common reading program.
- Obviously, there are more excellent books than can ever be chosen for such a program, but the program could provide a much-needed stimulus to encourage members of the Upstate community to read other books addressing injustices.

#### Possible Weaknesses and Threats:

- Funding will need to be sought to make sure the chosen book is available to all in the Upstate community, regardless of financial means.

7.3 Offer a required short course for all incoming students, trainees and faculty and staff, orienting them to social justice and to Upstate's mission and culture, including an introduction to local history related to social justice and brief training in bystander intervention for bias.

Description: This short course will introduce people new to the Upstate community to our mission and culture, emphasizing social justice and responsibility, and grounding our mission in the needs of the Syracuse community. It will provide a common language for future discussions of health equity, including introducing concepts of institutionalized racism and structural violence, and will provide an introduction to the history of Syracuse, including the building of I-81, redlining, poverty and local health disparities, and refugee resettlement.<sup>1-5</sup> The course structure will be modeled on the “21-Day Racial Equity Building Challenge” designed by Eddie Moore and utilized by the American Bar Association and will require some of the same readings from that syllabus.<sup>6</sup> A subsection of the course will be tailored to the particular needs of people joining the Upstate community from outside the United States (and without prior experience with U.S. history, including the history of race and racism in the U.S.). Entering students and new hires will be able to enroll in the course at any point and will be required to do so prior to arrival on campus. They will also be able to join a monthly online chat to ask questions and discuss issues raised by the course. After arriving at Upstate, they will be asked to sign up for a bus tour of the Syracuse community, offered on a regular basis and linked to the local history portion of the short course. The course will help to shape the culture of Upstate by making our mission clear before our peers and colleagues even come into the door.

#### Existing Strengths and Opportunities:

The “21-Day Racial Equity Building Challenge” adapted by the ABA provides a concise framework that is suitable for learners not currently on our campus; requires minimal resources to implement; and can be readily modified to meet Upstate’s individual needs.

Syracuse has a rich but sometimes troubling history, and all members of the Upstate community would benefit from understanding how that history, including previous policy decisions, contributed to current inequities.

Upstate itself, as well as our neighboring institutions (e.g., Syracuse University, LeMoyne College) have faculty with expertise in local history, who could contribute materials and recommend suitable reading.

Possible Weaknesses and Threats:

- Requires buy-in across programs and colleges
- Requires allocation faculty/staff time to serve as chat moderators and/or tour guides.
- Tour needs to be carefully designed to be done respectfully and vetted for bias promotion
- Completion monitoring will require an appropriate platform/IT support: can a Blackboard course be accessed by individuals who have not yet matriculated or on-boarded?

**7.4 Offer a required interprofessional course for all Upstate students, across all programs, addressing core issues related to diversity, equity, inclusion and belonging.**

Description: “Belonging 101” will be a required 2- or 3-credit course that all Upstate students, regardless of program, would take during the first year of their program. It will combine synchronous (currently remote; possibly face-to-face in 2021 and beyond) and asynchronous (online) content, including options based on specific program requirements. During the academic year, monthly roundtable discussions with members of the Syracuse community will be organized around different topics and themes (e.g., community violence); students will be asked to select at least two to attend. Scheduling offerings at least one year in advance will permit all programs to assure that students are able to attend and do not have conflicts with other required activities. Role-playing responses to bias (e.g., Forum Theatre) and discussing strategies for being an ally to peers and future colleagues (including how to mitigate

gender bias) will also be components of the course.<sup>7</sup> The Office of Interprofessional Education will be tapped to assist with organizing and supporting the course.

Existing Strengths and Opportunities:

- Content in diversity, equity and inclusion is ideally taught in an interprofessional format.
- A hybrid course that is primarily asynchronous offers opportunities for interprofessional dialogue without the barrier of conflicting student schedules.
- Previous interprofessional community panel discussions, organized by Rebecca Garden, have been well-received by students and faculty, and students have expressed strong interest in hearing from the community more frequently.
- Frameworks, such as the Forum Theatre approach, exist that have been shown to be effective to teaching students to respond to bias.
- Darren Carboni and the Office of Interprofessional Education have expressed interest in supporting this type of venture and have additional funding and resources.

Possible Weaknesses and Threats:

- Requires buy-in across programs and colleges, including buy-in from students who have already matriculated, prior to the implementation of the course requirement.
- Requires support for additional faculty effort to design, administer and teach such a course.

## 7.5 Implement longitudinal continuing education in bias mitigation for clinicians.

Description: Implicit bias (defined as relatively unconscious and relatively automatic features of prejudiced judgment and social behavior) affects patients' access to healthcare and the quality of care they received.<sup>13,14</sup> Intervening and mitigating this type of bias requires time and effort on the part of clinicians; it cannot be addressed with simple or brief, one-time intervention. Longitudinal continuing education, including both asynchronous modules and synchronous discussions, will be provided to all at Upstate who are involved in patient care. As learners advance through the curriculum, they will be asked to return to educate their colleagues and peers who are newer to the process. The steps laid out by the Institute for Healthcare Improvement, based in part upon the work of experts such as Augustus White and Patricia Devine, will inform the curriculum.<sup>15-19</sup>

Existing Strengths and Opportunities:

Several institutions (e.g., Michigan State University) have required this type of training as part of the annual continuing education requirement for faculty and staff.

Possible Weaknesses and Threats:

- Most studied interventions intended to mitigate implicit bias have been ineffective, were never shown to mitigate bias in real-world settings, or (worse) had “ironic” effects, resulting in bias or outcomes suggestive of bias increasing.<sup>30</sup>
- An effective approach will likely require outside experts be brought to Upstate, at least in the first run.

**Recommendation:** We recommend that the above action item be adopted and implemented within six months.

Priority: High / Complexity: Moderate

## 7.6 Systematically assess all Upstate curricular content for bias and implement appropriate changes to mitigate bias.

Description: Bias in curricular content is a pervasive problem in health professions education.<sup>20-24</sup> The Upstate Bias Checklist was designed for faculty to use when developing or reviewing content for medical and health professions students and trainees.<sup>24-27</sup> The intent is that the tool be self-explanatory and suitable for self-assessment. That is, it neither requires nor replaces other approaches to faculty development and continuing education, including the hard work of confronting our own biases. The Checklist was also intended to avoid burdening learners with the responsibility to call attention to biased material, although it can and has been used by learners to provide feedback on content and educational experiences. It is expressly not intended to be punitive toward educators, but instead to promote self-reflection, faculty development and quality improvement in education, while also preventing the harm that comes when biased content reaches learners—harm that not only impacts our learners but also impacts their future patients. The Checklist is applicable to a variety of types of content, including but not limited to lecture slides or notes, clinical vignettes, multiple-choice questions, case-based learning materials, and standardized patient encounter scripts. Its use was recently required in the College of Medicine and should be required across all Colleges, with appropriate monitoring for adherence. In the College of Medicine, this includes monthly comparison of checklists completed in a given unit or course with the number of sessions and contact-hours in that unit or course; review of this data and any changes made as a standing agenda item in Phase 1 and Phase 2 meetings; discussion of checklist utilization as part of course annual reviews; and annual review of problem areas identified by the checklist by the Curriculum Committee. In addition to the Checklist, a program will be developed to employ Cultural Foundations graduate students from Syracuse University's School of Education in assisting with review of the curriculum, and a repository of relevant resources for specific areas of the curriculum will be maintained (e.g., Tufts' Recommendations for LGBTQ-Inclusive Content in

Medical School Curricula; the new textbook *Mind the Gap: A Handbook of Clinical Signs in Black and Brown Skin*).<sup>28,29</sup>

#### Existing Strengths and Opportunities:

- The checklist is a locally developed tool; many faculty members are already familiar with it; and it has been adopted by other institutions (e.g., Northwestern University).
- It does not require additional resources for faculty training prior to use.
- It is flexible: as described above, it allows for self-assessment but can also be used by multiple observers (e.g., students, course directors, lecturers) to understand how content may be viewed differently depending on positionality.

#### Possible Weaknesses and Threats:

- Assuring faculty adherence without making the process seem punitive
- Additional resources (FTE) for monitoring adherence and providing support to faculty who request assistance with making changes based upon the checklist

### 7.7 Mitigate bias in workplace-based assessment and narrative feedback focusing assessment on knowledge, behaviors, and skills, and educating assessors about how and why other perceptions are more prone to bias.

Description: Workplace-based assessment has been shown to be highly prone to bias, particularly regarding race and gender. In many programs, as well as in employment, this type of assessment contributes to a significant proportion of a learner's grade, score, or portfolio or affects an employee's performance review and opportunities for promotion and advancement. Although "de-biasing" is challenging, it is important to trial new interventions and assess outcomes in order to achieve meaningful progress.<sup>17,18,30</sup> We are piloting a "de-biasing statement" and a brief voluntary training (developed and branded by Northwestern University in consultation with Upstate) to

determine whether this approach is effective, in the context of clinical undergraduate medical education.<sup>30</sup> Similar efforts should be extended efforts across the institution and beyond the scope of education, as these biases also affect faculty and staff (teaching evaluations, promotion, internal hiring, etc.).

#### Existing Strengths and Opportunities:

Efforts in this regard are already underway at Upstate; other programs that adopt similar interventions will benefit from the pilot experience in the MS3 and MS4 years of the UME curriculum.

#### Possible Weaknesses and Threats:

Assuring faculty adherence.

Determining the most effective approach to mitigating this type of bias.

Avoiding the risk of “ironic” effects, in which bias is exacerbated by the intervention.<sup>29</sup>

**Recommendation:** We recommend that the above action item be adopted and implemented immediately. Action Item B-10 is currently being piloted in the third and fourth years of the UME program and can be readily extended to other programs and settings soon.

Priority: High / Complexity: Moderate

### 7.8 Offer a history of medicine course to all students, across all programs, as a required course, with enrollment also open to graduate medical trainees, faculty, and staff.

**Description:** An understanding of the history of medicine and healthcare is critical for health professions students and practitioners; we all benefit from learning and analyzing the successes, failures, and ethical lapses of the past.<sup>8,9</sup> It offers a critical lens through which to understand contemporary practice. History of Medicine will be



taught remotely and offered as a two-semester series (3 credits per semester), with the first semester required for all students and both semesters required for second-year medical students. Faculty, staff, and graduate medical trainees will be encouraged to enroll as well. In addition, the course will fill currently identified gaps in ethics and social justice content in the College of Health Professions and College of Nursing, which currently each have only one mandatory course in ethics.

Priority: High / Complexity: Moderate

### 7.9 Implement a multi-level faculty educator development program, allowing for sustainable professional development with a focus on diversity.

Description: This tiered program will build upon the on-boarding course above (Action Item A-1) and include (1) modules or micro-courses to help faculty develop expertise in how health equity relates to the content they teach; (2) intensive hands-on training in facilitating dialogues between learners on topics related to diversity, equity and inclusion; (3) training workshops specifically targeting clinician-educators to help them learn how to teach about cultural humility and structural competency at the bedside, including guiding learners to reflect on patient care experiences<sup>10,11</sup>; (4) a program of peer observation of teaching intended to provide educators with feedback related to the above; and (5) ongoing mentorship and professional development for faculty from underrepresented backgrounds and those who seek to dedicate their careers to address inequity. In addition, all faculty will be required to fulfill an annual requirement to complete continuing professional development with a diversity component that is tied directly to the institution's mission, vision, and values.

Existing Strengths and Opportunities:

- Some elements of the proposed program (specifically #3 above) are already underway. Amy Caruso Brown, Nayla Khoury, and an interprofessional team from Upstate have been researching best practices for over a year and are preparing to offer a pilot workshop in August 2020; furthermore,

conversations with national groups have indicated that there is a deficit of knowledge regarding how to address

- The Academy of Upstate Educators (AUE) is a valuable existing resource able to provide support for some elements of this program.
- Ann Botash's office is interested and supportive of this venture.
- In addition to AUE, several departments (e.g., Center for Bioethics and Humanities) and courses have a strong practice of peer observation of teaching; in addition, Lauren Germain's office has experience providing observation in the context of health equity teaching in the Patients to Populations course.
- The need for reflection points has been endorsed by the Working Group for Student, Resident and Fellow Issues as well.

#### Possible Weaknesses and Threats:

- Such a program will naturally be complex and require resources in terms of funding and dedicated faculty time both for participation and for teaching and mentoring.

### 7.10 Implement experiential learning opportunities and other activities to promote interdisciplinary understanding of and respect for less-prominent roles at Upstate.

Description: The program will have multiple elements designed with intentionality to hardwire into our culture the idea that we want and need to learn directly from the experts serving in areas mainly staffed by personnel from historically disadvantaged social groups. It may incorporate a Disney-based model requiring all managers and directors to participate in a rotation with designated disciplines such as environmental and food service by serving alongside to build relationships, gain appreciation and reduce stigma.<sup>12</sup>

#### Existing Strengths and Opportunities:

Disney's model has been widely used in the corporate world and provides a framework for this time of activity.

There may be other opportunities (such as the campus-wide common reading program) to bring people together who do not typically have a chance to exchange viewpoints.

#### Possible Weaknesses and Threats:

- Requires a meaningful time commitment on the part of supervisors.

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## 8. Access and Equity Issues

- 8.1 Reassess and improve programs and the environment for persons with disabilities, immigrants, veterans and other underserved populations of students, faculty, staff, patients, and visitors.
- 8.2 Create a uniform policy regarding treatment and care of transgender and gender nonconforming patients and guests.

**Description:** According to the 2016 U.S. Transgender Survey, transgender and gender nonconforming individuals experience multiple hurdles when accessing health care services. 19% of TGNC (transgender & gender non-conforming) patients have been refused care due to their TGNC status, 28% have experienced violence or harassment, and these numbers continue to increase amongst communities of color.[2] However, research shows that TGNC individuals are amongst the most medically vulnerable populations who are at high risk for adverse health outcomes. These communities experience higher rates of sexual assault, substance use, suicidality, and HIV to name a few.[3] At the time of the US Transgender Survey, it was estimated that one in every five black transgender women was living with HIV.[4] It is essential for medical facilities to work diligently to reduce barriers to accessing care.

In 2019, SUNY Upstate completed the Health Equality Index Survey through the Human Rights Campaign. One of the areas for growth that was identified in completing this campus wide assessment was the need for a standardized policy on

transgender patient care. Historically, facilities whether consciously or not, have made it extremely difficult for TGNC folks to access care.[4] Even when care is available, TGNC patients experience discrimination such as: improper name use, negative commentary, inappropriate questions, bathroom restrictions, inappropriate room assignments and failure to follow standards of care.[6]

It is essential that respectful, affirming, high-quality care is available and guaranteed. Currently, Upstate includes gender identity and gender expression as protected classes in the Patient Non-Discrimination Policy that is included in the references below. However, it is believed that having a specific transgender inclusive policy, separate from the original non-discrimination policy can potentially reduce hospital costs associated with medical complications when transgender patients are denied or avoid medical care.[7]

In 2019, New York State passed the Gender Expression Non-Discrimination Act (GENDA) which specifically outlines what discrimination looks like in the hospital setting. Without a specific policy and training for staff, the institution risks being in violation of GENDA and subject to an investigation by the NYS Commissioner of Human Rights.[8] Therefore, it is our recommendation that SUNY Upstate create a policy on the treatment and care of our transgender and gender non-conforming patients in an effort to eliminate experiences of bias and discrimination and increase patient access to care.

The following are the recommendations of what should be included in a comprehensive policy:

- Reiteration of a Non-Discrimination Policy that includes gender identity and gender expression
- Definitions of sexual Orientation, Gender Identity, Gender Expression, Sex Assigned at Birth, pronouns, and other relevant terminology
- Expectation of staff training



- Interaction with TGNC patients
- Use of correct name and pronouns both during care and in documentation
- Room Assignments
- Access to Restrooms
- Admitting/Registration
- Access to Hormone Replacement Therapy & items that assist with gender presentation
- HIPAA Compliance
- Handling of staff and other patient concerns

The Human Rights Campaign has outlined what a quality TGNC patient care policy looks like in the 2016 Trans Affirming Hospital Policies document linked below. We have also included policies that are already in existence at other hospitals.

**Priority/Complexity:** High/Moderate

**Cited Sources:**

[1] Human Rights Campaign. (n.d.). Glossary of Terms. Retrieved July 17, 2020, from <https://www.hrc.org/resources/glossary-of-terms>

[2-4] Grant, Jaime M., Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman, and Mara Keisling. Injustice at Every Turn: A Report of the National Transgender Discrimination Survey. Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011.

[5-6] Legal, L., Campaign, H., Lovells, H., LLP, & Bar, N. (2016, May). *Creating Equal Access to Quality Health Care for Transgender Patients* [PDF].

[7] See State of California, Department of Insurance, Economic Impact Assessment Gender Non-discrimination in Health Insurance, REG-2011-00023 (Apr. 13, 2012),

<http://transgenderlawcenter.org/wp-content/uploads/2013/04/Economic-Impact-Assessment-Gender-Nondiscrimination-In-Health-Insurance.pdf>

[8] United States, New York State Government, Division of Human Rights. (2019). *New Yorkers Are Protected from Gender Identity Discrimination by Hospitals*. Retrieved July 13, 2020, from [https://dhr.ny.gov/sites/default/files/pdf/postings/DHR\\_Gender\\_Identity\\_Handout.pdf](https://dhr.ny.gov/sites/default/files/pdf/postings/DHR_Gender_Identity_Handout.pdf)

**Resources for Further Information:**

<https://assets2.hrc.org/files/assets/resources/LAC-USC.pdf>

[https://assets2.hrc.org/files/assets/resources/Boston\\_Medical\\_Center.pdf](https://assets2.hrc.org/files/assets/resources/Boston_Medical_Center.pdf)

<https://www.hrc.org/resources/transgender-affirming-hospital-policies>

<https://dhr.ny.gov/genda>

<https://www.upstate.edu/healthcare/nondiscrimination.php#:~:text=In%20accordance%20with%20the%20requirements,sex%2C%20age%2C%20or%20disability.>

**8.3 Create a uniform policy regarding workplace gender transition for SUNY Upstate Faculty and Staff.**

**Description:** An individual's decision to transition to another gender can be a lengthy and trying process. One of the more challenging scenarios is making the decision to transition in the workplace [1] a process which necessarily involves sharing deeply personal information. At present, employees at SUNY Upstate must do so without the protection and reassurance of a clear policy on how that information will be received and handled. New York State does have the Gender Expression Non-Discrimination Act (GENDA) [2] that explicitly states that there can be no employment discrimination based on one's gender identity or expression. With no formalized

policy for all managers, supervisors, and HR to reference, we are at risk of violating GENDA. We are also risking the health, safety, and support of our transgender staff. Having a formal policy clearly articulates the responsibilities and expectations of employees, supervisors, colleagues, other faculty, and staff as well as reduces risk for experienced bias and discrimination.[3]

Historically, transgender individuals have reported poor experiences in the work force including harassment, denial of promotion or advancement, denial of access to appropriate restrooms, misgendering and even termination of employment.[4] SUNY Upstate has included gender identity and gender expression in their Nondiscrimination policies for hiring and staff but with no transition related policy, we leave room for potential confusion or mismanagement when an employee shares a desire to transition.

Transitioning in the workplace is not a one size fits all process and should allow room for flexibility to meet the need of the individual.[5] The purpose of the policy is to delegate responsibilities of all parties involved to create a standard protocol that can be replicated and decrease chances of confusion or mismanagement. Therefore, it is our recommendation at SUNY Upstate implements an affirming and comprehensive gender transition policy for faculty and staff.

The following are the recommendations of what should be included in a comprehensive policy:

Nondiscrimination policy including gender identity & gender expression

- Vocabulary- correct language to use
- Who oversees assisting the employee with their transition plan?
- What the employee can expect from management
- Expectations of the transitioning employee
- General outline for implementation

Logistics ex: dress code, name badge/ID, personnel files, restroom/locker room access, managing coworker questions, medical leave, health benefits

The Human Rights Campaign has outlined what a quality employee transition policy looks like in the Workplace Gender Transition Guidelines document linked below. We have also included policies that are already in existence at other hospitals.

**Priority/Complexity:** High/Moderate

**Cited Sources:**

[1] Taylor, S., Burke, L.A., Wheatley, K. *et al.* Effectively Facilitating Gender Transition in the Workplace. *Employ Response Rights J* **23**, 101–116 (2011). <https://doi.org/10.1007/s10672-010-9164-9>

[2] Division of Human Rights. (2019). Retrieved July 14, 2020, from <https://dhr.ny.gov/genda>

[3 & 5] Human Rights Campaign. (n.d.). Workplace Gender Transition Guidelines. Retrieved July 14, 2020, from <https://www.hrc.org/resources/workplace-gender-transition-guidelines>

[4] Grant, Jaime M., Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman, and Mara Keisling. Injustice at Every Turn: A Report of the National Transgender Discrimination Survey. Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011

**Resources for Additional Information:**

<https://www.hrc.org/resources/workplace-gender-transition-guidelines>

[https://assets2.hrc.org/files/assets/resources/Seattle\\_Childrens\\_Hospita.pdf](https://assets2.hrc.org/files/assets/resources/Seattle_Childrens_Hospita.pdf)

[https://assets2.hrc.org/files/assets/resources/Ochsner\\_Medical\\_Center.pdf](https://assets2.hrc.org/files/assets/resources/Ochsner_Medical_Center.pdf)

<https://www.rochester.edu/diversity/wp-content/uploads/2018/04/TransitionGuidelineSupervisorsMay2016.pdf>

8.4 Create a policy for supporting transgender students at SUNY Upstate including guidelines for students who begin transition after admission or while attending SUNY Upstate.

**Description:** Gender minority students (transgender/gender nonconforming) are more likely to remain “in the closet” than their sexual minority (gay, lesbian, and bisexual) classmates. Students who identify as transgender or gender non-conforming (TGNC) often have parallel experiences of TGNC patients when it comes to revealing their experienced gender identity. Only 34% of the medical students who identify as transgender or non-conforming are “out” while in school as opposed to 67% of LGB medical students.[1] This is often based in fear of discrimination and how it may affect their experience while in school and even beyond into their career.

Campuses across the US are beginning to outline and implement specific policies regarding the support and protection of their transgender and gender nonconforming (TGNC) students. Too often in higher education TGNC students are met with red tape and barriers to things such as name changes, proper pronoun use, affirming counseling/health care, and access to appropriate housing and restrooms.[2] Locally, SUNY Oneonta has done a wonderful job of creating inclusive policies and making them accessible to all (link to website provided below). Campus Pride is a large nonprofit organization that assess LGBT inclusion on college campuses. They are a wonderful resource, and they outline exactly what institutions need to be considered inclusive and affirming on TGNC learners. Most recently, to increase inclusion at Upstate an interactive map has been added to the Office of Diversity and Inclusion’s website showing where the all gender restrooms and single stall restrooms are on

campus. SUNY Upstate is making steps in the right direction but there is still more work to do.

For TGNC students/learners to feel safe, supported, and be able to focus on their studies, inclusive policies specific to gender identity/transgender status are necessary. Therefore, it is our recommendation that SUNY Upstate implements an affirming and comprehensive gender transition policy for learners on campus.

The following are the recommendations of what should be included in a comprehensive policy:

- Vocabulary- Correct language to use
- Nondiscrimination policy
- Health & counseling services & supports
- Housing accommodations
- Gender-neutral restrooms/restroom access/locker room access
- Legal Document changes & how to update name & pronouns
- How to file a grievance/harassment policy
- Local transition related resources

Campus Pride and several other sources included below have outlined what quality transgender policies on college campuses look like.

**Priority/Complexity:** High/Moderate

**Cited Sources:**

[1] Mansh, M., White, W., Gee-Tong, L., Lunn, M. R., Obedin-Maliver, J., Stewart, L., . . . Garcia, G. (2015). Sexual and Gender Minority Identity Disclosure During Undergraduate Medical Education. *Academic Medicine*, 90(5), 634-644. doi:10.1097/acm.0000000000000657

[2] Beemyn, B., Curtis, B., Davis, M., & Tubbs, N. J. (2005). Transgender issues on college campuses. *New Directions for Student Services*, 2005(111), 49-60. doi:10.1002/ss.173

**Resources for Additional Information:**

[https://issuu.com/lgbtcampus/docs/trans\\_student\\_inclusion](https://issuu.com/lgbtcampus/docs/trans_student_inclusion)

<https://www.campuspride.org/resources/transgender-checklist-for-colleges-universities/>

<https://suny.oneonta.edu/gender-and-sexuality-resource-center/transgender-resource-guide>

**8.5 Perform a survey of the curriculum to eliminate inappropriate/offensive material and reduce heteronormative bias.**

**Description:** In addition to finding gaps in the curriculum, it is equally important to identify curricular contents that perpetuates bias against LGBTQ+ populations. This can be accomplished in part with the Bias Checklist developed by Dr. Amy Caruso Brown and already in the early stages of implementation in the College of Medicine [1]. The checklist is described in detail in the Training and Curriculum working group document and a link has been included below.

**Priority/Complexity:** High/Moderate

**Cited Sources:**

[1] Brown, A. E., Hobart, T. R., Botash, A. S., & Germain, L. J. (2019). Can a checklist ameliorate implicit bias in medical education? *Medical Education*, 53(5), 510-510. doi:10.1111/medu.13840

**Resources for Additional Information:****Dr. Caruso-Brown's Bias Checklist:**

<https://redcap.upstate.edu/surveys/?s=KADLRXK8WE>

**5. Topic:** Offer education and training/CME for clinical faculty and other providers with a focus on increasing understanding of LGBTQ+ specific health needs and to reduce bias against this population.

**Description:** Ongoing implicit bias training is being proposed elsewhere in the task force and efforts should be made to ensure that LGBTQ+ issues are included in that education. In addition, further education should be required that is specific to LGBTQ+ concerns. Two possible online sources of such training are the National LGBTQIA+ Health Education Center at the Fenway Institute [1] and the Human Rights Campaign [2] both highly respected organizations working to support LGBTQ+ rights.

**Priority / Complexity:** High/Medium given that this can be part of other efforts that will be ongoing and high-quality external resources already exist to support these efforts.

**Sources Cited:**

[1] <https://www.lgbthealtheducation.org/what-we-offer/cme-ceu/>

[2] <https://www.hrc.org/hei/lgbtq-training>

**8.6 Support the formation of Upstate Chapters of National Organizations for students and faculty.**



**Description** Upstate's SPECTRUM LGBTQ Interest Group has done tremendous work from hosting the annual Transgender Panel, to training sessions from Inclusive Care. Our suggestion is for Spectrum to apply to become a Medical Student Pride Alliance (MSPA) Chapter. Application for an Upstate Chapter requires a faculty advisor, submitting a list of "pressing issues at your school or community," drafting a constitution, and an official application.[1]

The benefits of having an MSPA chapter includes: having access to materials, resources, a network of support outside Upstate, more visibility on campus, as well as a national platform through conferences and social media.[2] Other medical schools in New York that have active MSPA chapters include: Stony Brook, Cornell, Columbia, University of Buffalo, and Albany. Having access to resources and guidance on how change could be initiated on campus will be beneficial for LGBTQ students. The Upstate Campus Activity board clubs are available to students across all colleges and therefore the initiation of this chapter will not interfere with that requirement and it is not a requirement to change the name of SPECTRUM.

It is our recommendation that a counterpart to SPECTRUM that includes residents, physicians, and other healthcare professionals is created through the establishment of a Chapter of GLMA: Health Professionals Advancing LGBTQ Equality (previously known as the Gay & Lesbian Medical Association). This group would be made up of health professionals dedicated to LGBTQ patient care who are affiliated with the national GLMA organization. The value of such a chapter includes visibility, peer support, having a centralized group that can make policy recommendations, hold events, and receive support from a national organization. The combination of a student alliance and a practitioner alliance will allow for mentorship, networking, and further support.

An example of the success of such networks is Out@Harvard which is a directory of LGBTQ+ faculty and staff who provide mentorship to students. This creates visibility,

and a clear sense of acceptance by the institution. Centralized chapters of MSPA, GLMA, or any others can collaborate to create Queer Advisory Councils, or can sit on or consult with Diversity Boards, Admissions Committees, Hiring Committees, Curriculum committees and more.

**Priority/Complexity** High/Moderate

#### **Sources Cited**

[1] <https://www.medpride.org/start-a-chapter>

[2] <https://www.medpride.org/why-join>

#### **Resources for Additional Information**

Medical Student Pride Alliance [https://twitter.com/MSPA\\_National](https://twitter.com/MSPA_National)

GLMA: Health Professionals Advancing LGBTQ Equality (previously known as the Gay & Lesbian Medical Association (<http://www.glma.org/>))

LGBTQ and Allies at Harvard Medical School (<https://lgbt.hms.harvard.edu/>)

Out@Harvard: A directory of LGBTQ faculty and staff across the University who wish to make themselves available to support queer undergraduates at the College.

Queer Advisory Council is a collaborative board of student leaders from BGLTQ-focused student organizations throughout Harvard College and at-large student members with a demonstrated interest in supporting queer issues.

Gender inclusive housing gives students the option of living together in a room or suite regardless of their gender identity.

- 8.7 Offer education and training for clinical faculty and other providers with a focus on increasing understanding of LGBTQ+ specific health needs and to reduce bias against this population. [Priority 2]

- 8.8 Develop a medical school elective, like the Diabetes SPECIAL elective, for medical students to follow a transgender person longitudinally during their transition process.

**Description:** This elective is designed to promote the formation of a relationship between a medical student in the preclinical or clinical years of training, an attending physician, and a patient undergoing medical aspects of gender transition. Throughout the duration of the course, medical students will attend office visits and routinely communicate with patients and their attending to help the patient navigate the transition process. By the end of the course, students should understand the importance of empathy and support in a patient-provider relationship, gain some insight into the experiences of gender dysphoria and gender transition and understand some possible barriers patients experience to successful transition.

**Priority:** Medium / **Complexity:** Low

- 8.9 Develop new content to improve Upstate curricula related to care of LGBTQ+ people.

**Description:** LGBTQ individuals experience significant health disparities stemming, in part, from barriers to adequate healthcare. Barriers reported by this population include lack of proficiency of healthcare practitioners and failure to create an environment that feels safe for LGBTQ people. Therefore, it is imperative that physicians and other healthcare professionals learn to recognize the unique healthcare needs and barriers to care among this population. Despite some efforts to include LGBTQ content, the curriculum at SUNY Upstate is still inadequate in this area.

To determine what gaps exist in our curricula, it is important to establish what should be included. The AAMC has published guidelines for implementing curricular changes and assessing the effectiveness of curricula as they relate to people who may be or are LGBTQ+ [1] This publication contains a wealth of information and ideas for moving forward including links to institutions that have already developed more advanced gender and sexual minority health curricula. Many other published recommendations exist to help guide this effort as well [2,3]. The Office of Undergraduate Medical Education maintains a database of “hot topics” which can help identify areas where these issues are already included in the medical school curriculum and, perhaps more importantly, where they are not. Once the need is fully defined, new curricular content can be developed to enhance existing content. Focused efforts such as previously held Sexual Health days are valuable and can be expanded, but it is also crucial that this content be incorporated into longitudinal courses such as POM, P2P and FRM as well as into the UP Curriculum Units to reduce a sense of marginalization of these issues. This is something that simply needs to be done to develop an adequate curriculum. The opportunity exists for this to occur as part of broader curriculum reform efforts being proposed by the Training and Curriculum working group.

**Priority/Complexity:** High/High

**Cited Sources:**

[1] Implementing Curricular and Institutional Climate Changes to Improve Health Care for Individuals Who are LGBT, Gender Nonconforming, or Born with DSD. [https://store.aamc.org/downloadable/download/sample/sample\\_id/129/](https://store.aamc.org/downloadable/download/sample/sample_id/129/)

[2] DeVita T, Bishop C, Plankey M. Queering medical education: systematically assessing LGBTQI health competency and implementing reform. *Med Educ Online*. 2018;23(1):1510703. doi:10.1080/10872981.2018.1510703 [Queering medical](#)

[education: systematically assessing LGBTQI health competency and implementing reform](#)

[3] [Recommendations for LGBTQ-Inclusive Content in Medical School Curricula](#) -

Tufts Inclusive Curriculum Recs

## 8.10 Improve recruitment and retention of LGBTQ Students and Faculty.

**Description** Recruitment and retention of diverse faculty and students from across the spectrum is vital for Upstate to fulfil our mission statement and stay true to our values as an institution. Visibility is an important component of creating an environment where LGBTQ staff, students and faculty can be true to themselves and contribute to campus diversity. To achieve this viability Upstate must not only advertise and showcase that they value diversity but also stand by it. Several other institutions have systems in place to support current students and faculty who identify as LGBTQ+. These include creating groups, or alliances of staff and faculty who will educate the administration on issues such as workplace environment, campus resources, recruitment policy and social events. These alliances can be part of a national organization such as GLMA [GLMA: Health Professionals Advancing LGBTQ Equality (previously known as the Gay & Lesbian Medical Association)]. Exhibiting Upstate as supportive to the recommendations of faculty alliances and actively incorporating these groups in the recruitment process will lead to more diversity down the line.

### **Other recommendations to increase recruitment of LGBTQ+ faculty includes:**

- Have the university “come out” as an affirming system for faculty and staff
- Be more vocal and visual in Pride month celebrations, and major news cases affecting LGBTQ patients and staff
- Provide pamphlets and resources while recruiting showcasing Upstate’s commitment to diversity

- Showcase providers working on the front lines of LGBTQ health equity via news blasts from ODI
- Showcasing LGBTQ+ faculty in upper administration

**Recruitment of LGBTQ students can include:**

- Resources and opportunities for LGBTQ+ students on Upstate's website.
- Existing student support groups can be consulted by the admissions department and asked to speak to incoming/ prospective students about their time at Upstate.
- Finding LGBTQ+ self-identifying applicants and actively reaching out to them about their experience at Upstate.
- Including questions and scenarios about LGBTQ+ patients on the Mini Mock Interview (MMI)

**Priority/Complexity** High/High

**Resources for Additional Information**

Drexel Office of Faculty Affairs: LGBTQ Faculty Resources:

<https://drexel.edu/facultyaffairs/equity-diversity/lgbt-faculty-resources/>

Kansas State LGBTQ\* Faculty and Staff Alliance

<https://www.k-state.edu/today/announcement/?id=40951>

Cornell Diversity and Inclusion, LGBTQ Staff and Faculty

<https://diversity.cornell.edu/our-community/staff-resources/lgbtq-staff-faculty>

<http://www.inclusiveillinois.illinois.edu/LGBT/printmaterials/Ways%20to%20IMPROVE.pdf>

Definitions:

*Bisexual*: A person emotionally, romantically, or sexually attracted to more than one sex, gender, or gender identity though not necessarily simultaneously, in the same way or to the same degree.

*Cisgender*: A term used to describe a person whose gender identity aligns with those typically associated with the sex assigned to them at birth.

*Coming out*: The process in which a person first acknowledges, accepts, and appreciates their sexual orientation or gender identity and begins to share that with others.

*DSD (Differences in Sexual Development)*: An umbrella term used to describe a wide range of natural bodily variations. In some cases, these traits are visible at birth, and in others, they are not apparent until puberty. Some chromosomal variations of this type may not be physically apparent at all.

*Gay*: A person who is emotionally, romantically, or sexually attracted to members of the same gender.

*GENDA*: prohibits discrimination in employment, housing, credit, places of public accommodation, internships, domestic services, volunteer firefighting, and private, non-sectarian educational institutions.

*Gender expression*: External appearance of one's gender identity, usually expressed through behavior, clothing, haircut or voice, and which may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine.

*Gender identity:* One's innermost concept of self as male, female, a blend of both or neither – how individuals perceive themselves and what they call themselves. One's gender identity can be the same or different from their sex assigned at birth.

*Gender non-conforming:* A broad term referring to people who do not behave in a way that conforms to the traditional expectations of their gender, or whose gender expression does not fit neatly into a category.

*Lesbian:* A woman who is emotionally, romantically, or sexually attracted to other women.

*LGBTQ:* An acronym for "lesbian, gay, bisexual, transgender and queer."

*Misgender:* to identify the gender of (a person, such as a transsexual or transgender person) incorrectly (as by using an incorrect label or pronoun).

*Non-binary:* An adjective describing a person who does not identify exclusively as a man or a woman. Non-binary people may identify as being both a man and a woman, somewhere in between, or as falling completely outside these categories. While many also identify as transgender, not all non-binary people do.

*Sex assigned at birth:* The sex (male or female) given to a child at birth, most often based on the child's external anatomy. This is also referred to as "assigned sex at birth."

*Transgender:* of, relating to, or being a person, whose gender identity differs from the sex the person had or was identified as having at birth.

*Transition:* The process of shifting toward a gender role different from that assigned at birth, which can include social transition, such as new names, pronouns and clothing, and medical transition, such as hormone therapy or surgery.

*Transphobia:* The fear and hatred of, or discomfort with, transgender people.



*Definitions provided by the Human Rights Campaign*

<https://www.hrc.org/resources/glossary-of-terms>

## 9. Bias Reporting Issues

### 9.1 Coordinate the separate departments that investigate complaints of bias, discrimination, and harassment.

Description: As stated in the Middle States Commission on Higher Education Self-Study Report, “The Steering Committee and Upstate Leadership recommitted to working on three objectives that the Self-Study identified as priorities, which are also objectives in the Strategic Plan:

- improving a culture of trust
- enhancing diversity, equity and inclusion...” (Middle States Commission on Higher Education Self-Study Report, pg. 90)

The current system of bias, discrimination, and harassment investigations is split between multiple departments without centralized oversight specific to these investigations. Each of these offices may have their own bias, unconscious or otherwise. According to law firm, Ogletree Deakins, “We form beliefs on the basis of this input (including our interactions, experiences, and exposure, or lack of exposure to certain groups). Some of these beliefs represent accurate information and some reflect prejudices and biases.” (*Is Your Investigator More Biased Than You Think? Part I: How Unconscious Bias Can Disrupt Your Workplace Investigations*)

The potential for bias can be financially damaging to an organization. In 2014, a former IBM employee was awarded \$4.1 million in a wrongful termination lawsuit because of his age. “Before the trial and afterward, U.S. Magistrate Judge Thomas P.

Smith harshly criticized IBM's internal handling of an age-discrimination complaint that Castelluccio had taken to HR before he was let go." (Meinert)

Beyond the risk of bias, this division also prevents the institution from adequately keeping statistics and monitoring for trends which will identify where remedial action must be implemented to prevents ongoing violations of trust.

#### Strengths / Opportunities:

Reduce or eliminate the possibility of introducing bias in an investigation, Pool investigatory expertise in a single department, Investigator's possibility of having any type of relationship with those involved in an investigation is limited, Consistency of investigatory techniques and protocols, Standardized data sets for bias related incidents for consistent reporting.

#### Weaknesses / Threats:

Limited resources available for investigations, Investigators are farther from the situation and environment of the situation resulting which may increase the time taken to perform investigations due to the need to better understand the underlying structures and personalities.

#### Resources Cited:

Middle States Commission on Higher Education Self-Study Report, Upstate Medical University, 21 Sept 2018.

"Is Your Investigator More Biased Than You Think? Part I: How Unconscious Bias Can Disrupt Your Workplace Investigations." *Ogletree Deakins*, 17 July 2017, [ogletree.com/insights/is-your-investigator-more-biased-than-you-think-part-i-how-unconscious-bias-can-disrupt-your-workplace-investigations/](https://www.ogletree.com/insights/is-your-investigator-more-biased-than-you-think-part-i-how-unconscious-bias-can-disrupt-your-workplace-investigations/).

Meinert, Dori. "How to Conduct a Workplace Investigation." *SHRM*, SHRM, 16 Aug. 2019, [www.shrm.org/hr-today/news/hr-magazine/Pages/1214-workplace-investigations.aspx](http://www.shrm.org/hr-today/news/hr-magazine/Pages/1214-workplace-investigations.aspx).

Relevant Policies:

- [UW E-01 Non-Discrimination and Equal Opportunity Policy](#)
- [UW H-01 Harassment Prevention Policy](#)
- [CAMP SA-34 Sexual Assault, Domestic Violence and Stalking Prevention Policy](#)
- [CAMP SA-36 Student Complaints Policy](#)
- [COM-35 Policy and Procedures on Learning Environment & Mistreatment](#)

Additional Reading:

[Conducting unbiased investigations: tips from the Russia probe](#)

[Check Your Bias! 8 Cognitive Biases of Investigations](#)

[How to Conduct a Workplace Investigation](#)

[Best Practices in HR Internal Investigations](#)

[3 best practices for addressing hate and prejudice on school grounds](#)

[Metrics, Accountability, and Transparency: A Simple Recipe to Increase Diversity and Reduce Bias](#)

- 9.2 Enhance options for reporting and addressing bias or mistreatment ranging from minor to significant violations.
- 9.3 Create and ombudsperson role as a confidential resource to support conflict resolution for students, faculty, and staff.

**Problem:** Upstate learners and faculty lack a clear process and office for bias, reporting, and conflict resolution

Proposed Actions:

- The ombudsperson role in many institutions looks different depending on the needs of the students and staff when the position arises. Across the board, the ombudsman is a confidential resource that provides support and guidance for students, faculty, and staff at the institution in the forms of medication, therapy, and conflict resolution. At Upstate, we have identified a need for a more fluid bias reporting system where the faculty, staff or student feels protected while still being kept in the loop of response to their reported incident. In addition to their emotional support and guidance, the ombudsperson could act as a liaison between the student who is reporting anonymously and the process of remediation/consequence for the perpetrator of the bias incident. The ombudsperson and their office could be responsible for also furthering the development of bias reporting and developing new ways of conflict resolution and mediation.

Links to additional documents and resources:

**Strengths:** Flexibility of the role and office, and ability to formulate what the school needs from a new office; described as a good way to identify systemic issues since it is marketed as an unassociated body from the university for staff, faculty and students due to the candid nature of the conversations with members of the Upstate

community; described by some schools as a way to make recommendations on improvement so may be an opportunity for longevity of the task force's work; current U-Turn team/process may be a source of expertise

**Weaknesses:** There are only 35 medical schools who currently have an ombudsperson office at their institution and there is little research on their role in addressing bias specifically

**Opportunities:** Having a stable body within the institution committed to doing the work of continuously evaluating, supporting, and bettering the institution from a neutral standpoint

**Challenges:** Hiring a whole new staff and creating a whole office

Priority: High / Complexity: High

Strengths / Opportunities:

- Described as a good way to identify systemic issues since it is marketed as an independent body from the university for staff, faculty, and students due to the candid nature of the conversations with members of the Upstate community.
- Flexibility of the role and office, and ability to formulate what the school needs from a new office.
- People are more likely to come forward to an independent ombudsman, especially if the information they disclose is treated confidentially and without attribution. (Volkow)
- Described by some schools to make recommendations on improvement; may be an opportunity for longevity within this work.

- Having a stable body within the institution committed to doing the work of continuously evaluating, supporting, and bettering the institution from a neutral standpoint

#### Weaknesses / Threats:

- There are only 35 medical schools who currently have an ombudsperson office at their institution and there is little research on their role in addressing bias specifically
- The exact role of the ombudsman must be carefully defined. (Volkow)
- Hiring a whole new staff and creating a whole office – possibly being staffed by the U-turn group that currently exists at Upstate to support peer and faculty conflict
- <https://www-upstate-edu.libproxy2.upstate.edu/uturn/intra/index.php>

\*\*The Students/Residents/Fellows group also worked on this point and its fleshed-out product is above.

- If the office is seen as an extension of a compliance office, employees may be less likely to come forward and report potential misconduct. (Volkow)

#### Resources:

Ombudsman offices at other schools (for context of how other academic medical institutions use their ombudsman)

[https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4885532/#\\_\\_sec5title](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4885532/#__sec5title) (also a free-standing medical school so it may add to the experience potentially being compatible with ours)

<http://med.stanford.edu/ombuds.html>

<https://www.urmc.rochester.edu/education/post-doctoral/ombudspersons.aspx>  
(interesting setup because they are neutral ombuds but also faculty at the school who teach in certain departments?)

<https://www.unmc.edu/academicaffairs/institutional/ombuds.html>

<https://www.ombudsman.cornell.edu/>

<https://www-upstate-edu.libproxy2.upstate.edu/uturn/intra/index.php>

HR Magazine: Someone to Listen, January 1, 2003 (attached)

HRM Online: The pros and cons of anonymous reporting, January 21, 2019

Sources Cited:

Volkov, Michael. 2013, The Benefits of a Corporate Ombudsman,  
[blog.volkovlaw.com/2013/03/the-benefits-of-a-corporate-ombudsman/](http://blog.volkovlaw.com/2013/03/the-benefits-of-a-corporate-ombudsman/).

## 10. Policy Issues

### 10.1 Educate faculty and staff regarding the issue of protected speech for public employees.

Statements made by faculty and staff members, particularly on social media platforms, have resulted in a number of formal complaints in the Office of Institutional Equity because such statements have been perceived to be racist, sexist, homophobic, xenophobic or otherwise insensitive. In his article entitled [\*Public Employees, Private Speech: 1st Amendment doesn't always protect government workers\*](#), David Hudson

highlights the complexities of this issue.<sup>4</sup> Further education of faculty and staff regarding their rights and responsibilities as public employees will reduce incidents of complaints and investigations.

10.2 Include in the mission of each degree-granting program a clear and unequivocal commitment to graduating healthcare professionals who are committed to serving the underserved and adjust admissions and hiring criteria to reflect this.

Description: Each degree granting program should clearly state their commitment to graduating healthcare professionals (including health researchers, for the College of Graduate Studies) who are committed to serving the underserved and promoting health equity through their work. This should be prominently placed in admissions materials and discussed at all admissions and hiring events. Admissions and hiring criteria should reflect this commitment.<sup>32</sup> For example, the admissions process should include application and/or interview questions that explore the applicant's commitment to health equity; while lack of pre-existing knowledge might not reduce the applicant's chance of acceptance, their answer should demonstrate humility, curiosity, and willingness to learn. Admissions officers and committee members should receive appropriate training in how to assess responses to these types of questions. Applications for employment at Upstate should clearly indicate and ask: "This is who we are. Do you still choose to apply for a job here?" For example, when applying to any University of California medical school, applicants must check a box affirming the diversity, equity, and inclusion commitment of the institution; applicants are discouraged from applying if their values do not align with the statement. Application criteria should include a strong recommendation that all applicants to

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<sup>4</sup> [https://www.abajournal.com/magazine/article/public\\_employees\\_private\\_speech](https://www.abajournal.com/magazine/article/public_employees_private_speech)



graduate programs take a course that addresses health equity and social justice prior to entrance.

#### Existing Strengths and Opportunities:

Requires no additional funding and relatively little additional faculty time (faculty training only); comparatively straightforward to implement.

Many medical schools (e.g., the University of California system, the University of Washington, Michigan State University) already have missions which clearly state this type of commitment (e.g., UW's states that its goal is "Meeting the healthcare needs of our region, especially by recognizing the importance of primary care and providing service to underserved populations"; MSU states "A major focus of our mission is to educate physicians who want to work with underserved populations (rural, inner city), particularly within Michigan.").

Several other schools have already implemented an admissions question of this type, e.g., the University of California system), and we can learn from their experiences.

Ultimately, there are limits to how much an institution or educational program can shape its students or employees; meaningful change will require, in part, encouraging people who share our vision to join our community.

These changes may mitigate some of the other challenges, such as student resistance to coursework that is not targeted exclusively to test preparation (by tilting the student body in favor of students who recognize the importance social justice to careers in the health professions) and the need for remediation (see C-12 below).

#### Possible Weaknesses and Threats:

- Requires buy-in across programs and colleges: specifically, these changes would require acknowledging that the outcome might be more matriculated

students who, on paper, have lower test scores or grade-point averages—but who are ultimately better prepared to contribute to and benefit from the Upstate community and to become the kinds of healthcare professionals our society needs.

- Social desirability may influence students' responses to the admission questions, such that their true attitudes are not revealed; questions should be designed to mitigate this as much as possible.

### 10.3 Implement a policy for subsidizing the time of community members who come to campus to speak with learners.

Description: Some educational of the programs involve increasing the involvement of community members in health professions education. These community members deserve to receive compensation for their time. At a minimum, any community member who is speaking on campus during meal time should have that meal provided, and transportation costs (e.g., parking, bus fare) should be covered; however, a small honorarium should be offered, consistent with what is offered to scholars who provide their time to our institution. A dedicated fund could be developed for this purpose, accessible not only to the programs above but also to students who arrange co-curricular events. Visiting community members might also receive a "welcome packet." These efforts will model appropriate respect and valuing of community members' time and enhance Upstate's standing in our community.

#### **Existing Strengths and Opportunities:**

This is "low-hanging fruit": an easy step that simultaneously addresses students' desire for more community engagement and can enhance Upstate's standing in our community.

#### **Possible Weaknesses and Threats:**

- Requires funding (but is likely lower cost than many alternatives).

10.4 SUNY Upstate University Police Department should provide the Upstate Community at large with a statement addressing UPD's stance on the current climate of police brutality as well as their commitment/plan to decrease racial inequity and injustice on campus, and action steps they are taking to ensure that no excessive use of force is used.

**Problem:** Students have expressed concern for UPD not having released a statement on the climate of police brutality or recent protests. Be transparent about their stance on recent occurrences and national calls to action.

**Description:** On Saturday June 6<sup>th</sup>, SUNY Upstate held a rally in support of Black Lives Matter to mourn the death of George Floyd in the R Parking Lot. At this event, University Police were present and handing out business cards to attendees (copy of the card included with this submission). The cards read "New York State University Police Upstate Medical University. In memory of George Floyd, we kneel today in solidarity with Black Livers Matter to end Social Injustice." While this was surely well intentioned, it failed to meet the mark of student and faculty expectations. The first concern is that these cards were only given out at the Black Lives Matter Rally. Therefore, they were only given to faculty, staff and students who were able to attend and are invested in racial justice and believe in the Black Lives Matter Movement. Those who were unable to attend or do not see the value or need for Black Lives Matter did not receive the same messaging. Those who are not interested in attending rallies for social justice and racial equity are arguably the individuals that needed this message more and to know that UPD supports Black Lives Matter.

Second, the statement was lacking a commitment to racial equity, additional training for officers, denouncing the use of excessive force, or any action-based plan. Black and Brown students, specifically black male students on college campuses report higher incidence of interaction with law enforcement than any other marginalized group.[1] On top of that, Black male students are often stopped on college campuses while campus police are looking for black male crime suspects or "fitting the description." [2] With the increasing number of lethal interactions between police

and black and brown people, these experiences can create increased anxiety and fear. A 2019 study out of the University of Central Oklahoma surveyed 460 black students (73% female, 27% male) on their comfort in the presence of law enforcement (campus police). 34% of those students report that they feel somewhat or very anxious just in the presence of campus police and increases their sense of danger.[3] The communication of clear-cut actions and training that UPD is engaging in to commit to racial justice, diversity and inclusion and appropriate crisis intervention are crucial to restore faith in University Police. See the attached statement from Penn State for action steps they have outlined and shared with their campus community.

Finally, while not related directly to the cards being handed out, concerns were addressed about police presence and the use of ID cards for the Black Lives Matter Rally. Scanning of ID's and police presence felt uncomfortable for those in attendance. The reason behind scanning an Upstate ID was not clearly expressed and individuals shared concern about tracking those in attendance.

**Proposed Actions:**

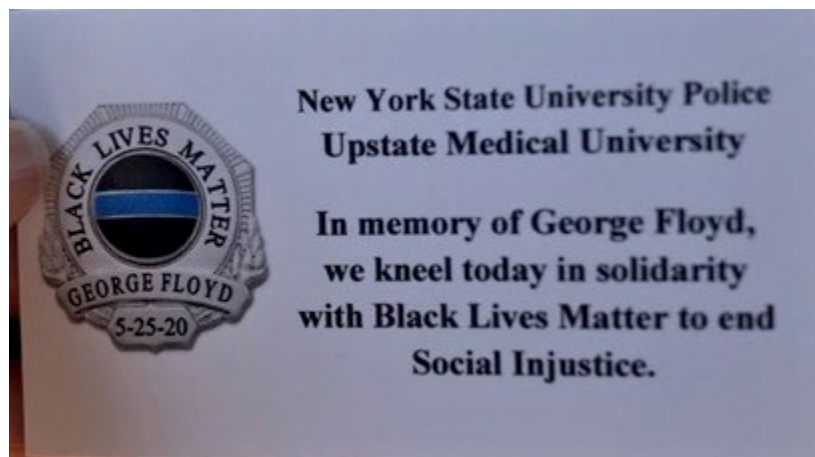
- SUNY Upstate University Police Department should provide the Upstate Community at large with a statement that includes:
  - UPD's stance on the current climate of police brutality;
  - their commitment/plan to decrease racial inequity and injustice on campus; and
  - action steps they are taking to ensure that no excessive use of force is used.

[1] McCabe, J. (2009). Racial and gender Microaggressions on a Predominately White Campus: Experiences of Black, Latina/o, and White Undergraduates. *Race, Class and Gender*, 16(1-2), 138-140. Retrieved July 15, 2020.

[2] Smith, W. A., Allen, W. R., & Danley, L. L. (2007). "Assume the Position . . . You Fit the Description": Psychosocial Experiences and Racial Battle Fatigue Among African American Male College Students. *American Behavioral Scientist*, 51(4), 551– 578. <https://doi.org/10.1177/0002764207307742>

[3] Thomas, J., & Russell, K. (2019, June 13). Black Students' Lived Experiences with and Perceptions of Law Enforcement. Retrieved July 15, 2020, from <https://www.aacu.org/diversitydemocracy/2019/winter/thomas>

Links to additional documents and resources:



<https://www.cupolice.cornell.edu/statement-from-cornell-police-chief-honan/>

<https://www.police.psu.edu/upps-responds-appalling-death-george-floyd>

SWOT

**Strengths:** Commitment to transparency and racial justice, other university police departments have made statements

**Weaknesses:** UPD had “attempted” to make a statement with the small business cards at the Upstate BLM rally. The statement was made with a thin blue line as its visual. Only reached people at the rally. Statement on the card was weak & not commitment to justice or statement on excessive use of force

**Opportunities:** It is an opportunity to increase student/faculty/staff confidence in UPD (kind of)

**Challenges:** It may seem disingenuous coming from UPD this late & because we are asking not (not proactive)

Priority: High / Complexity: Low

10.5 Review all policies at UMU to assess alignment with the University’s mission, vision, and values.

10.6 Design and implement a fair process, including remediation when possible, for how to respond to students, trainees, faculty, and staff who display biases, including racism, and other unprofessional conduct.

**Description:** This may begin with a task force and evolve into a standing committee, separate from but working in tandem with existing groups, such as the Student Progress Committee and Academic Review Board for medical students. For “repeat offenders” or overt offenses, specific consequences should be clearly defined in writing. Although these consequences might look quite different among students, trainees, staff and faculty, an expressed consequence that is clear and consistently

applied to all within the Upstate community will send the message that there is truly zero-tolerance for these actions on this campus.

**Existing Strengths and Opportunities:**

- The problem is widely recognized and there is significant motivation on the part of students and faculty who have encountered it to see it addressed effectively.
- We have reached out to colleagues at several institutions and have been referred to others who have experience in this area, including several at Northwestern University.
- This is a critical issue and many members of this task force are invested in seeing it addressed optimally.

**Possible Weaknesses and Threats:**

- Our initial inquiries have not yet yielded a model program to adapt.

**Recommendation:** We recommend that the above action item be adopted. Action Item C-12 requires in-depth study: for that, we recommend a task force be convened immediately.

Priority: High / Complexity: High

## 10.7 Institute the Belonging in All Policies (BiAP) Program at Upstate.

The concept of Belonging in All Policies (BiAP) is modeled after the concept of Health in All Policies (HiAP). Health in All Policies (HiAP) is a collaborative approach that

integrates and articulates health considerations into policymaking across sectors to improve the health of all communities and people.<sup>5</sup>

The concept of Health in All Policies aims to improve the health outcomes associated with policies to mitigate health disparities and provide optimal environments for healthier living. This multidisciplinary framework seeks to improve health through effective assessment and reformation of policy for organizations of any level and stature. The importance of integrating health in policy assessment and decision making is a key concept in the growing field of Health Impact Assessment.<sup>1</sup>

Similarly, the concept of BiAP would encourage or require consideration of diversity, equity, and inclusion (i.e., “Belonging”) in all policy-level decisions at Upstate Medical University.

## 11. Branding, Communication and Space Issues

### 11.1 Create a logo, special graphics and branding campaign around “Belonging” at Upstate.

The concept of “Belonging” embodies the concepts of Diversity, Equity and Inclusion. While these terms are often used interchangeably, each has a unique, but related, meaning. The following definitions are described in *Belonging: A Conversation about Equity, Diversity, and Inclusion*.<sup>6</sup>

- **Diversity:** *Multiple identities are represented in an organization.*

When thinking of **diversity**, biodiversity comes to mind: a variety of living organism in a particular habitat or ecosystem. We find this in nature! The term diversity between people can be understood as: the presence of difference. It’s

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<sup>5</sup> See <https://www.cdc.gov/policy/hiap/index.html>. See also: <https://www.cdc.gov/policy/hiap/resources/>

<sup>6</sup> Krys, January 21, 2019. Available at: <https://medium.com/@krysburnette/its-2019-and-we-are-still-talking-about-equity-diversity-and-inclusion-dd00c9a66113>



that simple. This can refer to people of various races, genders, socioeconomic status, sexual orientation, religions, ethnicity, or national origins, mental or physical abilities. When applied to an organization, defining diversity should include cognitive diversity (diversity of ideas) and cultural diversity.

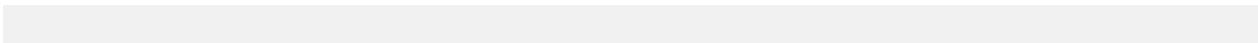
- **Inclusion:** *Thoughts, ideas, and perspectives of all individuals matter.*

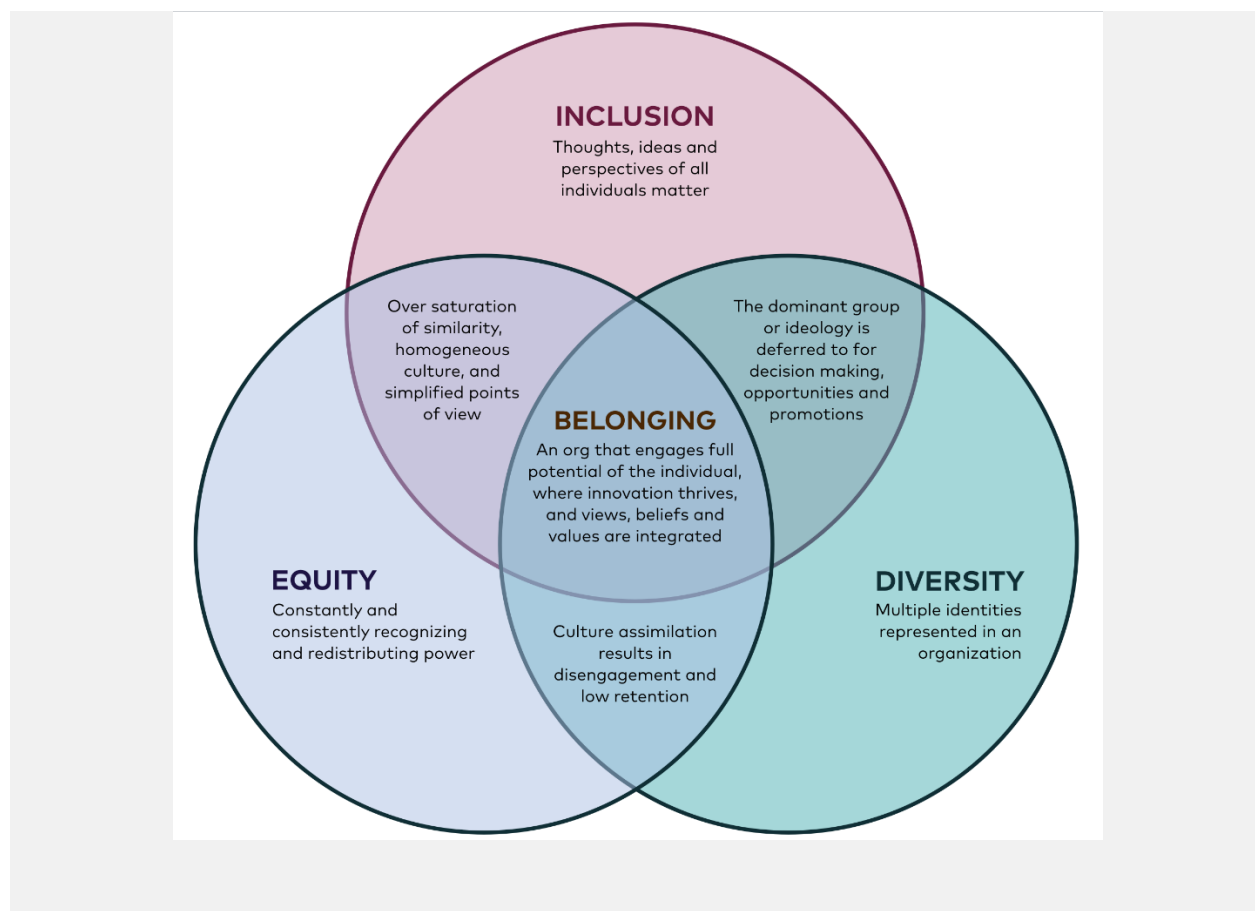
At the core of **inclusion** is diversity. Inclusion means that people with marginalized identities feel as if they: genuinely belong, are valued and relied upon, empowered and ultimately matter. Like diversity, inclusion is an outcome and often an actual experience of the workplace, one that holds real potential or implications.

- **Equity:** *An organization constantly and consistently recognizes and redistributes power.*

Equity, in many regards, are the norms, fundamentals, and/or policies in places that ensures everyone accesses to the same opportunities. Equity requires preliminary work to identify imbalances, loopholes, or unequal starting places.

In this framework, **Belonging** occurs where Diversity, Equity and Inclusion overlap in organizations that engage the full potential of individuals, where innovation thrives, and where views, beliefs, and values are integrated, as illustrated in the following Venn diagram. Each element represents a different piece of the full human experience. Addressing only one or two of these falls short on gaining, what I think is the full human experience — a sense of belonging. Belonging is the outcome of holding space where everyone truly feels empowered to speak up, make change, and shift the culture. It is the responsibility of those in leadership and of the dominant social culture to create these conditions.





It is equally important to understand the three situations where two of the three ideals exist in the absence of the other. The following is adapted from Kry's summary of these situations:

#### **Situation 1: Equity and Inclusion, No Diversity**

Imagine the boardroom of all white men. They all have a seat at the table and the opportunity to share and have their perspectives heard. Assuming decisions are made in the boardroom, those perspectives held make policy and changes to the organization (and sometimes the public and our environment). Great, right? Sure, if you are a company of all white men whose customers are all white men and every policy and decision made only impacts other white men. This is almost never the case. Without diversity no new perspectives are heard. Policies are established and implemented benefiting the interest

of those in power. Organizations lose their competitive edge because innovation slows down without diverse perspectives. The result of this is that employees leave because change is too slow. That \$1B new idea just walked out the door because it was just not “core to the business.”

### **Situation #2: Inclusion and Diversity, No Equity.**

Imagine the bold, progressive community organization that is excited to advocate for new change and policies for a public school system in an inner city. They pride themselves on diversity and inclusion. It’s part of their mission statement and they boldly represent the voices of the community at large. However, those in positions of power or leadership positions do not represent the diversity of the community; in fact, beliefs held at the top are that of the dominant social ideology. A recent example of this was breakdown of leadership for the 2018 and 2019 Women’s March. In short, the founders were excited to include women of color to bring diverse perspectives to help organize the march, however, those women of color were denied leadership positions until they demanded it. Another example is diverse inner city schools where children of multiple intersectional identities exist yet Black and Brown students are continuously punished more often and more harshly and bullying against LGBT, especially trans, students is ignored or rejected compared to their straight, cisgender peers.

### **Situation #3: Equity and Diversity, No Inclusion.**

This is probably the worst-case scenario of all three. The other scenarios are a bit easier to draw attention to. There are hard and cold “facts” for someone to refer to (e.g. national statistics, employee self-identifying questionnaires, leadership demographics, etc). Inclusion, however, is a feeling based on an individual’s experience. This scenario is best described as the “I heard you, but...” or “If I could play devil’s advocate for a minute...” or “I have a friend who is X and they said...” mindset. In short, its erasure of experience and perspective; it is subtle and dismissive. You are invited into the boardroom, but you are expected to speak for all people like you. You are invited into the boardroom, but your idea isn’t considered until a peer of the dominant culture recognizes and claims your need for change as their own idea, *even if you’ve pointed it out multiple times in the past*. Essentially, you are invited to the boardroom, you are smart and have a fresh diverse perspective, yet your ideas aren’t heard or are commonly misunderstood. This scenario is not hard to imagine, many people have been put in this uncomfortable situation. It’s exhausting for those who are expected to show up as themselves, but are

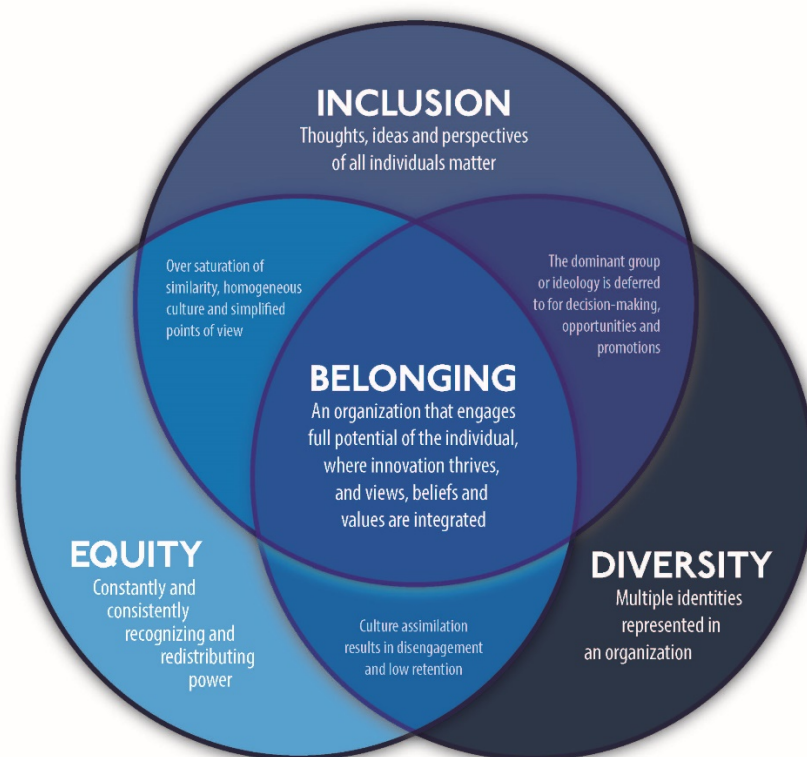
expected to assimilate to the dominant workplace culture and not be *too* disruptive. As a result, diverse talent leaves from exhaustion and burnout from feeling like they do not truly belong.

In summary, people who feel a sense of belonging in their organizations, will likely be more resilient and willing to challenge themselves and others to be better stewards of equity, diversity and inclusion. Organizations where individuals hold a high sense of belonging will result in more engaged employees who are energized by their work, team, and ultimately perform with better creativity and productivity. In this scenario, everyone achieves better outcomes.

Building on this concept, the Task Force recommends:

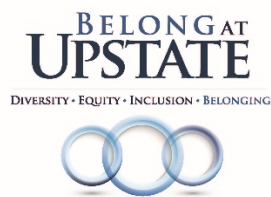
1. Rename the Office of Diversity and Inclusion (ODI) the Office of Diversity, Equity and Inclusion (ODEI).
2. Rename the role of the Chief Diversity Officer to the Chief Diversity, Equity and Inclusion Officer.
3. Consider the concepts of Diversity, Equity, and Inclusion in all diversity-related initiatives.
4. Promote the concept of Diversity, Equity, and Inclusion as a means of promoting Belonging at Upstate.

The following figures are examples of special graphics that could be used to explain and market the concept of Belonging at Upstate. The Task Force recommends continued work with the University's graphic design and marketing teams to refine and advance this action priority.



# BELONG AT UPSTATE

DIVERSITY • EQUITY • INCLUSION • BELONGING



#### **Additional resources:**

6 Ways to Foster Belonging in the Workplace Taking Diversity & Inclusion to the Next Level

[https://hello.cultureamp.com/hubfs/1703-Belonging/Culture-Amp\\_6-ways-to-foster-belonging.pdf](https://hello.cultureamp.com/hubfs/1703-Belonging/Culture-Amp_6-ways-to-foster-belonging.pdf)

#### **11.2 Redesign key physical spaces to promote belonging.**

Upstate medical university should revise key physical spaces, public artwork, signage, and accessibility routes to promote belonging.

### 11.3 Update ODI website to further consolidate existing diversity information from the Upstate website and borrow ideas and resources from other websites.

**Description:** While the ODI website recently received a facelift, there is a lot of diversity information that is scattered around the Upstate.edu domain. Consolidating these resources by linking them to the ODI site provides a one-stop shop for all thing's diversity. The attached link details many of the connections and consolidations that could be made, including:

- ODI Website
- COM ODI Website
- Mistreatment Reporting for the COM
- Multicultural/ Intercultural Clubs
- CSTEP/ MedPrep/ Student Retention
- Committee, Advisory Board Links
- Center for Civic Engagement
- Alumni Scholarships/ Financial Aid
- Admissions should be linked to the ODI Website
- Campus-wide events should be linked

While the new structure of site has enhanced navigation, new content has not been developed for the site. Borrowing best practices and sources from other diversity websites can enhance the presence of the ODI website.

The following notable sites may provide ideas:

- Dartmouth: Recruitment, Diversity Reading list / group, Strategies, and approaches for cultural competency.
- Columbia: Getting involved
- Brown: Diversity dashboard
- Additional Ideas: Online bias reporting, Links to community groups who Upstate is engaged with.

- A Diversity Inc article, “Who Has the Best Website for Diversity” provides suggestions worthy of implementation including:
- A diversity presence is on the homepage
- “About the Company” section should include a link to the diversity page
- A search of keywords (“diversity,” “diversity statement,” “CEO statement on diversity”) should quickly get the reader to diversity content
- Diversity content should directly connect D&I with business results internally and externally
- CEO’s personal diversity statement and reasons a diverse and inclusive management team and workforce is mission critical to business goals
- Images throughout the website (not only in the diversity section) should be of individuals (preferably employees) from underrepresented groups in leadership roles and/or connecting with company brands.
- Examples of innovations and other accomplishments derived from D&I should get the spotlight.

**Resources Cited:**

Diversity Task Force Posting by Sarah Zainelabdin:

<https://public.3.basecamp.com/p/BWLD4WV9cToQzgKCYsGC2JKM>

Diversity Inc. “Who Has the Best Website for Diversity.” *Diversity Inc*, 28 Feb. 2013,

[www.diversityinc.com/ask-diversityinc-who-has-the-best-website-for-diversity/](http://www.diversityinc.com/ask-diversityinc-who-has-the-best-website-for-diversity/)

Resources:

SUNY Upstate ODI Website Ideas document (attached)

**Problem:** Upstate currently has terrific initiatives and ideas, but it can be challenging for interested individuals to identify and connect with the relevant initiatives, resources, and leaders.



**Proposed Actions:**

- Consolidate or link the following Upstate Websites that should be consolidated or interconnected:
  - ODI Website: <https://www-upstate-edu.libproxy2.upstate.edu/diversityinclusion/index.php>
  - COM ODI Websites:
  - <https://www.upstate.edu/com/about/diversity-inclusion/index.php>  
This seems to be different from the main ODI website and we could not find a link that navigated between the two.
  - Links specific for ODI in the other colleges were not found.
  - Mistreatment Reporting for the COM
  - <https://www.upstate.edu/currentstudents/support/rights/mistreatment.php>
  - What about the other degree programs? Does that fall under Student Complaints?  
<https://www.upstate.edu/currentstudents/support/rights/studentcomplaints.php>
  - Multicultural/ Intercultural Clubs
  - Presence: <https://upstate.presence.io/organizations>
  - CAB: [https://www.upstate.edu/campus-activities/student-orgs/studentorgs\\_listing.php](https://www.upstate.edu/campus-activities/student-orgs/studentorgs_listing.php)
  - Most clubs are listed on Presence through CAB which is not readily accessible; intercultural clubs could be identified via MASI and have a separate website. Showcasing pictures from events, contact for current E-board would encourage students to attend events.
  - CSTEP/ MedPrep/ Student Retention etc.:
  - <https://www.upstate.edu/com/about/diversity-inclusion/student-retention.php>

- This is listed in the COM ODI which again is separate from Campus one main one.
- The current Associate Dean for Diversity and Inclusion College of Medicine is listed, but their contact is not.
- Committee, Advisory Board Links:
- Dean's Advisory Committee on Diversity & Inclusion:  
[https://www.upstate.edu/committees/com/student\\_diversity.php](https://www.upstate.edu/committees/com/student_diversity.php)
- Link to the President's Diversity Council gives a Page Not Found error message. <https://www-upstate-edu.libproxy2.upstate.edu/diversityinclusion/404.php>
- Images, biographies, and objectives should be available for all the people serving on these councils.
- Center for Civic Engagement:
- <https://www.upstate.edu/engage/students/index.php>
- Really great community outreach programs that should have a link in the ODI website!
- Alumni Scholarships/ Financial Aid:
- The website should have links to relevant scholarships for students to easily access.
- Admissions should be linked to the ODI Website
- Campus-wide events should be linked.
- Office of Institutional Equity <https://www.upstate.edu/equity/index.php>
- Spiritual Care

**Develop the following new online resources:**

- ODI specific email blasts. Maybe not rely on "Upstate Announcements" to get information across. What if ODI has its own email blasts that included (1) Events happening that week/month in all the colleges, resident events,

national fundraisers, community events (2) Alumni highlights (3) Upstate in the News (4) Scholarships, Resources

- SNMA National has similar biweekly email blasts that share a lot of information. Having an Upstate-specific one would be great.
- Maybe have a section where the current Multicultural Representative for the class/college/program can post updates, have their picture/biography included, etc.
- Encourage the use of social media both for the promotion of ODI and as a source for development and organizational learning
- Twitter, specifically and currently, but other social media as well can be useful tools.
- Taskforce and/or ODI could have a hashtag for communication- could be used for the promotion of work like the work of the Task Force It can also be a powerful way to collect information and offer a place to voice concerns.
- Promote individual and organizational learning by referencing hashtags like #black in the ivory and professional tweet chats
- Annual Town Hall for ongoing, transparent communication between Upstate leadership and students, residents, and fellows, specifically around diversity and inclusion efforts.
- Once annually, members of the ODI team as well as other institutional leaders including Dr. Dewan could hold a town hall for students, residents, and fellows. The focus of this town hall would be to briefly present the progress on diversity and inclusion efforts over the past year, to respond to student questions and to create a forum for student idea sharing. To account for scheduling complexity and multiple work sites, questions could be submitted in advance via email and the meeting could be recorded. This would promote a culture of productive discourse and accountability.

**Strengths:** Sean Patterson's tech development skills (as evidenced by the LGBTQ Resources page), simple and broad reaching impact

**Weaknesses:** May take some time to complete, town hall Scheduling, managing topics that cannot be discussed or written about for legal reasons

**Opportunities:** Leverage systems of communication and recording strengthened in COVID response

**Challenges:** Meeting different needs of students, residents, and fellows

Priority: High / Complexity: Low

#### 11.4 Create a web-based diversity initiative reporting system to provide a method for accounting of the diversity initiatives around the Institution.

**Description:** Developing a web-based diversity initiative reporting system will provide an easy method to track and report on diversity focused initiatives in the Institution. This will provide a ready-made report card and a base for a formal report that could be provided to accrediting bodies, students, donors, and anyone who may be interested in the efforts the Institution is making to level access and opportunities within the Institution and within the greater community.

##### **Similar Initiatives at Other Institutions:**

- University of Wisconsin – Madison: Diversity Inventory Program (DIP)
  - Program in place since 2016, 609 initiatives reported, self-serve reporting and searching. Amazing visual dashboard.
- University of West George: Diversity Initiatives Inventory
  - Reporting not published. Site allows an ability for people to submit their contributions to diversity.
- University of California – San Diego: Diversity Initiatives Database
  - Duration of program unknown, 314 initiatives reported. Self-serve reporting and searching of initiatives. No dashboard for initiatives.
- Colorado State University: Diversity Inventory System
  - Duration of program unknown, 141 active efforts reported. Extensive search features. No public reporting or dashboards
- University of Toledo: Inventory of Outreach and Engagement Initiatives (old)
  - Information is old, no current information available. Information is relevant for consideration in developing a system. Website referenced does not exist.
- Virginia Tech: Inventory of Inclusion and Diversity Activities
  - Extensive manual report as an example that could be compiled with use of an online database system.

**Strengths and Opportunities:** Easy set-up, Simple reporting mechanism, consolidated source of information for diversity related matters, Source of inspiration for diversity-related projects, provide a mechanism for people to link up to each other to further share and develop ideas.

**Weaknesses and Threats:** Manual effort to log data. Collecting data that is not used. Lack of recognition of groups making the contributions.

**Resources:**

Policies and Internal Documents:

COM-16: Diversity and Inclusion in the College of Medicine Policy <https://upstate-ellucid-com.libproxy1.upstate.edu/documents/view/10227>

OUR Upstate Strategic Plan Performance Measures | Tier 1  
<https://www.upstate.edu/strategicplan/strategic-planning-tier1/performance-measures/index.php>

**External Resources:**

University of Wisconsin, Diversity Inventory Program (DIP)  
<https://diversity.wisc.edu/dip/>

University of Wisconsin Eau Claire, 2018 Diversity Initiatives Inventory Report  
<https://www.uwec.edu/files/2172/DiversityInitiativesInventory-2018.pdf>

Washington State: Office of Financial Management, "What's a Diversity Initiative?"  
<https://ofm.wa.gov/state-human-resources/workforce-diversity-equity-and-inclusion/diversity-equity-and-inclusion-resources/what-diversity-initiative>

American Institute of Certified Public Accountants, 2017 State Society Diversity Initiatives Inventory

<https://www.aicpa.org/content/dam/aicpa/career/diversityinitiatives/downloadabledocuments/2017-state-society-diversity-initiatives-inventory.pdf>

University of West Georgia, Diversity Initiatives Inventory

<https://www.westga.edu/campus-life/diversity/diversity-initiatives-inventory-form.php>

**11.5 Create a regularly updated Diversity Dashboard to allow us to measure and compare our performance regarding diversity to our previous results and to other institutions providing quick access to data of interest to students, employees, and donors.**

**Description:** “Managing diversity means continuously evaluating all aspects of the workplace. Both attitudes and perceptions of the employees and their career experiences reveal how well the employer is doing. For example, do minority group members have access to mentors who can guide their careers? Are they exposed to higher levels of management? The HR information system can identify areas where change is needed.” (Milkovich 50). Without data, we cannot truly answer questions of this nature.

In the book *Magic Numbers for Human Resource Management*, the author states, “Just as the dashboard of a car contains instruments that indicate how well or otherwise the vehicle is performing, so too these HR indicators will enable HR practitioners to monitor HR performance within an organization.” (Bucknall 154). This, of course, expands beyond the scope of HR practitioners but to leaders at all levels.

As a process of our normal business practices, we collect a lot of data related to diversity for both student and employee populations. Given the wealth of data available, are we not analyzing it beyond what is required for our affirmative action plans? Identifying leading and lagging key performance indicators that assist in driving the Institution towards its goals will help us improve performance in areas that critical to the Institution’s success.

It is critical, however, that we do not analyze data for the sake of analyzing data. Consider that a car requires different instrumentation than an airplane. In his book, *The Effective Executive*, Peter Drucker advises, "To determine what is a fact requires first a decision on the criteria of relevance, especially on the appropriate measurement." (Drucker 143) Therefore, it is critical that the institution carefully consider the metrics that it wants to analyze. While the supporting documentation can provide insight into potential measurements, we must ask what measurements truly matter to drive performance and, in turn, attract donors, students, and employees to want to belong at Upstate.

### **Strengths / Opportunities**

Provides an opportunity to quantify our commitment to diversity, Ability to set meaningful goals around what diversity means and determine if we are meeting results.

### **Weakness / Threats**

- Acute awareness of our standing
- Numbers can be taken out of context
- Are we confident in our own data?
- Establishing a set of metrics that people do not buy in to.

### **Cited Resources:**

Drucker, Peter. *The Effective Executive*. Collins Business, 2006.

Bucknall, Hugh and Zheng Wei. *Magic Numbers for Human Resource Management*, Mercer Human Resource Consulting, 2006.

Milkovich, George and John Boudreau. *Human Resource Management*, Eighth Edition, Irwin McGraw-Hill, 1997.



**Resources for further information:**

[CUPA-HR Diversity, Equity, and Inclusion \(DEI\) Maturity Index](#)

[Metrics, Accountability, and Transparency: A Simple Recipe to Increase Diversity and Reduce Bias](#)

[Meaningful Metrics for Diversity and Inclusion](#)

[Measuring Outcomes of Bias Training](#)

[Accountability, Diversity Metrics in Scorecards and Dashboards](#)

[How to Measure The ROI Of Diversity Programs](#)

[What is a Diversity Scorecard, why is It Important for Gender Equality at the Workplace](#)

## **12. ODI Reorganization and Diversity Consortium**

### **12.1 Establish a university-wide consortium for health equity research and programs.**

**UCHERP** (Upstate Consortium for Health Equity Research and Programs)

**Description:** Create a centralized campus consortium for clinicians, researchers, educators, and students engaged in health equity research and programs. Would facilitate shared planning, resource utilization and evaluation. Would be sustained by campus, philanthropic and research grant funding. Could evolve into a nested center within an academic department (Upstate CENTER for Health Equity Research and Programs).

UCHERP governance would include officers and a small board of directors who would allocate resources toward applicants interested in promoting the academic pursuit of

issues related to Health Equity in our community and region. A reporting structure to the Chief Diversity Officer in the ODI would facilitate direct accountability to Upstate institutional goals.

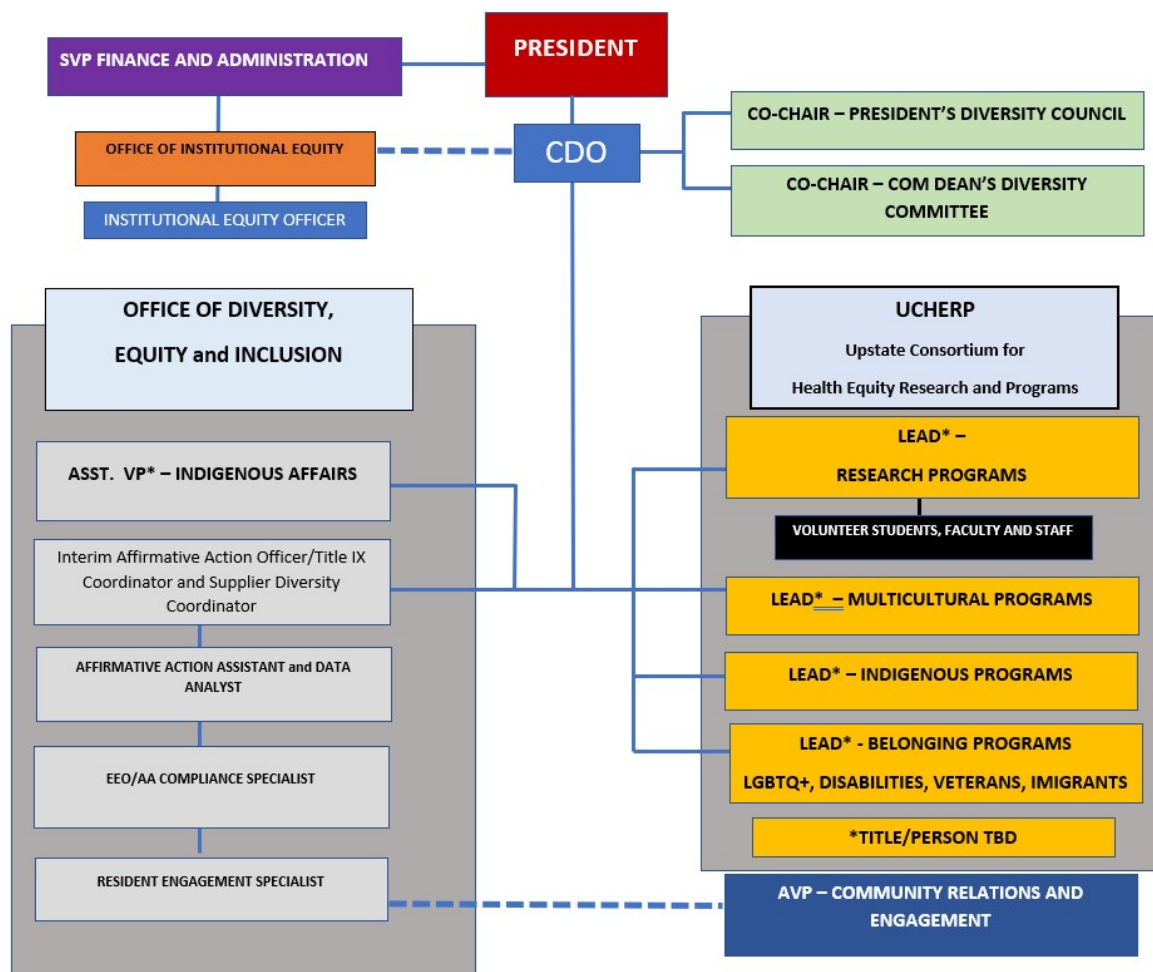
To be successful, initial seed funding of approximately \$100,000 would permit small grants to support investigator-initiated projects. In addition, a philanthropic endowment with donations from community public and private organizations and individuals would permit ongoing and future support of projects in the field of Health Equity.

## 12.2 Reorganize diversity leadership at the university and college levels.

In early 2020, Upstate's Office of Diversity and Inclusion was reorganized into a new Office of Diversity and Inclusion (ODI), headed by the Chief Diversity Officer (CDO), and a separate Office of Institutional Equity (OIE), headed by the Institutional Equity Officer (IEO). In an effort to further coordinate campus-wide diversity-related activities, this transition also broadened College of Medicine diversity roles, eliminating the roles of Associate Dean for Diversity, Assistant Dean for Diversity and Assistant Dean for Disability, in favor university-wide roles within the Office of Diversity and Inclusion and the newly recommended Upstate Consortium for Health Equity Research and Programs (See Proposed Action Item 12.1).

To further this goal, the Task Force recommends the creation of the Assistant Vice President for Indigenous Affairs position. This role should report to the Chief Diversity Officer and: (1) represent the University's faculty, staff and students of all four colleges in matters of diversity, equity and inclusion related to Native American people; and (2) serve as the University's ambassador to local and national Native American sovereign nations.

The following organizational chart represents the proposed ODI structure.



## Appendix

### Appendix 1: Determination of Priority Scores in Draft 1

- Task Force members were asked to characterize each proposed action item as **high**, **moderate**, or **low** priority, and **high**, **moderate**, or **low** complexity.
- Points were assigned to each proposed action item according to the following scheme:
  - High Priority 3 Points
  - Moderate Priority 2 Points
  - Low Priority 1 Point
  - Low Complexity 3 Points
  - Moderate Complexity 2 Points
  - High Complexity 1 Point
- The points were added for each proposed action item to achieve priority scores from **1 (highest priority)** to **5 (lowest priority)**:

Priority Score	Total Points	Priority	Complexity
1	6	High	Low
2	5	High	Moderate
2	5	Moderate	Low
3	4	High	High
3	4	Moderate	Moderate
3	4	Low	Low
4	3	Moderate	High
4	3	Low	Moderate
5	2	Low Priority	High

### Appendix 2: Priority Tables in Draft 1

Table 1: Priority 1

#	Category	Priority	Complexity	Action Item
1.1	Students	High	Low	Increase learner representation in decision making.
1.2	Students	High	Low	Establish support groups, led by professionals, for Upstate learners that focus on well-being as well as specific topics like high stakes test anxiety.
1.3	Students	High	Low	Add questions about social justice to admissions applications and interview sessions.
1.4	Students	High	Low	Establish a council of URM and ally residents and fellows.
1.5	Students	High	Low	Create a “crash course” for International Students and Residents/Fellows who are Foreign Medical Graduates.
1.6	Students	High	Low	Create a “Safe Ride” program to bring Upstate students to their nearby home, or to an Upstate parking lot where they parked their car.
2.1	Faculty	High	Low	Introduce a new policy stating that no application for faculty appointment, promotion, or tenure at UMU shall be approved without proof of the faculty member’s alignment with Upstate’s commitment to diversity, equity, inclusion and belonging.
2.2	Faculty	High	Low	Create systems of positive reinforcement to encourage faculty to go beyond cursory engagement in implicit bias and antiracism training.
4.1	Alumni	High	Low	Reengage Upstate BIPOC Alumni.

<b>7.1</b>	Curriculum	High	Low	Increase the diversity of simulated patients, including sim manikins and standardized patient actors.
<b>7.2</b>	Curriculum	High	Low	Implement an annual campus-wide common reading program, including a shared monthly critical reflection point for the entire campus community.
<b>9.1</b>	Reporting	High	Low	Coordinate the separate departments that investigate complaints of bias, discrimination, and harassment.
<b>10.1</b>	Students	High	Low	Educate faculty and staff regarding the issue of protected speech for public employees.
<b>10.2</b>	Students	High	Low	Include in the mission of each degree-granting program a clear and unequivocal commitment to graduating healthcare professionals who are committed to serving the underserved and adjust admissions and hiring criteria to reflect this.
<b>10.3</b>	Students	High	Low	Implement a policy for subsidizing the time of community members who come to campus to speak with learners.
<b>10.4</b>	Students	High	Low	SUNY Upstate University Police Department should provide the Upstate Community at large with a statement addressing UPD's stance on the current climate of police brutality as well as their commitment/plan to decrease racial inequity and injustice on campus, and action steps they are taking to ensure that no excessive use of force is used.
<b>11.1</b>	Students	High	Low	Create a logo, special graphics and branding campaign around "Belonging" at Upstate.

11.2	Students	High	Low	Redesign key physical spaces to promote belonging.
12.1	Organization	High	Low	Establish a university-wide consortium for health equity research and programs.

Table 2: Priority 2

#	Category	Priority	Complexity	Action Item
1.7	Students	High	Moderate	<a href="#">Reconsider criteria for scholarships, honors, and recognitions.</a>
1.8	Students	High	Moderate	<a href="#">Create a social justice roundtable series and health equity M&amp;M conferences.</a>
1.9	Students	Moderate	Low	<a href="#">Survey students, residents, and fellows to assess learner experiences with bias and/or discrimination at Upstate, including their sense of “belonging.”</a>
1.10	Students	Moderate	Low	Create a communication link between first year URM, international, and LGBTQ+ identifying learners and interviewing/accepted students of the same identity.
1.11	Students	Moderate	Low	Improve opportunities and requirements for community service and civic engagement and value service with hour tracking and recognition.
1.12	Students	Moderate	Low	Support MASI and the Union of Multicultural Clubs within the Campus Activities Building (CAB).
2.3	Faculty	High	Moderate	Offer a required short course for all incoming/newly hired faculty orienting them to social justice and to Upstate’s mission and culture, including an introduction to local history related to social justice.

2.4	Faculty	Moderate	Low	Support a requirement that all medical professions must complete implicit bias training as a condition of holding or maintaining state licensure.
5.1	Patients	High	Moderate	Develop mechanisms to consistently address knowledge gaps and attitudes perpetuating patient inequity of non-white patients by acknowledging racism as the linchpin of patient care inequity and social determinants of health and developing evidence-based guidelines of key clinical health disparities.
6.1	Community	High	Moderate	Create a Chief Diversity Officers' Alliance or Consortium.
6.2	Community	High	Moderate	Create a Community Advisory Board and Community Advisory Board Listening Forums.
7.3	Curriculum	High	Moderate	Offer a required short course for all incoming students, trainees and faculty and staff, orienting them to social justice and to Upstate's mission and culture, including an introduction to local history related to social justice and brief training in bystander intervention for bias.
7.4	Curriculum	High	Moderate	Offer a required interprofessional course for all Upstate students, across all programs, addressing core issues related to diversity, equity, inclusion and belonging.
7.5	Curriculum	High	Moderate	Implement longitudinal continuing education in bias mitigation for clinicians.



7.6	Curriculum	High	Moderate	Systematically assess all Upstate curricular content for bias and implement appropriate changes to mitigate bias.
7.7	Curriculum	High	Moderate	Mitigate bias in workplace-based assessment and narrative feedback focusing assessment on knowledge, behaviors, and skills, and educating assessors about how and why other perceptions are more prone to bias.
7.8	Curriculum	High	Moderate	Offer a history of medicine course to all students, across all programs, as a required course, with enrollment also open to graduate medical trainees, faculty, and staff.
8.1	L/D/V/ I	High	Moderate	Reassess and improve programs and the environment for persons with disabilities, immigrants, veterans and other underserved populations of students, faculty, staff, patients, and visitors.
8.2	L/D/V/ I	High	Moderate	Create a uniform policy regarding the treatment and care of transgender and gender nonconforming patients and guests.
8.3	L/D/V/ I	High	Moderate	Create a uniform policy regarding workplace gender transition for SUNY Upstate Faculty and Staff.
8.4	L/D/V/ I	High	Moderate	Create a policy for supporting transgender students at SUNY Upstate including guidelines for students who begin transition after admission or while attending SUNY Upstate.
8.5	L/D/V/ I	High	Moderate	Perform a survey of the curriculum to eliminate inappropriate/offensive material and reduce heteronormative bias.

8.6	L/D/V/I	High	Moderate	Support the formation of Upstate Chapters of National Organizations for students and faculty.
8.7	L/D/V/I	High	Moderate	Offer education and training for clinical faculty and other providers with a focus on increasing understanding of LGBTQ+ specific health needs and to reduce bias against this population.
9.2	Reporting	High	Moderate	Enhance options for reporting and addressing bias or mistreatment ranging from minor to significant violations.
10.5	Policy	High	Moderate	Review all policies at UMU to assess alignment with the University's mission, vision, and values.
11.3	Branding	High	Moderate	Update ODI website to further consolidate existing diversity information from the Upstate website and borrow ideas and resources from other websites.
11.4	Branding	High	Moderate	Create a web-based diversity initiative reporting system to provide a method for accounting of the diversity initiatives around the Institution.
11.5	Branding	High	Moderate	Create a regularly updated Diversity Dashboard to allow us to measure and compare our performance regarding diversity to our previous results and to other institutions providing quick access to data of interest to students, employees, and donors.
12.2	Organization	High	Moderate	Reorganize diversity leadership at the university and college levels.
8.8	L/D/V/I	Moderate	Low	Develop a medical school elective, like the Diabetes SPECIAL elective, for medical students to follow a transgender person longitudinally during their transition process.

\*L/D/V/I = LGBTQ+/Disabilities/Veterans/Immigrants

Table 3: Priority 3

#	Category	Priority	Complexity	Action Item
2.5	Faculty	High	High	Implement required longitudinal bias mitigation training for faculty.
2.6	Faculty	High	High	Implement required faculty development focused on understanding and teaching content related to the role of racism and implicit bias in health disparities.
2.7	Faculty	High	High	Develop programs in the Office of Faculty Affairs and Faculty Development that are focused on supporting faculty from underrepresented groups.
3.1	Staff	High	High	Establish institution-wide best practices for hiring and retention of diverse employees.
3.2	Staff	High	High	Implement longitudinal training in implicit bias and history of racism and relationship in creating and perpetuating social disparities of health for all employees.
6.3	Community	High	High	Improve Pathway to Upstate Program.
6.4	Community	High	High	Upstate C.A.R.E.S – Series on Concentrated Poverty in Syracuse.
6.5	Community	High	High	Improve healthcare pipeline scholarship programs for Syracuse students.
7.9	Curriculum	High	High	Implement a multi-level faculty educator development program, allowing for sustainable professional development with a focus on diversity.

8.9	L/D/V/I	High	High	Develop new content to improve Upstate curricula related to care of LGBTQ+ people.
9.3	Reporting	High	High	Create and ombudsperson role as a confidential resource to support conflict resolution for students, faculty, and staff.
10.6	Policy	High	High	Design and implement a fair process, including remediation when possible, for how to respond to students, trainees, faculty, and staff who display biases, including racism, and other unprofessional conduct.
10.7	Policy	High	High	Institute the Belonging in All Policies (BiAP) Program at Upstate.
2.8	Faculty	Moderate	Moderate	Reestablish and empower with resources the Faculty/Staff Association for Diversity.
2.9	Faculty	Moderate	Moderate	Appoint students to serve on departmental and higher-level search committees with the explicit goal of adding to the perspective of diversity and inclusion on those committees.
2.10	Faculty	Moderate	Moderate	Develop an Upstate Diverse Fellows Program to transition BIPOC learners into faculty positions.
2.11	Faculty	Moderate	Moderate	Offer scholarships/financial support for potential BIPOC faculty.

Table 4: Priority 4

#	Category	Priority	Complexity	Action Item
7.10	Curriculum	Moderate	High	Implement experiential learning opportunities and other activities to promote interdisciplinary understanding of and respect for less-prominent roles at Upstate.
8.10	L/D/V/I	Moderate	High	Improve recruitment and retention of LGBTQ+ students and faculty.
2.14	Faculty	Low	Moderate	Institute the Rooney Rule for all senior leadership and management positions at Upstate.

## Appendix 2: Priority Tables by Timeline

**Table 1: Timeline 1 (Immediate Priorities)**

Rank	Item #	Description	Page
1	9.1	Coordinate the separate departments that investigate complaints of bias, discrimination, and harassment.	113
2	9.2	Enhance options for reporting and addressing bias or mistreatment ranging from minor to significant violations.	116
3	2.1	Introduce a new policy stating that no application for faculty appointment, promotion, or tenure at UMU shall be approved without proof of the faculty member's alignment with Upstate's commitment to diversity, equity, inclusion and belonging.	37
4	10.2	Include in the mission of each degree-granting program a clear and unequivocal commitment to graduating healthcare professionals who are committed to serving the underserved and adjust admissions and hiring criteria to reflect this.	120
5	12.2	Reorganize diversity leadership at the university and college levels.	146
6	1.7	Reconsider criteria for scholarships, honors, and recognitions.	28
7	9.3	Create and ombudsperson role as a confidential resource to support conflict resolution for students, faculty, and staff.	116
8	6.1	Create a Chief Diversity Officers' Alliance or Consortium.	63
9	10.6	Design and implement a fair process, including remediation when possible, for how to respond to students, trainees, faculty, and staff who display biases, including racism, and other unprofessional conduct.	126
10	11.1	Create a logo, special graphics and branding campaign around "Belonging" at Upstate.	128

11	11.3	Update ODI website to further consolidate existing diversity information from the Upstate website and borrow ideas and resources from other websites.	135
12	11.4	Create a web-based diversity initiative reporting system to provide a method for accounting of the diversity initiatives around the Institution.	141
13	7.6	Systematically assess all Upstate curricular content for bias and implement appropriate changes to mitigate bias.	86
14	1.3	Add questions about social justice to admissions applications and interview sessions.	24
15	1.9	Survey students, residents, and fellows to assess learner experiences with bias and/or discrimination at Upstate, including their sense of “belonging.”	32
16	2.7	Develop programs in the Office of Faculty Affairs and Faculty Development that are focused on supporting faculty from underrepresented groups.	43
17	8.4	Create a policy for supporting transgender students at SUNY Upstate including guidelines for students who begin transition after admission or while attending SUNY Upstate.	101
18	3.1	Establish institution-wide best practices for hiring and retention of diverse employees.	47
19	6.2	Create a Chief Diversity Officers’ Alliance or Consortium.	63
20	4.1	Reconnect Upstate BIPOC Alumni.	55
21	8.1	Reassess and improve programs and the environment for persons with disabilities, immigrants, veterans and other underserved populations of students, faculty, staff, patients, and visitors.	95
22	1.1	Increase learner representation in decision making.	22
23	8.2	Create a uniform policy regarding treatment and care of transgender and gender nonconforming patients and guests.	95

24	<b>8.3</b>	<b>Create a uniform policy regarding workplace gender transition for SUNY Upstate Faculty and Staff.</b>	98
25	<b>7.10</b>	<b>Implement experiential learning opportunities and other activities to promote interdisciplinary understanding of and respect for less-prominent roles at Upstate.</b>	90
26	<b>8.5</b>	<b>Perform a survey of the curriculum to eliminate inappropriate/offensive material and reduce heteronormative bias.</b>	103
27	<b>10.3</b>	<b>Implement a policy for subsidizing the time of community members who come to campus to speak with learners.</b>	122
28	<b>10.4</b>	<b>SUNY Upstate University Police Department should provide the Upstate Community at large with a statement addressing UPD's stance on the current climate of police brutality as well as their commitment/plan to decrease racial inequity and injustice on campus, and action steps they are taking to ensure that no excessive use of force is used.</b>	123



Table 2: Timeline 2 (Intermediate-Term Priorities)

Rank	Item #	Description	Page
1	2.5	Implement required longitudinal bias mitigation training for faculty.	40
2	2.6	Implement required faculty development focused on understanding and teaching content related to the role of racism and implicit bias in health disparities.	42
3	6.3	Improve Pathway to Upstate Program.	69
4	6.5	Improve healthcare pipeline scholarship programs for Syracuse students.	73
5	12.1	Establish a university-wide consortium for health equity research and programs.	145
6	7.5	Implement longitudinal continuing education in bias mitigation for clinicians.	84
7	10.5	Review all policies at UMU to assess alignment with the University's mission, vision, and values.	126
8	7.7	Mitigate bias in workplace-based assessment and narrative feedback focusing assessment on knowledge, behaviors, and skills, and educating assessors about how and why other perceptions are more prone to bias.	87
9	11.2	Redesign key physical spaces to promote belonging.	134
10	2.3	Offer a required short course for all incoming/newly hired faculty orienting them to social justice and to Upstate's mission and culture, including an introduction to local history related to social justice.	39
11	3.2	Implement longitudinal training in implicit bias and history of racism and relationship in creating and perpetuating social disparities of health for all employees.	53
12	7.3	Offer a required short course for all incoming students, trainees and faculty and staff, orienting them to social justice and to Upstate's mission and culture, including an	81

		introduction to local history related to social justice and brief training in bystander intervention for bias.	
13	1.11	Improve opportunities and requirements for community service and civic engagement and value service with hour tracking and recognition.	34
14	2.2	Create systems of positive reinforcement to encourage faculty to go beyond cursory engagement in implicit bias and antiracism training.	37
15	10.1	Educate faculty and staff regarding the issue of protected speech for public employees.	119
16	7.2	Implement an annual campus-wide common reading program, including a shared monthly critical reflection point for the entire campus community.	80
17	7.4	Offer a required interprofessional course for all Upstate students, across all programs, addressing core issues related to diversity, equity, inclusion and belonging.	83
18	1.10	Create a communication link between first year URM, international, and LGBTQ+ identifying learners and interviewing/accepted students of the same identity.	33
19	7.9	Implement a multi-level faculty educator development program, allowing for sustainable professional development with a focus on diversity.	89
20	2.9	Appoint students to serve on departmental and higher-level search committees with the explicit goal of adding to the perspective of diversity and inclusion on those committees.	44
21	1.2	Establish support groups, led by professionals, for Upstate learners that focus on well-being as well as specific topics like high stakes test anxiety.	22
22	5.1	Develop mechanisms to consistently address knowledge gaps and attitudes perpetuating patient inequity of non-white patients by acknowledging racism as the linchpin of patient care inequity and social determinants of health and developing evidence-based guidelines of key clinical health disparities.	55

23	10.7	Institute the Belonging in All Policies (BiAP) Program at Upstate.	127
24	8.7	Offer education and training for clinical faculty and other providers with a focus on increasing understanding of LGBTQ+ specific health needs and to reduce bias against this population. [Priority 2]	107
25	2.11	Offer scholarships/financial support for potential BIPOC faculty.	46
26	8.1	Reassess and improve programs and the environment for persons with disabilities, immigrants, veterans and other underserved populations of students, faculty, staff, patients, and visitors.	95
27	8.6	Support the formation of Upstate Chapters of National Organizations for students and faculty.	104
28	1.8	Create a social justice roundtable series and health equity M&M conferences.	30
29	1.6	Create a "Safe Ride" program to bring Upstate students to their nearby home, or to an Upstate parking lot where they parked their car.	27
30	1.4	Establish a council of URM and ally residents and fellows.	25

**Table 3: Timeline 3 (Long-Term Priorities)**

Rank	Item #	Description	Page
1	7.1	Increase the diversity of simulated patients, including sim manikins and standardized patient actors.	77
2	1.5	Create a “crash course” for International Students and Residents/Fellows who are Foreign Medical Graduates.	26
3	6.4	Upstate C.A.R.E.S – Series on Concentrated Poverty in Syracuse.	71
4	8.9	Develop new content to improve Upstate curricula related to care of LGBTQ+ people.	107
5	2.10	Develop an Upstate Diverse Fellows Program to transition BIPOC learners into faculty positions.	45
6	2.8	Reestablish and empower with resources the Faculty/Staff Association for Diversity.	43
7	2.4	Support a requirement that all medical professions must complete implicit bias training as a condition of holding or maintaining state licensure.	39

**Exhibit B**

**Legal Insurrection Foundation**  
18 Maple Avenue # 280  
Barrington, RI 02806  
Email: [contact@legalinsurrection.com](mailto:contact@legalinsurrection.com)

VIA EMAIL: [foil@upstate.edu](mailto:foil@upstate.edu)

December 4, 2020

Records Access Officer  
SUNY Upstate Medical University  
Office of the Internal Audit and FOIL Officer  
750 East Adams Street  
Syracuse, NY 13210

**RE: Freedom of Information Law Request**

Records Access Officer:

Under the provisions of the New York Freedom of Information Law, Article 6 of the Public Officers Law, Sections 84-90, the Legal Insurrection Foundation and Free Beacon LLC hereby request the following records, as defined by Section 84(4), and also including, but not limited to, emails, text messages, electronic messages, notes, minutes, handouts, programs, and drafts, from State University of New York Upstate Medical University ("Upstate Medical"), for the date range May 1, 2020, to the present:

**Request No. 1:** All records of the Diversity Task Force<sup>1</sup> and Implement and Oversight Tiger Teams.<sup>2</sup>

**Request No. 2:** All records received, reviewed, or created by the Diversity Task Force Chair, **Darryl Dykes, PhD, MD, JD**, regarding the business of the Diversity Task Force and/or Implement and Oversight Tiger Teams.

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<sup>1</sup> "Diversity Task Force" means the task force that was assembled by Chief Diversity Officer, Darryl Dykes, PhD, MD, JD, to, per Upstate Medical, accomplish "the herculean task to make *actionable* recommendations to move Upstate in a bold new direction toward greater diversity, equity, inclusion and belonging", as referenced in the following links : <https://www.upstate.edu/diversityinclusion/initiatives/task-force/index.php>; <https://www.upstate.edu/diversityinclusion/pdf/task-force-report.pdf>.

<sup>2</sup> "Implement and Oversight Tiger Teams" mean the teams, per Upstate Medical, that evaluate, prioritize, develop, and coordinate the action items proposed in the Diversity Task Force Report, including, but not limited to, the following teams: (1) Policy, Bias Reporting, and Mitigation; (2) Recruitment & Retention; (3) Patient, Community, and Alumni Services; (4) Diversity Organization, Branding, and Messaging; and (5) Education and Training, , as referenced in the following links: <https://www.upstate.edu/diversityinclusion/initiatives/task-force/index.php>; <https://www.upstate.edu/diversityinclusion/pdf/task-force-report.pdf>.

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**Request No. 3:** All records received, reviewed, or created by the following Implement and Oversight Tiger Team Co-Chairs, regarding the business of the Implement and Oversight Tiger Teams and/or the Diversity Task Force:

- **David Amberg;**
- **Sipho Mbuqe;**
- **Jennifer Welch;**
- **Nancy Page;**
- **Janell Gage;**
- **Nakeia Chambers;**
- **Sean Patterson;**
- **Daryll Dykes;**
- **Rachel Hopkins;** and
- **Rebecca Greenblatt.**

**Request No. 4:** All records received, reviewed, or created by the following persons employed in the Office of Diversity and Inclusion, regarding the Diversity Task Force and/or the Implement and Oversight Tiger Teams:

- **Daryll C. Dykes, PhD, MD, JD,** Chief Diversity Officer;
- **Carl Thomas,** Interim Affirmative Action Officer/Title IX Coordinator and Supplier Diversity Coordinator;
- **Mary Meier,** EEO/AA Compliance Specialist;
- **Connie Gregory,** Resident Engagement Specialist; and
- **Sean Patterson,** SPHR, SHRM-SCP, Affirmative Action Assistant/Data Analyst.

**Request No. 5:** All records received, reviewed, or created by the following persons on Upstate Medical's Executive Committee, regarding the Diversity Task Force and/or the Implement and Oversight Tiger Teams:

- **Mantosh Dewan, MD,** President;
- **Lawrence Chin, MD,** Dean, College of Medicine;
- **Robert J. Corona, DO, CPE, MBA, FCAP, FASCP,** CEO Upstate University Hospital;
- **David C. Amberg, PhD,** Vice President for Research;
- **Mark Schmitt, PhD,** Dean, College of Graduate Studies;
- **Tammy Austin-Ketch, PhD, FNP, FAANP,** Dean, College of Nursing;
- **Katherine Beissner, PT, PhD,** Dean, College of Health Professions;
- **Lynn Cleary, MD,** Vice President for Academic Compliance and University Accreditation;
- **Eric J. Smith, CPA, MBA,** Senior Vice President for Finance and Administration & Senior Associate Dean for Finance, College of Medicine;
- **Eileen Pezzi,** Vice President for Development;
- **Linda Veit, MPH,** Interim Chief of Staff & Assistant Vice President of Community Relations; and

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- **Daryll C. Dykes, PhD, MD, JD**, Chief Diversity Officer.

**Request No. 6:** All records regarding faculty meetings, including but not limited to meeting minutes, meeting agendas, presentation material, as well as communications exchanged about such meetings, regarding the Diversity Task Force and/or the Implement and Oversight Tiger Teams.

**Request No. 7:** All records, including but not limited to meeting minutes, meeting agendas, presentation material, as well as communications exchanged about such meetings, emails, electronic messages, drafts, and memoranda, regarding Upstate Medical's Office of Diversity and Inclusion's Report of the 2020 Diversity Task Force, dated August 31, 2020, as referenced in the following link: <https://www.upstate.edu/diversityinclusion/pdf/task-force-report.pdf>.

**Request No. 8:** All copies of application forms, templates, and documents that ask questions regarding diversity, equity, inclusion, antiracism, social justice, bystander intervention for bias, race, identity, and/or belonging of *prospective students* applying to Upstate Medical, including but not limited to records regarding the development, purpose, and necessity of these forms and questions. (Note: This request does not seek documents as filled out by applicants, only the forms of such documents.)

**Request No. 9:** All copies of application forms, templates, and documents that ask questions regarding diversity, equity, inclusion, antiracism, social justice, bystander intervention for bias, race, identity, and/or belonging of *prospective faculty* applying to Upstate Medical, including but not limited to records regarding the development, purpose, and necessity of these forms and questions. (Note: This request does not seek documents as filled out by applicants, only the forms of such documents.)

**Request No. 10:** All copies of application forms, templates and documents that ask questions regarding diversity, equity, inclusion, antiracism, social justice, bystander intervention for bias, race, identity, and/or belonging of *prospective staff* applying to Upstate Medical, including but not limited to records regarding the development, purpose, and necessity of these forms and questions. (Note: This request does not seek documents as filled out by applicants, only the forms of such documents.)

**Request No. 11:** All copies of application forms, templates, and documents that ask questions regarding diversity, equity, inclusion, antiracism, social justice, bystander intervention for bias, race, identity, and/or belonging of *prospective managerial administrators* applying to Upstate Medical, including but not limited to records regarding the development, purpose, and necessity of these forms and questions. (Note: This request does not seek documents as filled out by applicants, only the forms of such documents.)

**Request No. 12:** All records, including but not limited to program materials, handouts, and videos, for all orientation sessions held for incoming students at Upstate Medical regarding diversity, equity, inclusion, antiracism, social justice, bystander intervention for bias, race,

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identity, and/or belonging, including but not limited to as described in the following link:  
[https://www.upstate.edu/currentstudents/document/session\\_ii\\_schedule.pdf](https://www.upstate.edu/currentstudents/document/session_ii_schedule.pdf).

**Request No. 13:** All records regarding the creation and selection of the Upstate Medical “Interview Questions” for incoming students, referenced in the link below, as well as all documents that demonstrate the identities of committee(s), group(s), professor(s), administer(s), or individual(s) involved in creating this list of questions, including but not limited to as described in this link:

[https://www.upstate.edu/currentstudents/document/college\\_of\\_medicine\\_interview\\_questions\\_2020.pdf](https://www.upstate.edu/currentstudents/document/college_of_medicine_interview_questions_2020.pdf).

Please note that this request does not seek personally identifiable information regarding any student or prospective student of Upstate Medical, and we agree that any such personally identifiable information may be redacted.

If this request appears to be too extensive or fails to reasonably describe the records, please contact me in writing.

We request that the records be produced in electronic format, on a flash drive or other means of electronic transfer.

If there are any fees for copying the records requested, please supply the records without informing me if the fees are not in excess of one hundred dollars (\$100.00).

As you know, the Freedom of Information Law requires that an agency respond to a request within five (5) business days of receipt of a request. Therefore, I would appreciate a response as soon as possible and look forward to hearing from you shortly.

If for any reason any portion of my request is denied, please inform me of the reasons for the denial in writing and provide the name and address of the person or body to whom an appeal should be directed.



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SUNY Upstate Medical University  
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Very truly yours,

*//William A. Jacobson//*

**William A. Jacobson, Esq.**  
President  
Legal Insurrection Foundation  
[contact@legalinsurrection.com](mailto:contact@legalinsurrection.com)

-and-

Eliana Johnson  
Editor-in-Chief  
Free Beacon LLC

# Exhibit C

**Legal Insurrection Foundation**  
18 Maple Avenue, #280  
Barrington, RI 02806  
Email: contact@legalinsurrection.com

December 22, 2020

**Via Overnight Delivery**

Hank Bennett  
FOIL Appeals Officer  
SUNY System Administration  
353 Broadway, SUNY Plaza  
Albany, New York 12246

Dear Mr. Bennett:

On December 4, 2020, I sent a Freedom of Information Law ("FOIL") Request (the "FOIL Request")(Exhibit A) on behalf of Legal Insurrection Foundation ("LIF") and Free Beacon LLC ("Free Beacon") to SUNY Upstate Medical University ("Upstate Medical"), which included thirteen (13) listed categories of records. In response to the FOIL Request, by letter dated December 11, 2020 ("Denial Letter") (Exhibit B), Michael Jurbala, AVP Internal Audit and FOIL Officer, on behalf of Upstate Medical, denied the FOIL Request in its entirety. By this letter (the "Appeal Letter"), we appeal the denial in its entirety, for the reasons set forth below.

## **I. THIS APPEAL LETTER IS TIMELY**

Pursuant to Upstate Medical's "Appealing a Denial of Access" policy ("Upstate Medical FOIL Appeal Policy"), an appeal of a denial to a request under New York's FOIL must occur within thirty (30) days of the receipt of denial. This provision mirrors New York Public Officer Law § 89(4)(a), which states the following:

any person denied access to a record may **within thirty days** appeal in writing such denial to the head, chief executive or governing body of the entity, or the person therefor designated by such head, chief executive, or governing body, **who shall within ten business days of the receipt of such appeal fully explain in writing to the person requesting the record the reasons for further denial, or provide access to the record sought.** In addition, each agency shall immediately forward to the committee on open government a copy of such appeal when received by the agency and the ensuing determination thereon.

N.Y. Pub. Off. Law § 89(4)(a) (McKinney)(emphasis added).

The Denial Letter was received on December 11, 2020. This Appeal Letter is being sent on December 22, 2020, which is within the thirty-day deadline in which notice of appeal must be sent to the FOIL Appeals Officer. If for any reason you believe this Appeal Letter is not timely

or does not comply with the requirements for an administrative appeal under Upstate Medical FOIL Appeal Policy or NY State law, please notify us immediately with an explanation of what you claim the deficiency to be.

## II. UPSTATE MEDICAL'S REASONS FOR DENIAL OF FOIL REQUEST

In Upstate Medical's Denial Letter, it restated the 13 (thirteen) Requests under FOIL, but failed to note that the FOIL Request sought documents within a narrow, specific time range (from May 1, 2020, to the present). At the end of the Denial Letter, Upstate Medical noted the following as the sole basis for the denial:

Please be advised that your request for "all records" (items# 1,6,7,12,13) or "all records received, reviewed, or created" (items# 2,3,4,5) or "all copies" (items# 8,9,10,11) is too broad in scope and does not reasonably describe the records sought. New York Public Officers Law section 89 (3) requires that the records requested by reasonably described.

We submit that our request for records was not too broad in scope and *did* reasonably describe the records sought. Upstate Medical has not demonstrated in the Denial Letter any effort to make a good faith attempt to locate the records requested, instead brushing off the FOIL Request based on inaccurate and unsubstantiated claims that the FOIL Request is not sufficiently specific. As set forth below, this does not meet the statutory requirements.

## III. UPSTATE MEDICAL'S IMPROPER OBJECTIONS TO THE FOIL REQUEST

### A. "TOO BROAD"

Upstate Medical states that the FOIL Request was "too broad" because LIF and the Free Beacon used the terminology of "all records," "all records received, reviewed, or created," and "all copies" for certain forms sought. From that, Upstate Medical refuses even to search for records or to explain why or how its records system would not permit locating such records.

New York Public Officer Law § 89(3)(a) states the following:

An agency shall not deny a request on the basis that the request is **voluminous** or that locating or **reviewing the requested records or providing the requested copies is burdensome** because the agency lacks sufficient staffing or on any other basis if the agency may engage an outside professional service to provide copying, programming or other services required to provide the copy...

N.Y. Pub. Off. Law § 89(3)(a) (McKinney)(emphasis added).

In *Konigsberg v. Coughlin*, 1986, 68 N.Y.2d 245, 247, 508 N.Y.S.2d 393, 501 N.E.2d 1, the court held that the inmate's request "to inspect and review any and **all files or records kept on**

me and my number of identification of the New York State Department of Correctional Services” **reasonably described the documents sought** and disclosure provisions of FOIL **could not be avoided** on the basis of allegations that the request would require review of **thousands of records** (emphasis added). So too here, the request for “all records” limited to specific sub-units of Upstate Medical, topics, and persons, as detailed in the FOIL Request, is sufficient to put Upstate Medical on notice of what is requested.

The Appellate Division, in fact, has noted that the FOIL *requestee* has “a broad duty” to make its records available:

To promote open government and public accountability, FOIL imposes a **broad duty** on government agencies to make their records available to the public (see Public Officers Law § 84). The statute is based on the policy that “the public is vested with an inherent right to know and that official secrecy is anathematic to our form of government”.

*Jewish Press, Inc. v. New York City Dep't of Educ.*, 183 A.D.3d 731, 122 N.Y.S.3d 679, 681 (2020) (citing *Matter of Abdur-Rashid v. New York City Police Dept.*, 31 N.Y.3d 217, 224–225, 76 N.Y.S.3d 460, 100 N.E.3d 799, quoting *Matter of Fink v. Lefkowitz*, 47 N.Y.2d 567, 571, 419 N.Y.S.2d 467, 393 N.E.2d 463)(emphasis added).

In *Jewish Press, Inc.*, the Court found significant that the request was not open-ended:

The respondent acknowledges that the forms are maintained at the schools where the relevant employees are currently or were last assigned. Contrary to the respondent's contention, **the petitioner's request is not open-ended** and does not require the respondent to manually search every document filed with it over a broad time period.”

*Jewish Press, Inc.*, 183 A.D.3d 731, 122 N.Y.S.3d 679, 681–82 (2020)(emphasis added). So too here, our FOIL Request is not open-ended, it is limited to a narrow time frame and certain specified sub-units, persons, and topics.

While Upstate Medical’s Denial Letter states that the FOIL Request is “too broad in scope,” in reality, LIF and the Free Beacon limited the FOIL Request by specifying a narrow time frame (May 1, 2020, to the present), a focused subject matter (“Diversity Task Force,” “Tiger Teams”, “the Office of Diversity and Inclusion”, and specific forms used by the University), and listed specific individuals from whom documents were sought. As such, the FOIL Request was not “open-ended” or “overly broad,” much less so vague as to not permit Upstate Medical at least to search for records (which it apparently has not even attempted).

Because the FOIL Request is limited in time frame, subject matter, and individuals, the FOIL Request is not too broad, but narrowly-tailored to seek specific responsive documents regarding Upstate Medical. Simply because the FOIL Request sought “all” records or “all” copies does not

make the FOIL Request too broad. As seen in *Konigsberg*, the request for “all files or records” was held by the Court of Appeals to be reasonably described.

## B. UPSTATE MEDICAL CANNOT OBJECT TO THE TERM “RECORDS”

### 1. “RECORDS”

It appears from the Denial Letter that Upstate Medical objects to the use of the term “records” as not sufficiently specific. This term, however, is defined in the statute, and Upstate Medical cannot refuse to search for and produce records on a claim that “records” does not reasonably describe the types of documents sought. The term “record” is defined by the FOIL statute as follows:

“Record” means any information kept, held, filed, produced or reproduced by, with or for an agency or the state legislature, in any physical form whatsoever including, but not limited to, reports, statements, examinations, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, rules, regulations or codes.

N.Y. Pub. Off. Law § 86(4) (McKinney).

LIF and the Free Beacon used the statutory terms when requesting “all records,” “all records received, reviewed, or created,” and “all copies” of specified records. As such, an objection by Upstate Medical to the term “records” being used by LIF and the Free Beacon to define the information sought as “not reasonably described” is improper.

### 2. THE TIME FRAME OF THE FOIL REQUEST WAS LIMITED

In *Bader v. Bove* (2 Dept. 2000) 273 A.D.2d 466, 710 N.Y.S.2d 379, leave to appeal denied 95 N.Y.2d 764, 716 N.Y.S.2d 38, 739 N.E.2d 294, the property owners sought access to village records under FOIL, but failed to reasonably-describe the documents requested when they sought “[a]ll notes, records, correspondence, meeting minutes and other documents related to the adoption and/or revision of the Village Zoning Code's prohibition of commercial activity.” The Court held that the village had “demonstrated that, to fully comply with the information requests, the one full-time employee of the village clerk's office would have to **manually search** through every document filed with the village **going back over 45 years.**” *Id.* at 467, 710 N.Y.S.2d 379, 379 (2000)(citing *Matter of Gannett Co. v. James*, 86 A.D.2d 744, 447 N.Y.S.2d 781)(emphasis added).

Unlike the FOIL requester in *Bader*, LIF and the Free Beacon are not seeking documents held over the course of forty-five (45) years. Instead, the FOIL Request only sought documents from May 1, 2020, to the present. The request, therefore, was for records created (most likely electronically) within approximately the last eight (8) recent *months*.

Upstate Medical has not indicated any undue burden, since the records requested almost certainly mostly are in electronic format, and those records in paper format likely could be gathered from the identified sub-units and persons without much effort. The Denial Letter gives no indication that any effort even has been made by Upstate Medical to assess the manner in which such responsive records could be obtained, for example, by electronic searches from Upstate Medical's central email system or from specific Upstate Medical employees' email accounts who were specifically listed in the FOIL Request.

### 3. THE SUBJECT MATTER IS REASONABLY DESCRIBED

In *Kirsch v. Board of Educ. of Williamsville Cent. School Dist.* (4 Dept. 2017) 152 A.D.3d 1218, 57 N.Y.S.3d 870, leave to appeal denied 155 A.D.3d 1610, 63 N.Y.S.3d 290, leave to appeal denied 31 N.Y.3d 904, 78 N.Y.S.3d 710, 103 N.E.3d 781, the Appellate Division held that the school district was required to provide petitioners with requested e-mails under FOIL, as petitioners **reasonably described** the requested e-mails to enable the school district to identify and produce records, when she requested "certain email records of the superintendent of respondent Williamsville Central School District." *Id.* The *Kirsch* Court also held that the school district could not evade broad disclosure provisions of statute upon the allegation that request would require review of thousands of records.

In *Irwin v. Onondaga Cty. Res. Recovery Agency*, 72 A.D.3d 314, 315–18, 895 N.Y.S.2d 262, 263–65 (2010), the Appellate Division held that the petitioner reasonably described the photographs he sought in his FOIL request, when requesting "all of the electronically stored photographs in the possession of the respondent," stating the following:

**We conclude that the court erred in denying the FOIL request with respect to the unpublished photographs** in the possession of OCRRA with the exception of unpublished photographs depicting individuals other than petitioner or relating to active or ongoing law enforcement investigations. We also conclude that the court should have ordered OCRRA to disclose the 'system' metadata associated with the photographs that OCRRA has already disclosed to petitioner, as well as the photographs that we have deemed subject to disclosure under FOIL. We thus conclude that the amended judgment should be modified accordingly...

(emphasis added). Information sufficient to "reasonably describe" records sought does not require an applicant to identify a specific record with particularity, but instead merely requires an applicant to provide sufficient detail to enable agency staff to locate the record. N.Y. State Comm Open Govt. AO 11760.

The FOIL Request described the records sought with enough specificity that Upstate Medical would be able to locate and identify the records requested. By providing the date range, subject matter, and individuals holding the records sought, LIF and the Free Beacon reasonably

described the records sought and provided sufficient detail for Upstate Medical to identify and locate the records requested.

#### 4. THE FOIL REQUEST IDENTIFIES SPECIFIC INDIVIDUALS

In *Friedman v. Rice*, 2017, 30 N.Y.3d 461, 68-70 N.Y.S.3d 1, 90 N.E.3d 800, the petitioner filed a FOIL request for “**all documents** provided by the Nassau County District Attorney to the ‘Friedman Case Review Panel’ and for **all records** concerning whether Advisory Panel members were ‘members of the general public for purposes of [FOIL] and Civil Rights Law § 50-b.’”; the Court of Appeals held the following:

though offender did not include a specific demand that district attorney disclose the entire unredacted case file; language in offender's request for documents, referring to review team and advisory panel, tracked district attorney's earlier press release and **therefore reasonably described and clearly sought all documents that were part of reinvestigation process**

(emphasis added). Just as the FOIL requester in *Friedman* sought “all documents” by the Nassau County District Attorney regarding a specified “Panel,” LIF and the Free Beacon have requested records from specific individuals associated with Upstate Medical, and regarding specific sub-units and specific topics. By providing Upstate Medical with these specific details, the FOIL Request reasonably describes the documents sought and also indicates the specific people who likely would be in possession of these records.

#### IV. UPSTATE MEDICAL MUST MAKE A GOOD FAITH EFFORT TO LOCATE RESPONSIVE RECORDS

The availability of statutory attorney's fees is intended to create a clear deterrent to unreasonable delays and denials of access and thereby encourage every unit of government to make a good faith effort to comply with the requirements of Freedom of Information Law (FOIL). *South Shore Press, Inc. v. Havemeyer* (2 Dept. 2016) 136 A.D.3d 929, 25 N.Y.S.3d 303. In order to deny a request on the ground that it fails to reasonably describe the records, an agency must establish that the descriptions were insufficient for purposes of locating and identifying the documents sought. N.Y. State Comm Open Govt. AO 11543.

Upstate Medical's blanket denial in the Denial Letter indicates that Upstate Medical did not make a good faith effort to comply with the FOIL Request, or that Upstate Medical took any steps to try to locate the records sought. Moreover, in the Denial Letter, Upstate Medical did not indicate that the records sought could *not* be located or identified, and, given the specific description of the records sought in the FOIL Request, it is highly likely that Upstate Medical *would* be able to locate and identify the records sought. Upstate Medical has not identified any other specific information it would need to perform the searches.

As required by statute, please fully explain in writing the reasons for denial in response to the points raised in this appeal, or provide access to the record sought, pursuant to N.Y. Pub. Off. Law § 89(4)(a) (McKinney).

**V. WE INTEND TO SEEK ATTORNEY'S FEES IF UPSTATE MEDICAL CONTINUES ITS UNJUSTIFIED OBJECTIONS**

We hope that Upstate Medical will take this opportunity to reconsider and rescind its denial of the FOIL Request, for the reasons set forth above. If litigation is necessary, which hopefully it will not be, we intend on seeking attorney's fees and costs.

**A. STATUTE**

New York Public Officer Law § 89(4)(c)(ii) states the following:

[t]he court...shall assess, against such agency involved, reasonable attorney's fees and other litigation costs reasonably incurred by such person in any case under the provisions of this section in which such person has substantially prevailed and the court finds that the agency had no reasonable basis for denying access.

N.Y. Pub. Off. Law § 89(4)(c)(ii) (McKinney).

**B. CASE LAW**

In *Rauh v. de Blasio*, 161 A.D.3d 120, 127, 75 N.Y.S.3d 15, 21 (2018), the Appellate Division held that the newspaper reporters, who substantially prevailed in a suit against a mayor's office for release of records under FOIL, were entitled to attorney fees under the law. The court found that the mayor's office had no reasonable basis to withhold records of its communications with privately-hired consultants, and the mayor's office's attempts to withhold these communications ran counter to the public's interest in transparency and the ability to participate on important issues of municipal governance. *Id.*

In *South Shore Press, Inc. v. Havemeyer*, 136 A.D.3d 929, 931, 25 N.Y.S.3d 303, 304 (2016), the Appellate Division held that the FOIL requester was entitled to reasonable attorney's fees and costs arising from the town trustees' denial of his FOIL request, which sought certain town trustees' banking and financial records. The court found that an award of attorney's fees was appropriate, as it promoted the purpose of and the policy behind FOIL, and the statutory prerequisites were met, because the trustees' reasons for denying the requestor's FOIL request were insufficient and contrary to the mandates of FOIL, and were otherwise without merit. *Id.*

The *S. Shore Press* Court further held that "the award of attorney's fees is intended to 'create a clear deterrent to unreasonable delays and denials of access [and thereby] encourage every unit of government to make a good faith effort to comply with the requirements of FOIL.'" *S. Shore Press, Inc. v. Havemeyer*, 136 A.D.3d 929, 931, 25 N.Y.S.3d 303, 304 (2016) (*quoting Matter of*



FOIL Appeals Officer  
SUNY Upstate Medical University  
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*New York Civ. Liberties Union v. City of Saratoga Springs*, 87 A.D.3d 336, 338, 926 N.Y.S.2d 732).

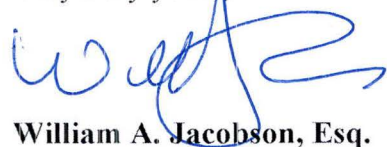
We are willing to work cooperatively with Upstate Medical to obtain the records covered by the FOIL Request. We would certainly be in our right to seek redress from the court; however, our hope is that Upstate Medical will comply with its statutory obligations and will make a good faith search for and produce the records requested in the FOIL Request. We are, of course, willing to discuss Upstate Medical's concerns and methods to overcome those concerns; however, no concerns have been raised by Upstate Medical. We would rather not have to file suit, but Upstate Medical's response is so dismissive of its statutory obligations that if we do file suit, we will seek attorney's fees.

## VI. CONCLUSION

LIF and the Free Beacon appeal from the Denial Letter, and request that Upstate Medical comply with the FOIL Request.

We look forward to receiving your response to this appeal.

Very truly yours,



**William A. Jacobson, Esq.**  
President  
Legal Insurrection Foundation  
[contact@legalinsurrection.com](mailto:contact@legalinsurrection.com)

-and-

**Eliana Johnson**  
Editor-in-Chief  
Free Beacon, LLC

Cc:

(via email)

Michael Jurbala  
AVP Internal Audit and FOIL Officer  
Upstate Medical University  
750 East Adams Street  
Syracuse, New York 13210

**Legal Insurrection Foundation**  
18 Maple Avenue # 280  
Barrington, RI 02806  
Email: [contact@legalinsurrection.com](mailto:contact@legalinsurrection.com)

VIA EMAIL: [foil@upstate.edu](mailto:foil@upstate.edu)

December 4, 2020

Records Access Officer  
SUNY Upstate Medical University  
Office of the Internal Audit and FOIL Officer  
750 East Adams Street  
Syracuse, NY 13210

**RE: Freedom of Information Law Request**

Records Access Officer:

Under the provisions of the New York Freedom of Information Law, Article 6 of the Public Officers Law, Sections 84-90, the Legal Insurrection Foundation and Free Beacon LLC hereby request the following records, as defined by Section 84(4), and also including, but not limited to, emails, text messages, electronic messages, notes, minutes, handouts, programs, and drafts, from State University of New York Upstate Medical University ("Upstate Medical"), for the date range May 1, 2020, to the present:

**Request No. 1:** All records of the Diversity Task Force<sup>1</sup> and Implement and Oversight Tiger Teams.<sup>2</sup>

**Request No. 2:** All records received, reviewed, or created by the Diversity Task Force Chair, **Daryll Dykes, PhD, MD, JD**, regarding the business of the Diversity Task Force and/or Implement and Oversight Tiger Teams.

<sup>1</sup> "Diversity Task Force" means the task force that was assembled by Chief Diversity Officer, Daryll Dykes, PhD, MD, JD, to, per Upstate Medical, accomplish "the herculean task to make *actionable* recommendations to move Upstate in a bold new direction toward greater diversity, equity, inclusion and belonging", as referenced in the following links : <https://www.upstate.edu/diversityinclusion/initiatives/task-force/index.php>; <https://www.upstate.edu/diversityinclusion/pdf/task-force-report.pdf>.

<sup>2</sup> "Implement and Oversight Tiger Teams" mean the teams, per Upstate Medical, that evaluate, prioritize, develop, and coordinate the action items proposed in the Diversity Task Force Report, including, but not limited to, the following teams: (1) Policy, Bias Reporting, and Mitigation; (2) Recruitment & Retention; (3) Patient, Community, and Alumni Services; (4) Diversity Organization, Branding, and Messaging; and (5) Education and Training, as referenced in the following links: <https://www.upstate.edu/diversityinclusion/initiatives/task-force/index.php>; <https://www.upstate.edu/diversityinclusion/pdf/task-force-report.pdf>.

**Request No. 3:** All records received, reviewed, or created by the following Implement and Oversight Tiger Team Co-Chairs, regarding the business of the Implement and Oversight Tiger Teams and/or the Diversity Task Force:

- **David Amberg;**
- **Sipho Mbuqe;**
- **Jennifer Welch;**
- **Nancy Page;**
- **Janell Gage;**
- **Nakeia Chambers;**
- **Sean Patterson;**
- **Daryll Dykes;**
- **Rachel Hopkins;** and
- **Rebecca Greenblatt.**

**Request No. 4:** All records received, reviewed, or created by the following persons employed in the Office of Diversity and Inclusion, regarding the Diversity Task Force and/or the Implement and Oversight Tiger Teams:

- **Daryll C. Dykes, PhD, MD, JD,** Chief Diversity Officer;
- **Carl Thomas,** Interim Affirmative Action Officer/Title IX Coordinator and Supplier Diversity Coordinator;
- **Mary Meier,** EEO/AA Compliance Specialist;
- **Connie Gregory,** Resident Engagement Specialist; and
- **Sean Patterson,** SPHR, SHRM-SCP, Affirmative Action Assistant/Data Analyst.

**Request No. 5:** All records received, reviewed, or created by the following persons on Upstate Medical's Executive Committee, regarding the Diversity Task Force and/or the Implement and Oversight Tiger Teams:

- **Mantosh Dewan, MD,** President;
- **Lawrence Chin, MD,** Dean, College of Medicine;
- **Robert J. Corona, DO, CPE, MBA, FCAP, FASCP,** CEO Upstate University Hospital;
- **David C. Amberg, PhD,** Vice President for Research;
- **Mark Schmitt, PhD,** Dean, College of Graduate Studies;
- **Tammy Austin-Ketch, PhD, FNP, FAANP,** Dean, College of Nursing;
- **Katherine Beissner, PT, PhD,** Dean, College of Health Professions;
- **Lynn Cleary, MD,** Vice President for Academic Compliance and University Accreditation;
- **Eric J. Smith, CPA, MBA,** Senior Vice President for Finance and Administration & Senior Associate Dean for Finance, College of Medicine;
- **Eileen Pezzi,** Vice President for Development;
- **Linda Veit, MPH,** Interim Chief of Staff & Assistant Vice President of Community Relations; and

- **Daryll C. Dykes, PhD, MD, JD**, Chief Diversity Officer.

**Request No. 6:** All records regarding faculty meetings, including but not limited to meeting minutes, meeting agendas, presentation material, as well as communications exchanged about such meetings, regarding the Diversity Task Force and/or the Implement and Oversight Tiger Teams.

**Request No. 7:** All records, including but not limited to meeting minutes, meeting agendas, presentation material, as well as communications exchanged about such meetings, emails, electronic messages, drafts, and memoranda, regarding Upstate Medical's Office of Diversity and Inclusion's Report of the 2020 Diversity Task Force, dated August 31, 2020, as referenced in the following link: <https://www.upstate.edu/diversityinclusion/pdf/task-force-report.pdf>.

**Request No. 8:** All copies of application forms, templates, and documents that ask questions regarding diversity, equity, inclusion, antiracism, social justice, bystander intervention for bias, race, identity, and/or belonging of *prospective students* applying to Upstate Medical, including but not limited to records regarding the development, purpose, and necessity of these forms and questions. (Note: This request does not seek documents as filled out by applicants, only the forms of such documents.)

**Request No. 9:** All copies of application forms, templates, and documents that ask questions regarding diversity, equity, inclusion, antiracism, social justice, bystander intervention for bias, race, identity, and/or belonging of *prospective faculty* applying to Upstate Medical, including but not limited to records regarding the development, purpose, and necessity of these forms and questions. (Note: This request does not seek documents as filled out by applicants, only the forms of such documents.)

**Request No. 10:** All copies of application forms, templates and documents that ask questions regarding diversity, equity, inclusion, antiracism, social justice, bystander intervention for bias, race, identity, and/or belonging of *prospective staff* applying to Upstate Medical, including but not limited to records regarding the development, purpose, and necessity of these forms and questions. (Note: This request does not seek documents as filled out by applicants, only the forms of such documents.)

**Request No. 11:** All copies of application forms, templates, and documents that ask questions regarding diversity, equity, inclusion, antiracism, social justice, bystander intervention for bias, race, identity, and/or belonging of *prospective managerial administrators* applying to Upstate Medical, including but not limited to records regarding the development, purpose, and necessity of these forms and questions. (Note: This request does not seek documents as filled out by applicants, only the forms of such documents.)

**Request No. 12:** All records, including but not limited to program materials, handouts, and videos, for all orientation sessions held for incoming students at Upstate Medical regarding diversity, equity, inclusion, antiracism, social justice, bystander intervention for bias, race,

identity, and/or belonging, including but not limited to as described in the following link:  
[https://www.upstate.edu/currentstudents/document/session\\_ii\\_schedule.pdf](https://www.upstate.edu/currentstudents/document/session_ii_schedule.pdf).

**Request No. 13:** All records regarding the creation and selection of the Upstate Medical “Interview Questions” for incoming students, referenced in the link below, as well as all documents that demonstrate the identities of committee(s), group(s), professor(s), administer(s), or individual(s) involved in creating this list of questions, including but not limited to as described in this link:

[https://www.upstate.edu/currentstudents/document/college\\_of\\_medicine\\_interview\\_questions\\_2020.pdf](https://www.upstate.edu/currentstudents/document/college_of_medicine_interview_questions_2020.pdf).

Please note that this request does not seek personally identifiable information regarding any student or prospective student of Upstate Medical, and we agree that any such personally identifiable information may be redacted.

If this request appears to be too extensive or fails to reasonably describe the records, please contact me in writing.

We request that the records be produced in electronic format, on a flash drive or other means of electronic transfer.

If there are any fees for copying the records requested, please supply the records without informing me if the fees are not in excess of one hundred dollars (\$100.00).

As you know, the Freedom of Information Law requires that an agency respond to a request within five (5) business days of receipt of a request. Therefore, I would appreciate a response as soon as possible and look forward to hearing from you shortly.

If for any reason any portion of my request is denied, please inform me of the reasons for the denial in writing and provide the name and address of the person or body to whom an appeal should be directed.

Very truly yours,

*//William A. Jacobson//*

**William A. Jacobson, Esq.**  
President  
Legal Insurrection Foundation  
[contact@legalinsurrection.com](mailto:contact@legalinsurrection.com)

-and-

Eliana Johnson  
Editor-in-Chief  
Free Beacon LLC

UPSTATE  
MEDICAL UNIVERSITY

December 11, 2020

Mr. William A. Jacobson, Esq.  
President  
Legal Insurrection Foundation  
18 Maple Avenue #280  
Barrington, RI 02806  
Email: [contact@legalinsurrection.com](mailto:contact@legalinsurrection.com)

Dear Mr. Jacobson,

I am writing in regards to your Freedom of Information Law request received by the SUNY Upstate Medical University FOIL Officer on December 4, 2020.

Your request is for:

1. ***All records*** of the Diversity Task Force1 and Implement and Oversight Tiger Teams.
2. ***All records received, reviewed, or created*** by the Diversity Task Force Chair, Daryll Dykes, PhD, MD, JD, regarding the business of the Diversity Task Force and/or Implement and Oversight Tiger Teams.
3. ***All records received, reviewed, or created*** by the following Implement and Oversight Tiger Team Co-Chairs, regarding the business of the Implement and Oversight Tiger Teams and/or the Diversity Task Force:
  - David Amberg;
  - Sipho Mbuqe;
  - Jennifer Welch;
  - Nancy Page;
  - Janell Gage;
  - Nakeia Chambers;
  - Sean Patterson;
  - Daryll Dykes;
  - Rachel Hopkins; and
  - Rebecca Greenblatt.
4. ***All records received, reviewed, or created*** by the following persons employed in the Office of Diversity and Inclusion, regarding the Diversity Task Force and/or the Implement and Oversight Tiger Teams:
  - Daryll C. Dykes, PhD, MD, JD, Chief Diversity Officer;





- Carl Thomas, Interim Affirmative Action Officer/Title IX Coordinator and Supplier Diversity Coordinator;
  - Mary Meier, EEO/AA Compliance Specialist;
  - Connie Gregory, Resident Engagement Specialist; and
  - Sean Patterson, SPHR, SHRM-SCP, Affirmative Action Assistant/Data Analyst.
5. *All records received, reviewed, or created* by the following persons on Upstate Medical's Executive Committee, regarding the Diversity Task Force and/or the Implement and Oversight Tiger Teams:
- Mantosh Dewan, MD, President;
  - Lawrence Chin, MD, Dean, College of Medicine;
  - Robert J. Corona, DO, CPE, MBA, FCAP, FASCP, CEO Upstate University Hospital;
  - David C. Amberg, PhD, Vice President for Research;
  - Mark Schmitt, PhD, Dean, College of Graduate Studies;
  - Tammy Austin-Ketch, PhD, FNP, FAANP, Dean, College of Nursing;
  - Katherine Beissner, PT, PhD, Dean, College of Health Professions;
  - Lynn Cleary, MD, Vice President for Academic Compliance and University Accreditation;
  - Eric J. Smith, CPA, MBA, Senior Vice President for Finance and Administration & Senior Associate Dean for Finance, College of Medicine;
  - Eileen Pezzi, Vice President for Development;
  - Linda Veit, MPH, Interim Chief of Staff & Assistant Vice President of Community Relations; and
  - Daryll C. Dykes, PhD, MD, JD, Chief Diversity Officer.
6. *All records* regarding faculty meetings, including but not limited to meeting minutes, meeting agendas, presentation material, as well as communications exchanged about such meetings, regarding the Diversity Task Force and/or the Implement and Oversight Tiger Teams.
7. *All records*, including but not limited to meeting minutes, meeting agendas, presentation material, as well as communications exchanged about such meetings, emails, electronic messages, drafts, and memoranda, regarding Upstate Medical's Office of Diversity and Inclusion's Report of the 2020 Diversity Task Force, dated August 31, 2020, as referenced in the following link: <https://www.upstate.edu/diversityinclusion/pdf/task-force-report.pdf>.





8. ***All copies*** of application forms, templates, and documents that ask questions regarding diversity, equity, inclusion, antiracism, social justice, bystander intervention for bias, race, identity, and/or belonging of prospective students applying to Upstate Medical, including but not limited to records regarding the development, purpose, and necessity of these forms and questions. (Note: This request does not seek documents as filled out by applicants, only the forms of such documents.)
9. ***All copies*** of application forms, templates, and documents that ask questions regarding diversity, equity, inclusion, antiracism, social justice, bystander intervention for bias, race, identity, and/or belonging of prospective faculty applying to Upstate Medical, including but not limited to records regarding the development, purpose, and necessity of these forms and questions. (Note: This request does not seek documents as filled out by applicants, only the forms of such documents.)
10. ***All copies*** of application forms, templates and documents that ask questions regarding diversity, equity, inclusion, antiracism, social justice, bystander intervention for bias, race, identity, and/or belonging of prospective staff applying to Upstate Medical, including but not limited to records regarding the development, purpose, and necessity of these forms and questions. (Note: This request does not seek documents as filled out by applicants, only the forms of such documents.)
11. ***All copies*** of application forms, templates, and documents that ask questions regarding diversity, equity, inclusion, antiracism, social justice, bystander intervention for bias, race, identity, and/or belonging of prospective managerial administrators applying to Upstate Medical, including but not limited to records regarding the development, purpose, and necessity of these forms and questions. (Note: This request does not seek documents as filled out by applicants, only the forms of such documents.)
12. ***All records***, including but not limited to program materials, handouts, and videos, for all orientation sessions held for incoming students at Upstate Medical regarding diversity, equity, inclusion, antiracism, social justice, bystander intervention for bias, race, identity, and/or belonging, including but not limited to as described in the following link:  
[https://www.upstate.edu/currentstudents/document/session\\_ii\\_schedule.pdf](https://www.upstate.edu/currentstudents/document/session_ii_schedule.pdf).
13. ***All records*** regarding the creation and selection of the Upstate Medical "Interview Questions" for incoming students, referenced in the link below, as well as all documents that demonstrate the identities of committee(s), group(s), professor(s), administer(s), or individual(s) involved in creating this list of questions, including but not limited to as described in this link



[https://www.upstate.edu/currentstudents/document/college\\_of\\_medicine\\_interview\\_questions\\_2020.pdf](https://www.upstate.edu/currentstudents/document/college_of_medicine_interview_questions_2020.pdf).

Please be advised that your request for "all records" (items# 1,6,7,12,13) or "all records received, reviewed, or created" (items# 2,3,4,5) or "all copies" (items# 8,9,10,11) is too broad in scope and does not reasonably describe the records sought. New York Public Officers Law section 89 (3) requires that the records requested be reasonably described. Please assess your request and resubmit if necessary.

Should you wish to appeal this decision, you must do so in writing, within 30 days of your receipt of this letter. Appeals must be addressed to:

Hank Bennett  
FOIL Appeals Officer  
SUNY System Administration  
353 Broadway, SUNY Plaza  
Albany, NY 12246

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Jurbala".

Michael Jurbala  
AVP Internal Audit and FOIL Officer  
Upstate Medical University  
750 East Adams Street  
Syracuse, New York 13210

**Exhibit D**

The State University  
of New York

State University Plaza  
Albany, New York 12246

www.suny.edu

January 13, 2021

William A. Jacobson, Esq.  
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Legal Insurrection Foundation  
18 Maple Ave. # 280  
Barrington, RI 02806

Eliana Johnson  
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Free Beacon, LLC  
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VIA CERTIFIED MAIL:  
70162140000109487222

VIA CERTIFIED MAIL:  
70162140000109487239

Re: Freedom of Information Law Appeal – SUNY Upstate Medical University

Dear Mr. Jacobson and Ms. Johnson:

I write in response to your appeal from the decision of the Records Access Officer ("RAO") for the State University of New York Upstate Medical University ("SUNY Upstate") on your Freedom of Information Law ("FOIL") request (the "Request") dated December 4, 2020. The Request, which sought 13 categories of records, is appended for reference.

In a decision dated December 11, 2020, the RAO denied the Request on the ground that it was not reasonably described, as required by Public Officers Law § 89(3)(a). For each of the 13 subparts of the Request, the RAO identified the reason why he determined it was not reasonably described. He asked you to "assess the request and resubmit if necessary." You chose not to seek the RAO's further assistance under 8 N.Y.C.R.R. § 311.1(b)(2) and this appeal followed.

On appeal, you argued that the RAO's decision is improper, because he concluded that portions of the Request were too broad. You drew a parallel from breadth to volume, and linked it to the Public Officers Law proscription that a request shall not be denied because it is voluminous or burdensome. You said the RAO, "refuses even to search for records or to explain why or how its records system would not permit locating such

To Learn  
To Search  
To Serve





William A. Jacobson, Esq.  
Eliana Johnson  
January 13, 2021  
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records.” You contended that the Request is analogous to the request in Konigsberg v. Coughlin, 68 N.Y.2d 245 (NY 1986), which sought “all files or records kept on me and my number of identification of the New York State Department of Correctional Service.” You concluded that the Request was “sufficient to put Upstate Medical on notice of what is requested.”

Taking the last point first, I agree that the Request is sufficient to put SUNY Upstate on notice, in a general way, of the records sought by the Request. However, your conflation of the breadth of the Request, to volume and burdensomeness, truncates the RAO’s decision in a way that obscures its main ground: reasonable description. Although this conflation may bring the facts of this case into conformity with the facts in Jewish Press, Inc. v. New York City Dep’t of Educ. 183 A.D.3d 731 (2d Dep’t 2020), in which the court specifically noted such conflation,<sup>1</sup> that did not occur here. The breadth or narrowness of a request does not constitute the measure of reasonable description, and volume or burdensomeness are irrelevant. (Public Officers Law § 89(3)(a).)

As to the reasonableness of the description provided in the Request, by way of example, subparts 2, 3, 4 and 5 sought “all records received, reviewed or created by . . . .” These subparts, coupled with the statutory definition of “record,”<sup>2</sup> bear no resemblance to the Konigsberg request. The Konigsberg request contained two, finite, tangible identifiers: name and ID number. The above-enumerated subparts, on the contrary, do not describe records using tangible identifiers. Instead, verbs are used as identifiers. These subparts seek records identified by the actions taken upon them, i.e., whether they were “received, reviewed, or created by.” Thus, for any of these subparts, if the named individual maintained such a record, it would not be responsive unless the RAO could determine, based on its receptacle, that the individual “received” it. I do not believe the RAO could determine whether the record was “reviewed” by the individual. As to whether the record was “created by” the individual, the RAO could only make that determination if the record bore sufficient identification to

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<sup>1</sup> “The respondent has conflated the requirement of reasonable description with the related, but separate, consideration as to whether it would be unduly burdensome for the respondent to comply with the petitioner’s request.” (Id. at 733).

<sup>2</sup> “Record” means any information kept, held, filed, produced or reproduced by, with or for an agency or the state legislature, in any physical form whatsoever including, but not limited to, reports, statements, examinations, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, rules, regulations of codes. (Public Officers Law § 86(4))

William A. Jacobson, Esq.  
Eliana Johnson  
January 13, 2021  
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indicate the individual's authorship. I concur with the RAO that subparts 2, 3, 4, and 5 of the Request were not "reasonably described."

Similarly, subparts 1 and 7 of the Request bear no resemblance to the Konigsberg request. Subpart 1 seeks "*all records of the Diversity Task Force and Implement and Oversight Tiger Teams*" (emphasis added). The Task Force and the Teams are comprised of many people, all of whom may have responsive and nonresponsive electronic and physical records. By supplying only a generic description – "all records of" – it is unclear what subpart 1 seeks. In an apparent effort to clarify, subpart 1 contained three links to SUNY Upstate's website:

<https://www.upstate.edu/diversityinclusion/index.php>;  
<https://www.upstate.edu/diversityinclusion/pdf/task-force-report.pdf>, and  
<https://www.upstate.edu/diversityinclusion/initiatives/task-force/index.php>

The first and third links open websites containing documents, statements, initiatives, policies, procedures, reports and data. Subpart 7 of the Request seeks "all records. . . regarding . . . Report of the 2020 Diversity Task Force. . ." and provides the second website link above.

The records at these website links are the "records of" sought in subpart 1. They are also the "records regarding" sought in subpart 7. Yet, standing in the shoes of the RAO, I would assume that the website records are *not* the records sought in subparts 1 and 7, since they are already available on a public website, and the requester supplied the website links.<sup>3</sup> It must logically follow then, that if the records at the websites identified in subparts 1 and 7 of the Request are not responsive to subparts 1 and 7, more is needed to reasonably describe the records requested. Therefore, I concur with the RAO that subparts 1 and 7 of the Request are not reasonably described.

Konigsberg v. Coughlin, 68 N.Y.2d 245 (NY 1986), instructed that a reasonably described records request does not require "a wholly new enterprise, potentially requiring a search of every file in the possession of the agency." *Id.* at 250. Eight years ago, the Committee on Open Government addressed the then 26-year-old Konigsberg case in FOIL Advisory Opinion No. 18863 (April 5, 2012). Excerpts from that Opinion, relevant to

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<sup>3</sup> Where it is known that a requester "previously received a copy of the agency record pursuant to an alternative discovery device and currently possesses the copy, a court may uphold an agency's denial of the petitioner's request under the FOIL for a duplicate copy as academic." Moore v. Santucci, 151 A.D.2d 677, 678 (2d Dep't 1989).



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the issue of reasonable description in this electronic age, are relevant here and I hope will serve to provide you additional guidance on what is, and what is not, a reasonable description.

A primary issue, in my view and as you suggested, involves the standard appearing in section 89(3)(a) of FOIL, that a request must 'reasonably describe' the records sought. That standard was considered by the Court of Appeals more than twenty-five years ago. In consideration of the advances in information technology that have occurred since that decision was rendered, we believe that standard should be reconsidered.

\* \* \*

Konigsberg was rendered in an era in which most records were maintained on paper, and the ability to locate, identify and retrieve records often involved paper based systems in which records were generally filed alphabetically, chronologically, or perhaps by geographic location. Unless a request is made in a manner consistent with a particular filing system, a request might not meet the requirement of reasonably describing the records.

By means of example, assuming that a telephone directory is an agency record and an applicant requests all the listings in the directory identifying those people whose last name is Smith. Even if there are ten thousand Smiths, the request would reasonably describe the records, because the items in a telephone directory are listed by the last name in alphabetical order. But what if the applicant then requests all of the listings for those people whose first name is John? The request would be specific, and because John is a common name, we know that there are listings of individuals with that first name. Finding them, however, would necessitate a review of thousands of listings, one by one. We have advised that in analogous situations, such a request would not reasonably describe the records sought and that FOIL does not require than an agency engage in herculean efforts in attempting to locate all those named John, or in essence, the needles in the haystack. Even though we know that the needles are there,

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somewhere, FOIL would not require that an agency go through the haystack in an effort to locate the needles.

\* \* \*

A recent inquiry involved a request by an employee of a state agency for all email communications between or among other named agency staff that include the name of that employee. Due to advances in information technology, the agency has the ability to locate, identify and retrieve those communications with reasonable effort. Through the use of a search engine, the agency was able to locate and retrieve thousands of email communications containing the applicant's name.

Unlike a request for telephone listings, the content of email communications differs in each such communication. Many of those communications include the names of persons other than the employee who made the request, and it is likely that some aspects of those records may or must be redacted on the ground that disclosure would constitute 'an unwarranted invasion of personal privacy' in accordance with sections 87(2)(b) and 89(2)(b) of FOIL. Virtually all of the communications would constitute 'intra-agency material' falling within the scope of section 87(2)(g). Under that provision, some aspects of those communications may be withheld, but others must be disclosed.

The point is that, to give effect to FOIL, and to respond to a request that identifies thousands of email communications, each email must be read and reviewed individually in order to determine rights of access. The time and effort needed to do so is more than substantial. Nevertheless, based on the standard prescribed by Konigsberg, it is possible, if not likely, that a court would determine that an agency is required to engage in an effort of that magnitude.

You alluded to a request for all records contained within a file cabinet and suggested that, with modern search capacities, some records involve the content of a 'virtual' file cabinet. I agree, and your suggestion brings to mind an opinion rendered several years ago involving a request for all records contained in several file



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cabinets located in or near the office of a certain agency employee. It was advised in that situation that the request did not reasonably describe the records, and that the guidance offered in Fisher & Fisher v. Davidson (Supreme Court, New York County, September 27, 1988) was applicable. The court referred to and rejected a voluminous request finding that:

‘Petitioner’s actual demand transcends a normal or routine request by a taxpayer. It . . . bring[s] in its wake an enormous administrative burden that would interfere with the day-to-day operations of an already heavily burdened bureaucracy.’

\* \* \*

In our view, a request for email encompassing thousands of communications, each of which would require review to determine rights of access, might not be considered to have met the standard of reasonably describing records. Rather, if a request can be framed in relation to a particular issue or subject, and if a search can be made or data can be retrieved, extracted or located in conjunction with that issue or subject, the request might be found to have reasonably described the records sought. A request for ‘all’ records, without limitation, that include a certain name, for example, might not be found to reasonably describe the records when a search using that name produces thousands of email communications or other records irrespective of the content of those items.

*(Committee on Open Government FOIL-AO-18863, April. 5, 2012).*

A sub-issue you raised in your first argument and in several other parts of your appeal, is the statement, in effect, that the RAO “refused” to undertake a search on the Request, and did not “explain why or how its records system would not permit locating such records.” You characterized these actions as a “blanket denial.” I disagree, for the reasons that follow.

First, the RAO is under no statutory or regulatory obligation to search for records not reasonably described. Section 89 of the Public Officers Law requires a records request to be “reasonably described” in the first instance. The above-cited Committee on Open



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Government opinion further clarifies that a failure to reasonably describe records creates an infirmity in FOIL requests that effectively results in requests for the contents of "virtual" file cabinets, involving thousands of records that must be reviewed for rights of access. I believe the Committee's colloquial example precisely fits the Request: "Even though we know that the needles are there, somewhere, FOIL would not require that an agency go through the haystack in an effort to locate the needles." (FOIL AO 18863, Apr. 5, 2012).

Next, there is no statutory or regulatory requirement that the RAO provide requesters an explanation of the inner workings of a state agency's data management system(s). Not only would such an explanation constitute creation of a new record, which is not required by the Public Officers Law,<sup>4</sup> but such a record would likely be exempt from disclosure under Public Officers Law § 87(2)(i).

Finally, with respect to the assertion that the RAO issued a "blanket denial," in my view, that did not occur here. The RAO gave a specific reason for the denial (failure to reasonably describe the records sought) and he identified the language in subparts of the Request that formed the basis of his decision. He invited you to re-submit the Request based on his advice. In one of the earliest cases decided by the New York Court of Appeals on exceptions to disclosure, the Court stated that an agency "is required to articulate particularized and specific justification. . . . *Fink v. Lefkowitz*, 47 N.Y. 2d 567, 571 (1979). I am satisfied that the RAO met this requirement.

With respect to the subparts of the Request numbered 8, 9, 10, and 11, which seek student, faculty and staff application forms, I believe these are sufficiently described and I direct the RAO to collect these records and to provide them to you within a reasonable time, as that phrase is defined in the Committee on Open Government regulations at 21 N.Y.C.R.R. §1401.5(d)<sup>5</sup>.

However, subparts 8, 9, 10 and 11 also seek records "regarding the development, purpose and necessity of these forms and questions." That portion of these subparts is

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<sup>4</sup> "Nothing in this article shall be construed to require any entity to prepare any record not possessed or maintained by such entity." (Public Officers Law § 89(3)(a)).

<sup>5</sup> "In determining a reasonable time for granting or denying a request under the circumstances of a request, agency personnel shall consider the volume of a request, the ease or difficulty in locating, retrieving or generating records, the complexity of the request, the need to review records to determine the extent to which they must be disclosed, the number of requests received by the agency, and similar factors that bear on an agency's ability to grant access to records promptly and within a reasonable time." (21 N.Y.C.R.R. §1401.5(d))

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not reasonably described. Development of a student's application for admission into a college can likely be traced back to the founding of Harvard College in 1636. The "purpose" and "necessity" of application forms and the questions they ask, for either employment or college admission, seems reasonably and generally clear – to provide information about the applicant sufficient to form the basis of an admissions or hiring decision. Thus, without more specificity as to the records that this portion of subparts 8, 9, 10 and 11 actually seek, SUNY Upstate would be required to search its massive electronic and physical files, hoping to find records that, in the sole judgment of the RAO, illuminate the "development, purpose and necessity" of college application and employment application forms. In my view, this is akin to the theoretical quest noted in Advisory Opinion 18863, "we know that the needles are there, somewhere, [but] FOIL would not require that an agency go through the haystack in an effort to locate the needles." Accordingly, I find that the portions of subparts 8, 9, 10 and 11 of the Request that seek "development, purpose and necessity" are not reasonably described.

With respect to subparts 6, 12 and 13, I have confirmed with SUNY Upstate that records responsive to these subparts exist. I am directing SUNY Upstate to provide such records, subject to applicable exemptions from disclosure under the Public Officers Law, within a reasonable time.

On the basis of the foregoing, I affirm in part and reverse in part the decision of the RAO as detailed herein. You are not precluded, of course, from working with the RAO as per his invitation and under 8 N.Y.C.R.R. § 311.1(b)(2), to clarify those portions of the Request that require a more reasonable description.

This appeal shall remain open, pending completion of the processing of the Request in accordance with this decision.

Sincerely,

A handwritten signature in blue ink, appearing to read "Aaron Gladd", followed by a long horizontal flourish.

Aaron Gladd  
FOIL Appeals Officer

cc: Michael Jurbala  
New York Committee on Open Government  
Attachment



**Legal Insurrection Foundation**  
18 Maple Avenue # 280  
Barrington, RI 02806  
Email: [contact@legalinsurrection.com](mailto:contact@legalinsurrection.com)

VIA EMAIL: [foil@upstate.edu](mailto:foil@upstate.edu)

December 4, 2020

Records Access Officer  
SUNY Upstate Medical University  
Office of the Internal Audit and FOIL Officer  
750 East Adams Street  
Syracuse, NY 13210

**RE: Freedom of Information Law Request**

Records Access Officer:

Under the provisions of the New York Freedom of Information Law, Article 6 of the Public Officers Law, Sections 84-90, the Legal Insurrection Foundation and Free Beacon LLC hereby request the following records, as defined by Section 84(4), and also including, but not limited to, emails, text messages, electronic messages, notes, minutes, handouts, programs, and drafts, from State University of New York Upstate Medical University ("Upstate Medical"), for the date range May 1, 2020, to the present:

**Request No. 1:** All records of the Diversity Task Force<sup>1</sup> and Implement and Oversight Tiger Teams.<sup>2</sup>

**Request No. 2:** All records received, reviewed, or created by the Diversity Task Force Chair, **Daryll Dykes, PhD, MD, JD**, regarding the business of the Diversity Task Force and/or Implement and Oversight Tiger Teams.

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<sup>1</sup> "Diversity Task Force" means the task force that was assembled by Chief Diversity Officer, Daryll Dykes, PhD, MD, JD, to, per Upstate Medical, accomplish "the herculean task to make *actionable* recommendations to move Upstate in a bold new direction toward greater diversity, equity, inclusion and belonging", as referenced in the following links: <https://www.upstate.edu/diversityinclusion/initiatives/task-force/index.php>; <https://www.upstate.edu/diversityinclusion/pdf/task-force-report.pdf>.

<sup>2</sup> "Implement and Oversight Tiger Teams" mean the teams, per Upstate Medical, that evaluate, prioritize, develop, and coordinate the action items proposed in the Diversity Task Force Report, including, but not limited to, the following teams: (1) Policy, Bias Reporting, and Mitigation; (2) Recruitment & Retention; (3) Patient, Community, and Alumni Services; (4) Diversity Organization, Branding, and Messaging; and (5) Education and Training, as referenced in the following links: <https://www.upstate.edu/diversityinclusion/initiatives/task-force/index.php>; <https://www.upstate.edu/diversityinclusion/pdf/task-force-report.pdf>.

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**Request No. 3:** All records received, reviewed, or created by the following Implement and Oversight Tiger Team Co-Chairs, regarding the business of the Implement and Oversight Tiger Teams and/or the Diversity Task Force:

- David Amberg;
- Sipho Mbuqe;
- Jennifer Welch;
- Nancy Page;
- Janell Gage;
- Nakeia Chambers;
- Sean Patterson;
- Daryll Dykes;
- Rachel Hopkins; and
- Rebecca Greenblatt.

**Request No. 4:** All records received, reviewed, or created by the following persons employed in the Office of Diversity and Inclusion, regarding the Diversity Task Force and/or the Implement and Oversight Tiger Teams:

- Daryll C. Dykes, PhD, MD, JD, Chief Diversity Officer;
- Carl Thomas, Interim Affirmative Action Officer/Title IX Coordinator and Supplier Diversity Coordinator;
- Mary Meier, EEO/AA Compliance Specialist;
- Connie Gregory, Resident Engagement Specialist; and
- Sean Patterson, SPHR, SHRM-SCP, Affirmative Action Assistant/Data Analyst.

**Request No. 5:** All records received, reviewed, or created by the following persons on Upstate Medical's Executive Committee, regarding the Diversity Task Force and/or the Implement and Oversight Tiger Teams:

- Mantosh Dewan, MD, President;
- Lawrence Chin, MD, Dean, College of Medicine;
- Robert J. Corona, DO, CPE, MBA, FCAP, FASCP, CEO Upstate University Hospital;
- David C. Amberg, PhD, Vice President for Research;
- Mark Schmitt, PhD, Dean, College of Graduate Studies;
- Tammy Austin-Ketch, PhD, FNP, FAANP, Dean, College of Nursing;
- Katherine Beissner, PT, PhD, Dean, College of Health Professions;
- Lynn Cleary, MD, Vice President for Academic Compliance and University Accreditation;
- Eric J. Smith, CPA, MBA, Senior Vice President for Finance and Administration & Senior Associate Dean for Finance, College of Medicine;
- Eileen Pezzi, Vice President for Development;
- Linda Veit, MPH, Interim Chief of Staff & Assistant Vice President of Community Relations; and

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• Daryll C. Dykes, PhD, MD, JD, Chief Diversity Officer.

**Request No. 6:** All records regarding faculty meetings, including but not limited to meeting minutes, meeting agendas, presentation material, as well as communications exchanged about such meetings, regarding the Diversity Task Force and/or the Implement and Oversight Tiger Teams.

**Request No. 7:** All records, including but not limited to meeting minutes, meeting agendas, presentation material, as well as communications exchanged about such meetings, emails, electronic messages, drafts, and memoranda, regarding Upstate Medical's Office of Diversity and Inclusion's Report of the 2020 Diversity Task Force, dated August 31, 2020, as referenced in the following link: <https://www.upstate.edu/diversityinclusion/pdf/task-force-report.pdf>.

**Request No. 8:** All copies of application forms, templates, and documents that ask questions regarding diversity, equity, inclusion, antiracism, social justice, bystander intervention for bias, race, identity, and/or belonging of *prospective students* applying to Upstate Medical, including but not limited to records regarding the development, purpose, and necessity of these forms and questions. (Note: This request does not seek documents as filled out by applicants, only the forms of such documents.)

**Request No. 9:** All copies of application forms, templates, and documents that ask questions regarding diversity, equity, inclusion, antiracism, social justice, bystander intervention for bias, race, identity, and/or belonging of *prospective faculty* applying to Upstate Medical, including but not limited to records regarding the development, purpose, and necessity of these forms and questions. (Note: This request does not seek documents as filled out by applicants, only the forms of such documents.)

**Request No. 10:** All copies of application forms, templates and documents that ask questions regarding diversity, equity, inclusion, antiracism, social justice, bystander intervention for bias, race, identity, and/or belonging of *prospective staff* applying to Upstate Medical, including but not limited to records regarding the development, purpose, and necessity of these forms and questions. (Note: This request does not seek documents as filled out by applicants, only the forms of such documents.)

**Request No. 11:** All copies of application forms, templates, and documents that ask questions regarding diversity, equity, inclusion, antiracism, social justice, bystander intervention for bias, race, identity, and/or belonging of *prospective managerial administrators* applying to Upstate Medical, including but not limited to records regarding the development, purpose, and necessity of these forms and questions. (Note: This request does not seek documents as filled out by applicants, only the forms of such documents.)

**Request No. 12:** All records, including but not limited to program materials, handouts, and videos, for all orientation sessions held for incoming students at Upstate Medical regarding diversity, equity, inclusion, antiracism, social justice, bystander intervention for bias, race,



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identity, and/or belonging, including but not limited to as described in the following link:  
[https://www.upstate.edu/currentstudents/document/session\\_ii\\_schedule.pdf](https://www.upstate.edu/currentstudents/document/session_ii_schedule.pdf).

**Request No. 13:** All records regarding the creation and selection of the Upstate Medical "Interview Questions" for incoming students, referenced in the link below, as well as all documents that demonstrate the identities of committee(s), group(s), professor(s), administer(s), or individual(s) involved in creating this list of questions, including but not limited to as described in this link:  
[https://www.upstate.edu/currentstudents/document/college\\_of\\_medicine\\_interview\\_questions\\_2020.pdf](https://www.upstate.edu/currentstudents/document/college_of_medicine_interview_questions_2020.pdf).

Please note that this request does not seek personally identifiable information regarding any student or prospective student of Upstate Medical, and we agree that any such personally identifiable information may be redacted.

If this request appears to be too extensive or fails to reasonably describe the records, please contact me in writing.

We request that the records be produced in electronic format, on a flash drive or other means of electronic transfer.

If there are any fees for copying the records requested, please supply the records without informing me if the fees are not in excess of one hundred dollars (\$100.00).

As you know, the Freedom of Information Law requires that an agency respond to a request within five (5) business days of receipt of a request. Therefore, I would appreciate a response as soon as possible and look forward to hearing from you shortly.

If for any reason any portion of my request is denied, please inform me of the reasons for the denial in writing and provide the name and address of the person or body to whom an appeal should be directed.