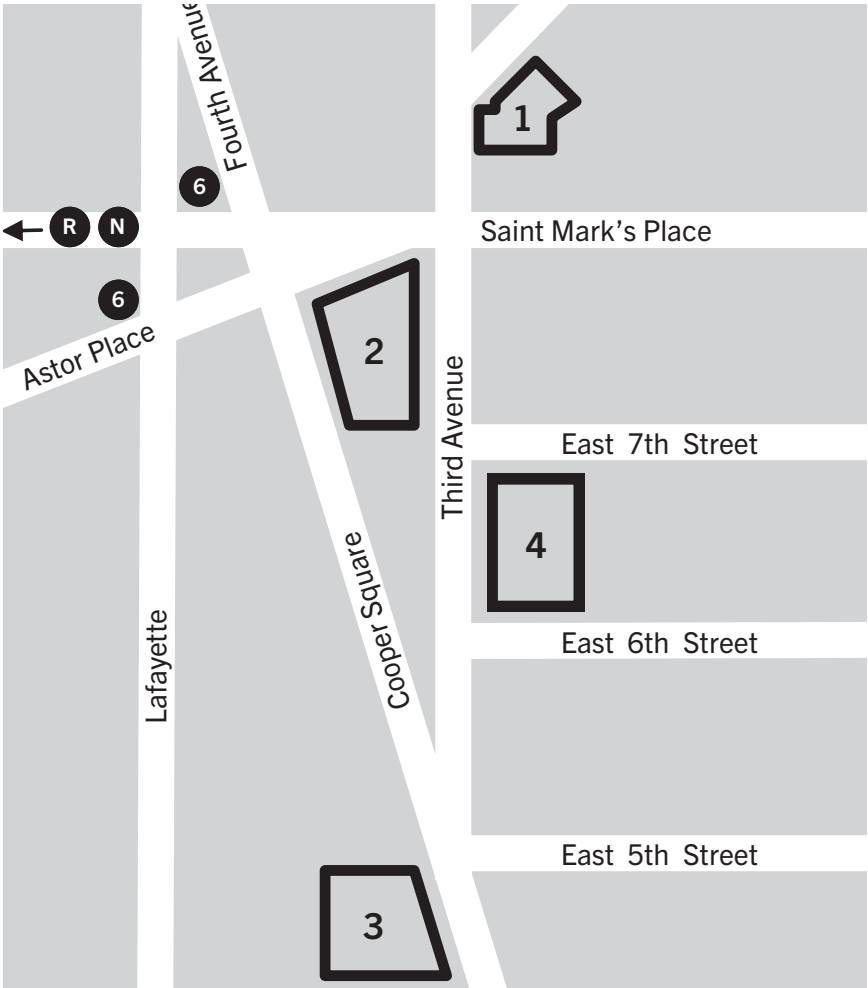


# CAMPUS SAFETY, SECURITY AND FIRE SAFETY REPORT **2016–2017**



Campus Map



- 1 Residence Hall
- 2 Foundation Building
- 3 30 Cooper Square
- 4 41 Cooper Square
- 6 Entrances to 6 Train
- R, N Entrance to R and N Trains

# CAMPUS SAFETY, SECURITY AND FIRE SAFETY REPORT **2016–2017**

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## Campus Safety, Security and Fire Safety Report

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### Safety on Campus

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*"My earnest desire is to make this building and institution contribute in every way possible to unite all in one common effort to improve each and every human being, seeing that we are bound up in one common destiny and by the laws of our being are made dependent for our happiness on the continued acts of kindness we receive from each other."*

—Peter Cooper

It is in light of this statement that The Cooper Union establishes an attitude toward campus security and safety. Our goal remains to encourage the integrity, honesty, and responsibility of each member of The Cooper Union community to maintain an atmosphere of harmony and mutual respect.

The Campus Safety, Security and Fire Safety Report is produced annually by the Vice President for Finance & Administration, with contributions from other Cooper Union administrators.

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### Reporting of Crimes

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Every incident of behavior that seems inconsistent with our philosophy and principles of safety and security should be reported to appropriate campus authorities. The guards in the lobby of each building should be notified immediately of any emergencies. Depending on the circumstance, it may also be appropriate to call the police at 911.

Students and staff should also file an incident report with the Office of Buildings and Grounds (41 Cooper Square, Room 111, 212.353.4160). If the incident occurred in the Student Residence, it should be reported to the Residence Life Staff (29 Third Avenue, room 3B, 212.353.4099) who will investigate, summon the police if necessary, and file the report with Buildings and Grounds for the student.

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### Campus Security Authority

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The Cooper Union does not have a separate Office of Campus Safety. Campus safety and security and risk management is part of a large portfolio of operations overseen by the Vice President for Finance & Administration, William E. Mea, whose office is on the 7th floor of 30 Cooper Square, 212.353.4150. He is responsible for any alarm systems or barriers that are part of the physical property of the Cooper Union, and he also oversees the contract under which guards are hired to work at The Cooper Union.

Article 129A of New York State Education Law requires that there be a committee of faculty, students and staff who oversee the implementation of the state law requirements in the area of campus security. Questions regarding this committee should be directed to William E. Mea, Vice President for Finance & Administration, at 212.353.4150.

The Cooper Union utilizes a contracted security firm for security services on campus. Security personnel may be either uniformed or plainclothes personnel and will always be unarmed and clearly identified via their uniform or a name tag/I.D. for plainclothes personnel. Concerns regarding security personnel should be immediately directed to the guard station in the lobby of each building. Concerns will be addressed by the Vice President for Finance & Administration or his designee.

The Cooper Union does not direct security procedures for events held at Cooper Union that are not directly affiliated with the school or for high-profile individuals who have their own security detail by virtue of their office or position (Mayor of NYC, President of the United States, etc.). When security for non-affiliated events will be present in our facilities beyond the ground floor, the campus community will be notified.

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### Daily Crime Reports

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The “Campus Crime Awareness and Campus Security Act of 1990” requires colleges and universities to make available to all current students and employees and to all applicants for enrollment or employment statistics concerning certain types of crimes. To aid in compiling these statistics and to monitor any breaches of security occurring on campus, a log is maintained of incident reports filed at Cooper Union. These reports are available for inspection in the Office of Buildings & Grounds (41 Cooper Square, Room 111).

Reports of campus safety problems may also be made anonymously by students on campus to Professor Alan Wolf, and Associate Professor Ruben Savizky, Campus-Wide Faculty Safety Co-Coordinator, using the form available at: <https://safety.cooper.edu>

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### Timely Notification

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Information about an incident of crime that:

1. Occurs on or near campus
2. Is reported to Cooper Union by a member of the community or the police, and
3. Is deemed a serious or continuing threat to the Cooper Union community will be disseminated to students by the Dean of Students using the Cooper Union bulkmail system and flyers. See also the “Emergency notification” section about procedures to be followed in significant emergencies.

**Access to Campus Facilities** Because of its location in an urban environment, Cooper Union has established strict policies for Entrance to the Foundation Building and

41 Cooper Square is by display of the Cooper Union identification card. All students and staff must be prepared to show Cooper Union I.D. and be able to indicate their destination and purpose.

Access to the Student Residence is strictly regulated. Students who reside in the building may access the building using the palm scanner. Non resident Cooper Union students must show a validated Cooper Union identification card. Guests must produce the appropriate photo identification and an authorized guest pass.

**Students must comply with the request of a security guard, lab monitor or studio monitor to identify themselves and to leave the building.**

Unidentified persons will be presumed to be trespassers and treated accordingly. Students are expected to observe all building hours. Students who remain in buildings after hours have ended may be subject to a \$50 fine and/or a loss of studio privileges and/or dismissal from school and/or prosecution as a trespasser.

Students are expected to observe all policies in the proper use of shops, studios, laboratories, and individual workplaces. **Note, in particular, that alcohol is not permitted on campus except in the context of an authorized campus event with security guards.**

Students who engage in vandalism of school property or of the property of other members of the Cooper Union are subject to judiciary proceedings under The Code of Conduct.

**Authority of Security Personnel** The guards in the lobby of each building are responsible for access to each building; they may challenge anyone's right to enter a building and insist the I.D. cards be

surrendered to them.

A roving guard patrols the perimeter of the Cooper Union buildings and is available to offer assistance.

Cooper Union guards are not police officers, but Cooper Union does cooperate with the New York City Police Department in maintaining public safety in the Cooper Square area.

**Investigation of Violent Felony Offenses**

We urge all crime victims to report violent felony offenses occurring at or on the grounds of The Cooper Union to a security guard and to the police as soon as possible.

**Training Programs About Crime Prevention and Security**

Training programs about crime prevention and security are mandatory sessions of orientation for all new students. The Cooper Union will alert students to any particular threats to their security by distributing flyers when an incident occurs or by sending a bulkmail message.

**Maintenance of Campus Facilities**

The Cooper Union maintains both proactive preventative maintenance and routine maintenance programs for our campus facilities and systems. During our preventative and routine maintenance, project planning, renovations and new construction, The Cooper Union engages in a thoughtful process to ensure that safety and security issues are given paramount consideration. The Cooper Union maintains a Safety Committee that meets throughout the year and reviews safety and security issues and concerns, including those related to the physical campus facilities, and makes recommendations when necessary.

**Crime Statistics**

**Statistics on the Occurrence of Crime on Campus** The most frequent crime on the Cooper Union campus is the theft of unattended student property from studios, lockers, lounge spaces and bike racks. Bicycles, cameras, iphones, laptops and leather goods are particularly attractive to thieves and are easily converted to cash. Cooper Union does not reimburse students for stolen goods; students are asked not to leave valuables unattended, especially overnight. The Director of Facilities is authorized to provide crime statistics for The Cooper Union. His phone number is 212.353.4160. Crime statistics are also published by the U.S. Department of Education at: <http://ope.ed.gov/security>

**i) Crimes Reported to campus authorities**

|                                                               | 13 | 14 | 15 |
|---------------------------------------------------------------|----|----|----|
| 1. Murder                                                     | 0  | 0  | 0  |
| 2. Sex Offenses, Forcible and NonForcible                     | 0  | 0  | 0  |
| 3. Robbery                                                    | 0  | 0  | 1  |
| 4. Aggravated Assault                                         | 0  | 0  | 0  |
| 5. Burglary                                                   | 0  | 0  | 0  |
| 6. Motor Vehicle Theft                                        | 0  | 0  | 0  |
| 7. Manslaughter                                               | 0  | 0  | 0  |
| 8. Arson                                                      | 0  | 0  | 0  |
| 9. Domestic Violence                                          | 0  | 0  | 0  |
| 10. Dating Violence                                           | 0  | 0  | 0  |
| 11. Stalking                                                  | 0  | 0  | 0  |
| 12. Larceny Theft                                             | 0  | 0  | 0  |
| 13. Simple Assault                                            | 0  | 0  | 0  |
| 14. Intimidation                                              | 1  | 0  | 0  |
| 15. Destruction, Damage<br>or Vandalism of Property           | 0  | 0  | 0  |
| 16. All Other Crimes Involving<br>Bodily Injury to Any Person | 0  | 0  | 0  |

Domestic Violence, Dating Violence, and Stalking were added to the report in 2013 in accordance with new regulations.

**Arrests or Referred to Campus Disciplinary System**

The figures below reflect students referred to Cooper Union’s judicial process or issued warnings by studio monitors.

|                            | 13 | 14 | 15 |
|----------------------------|----|----|----|
| 17. Liquor Law Violation   | 6  | 9  | 20 |
| 18. Drug Related Violation | 0  | 0  | 2  |
| 19. Weapons Possession     | 0  | 0  | 0  |

**(ii) Crimes reported in which the victim was intentionally selected because of the actual or perceived race, gender, religion, sexual orientation, ethnicity or disability of the victim**

|                                                            | 13 | 14 | 15 |
|------------------------------------------------------------|----|----|----|
| 1. Murder                                                  | 0  | 0  | 0  |
| 2. Sex Offenses, Forcible and NonForcible                  | 0  | 0  | 0  |
| 3. Robbery                                                 | 0  | 0  | 0  |
| 4. Aggravated Assault                                      | 0  | 0  | 0  |
| 5. Burglary                                                | 0  | 0  | 0  |
| 6. Motor vehicle theft                                     | 0  | 0  | 0  |
| 7. Manslaughter                                            | 0  | 0  | 0  |
| 8. Arson                                                   | 0  | 0  | 0  |
| 9. Domestic Violence                                       | 0  | 0  | 0  |
| 10. Dating Violence                                        | 0  | 0  | 0  |
| 11. Stalking                                               | 0  | 0  | 0  |
| 12. Larceny Theft                                          | 0  | 0  | 0  |
| 13. Simple Assault                                         | 0  | 0  | 0  |
| 14. Intimidation                                           | 1  | 0  | 0  |
| 15. Destruction, Damage or Vandalism of Property           | 0  | 0  | 0  |
| 16. All Other Crimes Involving Bodily Injury to Any Person | 0  | 0  | 0  |

**STATISTICS ON CRIME IN THE STUDENT RESIDENCE** The most frequent alcohol or drug violation on the Cooper Union campus are offenses involving beer or marijuana adjudicated under dormitory discipline. Students under the age of 21 are also issued warnings if they arrive back at the Student Residence in a state of intoxication.

**i) Crimes Reported to campus authorities**

|                                                            | 13 | 14 | 15 |
|------------------------------------------------------------|----|----|----|
| 1. Murder                                                  | 0  | 0  | 0  |
| 2. Sex Offenses, Forcible and NonForcible                  | 0  | 0  | 0  |
| 3. Robbery                                                 | 0  | 0  | 0  |
| 4. Aggravated Assault                                      | 0  | 0  | 0  |
| 5. Burglary                                                | 0  | 0  | 0  |
| 6. Motor vehicle theft                                     | 0  | 0  | 0  |
| 7. Manslaughter                                            | 0  | 0  | 0  |
| 8. Arson                                                   | 0  | 0  | 0  |
| 9. Domestic Violence                                       | 0  | 0  | 0  |
| 10. Dating Violence                                        | 0  | 0  | 0  |
| 11. Stalking                                               | 0  | 0  | 0  |
| 12. Larceny Theft                                          | 0  | 0  | 0  |
| 13. Simple Assault                                         | 0  | 0  | 0  |
| 14. Intimidation                                           | 1  | 0  | 0  |
| 15. Destruction, Damage or Vandalism of Property           | 0  | 0  | 0  |
| 16. All Other Crimes Involving Bodily Injury to Any Person | 0  | 0  | 0  |

**Arrests or Referred to Campus Disciplinary System**

Cooper Union did not have an arrest on campus during these years in any of these categories. The numbers reported are based on disciplinary actions taken against students for violating campus policies. These include probation, fines, and other actions.

|                            | 13 | 14 | 15 |
|----------------------------|----|----|----|
| 17. Liquor Law Violation   | 1  | 9  | 19 |
| 18. Drug Related Violation | 0  | 0  | 2  |
| 19. Weapons Possession     | 0  | 0  | 0  |

**(ii) Crimes reported in which the victim was intentionally selected because of the actual or perceived race, gender, religion, sexual orientation, ethnicity or disability of the victim**

|                                                               | 13 | 14 | 15 |
|---------------------------------------------------------------|----|----|----|
| 1. Murder                                                     | 0  | 0  | 0  |
| 2. Sex Offenses, Forcible and NonForcible                     | 0  | 0  | 0  |
| 3. Robbery                                                    | 0  | 0  | 0  |
| 4. Aggravated Assault                                         | 0  | 0  | 0  |
| 5. Burglary                                                   | 0  | 0  | 0  |
| 6. Motor vehicle theft                                        | 0  | 0  | 0  |
| 7. Manslaughter                                               | 0  | 0  | 0  |
| 8. Arson                                                      | 0  | 0  | 0  |
| 9. Domestic Violence                                          | 0  | 0  | 0  |
| 10. Dating Violence                                           | 0  | 0  | 0  |
| 11. Stalking                                                  | 0  | 0  | 0  |
| 12. Larceny Theft                                             | 0  | 0  | 0  |
| 13. Simple Assault                                            | 0  | 0  | 0  |
| 14. Intimidation                                              | 1* | 0  | 0  |
| 15. Destruction, Damage<br>or Vandalism of Property           | 0  | 0  | 0  |
| 16. All Other Crimes Involving<br>Bodily Injury to Any Person | 0  | 0  | 0  |

**Off-campus Crime** No crimes were reported in facilities rented by Cooper Union for student activities in 2013, 2014 or 2015.

### Statistics Involving Crime in the Area of Cooper Union

Late in 1998, Congress adopted a law requiring colleges to report crimes on property contiguous to their campuses. In New York City, it is virtually impossible to derive statistics with such precision for the Cooper Square area, and so we have chosen instead to report the statistics for the Ninth Precinct, which incorporates a considerably larger area than what is directly adjacent to The Cooper Union. The Ninth Precinct includes the area between East Houston and East 14th Street, on the south and north, and Broadway on the west and the FDR Drive on the east. Most crime occurs in the extreme east of this area. These figures are from the New York City Police Department's CompStat report for the Ninth Precinct.

New York City reports complaints in each category; given the slowness of the legal process, it is difficult to get firm data about convictions for each complaint.

Since September 11, 2001, the New York City Police Department has urged all residents to report any suspicious behavior that may be linked to terrorism. If you witness any incident that troubles you, call **888.NYC.SAFE** to report it.

|                             | 13    | 14  | 15  |
|-----------------------------|-------|-----|-----|
| 1. Murder                   | 2     | 2   | 1   |
| 2. Rape                     | 18    | 22  | 19  |
| 3. Nonforcible Sex Offenses | 9     | n/a | n/a |
| 4. Robbery                  | 137   | 110 | 134 |
| 5. Aggravated Assault       | 152   | 152 | 126 |
| 6. Burglary                 | 19165 | 138 | 135 |
| 7. Motor vehicle theft      | 46    | 31  | 44  |
| 8. Bias Crimes              | n/a   | n/a | n/a |

### Arrests for Drug, Alcohol and Weapons in the Ninth Precinct

|                                     | 13  | 14  | 15  |
|-------------------------------------|-----|-----|-----|
| 1. Liquor law violations (DWI only) | n/a | n/a | n/a |
| 2. Drug violations                  | n/a | n/a | n/a |
| 3. Gun violations                   | n/a | n/a | n/a |

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**Clery Act Crime Definitions**

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**Federal Bureau of Investigation  
Uniform Crime Reporting Handbook /  
National Incident-Based Reporting System  
Crime Definitions**

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Excerpted from the Implementing Regulations of the “Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act” (originally the Campus Security Act) originally published in the Federal Register on April 29, 1994 (Vol. 59, No. 82) and November 1, 1999 (Vol 64, No. 210).

The following definitions are to be used for reporting the crimes listed in 34 CFR sec. 668.46 (previously 668.47) in accordance with the Federal Bureau of Investigation’s Uniform Crime Reporting Program. The definitions for murder, robbery, aggravated assault, burglary, motor vehicle theft, weapon law violations, drug abuse violations and liquor law violations are excerpted from the Uniform Crime Reporting Handbook. The definitions of domestic violence, dating violence and stalking are excerpted from the Violence Against Women Act of 1994. The definitions of forcible and nonforcible sex offenses are excerpted from the National Incident-Based Reporting System Edition of the Uniform Crime Reporting Handbook.

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**Crime Definitions from the  
Uniform Crime Reporting Handbook**

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**Arson** Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, or personal property of another, etc.

**Criminal Homicide-Manslaughter by Negligence**  
The killing of another person through gross negligence.

**Criminal Homicide-Murder and Non-negligent Manslaughter** The willful (nonnegligent) killing of one human being by another.

**Robbery** The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

**Aggravated Assault** An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could and probably would result in serious personal injury if the crime were successfully completed.)

**Burglary** The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.

**Motor Vehicle Theft** The theft or attempted theft of a motor vehicle. (Motor vehicle theft includes all cases where any self-propelled vehicle that runs on land surface and not on rails is taken by persons not having lawful access even though the vehicle is later abandoned, including joyriding.)

**Weapon Law Violations** The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices or other deadly weapons.

**Drug Abuse Violations** The violation of laws prohibiting the production, distribution and/or use of certain controlled substances and the devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation or importation of any controlled drug or narcotic substance. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use growing, manufacturing and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (demerol, methadones); and dangerous non-narcotic drugs (barbituates, benzedrine).

**Liquor Law Violations** The violation of state or local laws or ordinances prohibiting: the manufacture, sale, purchase, transportation, possession or use of alcoholic beverages, not including driving under the influence and drunkenness.

**Domestic Violence** A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim; a person with whom the victim shares a child in common; a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction of the City and State of New York; and any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of jurisdiction of the City and State of New York.

**Dating Violence** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.

**Stalking** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress.

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**Sex Offenses Definitions from the National Incident-Based Reporting System Edition of the Uniform Crime Reporting Program**

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**Sex Offenses-Forcible** Any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent.

**A. Forcible Rape** The carnal knowledge of a person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of his/her youth). This offense includes the forcible rape of both males and females.

**B. Forcible Sodomy** Oral or anal sexual intercourse with another person, forcibly and/or against that person's will; or not forcibly against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

**C. Sexual Assault With An Object** The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity. An object or instrument is anything used by the offender other than the offender's genitalia. Examples are a finger, bottle, handgun, stick, etc.

**D. Forcible Fondling** The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will; or, not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental incapacity.

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**Sex Offenses-Nonforcible**

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Unlawful, nonforcible sexual intercourse.

**A. Incest** Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

**B. Statutory Rape** Non-forcible sexual intercourse with a person who is under the statutory age of consent.

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**Hate Crimes**

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A criminal offense committed against person or property which is motivated, in whole or in part, by the offender's bias.

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**Bias Crimes**

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A preformed negative opinion or attitude toward a group of persons based on their race, gender, religion, disability, sexual orientation or ethnicity/national origin.

**A. Race Bias**

A preformed negative attitude toward a group of persons who possess common physical characteristics (e.g., color of skin, eyes, and/or hair; facial features, etc.) genetically transmitted by descent

and heredity, which distinguish them as a distinct division of humankind (e.g., Asian, blacks, whites)

### **B. Gender Bias**

A preformed negative opinion or attitude toward a group of persons because those persons are male or female.

### **C. Religion Bias**

A preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being (e.g., Catholics, Jews, Protestants, atheists).

### **D. Sexual Orientation Bias**

A preformed negative opinion or attitude toward a group of persons based upon their sexual attraction toward, and responsiveness to, members of their own sex or members of the opposite sex (e.g., gays, lesbians, heterosexuals).

### **E. Ethnicity/National Origin Bias**

A preformed negative opinion or attitude toward a group of persons of the same race or national origin who share common or similar traits, languages, customs and traditions (e.g., Arabs, Hispanics).

### **F. Disability Bias**

A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments/challenges, whether such disability is temporary or permanent, congenital or acquired by heredity, accident, injury, advanced age or illness.

## **Federal Hate Crime Laws Based on The Clery Act**

Hate crimes include any offense in the following that are motivated by bias.

### **1. Murder and Non-negligent manslaughter**

### **2. Forcible sex offenses**

### **3. Non-forcible sex offenses**

### **4. Robbery**

### **5. Aggravated assault**

### **6. Burglary**

### **7. Motor vehicle theft**

### **8. Arson**

### **9. Domestic violence**

### **10. Dating Violence**

### **11. Stalking**

### **12. Larceny-Theft**

The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession (defined as the condition in which a person does not have physical custody or possession, but is in a position to exercise dominion or control over a thing) of another.

### **13. Simple Assault**

An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

**14. Intimidation**

To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

**15. Destruction/Damage/Vandalism of Property**

To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

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**New York State Laws**

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**I. Applicable State Laws and Penalties**

Laws of New York, 2000  
Chapter 107.

Hate Crimes Act of 2000

An Act to amend the penal law, the executive law and the criminal procedure law, in relation to hate crimes

Became a law July 10, 2000, with the approval of the Governor.

Passed by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the “Hate Crimes Act of 2000.”

§ 2. Part 4 of the penal law is amended by adding a new title Y to read as follows:

Hate Crimes Act of 2000

Article 485

Hate Crimes

Section 485.00 Legislative findings.

485.05 Hate crimes.

485.10 Sentencing.

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**§ 485.00 Legislative findings**

The legislature finds and determines as follows: criminal acts involving violence, intimidation and destruction of property based upon bias and prejudice have become more prevalent in New York state in recent years. The intolerable truth is that in these crimes, commonly and justly referred to as “hate crimes,” victims are intentionally selected, in whole or in part, because of their race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation. Hate crimes do more than threaten the safety and welfare of all citizens. They inflict on victims incalculable physical and emotional damage and tear at the very fabric of free society. Crimes motivated by invidious hatred toward particular groups not only harm individual victims but send a powerful message of intolerance and discrimination to all members of the group to which the victim belongs. Hate crimes can and do intimidate and disrupt entire communities and vitiate the civility that is essential to healthy democratic processes. In a democratic society, citizens cannot be required to approve of the beliefs and practices of others, but must never commit criminal acts on account of them. Current law does not adequately recognize the harm to public order and individual safety that hate crimes cause. Therefore, our laws must be strengthened to provide clear recognition of the gravity of hate crimes and the compelling importance of preventing their recurrence. Accordingly, the legislature finds and declares that hate crimes should be prosecuted and punished with appropriate severity.

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**§ 485.05 Hate crimes**

1. A person commits a hate crime when he or she commits a specified offense and either:
  - (a) Intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct, or
  - (b) Intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct.
2. Proof of race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of the defendant, the victim or of both the defendant and the victim does not, by itself, constitute legally sufficient evidence satisfying the people’s burden under paragraph (a) or (b) of subdivision one of this section.
3. A “specified offense” is an offense defined by any of the following provisions of this chapter: section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); section 120.10 (assault in the first degree); section 120.12 (aggravated assault upon a person less than eleven years old); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section

120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.25 (reckless endangerment in the first degree); subdivision one of section 125.15 (manslaughter in the second degree); subdivision one, two or four of section 125.20 (manslaughter in the first degree); section 125.25 (murder in the second degree); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section 120.55 (stalking in the second degree); section 120.60 (stalking in the first degree); subdivision one of section 130.35 (rape in the first degree); subdivision one of section 130.50 (sodomy in the first degree); subdivision one of section 130.65 (sexual abuse in the first degree); paragraph (a) of subdivision one of section 130.67 (aggravated sexual abuse in the second degree); paragraph (a) of subdivision one of section 130.70 (aggravated sexual abuse in the first degree); section 135.05 (unlawful imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.20 (kidnapping in the second degree); section 135.25 (kidnapping in the first degree); section 135.60 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.10 (criminal trespass in the third degree); section 140.15 (criminal trespass in the second degree); section 140.17 (criminal trespass in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree);

section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 150.05 (arson in the fourth degree); section 150.10 (arson in the third degree); section 150.15 (arson in the second degree); section 150.20 (arson in the first degree); section 155.25 (petit larceny); section 155.30 (grand larceny in the fourth degree); section 155.35 (grand larceny in the third degree); section 155.40 (grand larceny in the second degree); section 155.42 (grand larceny in the first degree); section 160.05 (robbery in the third degree); section 160.10 (robbery in the second degree); section 160.15 (robbery in the first degree); section 240.25 (harassment in the first degree); subdivision one, two or four of section 240.30 (aggravated harassment in the second degree); or any attempt or conspiracy to commit any of the foregoing offenses.

4. For purposes of this section:

- (a) The term “age” means sixty years old or more;
- (b) The term “disability” means a physical or mental impairment that substantially limits a major life activity.

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#### **§ 485.10 Sentencing**

1. When a person is convicted of a hate crime pursuant to this article, and the specified offense is a violent felony offense, as defined in section 70.02 of this chapter, the hate crime shall be deemed a violent felony offense.

2. When a person is convicted of a hate crime pursuant to this article and the specified offense is a misdemeanor or a class C, D or E felony, the hate crime shall be deemed to be one category higher than the specified offense the defendant committed, or one category higher than the offense level applicable to the defendant's conviction for an attempt or conspiracy to commit a specified offense, whichever is applicable.

3. Notwithstanding any other provision of law, when a person is convicted of a hate crime pursuant to this article and the specified offense is a class B felony:

- (a) The maximum term of the indeterminate sentence must be at least six years if the defendant is sentenced pursuant to section 70.00 of this chapter;
- (b) The term of the determinate sentence must be at least eight years if the defendant is sentenced pursuant to section 70.02 of this chapter;
- (c) The term of the determinate sentence must be at least twelve years if the defendant is sentenced pursuant to section 70.04 of this chapter;
- (d) The maximum term of the indeterminate sentence must be at least four years if the defendant is sentenced pursuant to section 70.05 of this chapter; and
- (e) The maximum term of the indeterminate sentence or the term of the determinate sentence must be at least ten years if the defendant is sentenced pursuant to section 70.06 of this chapter.

4. Notwithstanding any other provision of law, when a person is convicted of a hate crime pursuant to this article and the specified offense is a class A-1 felony, the minimum period of the indeterminate sentence shall be not less than twenty years.

§ 3. Subdivision 3 of section 240.30 of the penal law, as amended by chapter 345 of the laws of 1992, is amended to read as follows: 3. Strikes, shoves, kicks, or otherwise subjects another person to physical contact, or attempts or threatens to do the same because of [the] a belief or perception regarding such person's race, color, [religion or] national origin [of such person], ancestry, gender, religion, religious practice, age, disability or sexual orientation, regardless of whether the belief or perception is correct; or

§ 4. The opening paragraph of section 240.31 of the penal law, as amended by chapter 958 of the laws of 1983, is amended to read as follows: A person is guilty of aggravated harassment in the first degree when with intent to harass, annoy, threaten or alarm another person, because of [the] a belief or perception regarding such person's race, color, [religion or] national origin [of such person], ancestry, gender, religion, religious practice, age, disability or sexual orientation, regardless of whether the belief or perception is correct, he or she:

§ 5. Section 240.00 of the penal law is amended by adding two new subdivisions 5 and 6 to read as follows: 5. "Age" means sixty years old or more. 6. "Disability" means a physical or mental impairment that substantially limits a major life activity.

§ 6. (Intentionally Omitted.)

§ 7. Subdivisions 4 and 7 of section 200.50 of the criminal procedure law, subdivision 4 as amended by chapter 467 of the laws of 1974 and subdivision 7 as amended by chapter 481 of the laws of 1978, are amended to read as follows:

4. A statement in each count that the grand jury, or, where the accusatory instrument is a superior court information, the district attorney, accuses the defendant or defendants of a designated offense, provided that in any prosecution under article four hundred eighty-five of the penal law, the designated offense shall be the specified offense, as defined in subdivision three of section 485.05 of the penal law, followed by the phrase “as a hate crime;” and 7. A plain and concise factual statement in each count which, without allegations of an evidentiary nature, (a) asserts facts supporting every element of the offense charged and the defendant’s or defendants’ commission thereof with sufficient precision to clearly apprise the defendant or defendants of the conduct which is the subject of the accusation; and (b) in the case of any armed felony, as defined in subdivision forty-one of section 1.20, states that such offense is an armed felony and specifies the particular implement the defendant or defendants possessed, were armed with, used or displayed or, in the case of an implement displayed, specifies what the implement appeared to be; and (c) in the case of any hate crime, as defined in section 485.05 of the penal law, specifies, as applicable, that the defendant or defendants intentionally selected the person against whom the

offense was committed or intended to be committed; or intentionally committed the act or acts constituting the offense, in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person; and

§ 8. Section 837 of the executive law is amended by adding a new subdivision 4-c to read as follows: 4-c. In cooperation with the chief administrator of the courts as well as any other public or private agency, including law enforcement agencies, collect and analyze statistical and all other information and data with respect to the number of hate crimes reported to or investigated by the division of state police, and all other police or peace officers, the number of persons arrested for the commission of such crimes, the offense for which the person was arrested, the county within which the arrest was made and the accusatory instrument filed, the disposition of the accusatory instrument filed, including, but not limited to, as the case may be, dismissal, acquittal, the offense to which the defendant pled guilty, the offense the defendant was convicted of after trial, and the sentence imposed. The division shall include the statistics and other information required by this subdivision in the annual report submitted to the governor and legislature pursuant to subdivision twelve of this section.

§ 9. This act shall take effect 90 days after it shall have become a law.

The Legislature of the State of New York

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## **II. Procedures in Effect for Dealing with Bias Crime**

Bias crimes should be immediately reported to the New York City police for appropriate investigation and possible criminal proceedings. In addition, members of the Cooper community may request a hearing by the Student Judicial Committee if a student was involved in the commission of the crime. In some situations, filing a discrimination complaint with the Vice President for Finance & Administration may also be appropriate.

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## **III. The Availability of Counseling and Other Support Services for Victims of Bias Crimes**

There are a number of counseling services in New York City that work with victims of crime. SAFE HORIZONS at 800.621.4673, in particular, has extensive experience in this area.

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## **IV. The Nature of the Common Circumstances Relating to Bias Related Crime on College Campuses**

At Cooper Union, the predominant category of bias crime is vandalizing property with racist, sexist and other offensive graffiti. In November 2010, a case involving such behavior was adjudicated by the Student Judicial Committee. There were no cases of such behavior brought to the Student Judicial Committee in 2013–2014.

Other college campuses have experienced assaults relating to bias, internet harassment, and intimidation through verbal aggression. Bias crimes are often linked to excessive use of alcohol.

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## **V. Reporting of crime**

Bias crimes are included in the statistics compiled in the Acting Director of Facilities' daily record and reported to students annually as part of the Campus Safety, Security and Fire Safety Report. Emergency situations are reported to students in the form of memos placed in their mailboxes, or, in cases of extreme danger, through email or cellphone calls through the emergency management system.

**Fire Safety Report for the Student Residence**

**GENERAL INFORMATION**

Cooper Union Student Residence  
29 3rd Avenue  
New York, NY 10003

**SECURITY OFFICER INFORMATION**

Director of Facilities  
41 Cooper Square, Room 111  
New York, NY 10003  
212.353.4160

**A. Statistics Concerning Fire**

| Description                                                                                                                                                                                  | Date     | Injuries | Deaths | \$Amount |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|----------|--------|----------|
| A student attempted to cook a pumpkin in the microwave in the third floor lounge during a Halloween party. The pumpkin blew up in the microwave, and the microwave was completely destroyed. | 10/31/09 | 0        | 0      | \$250.00 |

**B. Description of Fire Safety System**

Year of Construction: 1992  
Type of Construction: Non-Combustible  
Number of Floors: 18  
Smoke Detectors: Yes  
Evacuation Plan and Placards: Yes  
Sprinkler System: Yes  
Description of Sprinkler System:  
Gravity Fed Sprinkler System. Entire building is sprinkled.  
Fire Alarm: Yes  
Does Fire Alarm Transmit  
to Fire Dept/Fire Alarm Co: Yes  
Fire Alarm Monitoring is done offsite by AFA.  
Location of Speakers: Stairwell, Hallway, Dwelling Unit

| Type Egress | Identification | Location          | Leads to       |
|-------------|----------------|-------------------|----------------|
| Stairwell   | A              | end of hallway    | lobby and roof |
| Stairwell   | B              | center of hallway | lobby and roof |

**C. Supervised Mandatory**

**Fire Drills Procedures**

Mandatory supervised fire drills are conducted in the residence hall twice a year by the residence hall staff. One is conducted in the spring semester and the

second is conducted in the fall semester. During 2015, fire drills were conducted on April 23 and October 20, 2015.

#### **D. Evacuation Policy and Procedures**

i. The building is equipped with early warning and detection devices such as smoke detectors, heat sensors and carbon monoxide detectors. Each apartment is supplied with a fire extinguisher and the entire building is equipped with a sprinkler system.

ii. During all fire alarms, all students and all guests must leave the building immediately. All alarms should be treated as an emergency. Should the alarm bells and lights stop sounding and flashing, students should continue to evacuate the building. Upon evacuation, students may not use the elevators and should proceed toward the exits via the stairwells. Students should continue across the street after exiting and meet on the corner of Third Avenue and 9th Street in front of the NYU Residence Hall. Students are not to re-enter the building until instructed to do so by a Residence Life staff member. Failure to evacuate or premature re-entry may result in disciplinary action. Staff may enter student rooms during fire alarms to ensure the safety of students.

iii. Individuals with disabilities are encouraged to contact the Residence Hall Office upon move in so that appropriate evacuation procedures can be determined.

#### **Rules on electrical appliances, smoking, open flames, safety education, training programs for students, staff**

The most current information about fire safety procedures in the Student Residence can be found on the school's website at [www.cooper.edu](http://www.cooper.edu).

- Microwave ovens and refrigerators are provided in the common space of every apartment. Students are not permitted to have personal microwaves or refrigerators in their private rooms, nor are they permitted to replace the microwaves and refrigerators in the common space.

- Small appliances without exposed heating elements, such as curling irons, blow dryers, sandwich/waffle makers, bread makers, rice cookers, coffee makers, hot pots, and crock-pots are permitted in student rooms provided they are used properly.

- Charcoal and propane grills are not permitted in the Student Residence nor should they be used on the terraces or balconies of the building.

- Stoves and pilot lights should be monitored regularly for fire prevention purposes. Excess grease and flammable items on or near the stove are prohibited.

- Toasters, toaster ovens, and other appliances where heating coils are exposed are not permitted in the Student Residence.

- Halogen lamps are not permitted in the Student Residence.

- Candles and/or incense are not permitted in the Student Residence due to the fire hazard they create. Candles may not be used as decoration in any student rooms or common areas even if they are not lit. Candles with the wick removed are also not permitted.

- Smoking is prohibited in all the residence hall rooms, apartments, and facilities, including the balconies, elevators, stairwells, lounges, etc. Residents may smoke only outside of the building, at least 25 feet away from all entrances and windows.
- Any student who activates a false alarm or tampers with fire or safety equipment (such as fire extinguishers, speakers, smoke detectors and sprinklers) is placing the lives and safety of his/her fellow students in danger. This behavior is strictly prohibited.

*The Student Residence's student conduct system is based upon the concept of developmental discipline. It is not intended to be legalistic or punitive. Rather, it is a system based upon reasonable rules and expectations that are realistically applied in the context of an educational setting. Furthermore, it is a system of both rights and responsibilities with an equal emphasis on each. The Residence Hall Staff has the responsibility to ensure that the rights of each student are protected. Correspondingly, students have the responsibility to the rules governing the community and to comply with them in order for the community to be successful. The following are examples of sanctions which may be exercised when a student is found in violation of the fire safety system. The following list is neither inclusive nor exhaustive, and additional or alternate sanctions may be imposed at the discretion of the Director of Residence Life or the Student Judicial Committee:*

- *Disciplinary Warning*
- *Disciplinary Probation*
- *Monetary Fine*
- *Restitution for Damages*
- *Mediation*
- *Educational Project / Program*
- *Referral to Counseling*
- *Community Service*
- *Confiscation and / or Removal of Item(s)*
- *Forfeiture of Security Deposit and / or Rent Paid*
- *Removal from the Residence Hall*
- *Eviction from the Residence Hall*

#### **E. Inspection, Testing, and Maintenance Programs Systems**

- Inspection and testing of all fire alarm devices is conducted twice a year as per NYC Fire Code. All fire alarm device testing is performed by a licensed fire alarm vendor, Crossfire.
- Monthly sprinkler and standpipe inspections are conducted by certified Cooper Union staff.

#### **F. Plans for Future Improvements**

There are no major capital improvements program currently planned.

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## Policies

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As a student at the Cooper Union, you are responsible for upholding the policies of the school as well as pertinent federal, state and local laws. Documents with which you should be familiar include this Campus Security, Safety and Fire Safety Report; the Code of Conduct, Policy and Procedure Relating to Misconduct Based Upon Sex, Including Sexual Assault and Sexual Harassment; and The Cooper Union catalog. The catalog describes important academic standards and regulations that may differ between the schools.

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### Nondiscrimination and Anti-Harassment Policies and Complaint Procedures

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The Cooper Union complies with Title IX and other applicable laws and does not discriminate on the basis of sex, race, age or any other trait or characteristic protected by law. For a full statement of the School's policy of nondiscrimination and of the School's procedures for receiving and addressing complaints of discrimination, please refer to the Cooper Union catalog, also available on-line at <http://www.cooper.edu/about/policies/non-discrimination>

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### Smoking

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In accordance with the New York City Clean Indoor Act, as amended, and New York State Public Health Law Article 13-E, it is the policy of The Cooper Union that:

*Smoking is prohibited at all times in all college owned buildings, including but not limited to auditoriums, classrooms, laboratories, offices and public areas. Furthermore, smoking is not permitted within 25 feet from a Cooper Union facility entrance.*

This smoking policy is intended to keep the air clear of smoke for those within our facilities and for those entering and leaving Cooper Union owned buildings.

The Cooper Union requests and expects your cooperation and assistance in the implementation and enforcement of the smoking prohibition. Those who do not comply with this policy will be subject to disciplinary action up to and including fines and/or expulsion from the college, or termination of employment. Complaints against persons represented by a labor organization will be handled in a manner that is consistent with the applicable collective bargaining unit.

Conflicts related to smoking among employees should be brought to the attention of appropriate supervisory personnel and, if necessary, referred to the Equal Opportunity Officer. To report an incident concerning violation of this policy, please send a written report to the Director of Facilities.

Students alleged to be in violation of the policy are subject to disciplinary action through the appropriate student conduct jurisdiction.

In accordance with the law, any individual can voice objections to smoke that gathers in any smoke-free area without fear of retaliation.

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### Policy on Alcoholic Beverages and Illegal Drugs

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The Cooper Union strictly adheres to all local, state, and federal laws relating to the use or illegal manufacture of drugs and alcohol on its premises or at any college-sponsored event. Students

who violate Cooper Union's policies will be subject to disciplinary actions under *The Code of Conduct*.

On campus, students over the age of 21 may consume alcohol only in the context of official campus events where there is a security guard present to check I.D.'s. Alcohol may not be carried from the room in which it is served. Student groups recognized by the Joint Activities Committee who wish to apply for an alcohol permit must follow the Cooper Union procedures listed at the end of this section.

The Cooper Union has historically attracted students who are serious about academic and artistic achievement and who have understood how substance addictions undermine academic performance. It is a goal of this institution to maintain an environment of academic seriousness.

The most immediate consequence of substance abuse at The Cooper Union is often a dismal academic performance, leading to academic dismissal. Long-term consequences of substance abuse can include major health problems, lowered employment prospects, and even an early demise.

Loss of a student to substance abuse not only blights the prospects of that individual to have a fulfilling career, but also deprives the community at The Cooper Union of that individual's unique talents and contributions. To avoid such a loss, the institution is committed to providing assistance to students with substance abuse problems through appropriate education and referral.

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### New York State Law Regarding Alcohol

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New York State has very strict laws about alcohol. Section 65 of the Alcohol Beverage Control Law states:

**No person shall sell, deliver or give away or cause or permit to be sold, delivered, or given away any alcoholic beverages to**

- 1. Any person, actually or apparently, under the age of twenty-one years;**
- 2. Any visibly intoxicated person;**
- 3. Any habitual drunk.**

In addition, legislation enacted in November of 1991 specifies that a U.S. or Canadian drivers' license or non-driver identification card, a valid passport, or an identification card issued by the United States Armed Forces must be used as written evidence of age for the purchase of alcoholic beverages. New York State law also prohibits the possession of alcoholic beverages with the intent to consume by a minor and makes it a crime to produce fraudulent proof of age. Students in possession of a phony identification card should know that the antiterrorism measures put in place by the New York City police department have improved the ability to detect fake I.D.s and have resulted in several arrests.

New York State imposes liability on any person who serves alcohol illegally to a minor. This means if someone serves a minor alcohol, the person serving the alcohol can be sued for damages by anyone harmed by that minor, including the parents or family of the minor if the minor himself or herself suffers harm.

## Risks Associated With Substance Abuse

The State of New York closely monitors the consumption of alcohol and other drugs on New York State campuses and has found that substance abusers put themselves and others at risk. Substance abuse leads to an increase in highway accidents, in acts of physical violence, in sexual assault, and in vandalism.

The specific dangers of substance abuse in an urban environment cannot be overstated. Inebriated persons are more likely to be crime victims, and at least three recent local murders have been linked to excessive drinking in bars.

The many health risks involved with substance abuse are summarized on the following pages.

| <b>Drug</b>        | <b>Physical Dependence</b> | <b>Psychological Dependence</b> | <b>Possible Effects</b> | <b>Effects of Overdose</b> | <b>Withdrawal Syndrome</b>   |
|--------------------|----------------------------|---------------------------------|-------------------------|----------------------------|------------------------------|
| <b>Narcotics</b>   |                            |                                 |                         |                            |                              |
| Heroin             | High                       | High                            | <i>Euphoria,</i>        | <i>Slow &amp; Shallow</i>  | <i>Yawning,</i>              |
| Morphine           | High                       | High                            | <i>Drowsiness,</i>      | <i>Breathing,</i>          | <i>Loss of Appetite,</i>     |
| Codeine            | Moderate                   | Moderate                        | <i>Respiratory-</i>     | <i>Clammy Skin,</i>        | <i>Irritability</i>          |
| Hydromorphone      | High                       | High                            | <i>Depression,</i>      | <i>Convulsions</i>         | <i>Tremors, Panic,</i>       |
| Oxycodone          | High                       | High                            | <i>Constricted–</i>     | <i>Coma,</i>               | <i>Cramps, Nausea,</i>       |
| Methodone/LAAM     | High                       | High                            | <i>Pupils,</i>          | <i>Possible Death</i>      | <i>Runny Nose,</i>           |
| Fentanyl/Analogues | High                       | High                            | <i>Nausea</i>           |                            | <i>Chills &amp; Sweating</i> |
| Other Narcotics    | High-Low                   | High-Low                        |                         |                            | <i>Watery Eyes</i>           |
| <b>Depressants</b> |                            |                                 |                         |                            |                              |
| Chloral Hydrate    | Moderate                   | High                            | <i>Slurred Speech,</i>  | <i>Shallow</i>             | <i>Anxiety,</i>              |
| Barbiturates       | High-Moderate              | High                            | <i>Disorientation,</i>  | <i>Respiration, Coma</i>   | <i>Insomnia,</i>             |
| Benzodiazepines    | Low                        | High                            | <i>Drunken Behavior</i> | <i>Clammy Skin,</i>        | <i>Tremors,</i>              |
| Glutethimide       | High                       | High                            | <i>without odor of</i>  | <i>Dilated Pupils,</i>     | <i>Delirium,</i>             |
| Other Depressants  | Moderate                   | High                            | <i>Alcohol</i>          | <i>Weak/Rapid Pulse</i>    | <i>Convulsions,</i>          |
|                    |                            |                                 |                         | <i>Possible Death</i>      | <i>Possible Death</i>        |

Federal Trafficking Penalties

| Drug/Schedule                  | Quantity                              | Penalties                                                                                                                                                                                                              | Quantity                                       | Penalties                                                                                                                                                                                                               |
|--------------------------------|---------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Cocaine (Schedule II)          | 500–4999 gms mixture                  | FIRST OFFENSE:<br>Not less than 5 yrs, and not more than 40 yrs. If death or serious injury, not less than 20 or more than life. Fine of not more than \$5 million if an individual, \$25 million if not an individual | 5 kgs or more mixture                          | FIRST OFFENSE:<br>Not less than 10 yrs, and not more than life. If death or serious injury, not less than 20 or more than life. Fine of not more than \$10 million if an individual, \$50 million if not an individual. |
| Cocaine Base (Schedule II)     | 28–279 gms mixture                    |                                                                                                                                                                                                                        | 280 gms or more mixture                        |                                                                                                                                                                                                                         |
| Fentanyl (Schedule II)         | 40–399 gms mixture                    |                                                                                                                                                                                                                        | 400 gms or more mixture                        |                                                                                                                                                                                                                         |
| Fentanyl Analogue (Schedule I) | 10–99 gms mixture                     |                                                                                                                                                                                                                        | 100 gms or more mixture                        |                                                                                                                                                                                                                         |
| Heroin (Schedule I)            | 100–999 gms mixture                   |                                                                                                                                                                                                                        | 1 kg or more mixture                           |                                                                                                                                                                                                                         |
| LSD (Schedule I)               | 1–9 gms mixture                       | SECOND OFFENSE:<br>Not less than 10 yrs, and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$8 million if an individual, \$50 million if not an individual                  | 10 gms or more mixture                         | SECOND OFFENSE:<br>Not less than 20 yrs, and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$20 million if an individual, \$75 million if not an individual.                 |
| Methamphetamine (Schedule II)  | 5–49 gms pure or 50–499 gms mixture   |                                                                                                                                                                                                                        | 50 gms or more pure or 500 gms or more mixture |                                                                                                                                                                                                                         |
| PCP (Schedule II)              | 10–99 gms pure or 100–999 gms mixture |                                                                                                                                                                                                                        | 100 gm or more pure or 1 kg or more mixture    |                                                                                                                                                                                                                         |
|                                |                                       |                                                                                                                                                                                                                        |                                                | 2 OR MORE PRIOR OFFENSES:<br>Fine of not more than \$20 million if an individual, \$75 million if not an individual.                                                                                                    |

**Drugs** Students should be aware that, in addition to Cooper Union sanctions, they may be subject to criminal prosecution under federal and state laws which specify severe penalties, including fines and imprisonment for drug-related criminal offenses. The chart below provides information concerning Federal law. New York State law on this issue is extensive; students who would like a copy of the relevant state laws may download one from FindLaw.com.

**Federal Trafficking Penalties**

| Drug/Schedule                  | Quantity                              | Penalties                                                                                                                                                                                                              | Quantity                                       | Penalties                                                                                                                                                                                                               |
|--------------------------------|---------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Cocaine (Schedule II)          | 500–4999 gms mixture                  | FIRST OFFENSE:<br>Not less than 5 yrs, and not more than 40 yrs. If death or serious injury, not less than 20 or more than life. Fine of not more than \$5 million if an individual, \$25 million if not an individual | 5 kgs or more mixture                          | FIRST OFFENSE:<br>Not less than 10 yrs, and not more than life. If death or serious injury, not less than 20 or more than life. Fine of not more than \$10 million if an individual, \$50 million if not an individual. |
| Cocaine Base (Schedule II)     | 28–279 gms mixture                    |                                                                                                                                                                                                                        | 280 gms or more mixture                        |                                                                                                                                                                                                                         |
| Fentanyl (Schedule II)         | 40–399 gms mixture                    |                                                                                                                                                                                                                        | 400 gms or more mixture                        |                                                                                                                                                                                                                         |
| Fentanyl Analogue (Schedule I) | 10–99 gms mixture                     |                                                                                                                                                                                                                        | 100 gms or more mixture                        |                                                                                                                                                                                                                         |
| Heroin (Schedule I)            | 100–999 gms mixture                   |                                                                                                                                                                                                                        | 1 kg or more mixture                           |                                                                                                                                                                                                                         |
| LSD (Schedule I)               | 1–9 gms mixture                       | SECOND OFFENSE:<br>Not less than 10 yrs, and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$8 million if an individual, \$50 million if not an individual                  | 10 gms or more mixture                         | SECOND OFFENSE:<br>Not less than 20 yrs, and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$20 million if an individual, \$75 million if not an individual.                 |
| Methamphetamine (Schedule II)  | 5–49 gms pure or 50–499 gms mixture   |                                                                                                                                                                                                                        | 50 gms or more pure or 500 gms or more mixture |                                                                                                                                                                                                                         |
| PCP (Schedule II)              | 10–99 gms pure or 100–999 gms mixture |                                                                                                                                                                                                                        | 100 gm or more pure or 1 kg or more mixture    |                                                                                                                                                                                                                         |
|                                |                                       |                                                                                                                                                                                                                        |                                                | 2 OR MORE PRIOR OFFENSES:<br>Fine of not more than \$20 million if an individual, \$75 million if not an individual.                                                                                                    |

**Federal Trafficking Penalties**

| <b>Drug/Schedule</b>                                                                    | <b>Quantity</b> | <b>Penalties</b>                                                                                                                                                                                                                                                                                                                                                |
|-----------------------------------------------------------------------------------------|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Other Schedule I & II drugs (and any drug product containing Gamma Hydroxybutyric Acid) | Any amount      | FIRST OFFENSE: Not more than 20 yrs. If death or serious injury, not less than 20 yrs, or more than Life. Fine \$1 million if an individual, \$5 million if not an individual.<br><br>SECOND OFFENSE: Not more than 30 yrs. If death or serious injury, life imprisonment. Fine \$2 million if an individual, \$10 million if not an individual                 |
| Flunitrazepam (Schedule IV)                                                             | 1 gm or more    |                                                                                                                                                                                                                                                                                                                                                                 |
| Other Schedule III drugs                                                                | Any amount      | FIRST OFFENSE: Not more than 10 years. If death or serious injury, not more than 15 yrs. Fine not more than \$500,000 if an individual, \$2.5 million if not an individual.<br><br>SECOND OFFENSE: Not more than 20 yrs. If death or serious injury, not more than 30 yrs. Fine not more than \$1.5 million if an individual, \$5 million if not an individual. |
| All other Schedule IV drugs                                                             | Any amount      | FIRST OFFENSE: Not more than 5 years. Fine not more than \$250,000 if an individual, \$1 million if not an individual.                                                                                                                                                                                                                                          |
| Flunitrazepam (Schedule IV)                                                             | Less than 1 gm  | SECOND OFFENSE: Not more than 10 yrs. Fine not more than \$500,000 if an individual, \$2 million if not an individual.                                                                                                                                                                                                                                          |
| All Schedule V drugs                                                                    | Any amount      | FIRST OFFENSE: Not more than 4 yr. Fine not more than \$100,000 if an individual, \$250,000 if not an individual.<br><br>SECOND OFFENSE: Not more than 2 yrs. Fine not more than \$200,000 if an individual, \$500,000 if not an individual.                                                                                                                    |

**Federal Trafficking Penalties—Marijuana**

| <b>Drug/Schedule</b>     | <b>Quantity</b>                                                                                     | <b>1st Offense</b>                                                                                                                                                                                                                                                                       | <b>2nd Offense</b>                                                                                                                                                                                                                                            |
|--------------------------|-----------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Marijuana (Schedule 1)   | 1,000 kg or more mixture; or 1,000 or more plants                                                   | <ul style="list-style-type: none"> <li>• Not less than 10 years, not more than life</li> <li>• If death or serious injury, not less than 20 years, not more than life</li> <li>• Fine not more than \$10 million if an individual, \$50 million if other than an individual</li> </ul>   | <ul style="list-style-type: none"> <li>• Not less than 20 years, not more than life</li> <li>• If death or serious injury, life imprisonment</li> <li>• Fine not more than \$20 million if an individual, \$75 million if other than an individual</li> </ul> |
| Marijuana (Schedule 1)   | 100 kg to 999 kg mixture; or 100 to 999 plants                                                      | <ul style="list-style-type: none"> <li>• Not less than 5 years, not more than 40 years</li> <li>• If death or serious injury, not less than 20 years, not more than life</li> <li>• Fine not more than \$5 million if an individual, \$25 million if other than an individual</li> </ul> | <ul style="list-style-type: none"> <li>• Not less than 10 years, not more than life</li> <li>• If death or serious injury, mandatory life</li> <li>• Fine not more than \$8 million if an individual, \$50 million if other than an individual</li> </ul>     |
| Marijuana (Schedule 1)   | more than 10 kgs hashish; 50 to 99 kg mixture<br><br>more than 1 kg of hashish oil; 50 to 99 plants | <ul style="list-style-type: none"> <li>• Not more than 20 years</li> <li>• If death or serious injury, not less than 20 years, not more than life</li> <li>• Fine \$1 million if an individual, \$5 million if other than an individual</li> </ul>                                       | <ul style="list-style-type: none"> <li>• Not more than 30 years</li> <li>• If death or serious injury, mandatory life</li> <li>• Fine \$2 million if an individual, \$10 million if other than individual</li> </ul>                                          |
| Marijuana (Schedule 1)   | 1 to 49 plants; less than 50 kg mixture                                                             | <ul style="list-style-type: none"> <li>• Not more than 5 years</li> <li>• Fine not more than \$250,000, \$1 million other than individual</li> </ul>                                                                                                                                     | <ul style="list-style-type: none"> <li>• Not more than 10 years</li> <li>• Fine \$500,000 if an individual, \$2 million if other than individual</li> </ul>                                                                                                   |
| Hashish (Schedule 1)     | 10 kg or less                                                                                       |                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                               |
| Hashish Oil (Schedule 1) | 1 kg or less                                                                                        |                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                               |

\*The minimum sentence for a violation after two or more prior convictions for a felony drug offense have become final is a mandatory term of life imprisonment without release and a fine up to \$8 million if an individual and \$20 million if other than an individual.

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**Federal Penalties and Sanctions for Illegal Possession of a Controlled Substance**

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**21 U.S.C. 844(a)**

First conviction: Up to one year imprisonment and fined at least \$1,000 but not more than \$100,000, or both.

After one prior drug conviction: At least 15 days in prison, not to exceed 2 years and fined at least \$2,500 but not more than \$250,000, or both. After 2 or more prior drug convictions: at least 90 days in prison, not to exceed three years and fined at least \$5000, but not more than \$250,000, or both

Special sentencing provisions for possession of crack cocaine: Mandatory at least five years in prison, not to exceed 20 years and fined up to \$250,000 or both, if:

- (a) first conviction and the amount of crack possessed exceeds 5 grams.
- (b) second crack conviction and the amount of crack possessed exceeds 3 grams.
- (c) third or subsequent crack conviction and the amount of crack possessed exceeds one gram.

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**21 U.S.C. 853(a) (2) and 881(a) (7)**

Forfeiture of personal and real property used to possess or to facilitate possession of a controlled substance if that offense is punishable by more than one year imprisonment.

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**21 U.S.C. 881(a)(4)**

Forfeiture of vehicles, boats, aircraft or any other conveyance used to transport or conceal a controlled substance.

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**21 U.S.C. 844a**

Civil fine up to \$10,000.

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**21 U.S.C. 862**

Denial of Federal benefits, such as student loans, grants, contracts, and professional and commercial licenses, up to one year for first offense, up to five years for second and subsequent offenses.

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**8 U.S.C. 922(g)**

Ineligible to receive, purchase or transport a firearm.

Revocation of certain Federal licenses and benefits, e.g. pilot licenses, public housing tenancy, etc. are vested within the authorities of individual Federal agencies.

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**Federal Penalties for Illegal Trafficking of Controlled Substances**

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The Controlled Substances Act (CSA), Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, is a consolidation of numerous federal laws regulating the manufacture and distribution of controlled substances.

For additional details about federal illicit drug laws, visit the following websites:

### **U.S. Drug Enforcement Agency**

[www.dea.gov](http://www.dea.gov)

### **Controlled Substances Act**

[www.justice.gov/dea/pubs/csa.html](http://www.justice.gov/dea/pubs/csa.html)

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### **New York State Penalties**

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New York State also provides sanctions for unlawful possession or distribution of illicit drugs. See <http://www.courts.state.ny.us/cji/2-PenalLaw/220/art220hp.htm> for details about NY State penalties.

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### **Federal Drug Free Workplace Act of 1988**

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Following the adoption of the Federal Drug Free Workplace Act of 1988, Cooper Union announced these policies for all employees:

Cooper Union intends to maintain a drug-free workplace. Drug or alcohol abuse in the workplace can result in serious mental and or physical harm to self and others, may be a violation of criminal laws and can impede or destroy the atmosphere of collegiality that is essential to the effective administering of the academic environment.

In compliance with the Drug Free Workplace Act of 1988, all members of the Cooper Union community are hereby notified that they are required to abide by all federal, state, and city laws and regulations concerning the sale or use of illegal drugs. The abuse of alcohol or other drugs on premises, or illegal manufacture, distribution, possession, or sale of any such controlled substance at Cooper Union is strictly prohibited.

Any employee found in violation of the prohibition will be subject to disciplinary action, including the possibility of immediate suspension or dismissal without reference and the jurisdiction of any applicable law enforcement agencies.

Any employee whose work performance is impaired by the use of drugs or alcohol will be considered a threat to the safety and well-being of him or herself and others and will be subject to immediate disciplinary action.

Cooper Union will make every effort to assist such an employee in locating and enrolling in an alcohol or drug abuse rehabilitation program. The successful continuation or completion of such a program may be a consideration in the severity of any other disciplinary actions the Cooper Union might pursue.

Any employee seeking assistance in finding drug or alcohol abuse counseling or rehabilitation may consult with his or her office administrator or designee. Such a consultation will be held in complete and strict confidence, except as necessary for the administrator or designee to direct the employee to a proper source for further assistance.

As a condition of employment, employees must abide by these policies, and if convicted of violating any criminal drug law must notify the Cooper Union within five days of the date of conviction.

**Educational, Preventative,  
and Referral Sources**

Students with concerns about drugs and alcohol should contact Student Services at 212.353.4130. In New York City, these organizations also offer help:

**Hotlines**

|                                                                                                                                                        |                              |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| Beth Israel Hospital Substance Abuse Information Center                                                                                                | 212.420.2000<br>212.247.7180 |
| U.S. Department of Health & Human Services Substance Abuse & Mental Health Service Administration (National Drug & Alcohol treatment Referral service) | 800.662.HELP                 |
| Gay Men's Health Crisis                                                                                                                                | 212.367.1000<br>800.243.7692 |

**Meeting Information**

|                                                  |              |
|--------------------------------------------------|--------------|
| Alcoholics Anonymous                             | 212.647.1680 |
| Al-Anon Family Groups                            | 212.941.0094 |
| National Council on Alcoholism & Drug Dependence | 212.269.7797 |

**Missing Persons Notification**

In its recent reauthorization of the Higher Education Act, Congress mandated that colleges establish a missing student notification policy for students who reside in campus housing. Federal law states that if you are under 18 and if you have been deemed missing more than 24 hours, Cooper Union must notify your custodial parent or legal guardian. If you are over 18, you have the option of identifying an individual to be contacted no later than 24 hours after you are deemed to be missing.

Cooper Union defines the term “missing student” as any resident of 29 Third Avenue, who has not been seen by roommates or classmates, for a reasonable length of time, and whose absence has been brought to the attention of a member of the Residence Life Staff. The Residence Life staff will follow the procedure described below once it has been advised that a student is missing, with no reasonable explanation for his/her absence. Ordinarily, the procedure will be initiated after at least a 24-hour period has elapsed after a normal or scheduled event for which the student's presence had been expected. However, the College may waive the 24-hour period if circumstances warrant.

**Procedure**

1. The Residence Life Staff member will immediately notify the Dean of Students, or his/her designee, of the report. The Residence Life Staff shall investigate by, among other things: (i) accessing the data compiled by the palm scanner to see when the resident last entered the building; (ii) making inquiries of

roommates/suitemates, residents living on the same floor and any other known associates of the suspected missing resident. Should these efforts fail to resolve the situation, the Dean of Students will review the student's academic schedule and ascertain whether the student is attending classes.

2. If these efforts fail to resolve the situation, the Dean of Students or his or her designee will promptly (but no later than 24 hours after the initial report) contact the missing student's Designated Contact. If the missing student is under 18 years of age, the student's custodial parent or guardian shall be contacted at this time. The Designated Contact and/or parent/guardian will be apprised of the situation and asked whether they have any knowledge of the missing student's whereabouts.

3. If these efforts meet with negative results, the Dean of Students or his/her designee, will promptly (but no later than 24 hours after the initial report) contact the New York City Police Department who will initiate an investigation and search based on their departmental policy and procedures. The New York City Police Department will be contacted regardless of whether the missing student has named a Designated Contact.

(The form designating a contact person is mailed to dormitory residents with their housing contracts.)

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## Domestic Violence

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Domestic violence is a pattern of coercion that can include physical, psychological, emotional, or sexual abuse perpetrated by one person against someone who lives with him or her with the goal of establishing power and control over the victim. Domestic violence can occur between parent and child, spouses, domestic partners, roommates, siblings, relatives in a shared household, step parents and step children. It is not uncommon for domestic violence to occur when one person is economically dependent on the other.

## Rape and Sexual Violence, Relationship Violence, and Stalking

Sexual violence, relationship violence, and stalking in any form, including sexual assault and rape, is prohibited by The Cooper Union. Sexual violence includes a range of behaviors in which an act of sexual nature is taken against another person without his or her consent or when he or she is unable to consent.

Consent is defined as: an affirmative decision to engage in mutually agreed upon sexual activity and is given by clear words or actions. Consent may not be inferred from silence, passivity, or lack of resistance alone. Furthermore, consent to one form of sexual activity does not imply consent to other forms of sexual activity, and the existence of a current or previous dating, marital, or sexual relationship is not sufficient to constitute consent to additional sexual activity. Assent shall not constitute consent if it is given by a person who because of youth, disability, intoxication or other condition is unable to lawfully give his or her consent.

Normally, a student's first line of defense against domestic violence is to report the episode or episodes to their local police precinct and seek a restraining order. Once a restraining order is in place, Cooper Union can assist the student in summoning the police if the perpetrator is lurking in the vicinity of Cooper Union. If the act of domestic violence is perpetrated by one student on another, the victim should also file a complaint with the Student Judicial Committee, Office of Student Services, 3rd floor, 29 Third Avenue, NY NY 10003 (telephone: 212.353.4130). Redress may also be available through anti-discrimination procedures administered by the Office of the Vice President for Finance and Administration, 7th floor, 30 Cooper Square, NY NY 10003 (212.353.4150).

New York State maintains an excellent website showing the various areas of state law that can be applied in domestic violence cases and state wide resources: <http://www.opdv.state.ny.us/index.html>

Neighborhood services for victims of domestic violence are included below:

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**Domestic Violence Counseling Options**

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If you are the victim of domestic violence, these shelters may provide help.

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Henry Street Settlement  
Urban Family Center  
212.475.6400

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New York Asian Women's Center  
32 Broadway, 10th floor, New York, NY 10004  
888.888.7702

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NYC Gay & Lesbian Anti-Violence Project  
240 W 35 St. #200, New York, NY 10001-2515  
212.714.1141

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Safe Horizons Crisis Center  
2 Lafayette Street, #3, New York, NY 10007  
800.621.4673

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Sanctuary for Families  
PO Box 1406, Wall Street Station, New York, NY 10268  
212.349.6009

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STEPS to End Family Violence  
1968 Second Ave., 2nd floor, New York, NY 10029  
646.315.7600

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Urban Women's Retreat  
75 Broad Street, Suite 505, New York, NY 10004  
888.279.2211 or 888.252.2890

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## **Sexual Assault**

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Sexual assault is one of the most prevalent categories of serious crime on college campuses.

New York State Penal Law lists numerous offenses that would fit into the category of sexual assault. (See pages 35–47.) Sexual assaults, including rape, are acts of violence and can happen to anyone regardless of age, sex, race, manner, or dress. Those who commit sexual assaults are subject to criminal prosecution. Students who commit sexual assaults are also subject to Cooper Union disciplinary proceedings.

On college campuses, sexual assaults often occur when one or both parties has been consuming drugs or alcohol. These so-called “date rapes” or “acquaintance rapes” are still crimes and are handled in court in the same manner as a sexual assault or rape by a stranger. In New York State, having sexual relations with someone who is unable to give full and free consent is a crime. Recently, there have been reports on other college campuses that the drug rohypnol (roofies) and gamma hydroxybutyrate (GBH) have been used to facilitate sexual assault.

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## **Sexual Assault Prevention Programs**

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All incoming Cooper Union students are given basic safety information that includes information on preventing sexual assault.

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## **Procedures to Follow if A Sex Offense Occurs**

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Survivors of a sexual assault or rape should immediately seek medical help by proceeding immediately to the nearest hospital emergency room. The nearest emergency rooms to Cooper Union are at Beth Israel Medical Center (First Avenue and 16th Street, 212.420.2840) and at Bellevue Hospital (First Avenue and 27th Street, 212.562.4347). To gain assistance in getting to an emergency room, a survivor can call 911 or notify Cooper Union’s security guards or the Dean of Students’ office. The medical examination can include a pelvic or rectal exam, screening for sexually transmitted diseases, and/or pregnancy prevention. Medical information about the assailant is also collected, but this in no way obligates the survivor to press charges or file complaints.

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## **Information on Notifying Proper Law Enforcement Authorities**

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If the survivor of a sexual assault desires to pursue a criminal complaint, the staff of the hospital emergency room will summon the police. Members of the Office of Student Services are also available to assist students who are the survivors of such an assault. The survivor has the option of waiting and filing a complaint with the police later.

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## **Counseling Services**

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Services for survivors of sexual assaults are available through the Office of Student Affairs (or directly through Nicole Struensee, LCSW at 646.734.6440 or [nstruensee@earthlink.net](mailto:nstruensee@earthlink.net)) or through one of the following local services:

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**Crime Victims Treatment Center**

St. Luke's Roosevelt Hospital  
432 West 58th Street, Suite 114  
New York, NY 10019  
212.523.9058

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**Sexual Assault Response Team SAFE Center**

Bellevue Hospital Center  
462 First Avenue, CD Building, Ground Floor #GA74  
New York, NY 10016  
212.562.3755 or 212.562.3435  
carla.brekke@bellevue.nychhc.org

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**Dove Program**

Presbyterian Hospital  
622 West 168th Street  
212.305.9060

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**Safe Horizon Crisis Center**

2 Lafayette Street #3, New York, NY 10003  
800.621.4673

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**New York County District Attorney's Office**

1 Hogan Place, Room 231, New York, NY 10013  
212.335.9040—Social Services  
212.335.9633—Counseling

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**Change in Academic and Living Situations**

If a student needs help in changing her or his academic or living situation in the aftermath of a sexual assault, the Dean of Students should be contacted for assistance.

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**Procedures for Campus Disciplinary Actions**

To institute a disciplinary proceeding against a student, the complainant should inform Cooper Union's Title IX Coordinator, Mitchell Lipton, Vice President of Enrollment Services and Dean of Admissions. He may be reached at 212.353.4126.

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**Possible Sanctions by the Student-Faculty Judicial Committee**

Students who commit sexual assaults are subject to Cooper Union disciplinary proceedings under its Policy and Procedure Relating to Misconduct Based Upon Sex, Including Sexual Assault and Sexual Harassment, which can be found at <http://www.cooper.edu/about/policies/sexual-misconduct> and may be warned, reprimanded, suspended or dismissed from the institution.

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**Sexual Offense in NYS Penal Law**

**Article 130-Sex Offenses**

- 130.00 Sex offenses; definitions of terms.
- 130.05 Sex offenses; lack of consent.
- 130.10 Sex offenses; limitations; defenses.
- 130.16 Sex offenses; corroboration.
- 130.20 Sexual misconduct.
- 130.25 Rape in the third degree.
- 130.30 Rape in the second degree.
- 130.35 Rape in the first degree.
- 130.40 Criminal sexual at in the third degree.
- 130.45 Criminal sexual act in the second degree.
- 130.50 Criminal sexual act in the first degree.
- 130.52 Forcible touching.
- 130.53 Persistent sexual abuse.
- 130.55 Sexual abuse in the third degree.
- 130.60 Sexual abuse in the second degree.
- 130.65 Sexual abuse in the first degree.
- 130.65a Aggravated sexual abuse in the fourth degree.
- 130.66 Aggravated sexual abuse in the third degree.
- 130.67 Aggravated Sexual Abuse in the second degree.

130.70 Aggravated sexual abuse in the first degree.

130.75 Course of sexual conduct against a child in the first degree.

130.80 Course of sexual conduct against a child in the second degree.

130.85 Female genital mutilation.

130.90 Facilitating a sex offense with a controlled substance.

130.91 Sexually motivated felony.

130.92 Sentencing.

130.95. Predatory sexual assault

130.96. Predatory sexual assault against a child

4. For the purposes of the article “married” means the existence of the relationship between the actor and the victim as spouses which is recognized by law at the time the actor commits an offense proscribed by this article by against the victim. (Eff. 11/1/03, Ch.264, L.2003)

5. “Mentally disabled” means that a person suffers from a mental disease or defect which renders him/her incapable of appraising the nature of his or her conduct.

6. “Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his/her conduct owing to the influence of a narcotic or intoxicating substance administered to him/her without his/her consent, or to any other act committed upon him/her without his consent.

7. “Physically helpless” means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

8. “Forcible compulsion” means to compel by either:  
(a) use of physical force; or  
(b) a threat, expressed or implied, which places a person in fear of immediate death or physical injury to himself, herself or another person, or in fear that he, she, or another person will immediately be kidnapped.

9. “Foreign object” means any instrument or article which, when inserted in the vagina, urethra, penis, or rectum, is capable of causing physical injury.

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### **130.00 Sex Offenses; Definitions of Terms**

The following definitions are applicable to this article:

1. “Sexual intercourse” has its ordinary meaning and occurs upon any penetration, however slight.

2. (a) “Oral sexual conduct” means conduct between persons consisting of contact between the mouth and penis, or the mouth and the anus, or the mouth and the vulva or vagina.

(b) “Anal sexual conduct” means conduct between persons consisting of contact between the penis and anus. (Eff. 11/1/03, Ch.264, L.2003)

3. “Sexual contact” means any touching of the sexual or other intimate parts of a person not married to the actor for the purpose of gratifying sexual desire of either party. It includes the touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothing.

10. "Sexual conduct" means sexual intercourse, oral sexual conduct, anal sexual conduct, aggravated sexual contact, or sexual contact. (Eff. 11/1/03, Ch.264, L.2003)

11. "Aggravated sexual contact" means inserting, other than for a valid medical purpose, a foreign object in the vagina, urethra, penis or rectum of a child, thereby causing physical injury to such a child.

12. "Health care provider" means any person who is, or is required to be, licensed or registered or holds himself or herself out to be licensed or registered, or provides services as if he or she were licensed or registered in the profession of medicine, chiropractic, dentistry or podiatry under any of the following: article 131, 132, 133, 141 of the education law.

13. "Mental health care provider" shall mean a licensed physician, licensed psychologist, registered professional nurse, licensed clinical social worker or a licensed master social worker under the supervision of a physician, psychologist or licensed clinical social worker.

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**130.05 Sex Offenses; Lack of Consent**

1. Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without the consent of the victim.

2. Lack of consent results from:

- (a) Forcible compulsion; or
- (b) Incapacity to consent; or
- (c) Where the offense charged is sexual abuse or forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct, or
- (d) Where the offense charged is rape in the third degree as defined in subdivision three of section 130.25, or criminal sexual act in the third degree as defined in subdivision three of section 130.40, in addition to forcible compulsion, circumstances under which, at the time of the act of intercourse or deviate sexual intercourse, the victim clearly expressed that he or, she did not consent to engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such act under all the circumstances. (Eff. 11/1/03, Ch.264, L.2003)

3. A person is deemed incapable of consent when he is:

- (a) less than seventeen years old; or
- (b) mentally defective; or
- (c) mentally incapacitated; or
- (d) physically helpless; or
- (e) committed to the care and custody of the state department of correctional

services or a hospital, as a term is defined in subdivision two of section 400 of the correction law, and the actor is an “employee,” not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such department or hospital. For purposes of this paragraph, “employee” means

- (i) an employee of the state department of corrections and community supervision who, as part of his or her employment, performs duties: (A) in a state correctional facility in which the victim is confined at the time of the offense consisting of providing custody, medical or mental health services, counseling services, educational programs, vocational training, institutional parole services or direct supervision to inmates; or (B) of supervising persons released on community supervision and supervises the victim at the time of the offense or has supervised the victim and the victim is still under community supervision at the time of the offense; or
- (ii) an employee of the office of mental health who, as part of his or her employment, performs duties in a state correctional facility or hospital, as such term is defined in subdivision two of section four hundred of the correction law in which the inmate is confined at the time of the offense, consisting of providing custody, medical or mental health services, or direct supervision to such inmates; or
- (iii) a person, including a volunteer, providing direct services to inmates in a state correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the state department of corrections and community supervision

or, in the case of a volunteer, a written agreement with such department, provided that the person received written notice concerning the provisions of this paragraph; or

- (f) committed to the care and custody of a local correctional facility, as such term is defined in subdivision two of section 40 of the correction law, and the actor is an employee, not married to such person who knows, or reasonably should know that such person is committed to the care and custody of such facility. For purposes of this paragraph, “employee” means an employee of the local correctional facility where the person is committed who performs professional duties consisting of providing custody, medical or mental health services, counseling services, educational services, or vocational training for inmates; or
- (g) committed to or placed with the office of children and family services and in residential care, and the actor is an employee, not married to such person who knows or reasonably should know that such person is committed to or placed with such office of children and family services and in residential care. For purposes of this paragraph, “employee” means an employee of the office of children and family services or of a residential facility who performs duties consisting of providing custody, medical or mental health services, counseling services, educational services, or vocational training for persons committed to or placed with the office of children and family services and in residential care; or
- (h) a client or patient and the actor is a health care provider or mental health care provider charged with rape in the

third degree as defined in section 130.25, criminal sexual act in the third degree as defined in section 130.40, aggravated sexual abuse in the fourth degree as defined in section 130.65-a, or sexual abuse in the third degree as defined in section 130.55, and the act of sexual conduct occurs during a treatment session, consultation, interview or examination.

i) a resident or inpatient of a residential facility operated, licensed or certified by (i) the office of mental health; (ii) the office for people with developmental disabilities; or (iii) the office of alcoholism and substance abuse services, and the actor is an employee of the facility not married to such resident or inpatient. For purposes of this paragraph, “employee” means either: an employee of the agency operating the residential facility, who knows or reasonably should know that such person is a resident or inpatient of such facility and who provides direct care services, case management services, medical or other clinical services, habilitative services or direct supervision of the residents in the facility in which the resident resides; or an officer or other employee, consultant, contractor or volunteer of the residential facility, who knows or reasonably should know that the person is a resident of such facility and who is in direct contact with residents or inpatients; provided, however, that the provisions of this paragraph shall only apply to a consultant, contractor or volunteer providing services pursuant to a contractual arrangement with the agency operating the residential facility or, in the case of a volunteer, a written agreement with such facility, provided that the person received written notice concerning the provisions of this paragraph; provided further,

however, “employee” shall not include a person with a developmental disability who is or was receiving services and is also an employee of a service provider and who has sexual contact with another service recipient who is a consenting adult who has consented to such contact.

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**130.10 Sex Offenses; Limitation; Defense**

1. In any prosecution under this article in which the victim’s lack of consent is based solely upon his incapacity to consent because he was mentally defective, mentally incapacitated or physically helpless, it is an affirmative defense that the defendant, at the time he engaged in the conduct constituting the offense, did not know of the facts or conditions responsible for such incapacity to consent.

2. Conduct performed for a valid medical or mental health care purposes shall not constitute a violation of any section of this article in which incapacity to consent is based on the circumstances set forth in paragraph (h) of subdivision three of section 130.05 of this article.

3. In any prosecution for the crime of rape in the third degree as defined in section 130.25, criminal sexual act in the third degree as defined in section 130.40, aggravated sexual abuse in the fourth degree as defined in section 130.65-a, or sexual abuse in the third degree as defined in section 130.55 in which incapacity to consent is based on the circumstances set forth in paragraph (h) of subdivision three of section 130.05 of this article it shall be an affirmative defense that

the client or patient consented to such conduct charged after having been expressly advised by the health care or mental health care provider that such conduct was not performed for a valid medical purpose. (Eff. 11/1/03. VCh.264, L.2003)

4. In any prosecution under this article in which the victim's lack of consent is based solely on his or her incapacity to consent because, he or she was less than seventeen years old, mentally disabled, or a client or patient and the actor is a health care provider, it shall be a defense that the defendant was married to the victim as defined in subdivision four of section 130.00 of this article. (Eff. 11/1/03. VCh.264, L.2003)

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### **130.16 Sex Offenses; Corroboration**

A person shall not be convicted of any offense defined in this article of which lack of consent is an element but results solely from incapacity to consent because of the victim's mental defect, or mental incapacity, or an attempt to commit the same, solely on the testimony of the victim, unsupported by other evidence tending to:

- (a) Establish that an attempt was made to engage the victim in sexual intercourse, oral sexual conduct, anal sexual conduct, or sexual contact, as the case may be, at the time of the occurrence; and (Eff. 11/1/03. VCh.264, L.2003)
- (b) Connect the defendant with the commission of the offense or attempted offense.

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### **130.20 Sexual Misconduct**

A person is guilty of sexual misconduct when:

- 1. He or she engages in sexual intercourse with another without such person's consent; or
- 2. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent; or (Eff. 11/1/03. VCh.264, L.2003)
- 3. He or she engages in sexual conduct with an animal or a dead human body.

Sexual misconduct is a class A misdemeanor.

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### **130.25 Rape in the Third Degree**

A person is guilty of rape in the third degree when:

- 1. He or she engages in sexual intercourse with another person who is incapable of consent by reason of some factor other than being seventeen years old; or
- 2. Being twenty-one years old or more, he or she engages in sexual intercourse with another person less than seventeen years old; or
- 3. He or she engages in sexual intercourse with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.

Rape in the third degree is a class E felony.

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**130.30 Rape in the Second Degree**

A person is guilty of rape in the second degree when:

1. being eighteen years old or more, he or she engages in sexual intercourse with another person less than fifteen years old; or
2. he or she engages in sexual intercourse with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated.

It shall be an affirmative defense to the crime of rape in the second degree as defined in subdivision one of this section that the defendant was less than four years older than the victim at the time of the act.

Rape in the second degree is a class D felony.

---

**130.35 Rape in the First Degree**

A person is guilty of rape in the first degree when he or she engages in sexual intercourse with another person:

1. By forcible compulsion; or
2. Who is incapable of consent by reason of being physically helpless; or
3. Who is less than eleven years old; or
4. Who is less than thirteen years old and the actor is eighteen years old or more.

Rape in the first degree is a class B felony.

---

**130.40 Criminal Sexual Act in the Third Degree**

A person is guilty of criminal sexual act in the third degree when:

1. He or she engages in oral sexual conduct or anal sexual conduct with a person who is incapable of consent by reason of some factor other than being less than seventeen years old; or
2. Being twenty-one years old or more, he or she engages in oral sexual conduct or anal sexual conduct with a person less than seventeen years old; or
3. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent. (Eff. 11/1/03. VCh.264, L.2003)

Criminal sexual act in the third degree is a class E felony.

---

**130.45 Criminal Sexual Act in the Second Degree**

A person is guilty of criminal sexual act in the second degree when:

1. Being eighteen years old or more, he engages in oral sexual conduct or anal sexual conduct with another person less than fifteen years old; or
2. He or she engages in oral sexual conduct or anal sexual conduct with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated.

It shall be an affirmative defense to the crime of criminal sexual act in the second degree as defined in subdivision one of this section that the defendant was less than

four years older than the victim at the time of the act.

Criminal sexual act in the second degree is a class D felony.

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### **130.50 Criminal Sexual Act in the First Degree**

A person is guilty of criminal sexual act in the first degree when he engages in oral sexual conduct or anal sexual conduct with another person:

1. By forcible compulsion; or
2. Who is incapable of consent by reason of being physically helpless; or
3. Who is less than eleven years old; or
4. Who is less than thirteen years old and the actor is eighteen years old or more.

Criminal sexual act in the first degree is a class B felony.

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### **130.52 Forcible Touching**

A person is guilty of forcible touching when such person intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person; or for the purpose of gratifying the actor's sexual desire.

For purposes of this section, forcible touching includes squeezing, grabbing or pinching.

Forcible touching is a class A misdemeanor.

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### **130.53 Persistent Sexual Abuse**

A person is guilty of persistent sexual abuse when he or she commits the crime of forcible touching, as defined in section 130.52 of this article, sexual abuse in the third degree, as defined in section 130.55 of this article, or sexual abuse in the second degree, as defined in section 130.60 of this article, and, within the previous ten year period, has been convicted two or more times, in separate criminal transactions for which sentence was imposed on separate occasions, of forcible touching, as defined in section 130.52 of this article, sexual abuse in the third degree as defined in section 130.55 of this article, sexual abuse in the second degree, as defined in section 130.60 of this article, or any offense defined in this article, of which the commission or attempted commission thereof is a felony.

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### **130.55 Sexual Abuse in the Third Degree**

A person is guilty of sexual abuse in the third degree when he or she subjects another person to sexual contact without the latter's consent; except that in any prosecution under this section, it is an affirmative defense that (a) such other person's lack of consent was due solely to incapacity to consent by reason of being less than seventeen years old, and (b) such other person was more than fourteen years old, and (c) the defendant was less than five years older than such other person.

Sexual abuse in the third degree is a class B misdemeanor.

---

**130.60 Sexual Abuse in the Second Degree**

A person is guilty of sexual abuse in the second degree when he or she subjects another person to sexual contact when such other person is:

1. Incapable of consent by reason of some factor other than being less than seventeen years old; or
2. Less than fourteen years old.

Sexual abuse in the second degree is a class A misdemeanor.

---

**130.65 Sexual Abuse in the First Degree**

A person is guilty of sexual abuse in the first degree when he or she subjects another person to sexual contact:

1. By forcible compulsion; or
2. When the other person is incapable of consent by reason of being physically helpless; or
3. When the other person is less than eleven years old.
4. When the other person is less than thirteen years old and the actor is twenty-one years old or older.

Sexual abuse in the first degree is a class D felony.

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**130.65-a Aggravated Sexual Abuse in the Fourth Degree**

1. A person is guilty of aggravated sexual abuse in the fourth degree when:
  - (a) He or she inserts a foreign object in the vagina, urethra, penis, or anus of another person and the other person is incapable of consent by reason of some factor other than being less than seventeen years old; or

(b) He or she inserts a finger in the vagina, urethra, penis, or anus of another person causing physical injury to such person and such person is incapable of consent by reason of some factor other than being less than seventeen years old

2. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the fourth degree is a class E felony.

---

**130.66 Aggravated Sexual Abuse in the Third Degree**

1. A person is guilty of aggravated sexual abuse in the second degree when he inserts a foreign object in the vagina, urethra, penis, or anus of another person causing physical injury to such person:

- (a) By forcible compulsion; or
- (b) When the other person is incapable of consent by reason of being physically helpless; or
- (c) When the other person is less than eleven years old.

2. A person is guilty of aggravated sexual abuse in the third degree when he or she inserts a foreign object in the vagina, urethra, penis, or anus of another person causing physical injury to such person and such person is incapable of consent by reason of being mentally disabled or mentally incapacitated.

3. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the third degree is a class D felony.

---

**130.67 Aggravated Sexual Abuse  
in the Second Degree**

1. A person is guilty of aggravated sexual abuse in the second degree when he inserts a finger in the vagina, urethra, penis, or rectum of another person causing physical injury to such person:
    - (a) By forcible compulsion; or
    - (b) When the other person is incapable of consent by reason of being physically helpless; or
    - (c) When the other person is less than eleven years old.
  2. Conduct performed for a valid medical purpose does not violate the provisions of this section.
- Aggravated sexual abuse in the second degree is a class C felony.

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**130.70 Aggravated Sexual Abuse  
in the First Degree**

1. A person is guilty of aggravated sexual abuse in the first degree when he inserts a foreign object in the vagina, urethra, penis, or rectum of another person causing physical injury to such person:
    - (a) By forcible compulsion; or
    - (b) When the other person is incapable of consent by reason of being physically helpless; or
    - (c) When the other person is less than eleven years old.
  2. Conduct performed for a valid medical purpose does not violate the provisions of this section.
- Aggravated sexual abuse in the first degree is a class B felony.

---

**130.75 Course of Sexual Conduct Against  
a Child in the First Degree**

1. A person is guilty of course of sexual conduct against a child in the first degree when, over a period of time not less than three months in duration:
    - (a) he or she engages in two or more acts of sexual conduct, which includes at least one act of sexual intercourse, oral sexual conduct, anal sexual conduct or aggravated sexual contact, with a child less than eleven years old; or
    - (b) he or she, being eighteen years old or more, engages in two or more acts of sexual conduct, which include at least one act of sexual intercourse, oral sexual conduct, anal sexual conduct or aggravated sexual contact, with a child less than thirteen years old.
  2. A person may not be subsequently prosecuted for any reason other sexual offense involving the same victim unless the other charged offense occurred outside the time period charged under this section.
- Course of sexual conduct against a child in the first degree is a class B felony.

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**130.80 Course of Sexual Conduct Against  
a Child in the Second Degree**

1. A person is guilty of course of sexual conduct against a child in the second degree when, over a period of time not less than three months in duration:
  - (a) he or she engages in two or more acts of sexual conduct with a child less than eleven years old; or
  - (b) he or she, being eighteen years old or more, engages in two or more acts of sexual conduct with a child less than thirteen years old.

2. A person may not be subsequently prosecuted for any reason other sexual offense involving the same victim unless the other charged offense occurred outside the time period charged under this section.

Course of sexual conduct against a child in the second degree is a class D felony.

---

**130.85 Female Genital Mutilation**

1. A person is guilty of female genital mutilation when:

(a) a person knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not reached eighteen years of age; or  
(b) being a parent, guardian or other person legally responsible and charged with the care or custody of a child less than eighteen years old, he or she knowingly consents to the circumcision, excision or infibulation of whole or part of such child's labia majora or labia minora or clitoris.

2. Such circumcision, excision, or infibulation is not a violation of this section if such act is:

(a) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or  
(b) performed on a person in labor who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife or person in training to become such a practitioner or midwife.

3. For the purposes of paragraph (a) of subdivision two of this section, no account shall be taken of the effect on the person on whom such procedure is to be performed of any belief on the part of that or any other person that such procedure is required as a matter of custom or ritual.

Female genital mutilation is a class E felony.

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**130.90 Facilitating a Sex Offense with a Controlled Substance**

A person is guilty of facilitating a sex offense with a controlled substance when he or she:

1. knowingly and unlawfully possesses a controlled substance or any preparation, compound, mixture or substance that requires a prescription to obtain and administers such substance or preparation, compound, mixture or substance that requires a prescription to obtain to another person without such person's consent and with intent to commit against such person conduct constituting a felony defined in this article; and

2. commits or attempts to commit such conduct constituting a felony defined in this article.

Facilitating a sex offense with a controlled substance is a class D felony.

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### **130.91 Sexually Motivated Felony**

1. A person commits a sexually motivated felony when he or she commits a specified offense for the purpose, in whole or substantial part, of his or her own direct sexual gratification.

2. A “specified offense” is a felony offense defined by any of the following provisions of this chapter: assault in the second degree as defined in section 120.05, assault in the first degree as defined in section 120.10, gang assault in the second degree as defined in section 120.06, gang assault in the first degree as defined in section 120.07, stalking in the first degree as defined in section 120.60, manslaughter in the second degree as defined in subdivision one of section 125.15, manslaughter in the first degree as defined in section 125.20, murder in the second degree as defined in section 125.25, aggravated murder as defined in section 125.26, murder in the first degree as defined in section 125.27, kidnapping in the second degree as defined in section 135.20, kidnapping in the first degree as defined in section 135.25, burglary in the third degree as defined in section 140.20, burglary in the second degree as defined in section 140.25, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, arson in the first degree as defined in section 150.20, robbery in the third degree as defined in section 160.05, robbery in the second degree as defined in section 160.10, robbery in the first degree as defined in section 160.15, promoting prostitution in the second degree as defined in section 230.30, promoting prostitution in the first degree as defined in section 230.32, compelling prostitution

as defined in section 230.33, disseminating indecent material to minors in the first degree as defined in section 235.22, use of a child in a sexual performance as defined in section 263.05, promoting an obscene sexual performance by a child as defined in section 263.10, promoting a sexual performance by a child as defined in section 263.15, or any felony attempt or conspiracy to commit any of the foregoing offenses.

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### **130.92 Sentencing**

1. When a person is convicted of a sexually motivated felony pursuant to this article, and the specified felony is a violent felony offense, as defined in section 70.02 of this chapter, the sexually motivated felony shall be deemed a violent felony offense.

2. When a person is convicted of a sexually motivated felony pursuant to this article, the sexually motivated felony shall be deemed to be the same offense level as the specified offense the defendant committed.

3. Persons convicted of a sexually motivated felony as defined in section 130.91 of this article, must be sentenced in accordance with the provisions of section 70.80 of this chapter.

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### **130.95. Predatory Sexual Assault**

A person is guilty of predatory sexual assault when he or she commits the crime of rape in the first degree, criminal sexual act in the first degree, aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, and when:

1. In the course of the commission of the crime or the immediate flight therefrom, he or she:

- (a) Causes serious physical injury to the victim of such crime; or
- (b) Uses or threatens the immediate use of a dangerous instrument; or

2. He or she has engaged in conduct constituting the crime of rape in the first degree, criminal sexual act in the first degree, aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, against one or more additional persons; or

3. He or she has previously been subjected to a conviction for a felony defined in this article, incest as defined in section 255.25 of this chapter or use of a child in a sexual performance as defined in section 263.05 of this chapter.

Predatory sexual assault is a class A-II felony.

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**130.96. Predatory Sexual Assault Against a Child**

A person is guilty of predatory sexual assault against a child when, being eighteen years old or more, he or she commits the crime of rape in the first degree, criminal sexual act in the first degree, aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, and the victim is less than thirteen years old.

Predatory sexual assault against a child is a class A-II felony. (Eff. 6/23/06, Ch. 107, L. 2006)

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**NY State Sex Offender Registry**

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New York State keeps a list of registered sex offenders at: [http://www.criminaljustice.state.ny.us/nsor/search\\_index.htm](http://www.criminaljustice.state.ny.us/nsor/search_index.htm)

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**Penalties for Violations of  
New York State Law—Sex Offenses**

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Sex offenses which are committed in violation of the New York State Penal Law are subject to the following penalties:

- Class A misdemeanor—fine of up to \$1,000 and/or imprisonment up to one year.
- Class B misdemeanor—fine of up to \$500 and/or imprisonment up to three months.
- Class E felony—fine of up to \$5,000 and/or imprisonment up to four years.
- Class D felony—fine of up to \$5,000 and/or imprisonment up to seven years.
- Class C felony—fine of up to \$5,000 and/or imprisonment up to 15 years.
- Class B felony—fine of up to \$5,000 and/or imprisonment up to 25 years.

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**Stalking**

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**Penal Code § 120.45.  
Stalking in the fourth degree.**

A person is guilty of stalking in the fourth degree when he or she intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct:

1. Is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or
2. causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or
3. is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

Stalking in the fourth degree is a class B misdemeanor

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**Penal Code § 120.50.**

**Stalking in the third degree.**

A person is guilty of stalking in the third degree when he or she:

1. Commits the crime of stalking in the fourth degree in violation of section 120.45 of this article against three or more persons, in three or more separate transactions, for which the actor has not been previously convicted; or

2. Commits the crime of stalking in the fourth degree in violation of section 120.45 of this article against any person, and has previously been convicted, within the preceding ten years of a specified predicate crime, as defined in subdivision five of section 120.40 of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or

3. With intent to harass, annoy or alarm a specific person, intentionally engages in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping, unlawful imprisonment or death of such person or a member of such person's immediate family; or

4. Commits the crime of stalking in the fourth degree and has previously been convicted within the preceding ten years of stalking in the fourth degree.

Stalking in the third degree is a class A misdemeanor.

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**Penal Code § 120.55.**

**Stalking in the second degree.**

A person is guilty of stalking in the second degree when he or she:

1. Commits the crime of stalking in the third degree as defined in subdivision three of section 120.50 of this article and in the course of and in furtherance of the commission of such offense: (i) displays,

or possesses and threatens the use of, a firearm, pistol, revolver, rifle, shotgun, machine gun, electronic dart gun, electronic stun gun, cane sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, slingshot, “Kung Fu Star”, dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, dangerous instrument, deadly instrument or deadly weapon; or (ii) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or

2. Commits the crime of stalking in the third degree in violation of subdivision three of section 120.50 of this article against any person, and has previously been convicted, within the preceding five years, of a specified predicate crime as defined in subdivision five of section 120.40 of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or

3. Commits the crime of stalking in the fourth degree and has previously been convicted of stalking in the third degree as defined in subdivision four of section 120.50 of this article against any person; or

4. Being twenty-one years of age or older, repeatedly follows a person under the age of fourteen or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place such person who is under the age of fourteen in reasonable

fear of physical injury, serious physical injury or death.

5. Commits the crime of stalking in the third degree, as defined in subdivision three of section 120.50 of this article, against ten or more persons, in ten or more separate transactions, for which the actor has not been previously convicted.

Stalking in the second degree is a class E felony.

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**Penal Code § 120.60.****Stalking in the first degree.**

A person is guilty of stalking in the first degree when he or she commits the crime of stalking in the third degree as defined in subdivision three of section 120.50 or stalking in the second degree as defined in section 120.55 of this article and, in the course and furtherance thereof, he or she:

1. intentionally or recklessly causes physical injury to the victim of such crime; or

2. commits a class A misdemeanor defined in article one hundred thirty of this chapter, or a class E felony defined in section 130.25, 130.40 or 130.85 of this chapter, or a class D felony defined in section 130.30 or 130.45 of this chapter.

Stalking in the first degree is a class D felony

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## Weapons Policy

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The Cooper Union prohibits the possession or use of weapons on campus by anyone except law-enforcement officials or those who have received prior written authorization from the Vice President for Finance & Administration or the Campus-wide Safety Coordinator. The term “weapons” includes, but is not limited to: firearms, ammunition, explosives, knives, swords, projectile weapons, and poisons. It further includes replica or facsimile weapons used in artistic performances and weapons used for athletic purposes (such as a foil). The term “possession” includes, but is not limited to, storage of a weapon in the dormitory, in lockers, desks, briefcases, laboratories, studios, or a weapon carried (notoriously or concealed) on the person. An object (e.g., a steel rod) that would otherwise not be considered a weapon may be considered as such if wielded against another.

Hazardous chemicals that are not approved for use in a laboratory or studio (or are approved for use, but are intentionally misused) may be classified as a weapon.

The Cooper Union Weapons Policy is in addition to, and may be more restrictive than, weapons regulations that may be imposed by Federal, State, and City law.

With respect to Cooper Union personnel (faculty, staff and student workers), possession of weapons on campus is subject to disciplinary action, up to and including termination of employment—consistent with any applicable employment manuals or union contracts. With respect to students, possession of weapons on campus or while attending or participating in

a Cooper Union-sponsored activity off campus is subject to disciplinary action up to and including dismissal, consistent with procedures in the Campus Safety, Security and Fire Report and Cooper Union’s Code of Conduct.

In the event that a written request to use a weapon for a special purpose is granted by the Vice President for Finance & Administration or the Campus-wide Safety Coordinator, written permission to use the weapon may come with limitations, such as where, when and how the weapon may be used, where the weapon is to be stored when not in use, or how the weapon may be rendered safe. Failure to comply with such limitations will result in permission being withdrawn and possible disciplinary action.

### **Reporting Concerns About Weapons, Violence, and Destruction of Property**

Cooper Union expects all members of the campus community to help maintain safety and security at the institution and at Cooper-sponsored activities off campus. All students, faculty, and staff who have knowledge of weapons on campus have an obligation to report that knowledge promptly to the Vice President for Finance & Administration or the Campus-wide Safety Coordinator. Persons concerned about an imminent threat of violence or about the imminent destruction of property have an obligation to report that concern immediately to local police via 911.

Effective as of July 1, 2012

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## The Code of Conduct

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**Preamble:** As an educational community, The Cooper Union affirms the freedom of its students to pursue their scholarly, artistic and intellectual interests. The Cooper Union has developed policies to safeguard this freedom and to maintain an environment conducive to academic endeavor. These rules are not intended to replace federal, state or municipal laws. All Cooper Union students are responsible for upholding such laws, and any violation of law may result in disciplinary action being taken by The Cooper Union.

In addition to the Standards of Conduct defined below, students are bound by the rules of their individual school or program, and any rules regarding the use of the facilities or equipment at The Cooper Union, including, but not limited to, classrooms, the library, the Great Hall, the Student Residence, the Computer Center, laboratories, shops, studios, and other facilities.

The Cooper Union has established separate policies, published elsewhere, to adjudicate claims of academic dishonesty, claims of misconduct based upon sex, including sexual assault and sexual harassment, and claims of discrimination or harassment against a protected class (e.g., race, sex, and disability).

The Cooper Union reserves the right to modify and/or amend this Code at any time it deems necessary and in accordance with applicable laws.

### Part One: Student Rights

Students have certain rights established by federal, state or local statutes or under institutional policy. Among these rights, but not limited to these alone, are:

- The freedom to engage in free discussion, inquiry and expression.
- The freedom of access to public records.
- The freedom of association.
- Freedom from assault.
- The right to express views on issues of institutional policy.
- Freedom of the press.
- Freedom from discrimination on the basis of age, race, religion, sex, color, disability, sexual orientation, ethnicity, national origin, or any other legally protected characteristic.
- Freedom from discriminatory or sexual harassment.
- Freedom from improper academic evaluation.

## **Part Two: Standards of Conduct for Students**

### **Category A**

The Cooper Union finds the following violations extremely serious and subject to the highest penalties:

1. Physical assaults resulting in injury.
2. The sale of drugs in a manner that violates federal or state law.
3. Possession of drugs, as defined as a felony, under state or federal law.
4. Undermining campus safety by setting off false fire alarms, discharging fire extinguishers, tampering with security systems, or ignoring the instructions of security guards or studio monitors.
5. Possessing or introducing dangerous weapons to campus in the manner prohibited in the Weapons Policy.
6. Violations of campus alcohol policy that result in injury or damage to property or undermine the safety and security of the campus community, including acts of hazing.
7. Acts of fraud. Some examples of these acts, but not limited to the following, are: misrepresentation, falsifying records or documents, assuming the identity of another person, or furnishing fraudulent information.
8. Acts of theft or vandalism (including graffiti) against the property of another student, guest, staff or faculty member or against the property of Cooper Union itself.

9. Reckless behavior involving the interior or exterior structures of campus buildings. Some examples of these acts, but not limited to the following, are climbing the grid of 41 Cooper Square, hanging over terrace balustrades, and accessing the roof of the Student Residence.

For these categories of violation, the sanction will ordinarily be suspension or dismissal. In some cases, the Presidential Right of Summary Suspension will be invoked.

### **Category B**

The purpose and ideals of The Cooper Union depend, for their full achievement, on respect, cooperation and integrity among members of the community. The Cooper Union has adopted the following rules of behavior in the interests of maintaining an orderly atmosphere.

1. At all reasonable times, a student shall comply with a request for identification from an employee or security guard of The Cooper Union.
2. Students will respect the building hours and will leave the premises at the appropriate time.
3. Students will cooperate with the staff supervising the facilities of The Cooper Union.
4. Except for actions protected under state or federal law or the institutional governances, a student may not willfully obstruct or disrupt any authorized activities on college premises or other Cooper Union activities, including its public service functions.

5. A student may not engage in libel or slander.
6. A student may not be involved in acts that cause physical or psychological harm.
7. A student may not consume, buy, sell, borrow, possess, lend or give as a gift any drug, narcotic, or alcoholic beverage in such a way that would be a violation of any local, state or federal law or the institutional alcohol policy.
8. When a student has a guest on campus, the appropriate guest procedures must be followed, and the student is responsible for the conduct of his or her guest and for any damages caused by that guest.
9. The use of the computer and network facilities is for the purpose of supporting the educational experience at The Cooper Union. Unauthorized or inappropriate use of these facilities is prohibited. Misuse may include, but is not limited to, damaging or altering records or programs; invading the privacy of other users by using or manipulating directories, files, programs or passwords; engaging in disruptive behavior; illegally duplicating or copyrighted or licensed software; using the facilities in support of a commercial concern or venture or any unauthorized use of network and/or computer hardware, software, accounts or passwords.
10. A student may not gamble for money or other valuables while on the campus of The Cooper Union.

11. A student may not threaten members of the Student Judicial Committee or attempt to tamper with witnesses to the Student Judicial Committee.

12. A student may not smoke within any Cooper Union building or within 25 feet of the entrance to any Cooper Union building.

**Category C: Other Complaints.**

The Student Judicial Committee may also consider complaints that are not delineated under Category A or Category B above, provided that the person against whom the complaint is made is notified in writing as to whether the proceeding will follow the rules of Category A or Category B, delineated below.

### **Part Three: Presidential Right of Summary Suspension.**

Subject to prompt review, the President of The Cooper Union may summarily suspend a student from the College when, in his or her best judgment, such immediate action is necessary for protecting the health and safety of the College and/or any member of the College community. The President will consult with the student's academic dean prior to such action, if time permits. Any person so suspended shall have all the rights as outlined in the Code of Conduct. Summary Suspensions must be reviewed by a Judicial Panel within seven regular business days of the suspension. Until and unless the accused is found to have violated the Standards of Conduct, his/her status as a member of the Cooper Union community shall not be altered. Any person so suspended shall have the right, if the suspension is not upheld, to excused absences from all classes and examinations during the suspension period.

### **Part Four: The Cooper Union Student Judicial Committee**

**4.1 Jurisdiction.** The Student Judicial Committee of the Joint Student Council shall have jurisdiction of all matters involving an alleged violation of the Standards of Conduct stated above.

**4.2 Membership.** Each student council shall elect two representatives and two alternates to the Student Judicial Committee and one representative and one alternate to the Judicial Appeals Committee. Student Judicial Committee members must be elected to the Joint Student Council with plurality and cannot be on probation for academic reasons or have been issued a sanction by the Student Judicial Committee. Judicial Panels shall ordinarily be chosen from members of the Student Judicial Committee; however, any member of the Joint Student Council eligible to serve on the Student Judicial Committee can serve on a Judicial Panel if necessary.

**4.3 General Rules.** Proceedings conducted by the Student Judicial Committee are completely independent of any civil or criminal proceeding and may occur simultaneously with such court action. The Student Judicial Committee is administrative, rather than criminal or civil, in nature. The standard of proof applied by the Student Judicial Committee shall be "preponderance of the evidence." Judicial Panels do not use technical rules of evidence. Committee members may take notice of any matter in the common experience of Cooper Union students.

Before calling a Judicial Panel, the Dean of Students shall review the list of eligible panelists for possible prejudice with the complainant and the person being accused. The Dean of Students shall notify the members of the Judicial Panel as to the time and date of the hearing. This does not preclude the Dean of Students from acting as witness, if necessary.

Representatives to the Student Judicial Committee may also serve as mediators in informal hearings.

All hearings shall be considered confidential except when applicable law mandates disclosure to the community; the complainant, however, shall have the right to be notified as to the result of the hearing.

Every student charged under the Code of Conduct shall be presumed not to have violated the Code of Conduct until the Judicial Panel arrives at its decision.

If, because of a disability, a student participating in the any stage of the hearings (or subsequent appeals process) in any capacity requires a modification to policies, practices, or procedures, and/or an auxiliary aid or service the student should submit such a request in writing to the Dean of Students at least five days prior to the scheduled start of the hearing so that the request can be appropriately assessed prior to the start of the hearing.

#### **4.4 Judicial Panels for Category A Violations.**

For a Category A offense, the Judicial Panel shall be a subcommittee of the Student Judicial Committee drawing one representative from each student council plus any two administrative officers of The Cooper Union. The associate dean of the school in which the student charged in the complaint is registered shall ordinarily be invited to participate as one of the administrative officers on the Judicial Panel in the Category adjudication. Persons charged with a Category A offense have the right to a representative of his or her choice at his or her expense, but the representative's role will be limited to providing support to the person being charged. Cooper Union may also appoint a lawyer to such committee to serve as an advisor to the committee members.

#### **4.5 Judicial Panels for Category B**

**Violations.** For a Category B offense, the Judicial Panel shall be a subcommittee of three from the Student Judicial Committee, generally one representative from each school.

A Judicial Panel formed under the rules of Category B has the right to stop the hearing and request that the case be heard instead under Category A Rules, so long as the parties are notified and the Category A hearing is scheduled within 7 days.

### **Part Five: Procedures for Filing Charges**

1. Any member of the Cooper Union community may file a written complaint about an infraction of the Standards of Conduct by a student. Such complaint should be addressed to the Student Judicial Committee and delivered to the Office of Student Services, 3rd floor, 29 Third Avenue, NY NY 10003, Attention: Dean of Students.

2. A complaint must be made within 30 days of the alleged infraction.

3. The complaint must set forth the basic facts of the alleged infraction, including the date, time, and place in which the incident occurred.

4. The Dean of Students will meet with the complainant to determine if the complaint can be resolved informally or through mediation. The penalties of warning, probation or loss of privileges may be meted out in these cases by the Dean of Students, with the agreement of all parties concerned.

5. Absent a successful resolution, the Dean of Students will schedule a hearing within 10 business days. S/he will notify the student being charged by letter of the charges, place and time of the hearing, and whether it will be conducted as a Category A or B hearing.

### **Part Six: Procedures for Conducting Hearings**

1. The Judicial Panel shall elect one of its members to be chairperson and to preside over the hearing. The person presiding shall exercise control over the proceedings to avoid needless consumption of time and to achieve orderly completion of the hearing. Any person who disrupts a hearing, including the parties to the complaint, may be excluded by the person presiding.

2. The failure of the student charged to appear at the stated time and place shall constitute a waiver of the right to a hearing. The complainant shall have the option of not appearing at the hearing; however, a complainant cannot selectively attend portions of the hearing but must follow the instructions of the chairperson.

3. Any person being charged, having appeared at the hearing, shall have the right to contest the acceptance into the record of any evidence presented in support of the charges.

4. Each party shall have the right to summon witnesses, provided that a list of these is presented to the Dean of Students 72 hours prior to the hearing. The chairperson of the hearing shall have the right to exclude witnesses who appear to offer redundant testimony.

5. Each party may question the other party's witnesses, under the supervision of the chairperson.

6. The chairperson shall summon witnesses into the hearing room and ask them to withdraw once they finish testifying.

7. Hearings shall be taped on an audio recorder. Tapes shall be destroyed at the expiration of the appeal process.

8. After testimony is concluded, the panel shall come to a decision and present the decision in writing to the person being charged, either by hand or by mail to the last address given by the student.

9. In the event of a disciplinary dismissal, the President shall review the recommendation before it is put into effect.

## **Part Seven: Disciplinary Sanctions**

By majority vote, the Judicial Panel may impose any of the following sanctions. The Student Judicial Committee will retain a written copy of the sanction in its file until the student permanently separates from The Cooper Union.

**7.1 Warning.** A warning in writing, in the case of a minor infraction, that further violation of the Standards of Conduct may result in a more severe disciplinary sanction.

**7.2 Loss of Privilege.** In cases that involve breaking the rules of a specific facility, students may lose the privilege of using that facility on a temporary or permanent basis or have the hours of their use restricted.

A student who loses privileges may also be issued a warning or higher penalty.

**7.3 Behavioral Probation.** A letter of censure given in instances of more serious violations of the Standards of Conduct. Behavioral probation is a trial period in which a student who has been in difficulty has the opportunity to demonstrate that he or she can be a responsible member of the community. The terms of the probation may be varied to fit the individual circumstances.

**7.4 Suspension.** Given in cases where it is judged that the student should be removed from the college community. This penalty is for a stated period of time, either one semester or one year. A suspended student is prohibited from being on any Cooper Union premises

during the period of the suspension without written authorization from the Office of the President. A notification of the suspension will be sent to the Office of Admission and Records, the Office of the President, and the Office of Buildings and Grounds as well as to the student's academic dean.

**7.5 Dismissal.** Subject to the approval of the President of the College before taking effect, a disciplinary dismissal involves involuntary and permanent dismissal from the college. The President shall have the right to accept, reject or modify the proposed dismissal. The dismissal will be a permanent part of the student's file and will be noted on his or her transcript.

**7.6 Other Actions.** The Judicial Panel may impose other penalties that it deems appropriate to the infraction. Examples of such penalties are: financial restitution for damages or for medical expenses, letters of apology, community service work, etc.

**7.7 Legal Action.** The above listed penalties shall be in addition to any penalties or liabilities pursuant to the laws of the State of New York, both civil and criminal. Cooper Union or its designee may, at its discretion, depending on the gravity of the violation, file a criminal or civil complaint. Filing an action under this Code does not preclude the complainant from also filing a civil or criminal complaint.

## **Part Eight: Appeal Process**

**8.1 Filing an Appeal.** Any student found to have violated any of the Standards of Conduct may appeal the decision of the Judicial Panel within 4 business days by writing a letter to his or her academic dean setting forth the reasons why the appeal is being made. The Dean will convene an Appeal Board within 5 days of receiving the appeal letter.

**8.2 Composition of the Appeal Board.** The board will consist of two students and one academic dean. Ordinarily, the academic dean and one of the students shall come from the same school as the appellant. The remaining student shall be from one of the other schools. Alternates may replace student representatives and have full rights to vote on the appeal board.

**8.3 Limitations of the Authority of the Appeal Board.** The Appeal Board shall limit its review to these issues:

- Does the record show that the party had a full and fair opportunity to present his or her case?
- Was the sanction imposed fair and proper in light of the infraction proved?

**8.4 Decision of the Appeal Board.** After considering the record and the letter of appeal, the Appeal Board may:

- a. Accept the decision of the Judicial Panel;
- b. Return the case to the Student Judicial Committee for a further hearing in keeping with the Appeal Board's instructions;
- c. Reverse the Judicial Panel's decision and dismiss the case;
- d. Accept the Judicial Panel's decision but reduce the sanction. The sanction may not be increased.

If the Appeal Board accepts the decision of the Judicial Panel, whether or not it reduces the sanction, the matter shall be deemed final.

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## Emergency Response and Evacuation Procedures

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The Cooper Union maintains a college-wide Emergency Management Plan. Under the direction of the President or his designee, the Emergency Management Plan will be activated and the Emergency Management Team convened when there is a significant emergency or dangerous situation involving an immediate threat to the health or safety of any members of the campus community. The Emergency Management Plan contains parameters to confirm the existence of a significant dangerous or emergency situation, to determine the content of necessary campus-wide notifications, and to determine the campus populations to receive the notifications.

The Emergency Management Plan contains procedures for our emergency campus notification system. In the event of an emergency on campus, the alert notification system will email pertinent information to members of the Cooper Union community.

Students are automatically enrolled with the emergency contact information on file with the Office of Admissions and Records. Students may verify their information via Cooper Union's WebAdvisor system at <https://dtwa.cooper.edu>.

The Cooper Union maintains open lines of communication with local law enforcement authorities and receives updates from authorities of significant events occurring that may impact the Cooper Union community. When notified by campus safety and security personnel or local law enforcement authorities of significant events that represent a serious or continued threat to students and employees, the Cooper Union issues timely warnings of such events. Timely warnings can be issued through the campus notification system or through the Office of the Dean of Students.

The Emergency Management Plan is maintained in the Office of the President and is reviewed and tested at least annually by the Emergency Management Team.

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**Emergency Phone Numbers**

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Police  
911

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Non-emergency, 9th Precinct  
212.477.7811

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Fire  
911

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Emergency Medical Service (Ambulance)  
911

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Beth Israel Medical Center  
1st Avenue and 16th street  
212.420.2000

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Poison Control Center  
212.764.7667, (POISONS)  
800.222.1222

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ChemTrec Emergency  
800.424.9300

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Victim's Service Agency (Safe Horizon Hotline)  
800.621.4673

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Bellevue Hospital Crime Victims Program  
(Social Service dept)  
212.562.3755

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Bellevue Hospital Emergency Service Unit (24 hours)  
212.562.4730

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NY State Domestic Violence Hotline  
800.621.4673

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Child Abuse Hotline  
800.342.3720

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NYPD Rape/Sexual Abuse Hotline  
212.267.7273

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Terrorism Hotline  
1.888.NYC.SAFE

When you call for emergency help, tell:

- 1. Where the emergency is, with cross streets if possible, and borough**
- 2. Telephone number you are calling from**
- 3. What happened**
- 4. How many people need help**
- 5. What is being done to help the victims**

*Note: You hang up last. Let the person you called hang up first.*

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**Basic Emergency Instructions  
for Students, Faculty & Staff**

<http://cooper.edu/emergency/index.html>

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**For additional copies, contact:**

Office of Student Services  
The Cooper Union for the Advancement  
of Science and Art  
212.353.4130

Produced by:  
Vice President for Finance & Administration



THE COOPER UNION