

THE COOPER UNION FOR THE ADVANCEMENT OF SCIENCE AND ART

POLICY UPHOLDING HUMAN RIGHTS AND TITLE IX PROTECTIONS

Effective July 1, 2015

Updated January 2, 2018

Updated August 12, 2020

Updated August 1, 2024

POLICY UPHOLDING HUMAN RIGHTS AND TITLE IX PROTECTIONS¹

Grievance Procedures Under the 2024 Department of Education Regulations

STATEMENT OF EQUAL OPPORTUNITY

The Cooper Union is committed to providing a working, learning and living environment free from unlawful discrimination and harassment and to fostering a nurturing and vibrant community founded upon the fundamental dignity and worth of all of its members. In compliance with Title IX of the Education Amendments of 1972, Title VI and VII of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, as amended, the Age Discrimination Act of 1975, and applicable federal, state, and local laws, and our institutional values, The Cooper Union does not discriminate on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, national or ethnic origin, shared ancestry or ethnic characteristics, military status, marital status, partnership status, familial status, or any other legally protected characteristic, in admissions, financial aid, or employment, or in the administration of any Cooper Union program or activity, including athletics.

Consistent with its commitment and with applicable laws, The Cooper Union prohibits discrimination on the basis of membership in a protected class, sexual harassment, sexual assault, sexual exploitation, domestic violence, dating violence, and stalking and further prohibits knowingly assisting another in committing such an act. The Cooper Union is committed to provide those who feel that they² have been subjected to conduct in violation of this policy with mechanisms for seeking redress and resources for support. Accordingly, The Cooper Union prohibits retaliation against any person for complaining of

¹ Effective date and changes to procedure based on court rulings and legal challenges in law or regulation: This Grievance Procedure applies to incidents that occur on or after August 1, 2024. Any incidents reported under this Grievance Procedure that occurred on or before July 31, 2024, will be processed through the institution's 2020 Policy Upholding Human Rights and Title IX Protections.

Should any portion of the 2024 Title IX Final Rule (89 Fed. Reg. 33474 (Apr. 29, 2024)), be stayed or held invalid by a court of law, or if the 2024 Title IX Final Rule is withdrawn or modified to not require elements of this Procedure, the Procedure in its entirety, or the invalidated elements of this Procedure, they will be deemed revoked as of the publication date of the opinion or order from the Court and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by the date of the opinion or order publication by the Court. If this Procedure is revoked in this manner, any conduct covered under this Procedure shall be investigated and adjudicated under the previous 2020 Title IX Grievance Policy (Policy Upholding Human Rights and Title IX Protections: August 2020 Version) and/or the Code of Conduct. The Cooper Union will update this Procedure as soon as practicable to reflect any court rulings or changes that invalidate parts of the Procedure, if applicable.

² For the purposes of this policy, the pronoun "they" will be used to refer to individuals of any gender-identity, except in appendices citing specific sections of state or local law.

a violation of this policy or for participating in any investigation or proceedings related to an alleged violation.

Community members are protected from discrimination, harassment and sexual misconduct (as defined below) regardless of their sex, sexual orientation, immigration status, citizenship status or national origin, or any other protected characteristic.

SCOPE OF PROCEDURE, SPECIFIC TO TITLE IX REGULATIONS

Sex-Based Harassment is considered discrimination on the basis of sex if it includes harassment due to actual or perceived sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and/or gender identity.

JURISDICTION OF PROCEDURE FOR COMPLAINTS OF SEX-BASED HARASSMENT

The Cooper Union's Title IX Coordinator will determine if this Grievance Procedure applies to a Complaint. This Grievance Procedure will apply when the following elements are met, in the reasonable determination of the Title IX Coordinator:

- The conduct alleged occurred on or after August 1, 2024;
- The conduct alleged occurred in the United States.
- The conduct alleged occurred on campus, off campus, or while studying abroad;
- The conduct alleged occurred in The Cooper Union's Education Program or Activity; and
- The conduct alleged, if true, would constitute Sex-Based Harassment as defined in this Grievance Procedure.

NOTE: The Cooper Union has an obligation to address a sex-based hostile environment under its Education Program or Activity, even when some conduct alleged to be contributing to the Hostile Environment occurred outside The Cooper Union's Education Program or Activity, or outside of the United States. The Cooper Union's Title IX Coordinator will work with all Complainants to assess such complaints that may fall under these criteria, and direct to appropriate The Cooper Union Policies and Procedures that may apply if this Grievance Procedure does not. The Cooper Union will communicate all such decisions in writing to the Complainant. Any such dismissals shall be subject to appropriate appeal rights under this Grievance Procedure as outlined in the Dismissals section below.

Conduct that occurs under The Cooper Union's Education Program or Activity includes but is not limited to conduct that occurs in a building owned or controlled by a student organization that is officially recognized by The Cooper Union, and conduct that is subject to The Cooper Union's disciplinary authority under The Cooper Union's Code of Conduct.

If all elements of jurisdiction are met, The Cooper Union will investigate the allegations according to this Grievance Procedure as appropriate, unless informal resolution is pursued or there are grounds for dismissal of the complaint.

NON-DISCRIMINATION IN APPLICATION

The requirements and protections of this policy apply equally regardless of sex, sexual orientation, gender identity, gender expression, race, color, national origin, religion, creed, age, disability, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, criminal conviction, or other protected classes covered by applicable federal, state, or local law. All requirements and protections are equitably provided to individuals regardless of such protected status(es) or status as a Complainant, Respondent, or Witness. Individuals who wish to file a complaint about the institution's policy or process may contact the U.S. Department of Education's Office for Civil Rights using contact information available at <https://ocrcas.ed.gov/contact-ocr>. Individuals may also file complaints with the New York State Division of Human Rights (DHR), using contact information available at <https://dhr.ny.gov/complaint>.

TITLE IX COORDINATOR & OTHER RESOURCES

The Cooper Union's Title IX Coordinator has overall responsibility for the administration of this Policy and has been designated to coordinate compliance activities under this Policy and applicable federal, state and local laws, including without limitation Title IX of the Education Amendments of 1972, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act and New York Education Law Article 129-B

The Cooper Union's Title IX Coordinator is:

1. Knowledgeable and trained in The Cooper Union's Title IX policies and procedures and relevant federal, state and local laws;
2. Available to answer questions about this Policy and the associated procedures;
3. Able to advise regarding available resources for support and reporting options; and
4. Available to receive complaints of violations of this Policy.

The Cooper Union Title IX Coordinator:
Grace Kendall, Associate Dean of Students
Office: 29 3rd Avenue, 3rd Floor, New York, NY 10003
Email: grace.kendall@cooper.edu
Phone: (212) 353-4053 / 212-353-4130

Student Medical and Disability Accommodations and Support:
Alex Fischer, Director of Student Care and Support
Office: 29 3rd. Ave., 3rd Floor, New York, NY, 10003
Email: alex.fischer@cooper.edu
Phone: (212) 353-4006 / 212-353-4130

Equal Opportunity Officer / Section 504 Coordinator:
Natalie Brooks, Chief Talent Manager
Office: 41 Cooper Square, Room 111, New York, NY 10003
Email: natalie.brooks@cooper.edu
Phone: (212) 353-4156

ACADEMIC FREEDOM

Nothing in this policy shall abridge academic freedom or The Cooper Union's educational mission or prohibit genuine contributions to the marketplace of ideas. Prohibitions against discrimination and harassment do not extend to statements or written materials that are germane to the classroom subject matter and circulated in the context of legitimate classroom discourse.

PROHIBITED CONDUCT

All members of The Cooper Union community, including applicants, students, employees (both faculty and staff) and third parties doing business with The Cooper Union are prohibited from engaging in identity-based discrimination or harassment, including but not limited to behavior targeting an individual or group's gender, race, religion, sexual orientation, or any other protected class described on page 1 of this policy, or behavior that falls under the categories of sexual harassment, sexual assault, dating violence, domestic violence, sexual exploitation, stalking, and retaliation as those terms are defined below. Any attempt to engage in prohibited conduct may itself constitute a violation of this policy. Any actions knowingly taken to aid, facilitate, or encourage another to engage in prohibited conduct and any actions taken for the purpose of interfering in the investigation of an allegation of prohibited conduct shall constitute a violation of this policy. Anyone found to have violated this policy will be subject to disciplinary action as set forth in the procedures below.

Definitions

For purposes of these policies and procedures, the following definitions apply:

Identity-based Discrimination is defined as:

- Treating individuals or groups less favorably on the basis of their race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, national or ethnic origin, shared ancestry or ethnic characteristics, military status, marital status, partnership status, familial status, or any other legally protected characteristic; or

- Having a policy or practice that has a disproportionately adverse impact on individuals or groups based upon one of the protected characteristics listed above.

Identity-based Harassment, also known as discriminatory harassment, is defined as unwelcome identity-based verbal, visual or physical conduct, which substantially interferes with an individual's living, learning or working environment by subjecting them to severe or threatening conduct or to repeated humiliating or abusive conduct, based on their membership in a protected characteristic(s). Under this policy, harassment is verbal or physical conduct that belittles or shows hostility or aversion toward an individual because of their membership in a protected characteristic(s), or that of their relatives, friends, or associates, and that:

- Has the purpose or effect of creating an intimidating, hostile, or offensive living, learning or working environment;
- Has the purpose or effect of unreasonably interfering with an individual's academic or job performance or limiting or depriving someone of the ability to participate in or benefit from the Cooper Union's educational programs, activities and/or employment;
- otherwise adversely affects an individual's academic or employment experience.

Harassing conduct includes, but is not limited to: epithets, slurs, or negative stereotyping; threatening, intimidating, or hostile acts, the circulation or display of written or graphic material that belittles or shows hostility or aversion toward an individual or group (including through e-mail and other electronic media).

Protected Characteristic refers to any personal trait or category that is protected by law, including an individual's race, religion, color, ethnicity, national origin, shared ancestry or ethnic characteristics, age, sex, gender identity or expression, sexual orientation, pregnancy, marital status, partnership status, creed, genetic predisposition and carrier status, alienage, citizenship status, veteran status, disability, or any other characteristic protected by law.

For the purpose of The Cooper Union's policy the term "**Gender**" refers to the following personal traits: sex, gender identity or expression, sexual orientation, pregnancy, marital status, familial status, or partnership status.

Race discrimination involves treating a person or group unfavorably because they are of a certain race or because of personal characteristics associated with race (such as hair texture, skin color, or certain facial features). **Color discrimination** involves treating someone unfavorably because of skin color complexion. Race/color discrimination also can involve treating someone unfavorably because the person is married to (or associated with) a person of a certain race or color.

Sex-Based Harassment is sexual harassment and other harassment on the basis of sex, including harassment because of gender identity, sexual orientation, sex characteristics, sex stereotypes, and/or pregnancy and other conditions, that is:

(1) *Quid pro quo harassment*. An employee, agent or other person authorized by The Cooper Union's Education Program or Activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

(2) *Hostile Environment harassment*. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from The Cooper Union's Education Program or Activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following: (i) the degree to which the conduct affected the Complainant's ability to access The Cooper Union's Education Program or Activity; (ii) the type, frequency, and duration of the conduct; (iii) the Parties' ages, roles within The Cooper Union's Education Program or Activity, previous interactions and other factors about each Party that may be Relevant to evaluating the effects of the conduct; (iv) the location of the conduct and the context in which the conduct occurred; and (v) other Sex-Based Harassment in The Cooper Union's Education Program or Activity;

(3) *Sexual Assault* (as defined in the Clery Act, 20 U.S.C. 1092(f)) means any sexual act directed against another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent;

(4) *Dating Violence* (as defined in the Violence Against Women Act (VAWA) Reauthorization of 2022 and the VAWA Amendments to the Clery Act) means any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

(5) *Domestic Violence* means any felony or misdemeanor crimes committed by a person who: (A) is a current or former partner of the victim under the family or domestic violence laws of New York, or a person similarly situated to a spouse of the victim; (B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C) shared a child in common with the victim; or (D) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of New York; or

(6) *Stalking* means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for the person's safety or the safety of others; or (B) suffer substantial emotional distress.

Under this Policy, **Sexual Assault** is divided into two categories of behavior: **Non-consensual Sexual Contact** and **Non-consensual Sexual Intercourse**.

Sexual Assault--Non-consensual Sexual Contact includes any intentional touching of a sexual nature, however slight, whether clothed or unclothed, with any object or body part by a person against another person that is without affirmative consent and/or by force.³ Consent is required regardless of whether the person initiating the sexual contact is under the influence of drugs and/or alcohol. When consent is withdrawn or can no longer be given due to incapacitation, sexual activity must stop.

Examples of non-consensual sexual contact include, but are not limited to:

- intentional contact with the breasts, buttocks, groin, or genitals;
- intentional touching of another with breasts, buttocks, groin, or genitals;
- making another person touch someone or themselves in a sexual manner;
- forcibly kissing;
- any intentional bodily contact in a sexual manner.

Sexual Assault--Non-consensual Sexual Intercourse includes any sexual intercourse, however slight, with any object or body part by a person against other person that is without affirmative consent and/or by force. Consent is required regardless of whether the person initiating the sexual contact is under the influence of drugs and/or alcohol. When consent is withdrawn or can no longer be given due to incapacitation, sexual activity must stop.

Examples of non-consensual sexual intercourse include, but are not limited to:

- vaginal penetration by a penis, object, tongue or finger;
- anal penetration by a penis, object, tongue or finger;
- oral copulation (mouth to genital contact or genital to mouth contact).

Sexual Misconduct is an alternate collective term for Sex-Based Harassment, which includes sexual assault, sexual exploitation, sexual harassment, dating violence, domestic violence, and stalking.

³ Although The Cooper Union only enforces its own policy, some of the conduct prohibited by this policy may also be prohibited by New York state law. The state law definitions are contained in an Appendix at the end of the policy. Those interested in filing a complaint with the police are encouraged to do so, and The Cooper Union will assist any Complainant in contacting law enforcement.

Sexual Exploitation includes but is not limited to:

- invasion of sexual privacy and voyeurism (in-person or through audio or video recording);
- knowingly transmitting a sexually transmitted infection;
- exposing of a person's body or genitals;
- prostituting or soliciting another community member.

Retaliation means intimidation, threats, coercion, or discrimination by any person by The Cooper Union, a Student, or an employee or other person authorized by The Cooper Union to provide aid, benefit, or service under The Cooper Union's Education Program or Activity, for the purpose of interfering with any right or privileged secured by Title IX, or because the person has reported information, made a complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this grievance procedure including an informal resolution process.

Peer Retaliation means Retaliation by a Student against another Student.

Intimidation means unlawfully placing 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.

Consent (also referred to as Affirmative Consent) is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate Consent. The definition of Consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

Consent to any sexual act or prior consensual sexual activity between or with any Party does not necessarily constitute Consent to any other sexual act. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent may be initially given but withdrawn at any time. Consent cannot be given when a person is incapacitated. Incapacitation occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot Consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to Consent. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm. When Consent is withdrawn or can no longer be given, sexual activity must stop. "Consent" and "affirmative consent" may be used interchangeably under this Grievance Procedure.

Incapacitation is a state where someone cannot make rational, reasoned decisions. Affirmative consent cannot be given when a person is incapacitated.

A person may be incapacitated due to mental disability, sleep, unconsciousness, physical restraint, or from the consumption (voluntary or otherwise) of incapacitating drugs or quantities of alcohol. Sexual activity with someone whom you know or, reasonably should know, is mentally or physically incapacitated (i.e., by alcohol or other drug use, unconsciousness or blackout) constitutes a violation of this policy. Evidence of incapacity may be detected by physical cues, such as slurred speech, bloodshot eyes, the odor of alcohol on a person's breath or clothing, inability to maintain balance, vomiting, unusual or irrational behavior, and unconsciousness. Incapacity may be indicated by the quantity of alcohol consumed. The presence of one or more of these cues does not necessarily indicate incapacity, nor does the absence of these cues necessarily indicate capacity.

Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation and coercion to overcome resistance.

Coercion is unreasonable pressure. The use of emotional manipulation to persuade someone to do something they may not want to do, such as being sexual or performing certain sexual acts, constitutes coercion. Coercing someone into having sex or performing sexual acts does not constitute obtaining consent and is considered sexual misconduct.

Accused means a person accused of a violation who has not yet entered an institution's judicial or conduct process.

Admission means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an Education Program or Activity operated by The Cooper Union.

Bystander is a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of the rules or policies of an institution. A bystander is not directly impacted by the alleged violation. A bystander does not become a complainant when they bring forth a report.

Code of Conduct means the written policies adopted by an institution governing student behavior, rights, and responsibilities while such student is matriculated in the institution.

Complainant is the person alleging that they have been the victim of a violation of this Policy. For the purposes of this policy, Complainant means:

- 1) a student or employee who is alleged to have been subjected to conduct that could constitute Sex-Based Harassment as defined in these procedures and who was participating or attempting to participate in The Cooper Union's Education Program or Activity; or

(2) a person other than a student or employee who is alleged to have been subjected to conduct that could constitute Sex-Based Harassment under this grievance procedure and who was participating or attempting to participate in The Cooper Union's Education Program or Activity at the time of the alleged Sex-Based Harassment.

A Complainant may also be referred to as a **Reporting Individual** in this policy, in alignment with New York State Education Law Article 129-B.

Complaint means an oral or written request to The Cooper Union that objectively can be understood as a request for The Cooper Union to investigate and make a determination about alleged Sex-Based Harassment at the institution.

Confidential Employee means:

(1) an employee of The Cooper Union whose communications are privileged under Federal or State law. The employee's confidential status is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;

(2) an employee of The Cooper Union whom the recipient has designated as confidential for the purpose of providing services to persons related to Sex-Based Harassment. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about Sex-Based Harassment in connection with providing those services; or

(3) an employee of The Cooper Union who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about Sex-Based Harassment. The employee's confidential status is only with respect to information received while conducting the study.

Disciplinary Sanctions means consequences imposed on a Respondent following a determination under this grievance procedure that the Respondent violated The Cooper Union's prohibition Sex-Based Harassment.

Education Program or Activity means any academic, extracurricular, research, occupational training or other Education Program or Activity operated by The Cooper Union that receives Federal financial assistance.

Party means Complainant or Respondent.

Relevant means related to the allegations of Sex-Based Harassment under investigation as part of this Grievance Procedure. Questions are Relevant when they seek evidence that may aid in showing whether the alleged Sex-Based Harassment occurred, and evidence is Relevant when it may aid a decisionmaker in determining whether the alleged Sex-Based Harassment occurred.

Remedies means measures provided, as appropriate, to a Complainant or any other person The Cooper Union identifies as having had their equal access to The Cooper Union's Education Program or Activity limited or denied by Sex-Based Harassment. These measures are provided to restore or preserve that person's access to The Cooper Union's Education Program or Activity after The Cooper Union determines that Sex-Based Harassment occurred.

Respondent means a person who is alleged to have violated The Cooper Union's prohibition on Sex-Based Harassment or other aspects of this Policy.

Student means a person who has gained Admission.

Supportive Measures (also referred to as **Interim Measures**) means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to: (1) restore or preserve that Party's access to The Cooper Union's Education Program or Activity, including measures that are designed to protect the safety of the Parties or The Cooper Union's educational environment; or (2) provide support during The Cooper Union's grievance procedures for Sex-Based Harassment or during the informal resolution process.

WHEN AND TO WHOM DOES THIS POLICY APPLY

This Policy applies to the conduct of The Cooper Union applicants, students, and employees, including faculty and non-faculty, as well as third parties doing business with The Cooper Union or attending school sponsored programs or activities.

This policy shall apply to conduct that occurs on The Cooper Union's campus; technological systems; at school sponsored programs, activities, and events; as well as off-campus when the accused is a matriculated Cooper Union student or when the conduct has a continuing adverse impact upon the Cooper Union work or school environment. Each student shall be responsible for their conduct from the time of application for admission through the awarding of a degree, as well as during periods between terms of actual enrollment, study abroad and leaves of absence or suspension.

CONSENSUAL ROMANTIC RELATIONSHIPS

Truly consensual romantic relationships do not qualify as sexual harassment or sexual misconduct and are not prohibited by The Cooper Union's policies. Individuals should be aware, however, that romantic relationships are susceptible to being determined after the fact to have been nonconsensual, and even coercive, whenever there is an inherent power

differential between the parties. Therefore, any such relationship between a faculty or staff member and a student or between a supervisor and a subordinate is strongly discouraged. Supervisors and managers are prohibited from engaging in romantic relationships with those who report to them. Faculty are prohibited from engaging in romantic relationships with students who are currently or who, in the future, are reasonably likely to be enrolled in their courses or under their supervision.

POLICY FOR ALCOHOL AND/OR DRUG USE AMNESTY

The health and safety of every student at The Cooper Union is of utmost importance. The Cooper Union recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault, occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The Cooper Union strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to The Cooper Union's officials or law enforcement will not be subject to The Cooper Union's Code of Conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

REASONABLE ACCOMMODATION OF DISABILITY, PREGNANCY, AND RELIGION

DISABILITY

The Cooper Union is committed to fostering a learning, living, and working environment that is accessible for individuals with disabilities in compliance with federal, state and local law. It is The Cooper Union's policy not to discriminate against any qualified applicant, student or employee because of such individual's disability or perceived disability so long as the applicant or student can meet the essential requirements of the course or degree or the employee or applicant can perform the essential functions of the job. Consistent with this policy of nondiscrimination, The Cooper Union will provide reasonable accommodations to a qualified individual with a disability who has made the Cooper Union aware of his or her disability. The individual may be asked to present medical documentation of the need for accommodation. Cooper Union personnel will work with the individual to identify and provide reasonable and appropriate accommodations as needed.

Upon request, individuals with disabilities will be provided with reasonable accommodations to permit them to avail themselves of the complaint procedures relating to claims of prohibited conduct.

An employee, applicant, or student who has questions regarding this policy or believes that he or she has been discriminated against based on a disability or that an accommodation request has not been appropriately addressed should notify the Equal Opportunity Officer. No individual will be retaliated against for requesting an accommodation.

This procedure does not alter any institutional obligations under applicable federal, state, and/or local disability laws, including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973, among others. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the Title IX Grievance Procedure that do not fundamentally alter the Procedures. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

Requests for Reasonable Accommodations During the Title IX Grievance Procedure

If the Complainant or Respondent discloses a disability, the Title IX Coordinator may consult, as appropriate, with the Student Care office to provide support to students with disabilities to determine how to comply with applicable law including, without limitation, Section 504 of the Rehabilitation Act of 1973 in the implementation of any Supportive Measures, or any other reasonable accommodations requested during the Grievance Procedure.

Procedures for Requesting Reasonable Disability Accommodations

Students

Students seeking reasonable accommodations, modifications of policies, practices or procedures, and/or auxiliary aids and services for a disability should contact the Dean of Students. When the need for accommodation can be anticipated, students should request accommodations in advance of the need and ideally at least six weeks before the beginning of the semester. In the event the Director of Student Care and Support is unavailable, such requests should be directed to the Equal Opportunity Officer (see contact information on page 2). Contact information for the Director of Student Care and Support is:

Alex Fischer, Director of Student Care and Support
Office: 29 3rd Avenue, 3rd Floor, New York, NY 10003
Email: alex.fischer@cooper.edu
Phone: (212) 353-4006

Employees

Employees seeking reasonable accommodations for a disability should contact the Director of Human Resources:

Mary Ann Nissen, Director of Human Resources

Email: maryann.nissen@cooper.edu

Phone: (212) 353-4145

PREGNANCY

The Cooper Union will provide reasonable accommodations and/or modifications based on the needs of pregnancy, child birth, termination of pregnancy, lactation, related medical conditions, or recovery from these conditions consistent with applicable federal, state, and local law, including allowing for reasonable break time for lactation for employees and access to a clean, private lactation space for students and employees. The individual may be asked to provide medical documentation of the need for accommodation. In instances where a student, parent of a minor student, or other authorized legal representative informs a school employee of a student's pregnancy or related conditions, the employee then must provide the individual with information about the school's obligations to prevent discrimination and ensure equal access. Cooper Union may not disclose personally identifiable information obtained through complying with Title IX, including information about reasonable modifications for pregnancy or related conditions, with limited exceptions. No individual will be retaliated against for requesting an accommodation.

Students

Students who require accommodations for pregnancy, child birth or related medical conditions should contact the Director of Student Care and Support (see contact information above).

Employees

Employees needing an accommodation based on pregnancy, child birth or related medical conditions should contact the Director of Human Resources (see contact information above).

RELIGION

Students

Consistent with The Cooper Union's policy of supporting cultural diversity, no student shall be refused admission to or be dismissed from the Cooper Union solely because they are unable to participate in any examination, study, or work requirement due to their religious observances and practices. It is the intent of the Cooper Union to reasonably accommodate an individual student's religious obligations and practices without penalty, based on good faith, effort and due notice to those concerned of the anticipated religious observance date. It is the student's obligation to provide prior notice of anticipated absences. Students absent due to religious observances and practices will be given an

opportunity to make up any examination, study, or work requirement missed, without penalty. Students who require an accommodation for religious observance should contact the Dean of Students (see contact information on page 2).

Employees

The Cooper Union will provide reasonable accommodations of religious practices and beliefs consistent with applicable federal, state and local law. Employees needing a religious accommodation should contact the Director of Human Resources (see contact information above).

No individual will be retaliated against for requesting an accommodation.

REPORTING TO LAW ENFORCEMENT

If you are in immediate danger, dial 911 and attempt to get to a safe place.

Acts of violence, including sexual assault, domestic violence, dating violence, and stalking, are against the law. If you are not in immediate danger and would like to report an incident to the police, you can do so by contacting:

NYPD 9th Precinct
Detective Jamie Hernandez, Community Affairs Officer
(212) 477-7805

If you would like someone to assist you in contacting the police or go with you to the police department, any of the following individuals at The Cooper Union can assist you:

Title IX Coordinator
Deputy Title IX Coordinator
Dean of Students
Equal Opportunity Officer
Director of Safety and Security

The Cooper Union will investigate an alleged violation of this policy regardless of whether a criminal investigation is being conducted. In the event a criminal investigation is conducted into events that are the subject of an investigation under this Policy, The Cooper Union will not delay its investigation unless specifically requested by law enforcement. Even then, the investigation will not be delayed more than ten days, absent extraordinary circumstances.

A Complainant may report an incident to law enforcement regardless of whether they choose to report the incident to The Cooper Union. Conversely, reporting an incident to The Cooper Union does not require the Complainant to report the incident to law enforcement. The Cooper Union reserves the right to report any crime to law enforcement, but, as a general rule, will not alert law enforcement to an incident of sexual misconduct without the Complainant's permission, except where there is a serious and immediate threat to the campus community, when a minor is involved, or as otherwise required by law.

In addition to any protective measures that The Cooper Union may put into place, law enforcement may be able to provide additional protections, such as a restraining order. The Cooper Union can assist students in contacting law enforcement and legal services organizations to learn about additional remedies that may be available.

EXPLANATION OF TITLE IX AND TITLE IX GRIEVANCES

WHAT IS THE PURPOSE OF THE TITLE IX GRIEVANCE POLICY?

Title IX of the Educational Amendments of 1972 prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance. The U.S. Department of Education, which enforces Title IX, has long defined the meaning of Title IX's prohibition on sex discrimination broadly to include various forms of sexual harassment and sexual violence that interfere with a student's ability to equally access our educational programs and opportunities.

Under the 2024 guidance issued by the Department of Education, The Cooper Union is required to:

- Treat Complainants and Respondents equitably;
- Ensure that any person designated by The Cooper Union as a Title IX Coordinator, investigator, or decisionmaker does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent;
- Establish reasonably prompt timeframes for the major stages of this Grievance Procedure, including a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the Parties that includes the reason for the delay;
- Ensure that reasonable steps to protect the privacy of the Parties and witnesses during the pendency of the Grievance Procedure are taken, provided that the steps do not restrict the abilities of the Parties to obtain and present evidence, including by speaking to witnesses (as long as such does not result in Retaliation), consult with their family members, confidential resources, or advisors, or otherwise prepare for or participate in this Grievance Procedure;
- Ensure an objective evaluation of all evidence that is Relevant and not otherwise impermissible under this Procedure, including both inculpatory and exculpatory evidence, and provide that credibility determinations must not be based on a person's status as a Complainant, Respondent or Witness;
- Exclude impermissible evidence from consideration as defined in the Grievance Procedure; and
- Clearly articulate principles for how The Cooper Union will determine which policies and procedures apply if not all such complaints are handled under this institutional Grievance Procedure.

Note: The decisionmaker may be the same person as the Title IX Coordinator or investigator as allowed by the 2024 Title IX Regulations; no inference of bias or conflict of interest can be drawn solely because the decisionmaker is the same person as the Title IX Coordinator or investigator in a case.

Per New York State Law, The Cooper Union is also required to additionally ensure that Complainants are advised of their right to:

- Notify Cooper Union Campus Safety and Security], local law enforcement, and/or state police;
- Have emergency access to a Title IX Coordinator or other appropriate official trained in interviewing victims of sexual assault who shall be available upon the first instance of disclosure by a Complainant to provide information regarding options to proceed, and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible, and detailing that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violated New York Penal Law should be addressed to law enforcement or to the district attorney, who shall also explain whether he or she is authorized to offer the reporting individual confidentiality or privacy, and shall inform the Complainant of other reporting options;
- Disclose confidentially the incident to institution representatives, who may offer confidentiality pursuant to applicable laws and can assist in obtaining services for Complainants;
- Disclose confidentially the incident and obtain services from the state or local government;
- Disclose the incident to institution representatives who can offer privacy or confidentiality, as appropriate, and can assist in obtaining resources for reporting individuals;
- File a report of sexual assault, domestic violence, dating violence, and/or stalking and the right to consult the Title IX Coordinator and other appropriate institution representatives for information and assistance, ensure that Complainants know that reports shall be investigated in accordance with this Grievance Procedure and/or any other institutional policies that may be applicable, and ensure that a Complainant's identity will remain private at all times if said Complainant wishes to maintain privacy;
- Disclose, if the accused is an employee of The Cooper Union, the incident to The Cooper Union's Human Resources Department or the right to request that a confidential or private employee assist in reporting to the appropriate representative for the Human Resources Department, at which point, such referral shall be handled according to the appropriate policies and procedures related to employee complaints;
- Receive assistance from appropriate The Cooper Union representatives in initiating legal proceedings in family court or civil court; and
- Withdraw a complaint or involvement from The Cooper Union's Grievance Procedure at any time.

Reporting Sex-Based Harassment Occuring Between Students to the Institution

Non-Confidential Reports

Any person may report sex discrimination, including Sex-Based Harassment (whether or not the person reporting is the person alleged to be the victim of the conduct that may constitute sex discrimination or Sex-Based Harassment), in person, by mail, by telephone, or by electronic

mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Contact Information for the Title IX Coordinator:

Name: Grace Kendall

Title: Associate Dean of Students

Office Address: 29 3rd Avenue, 3rd Floor, New York, NY 10003

Email Address: grace.kendall@cooper.edu OR titleix@cooper.edu

Telephone Number: 212-353-4053

Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

Confidential Reporting

The following Officials will provide privacy, but **not confidentiality**, upon receiving a report of conduct prohibited under this policy:

- Grace Kendall, Title IX Coordinator, or designee thereof
- Natalie Brooks, EEO Officer / Section 504 Coordinator and Chief Talent Manager
- Alex Fischer, Director of Student Care and Support
- Mary Ann Nissen, Director of Human Resources
- All other employees at The Cooper Union that are not designated as confidential resources (i.e., *Responsible Employees*).

The following officials at The Cooper Union may provide **confidentiality**:

- Cassandra Jolicour, Student Care Coordinator
- Elizabeth London, Student Care Coordinator

There are other confidential options available for crisis intervention, resources and referrals, but these are not reporting mechanisms to the institution, meaning that disclosure on a call to one of these hotlines does not provide any information to The Cooper Union.

Complainants are encouraged to additionally contact a campus confidential or private resource so that The Cooper Union can take appropriate action in these cases. Some resources for confidential disclosure NOT to the institution are:

- The New York State Office for the Prevention of Domestic Violence hotlines: <http://www.opdv.ny.gov/help/dvhotlines.html>. Additional disclosure and assistance options that can be found and are presented in several languages can also be found here: <http://www.opdv.ny.gov/help/index.html> (or by calling 1-800-942-6906)
- SurvJustice: <http://survjustice.org/our-services/civil-rights-complaints/>
- Legal Momentum: <https://www.legalmomentum.org/>

- NYSCASA: <https://nyscasa.org/responding>
- NYSCADV: <http://www.nyscadv.org/>
- Pandora’s Project: <http://www.pandys.org/lgbtsurvivors.html>
- GLBTQ Domestic Violence Project: <http://glbtqdvp.org/>
- RAINN: <https://www.rainn.org/get-help>
- Safe Horizons: <http://www.safehorizon.org/>

Privacy vs. Confidentiality

For the purposes of this Policy and Grievance Procedures, references made to *confidentiality* refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or college officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References made to *privacy* mean The Cooper Union offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. The Cooper Union will limit the disclosure as much as practicable, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

At the First Instance of Disclosure of a Report

The Cooper Union shall ensure that, at a minimum, at the first instance of disclosure by a Complainant to a The Cooper Union representative, the following information shall be presented to the Complainant: “You have the right to make a report to university police or campus security, local law enforcement, and/or state police or choose not to report; to report the incident to your institution; to be protected by the institution from Retaliation for reporting an incident; and to receive assistance and resources from your institution.”

Non-Investigatory Measures Available Under the Title IX Grievance Policy

Supportive Measures

Complainants (as defined above), who report allegations of Sex-Based Harassment have the right to receive supportive measures from The Cooper Union regardless of whether they file a complaint. Supportive measures are non-disciplinary and non-punitive. Supportive measures may vary depending on what is reasonably available at The Cooper Union

As appropriate, supportive measures may include without limitation:

- Counseling services
- Extensions of deadlines or other course-related adjustments

- Modifications of work or class schedules, where feasible
- Restrictions on contact between the Parties (no contact orders)
- Changes in work or housing locations, where feasible
- Leaves of absence
- Increased security and monitoring of certain areas of the campus
- Training and education programs related to Sex-Based Harassment
- Assistance by The Cooper Union's security forces or other officials in obtaining an order of protection, or if outside New York state, an equivalent protective or restraining order

Supportive measures must not unreasonably burden either Party and must be designed to protect the safety of the Parties of The Cooper Union's educational environment, or to provide support during The Cooper Union's Sex-Based Harassment grievance procedures under this policy; or during informal resolution under this procedure.

The Cooper Union may modify or terminate supportive measures at the conclusion of the grievance procedures or at the conclusion of the informal resolution process or may continue them beyond that point within The Cooper Union's discretion.

The Cooper Union will not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one Party of supportive measures provided to another Party, unless necessary to provide the supportive measure or restore or preserve a Party's access to The Cooper Union's Education Program or Activity, or there is an exception that applies, such as:

- The Cooper Union has obtained prior written consent from a person with the legal right to consent to the disclosure;
- When the information is disclosed to an appropriate third Party with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
- To carry out the purpose of the policy when it is necessary to address conduct that reasonably may constitute Sex-Based Harassment under Title IX in The Cooper Union's Education Program or Activity;
- As required by Federal law, federal regulations, or the terms and conditions of a federal award; or
- To the extent such disclosures are not otherwise in conflict with Title IX, when required by State or local law or when permitted under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g, or its implementing regulations, 34 CFR Part 99).

Note on Orders of Protection and their equivalent. The Cooper Union must provide a copy of the order of protection or equivalent when it is received by The Cooper Union, and Parties shall have the opportunity to meet or speak with the Title IX Coordinator, who can explain the order and answer questions about it, including information from the order about the Accused's/Respondent's responsibility to stay away from the protected person or persons. Parties are entitled to an explanation of the consequences for violating these orders, including without limitation, arrest, additional conduct charges, and interim suspension or emergency removal, as applicable. A Complainant is also entitled to receive assistance from [University Police/Campus Security] in effecting an arrest when an individual violates an order of protection or, if [University Police/Campus Security] does not possess arresting powers, then to call on and assist local law enforcement in effecting an arrest for violating such order, in accordance with limits on current law enforcement jurisdiction and procedures.

Pursuant to New York State Education Law 129-B, either Party may request and be afforded a prompt review of the need for and terms of any such interim measure and accommodation that directly affects them and shall be allowed to submit evidence in support of their request.

Process for Review of Supportive Measures

The Cooper Union provides for a Complainant or Respondent to seek modification or reversal of The Cooper Union's decision to provide, deny, modify or terminate a supportive measure.

Grounds for challenge of supportive measures include, but are not limited to:

- Whether a supportive measure is reasonably burdensome;
- Whether a supportive measure is reasonably available;
- Whether a supportive measure is being imposed for punitive or disciplinary reasons;
- Whether the supportive measure is being imposed without fee or charge; and
- Whether the supportive measure is effective in meeting the purposes for which it is intended, including to restore or preserve access to the Education Program or Activity, provide safety, or provide support during the Grievance Procedure.
- Request for a modification of a supportive measure must be timely, and should be submitted within 5 business days⁴ of notification of the measure. The Cooper Union will conduct a fact-specific inquiry into timeliness.

⁴ For the purposes of this document, "business day" will refer to days when administrative offices of The Cooper Union are open, regardless of whether classes are in session or those offices are functioning remotely.

Emergency Removal

The Cooper Union retains the authority to remove a Respondent from all or part of The Cooper Union's Education Program or Activity on an emergency basis, where The Cooper Union (1) undertakes an individualized safety and risk analysis and (2) determines that an imminent and serious threat to the health or safety of a Complainant or any student, employees, or other persons arising from the allegations Sex-Based Harassment justifies a removal.

The Cooper Union will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal. This challenge must be submitted in writing to the Title IX Coordinator. The individual designated to review the challenge to the removal determination will be a trained staff member who will not be involved in any decision regarding responsibility of policy violation in this grievance or appeal of that decision regarding responsibility.

Emergency removals will not be considered Relevant evidence that can be considered in reaching a determination of whether Sex-Based Harassment occurred.

Administrative Leave

The Cooper Union retains the authority to place a non-student employee Respondent on administrative leave during the Title IX Grievance Procedure, consistent with the Employee handbooks and any applicable collective bargaining agreements.

Note on student employees: when a Complainant or Respondent is both a student and an employee of The Cooper Union, The Cooper Union must make a fact-specific inquiry to determine whether this procedure applies to that student employee. The Cooper Union will consider if the Complainant or Respondent's primary relationship with The Cooper Union is to receive an education and whether the alleged Sex-Based Harassment occurred while the Party was performing employment-related work

The Title IX Grievance Procedure for Sex-Based Harassment Occurring Between Students

Filing a Formal Complaint

Who can make a Complaint?

- A Complainant (as defined in the Definitions Section) of this Grievance Procedure); or
- The Title IX Coordinator.

Note on Title IX Coordinator initiated Complaints: In the absence of a Complaint or the withdrawal of any or all of the allegations in a Complaint, and in the absence or termination of an Informal Resolution process, the Title IX Coordinator must determine whether to initiate a Complaint of Sex-Based Harassment. This determination is fact-specific, and the Title IX Coordinator must consider:

- The Complainant's request not to proceed with the initiation of a Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of Sex-Based Harassment would occur if a complaint is not initiated;
- The severity of the alleged Sex-Based Harassment, including whether the Sex-Based Harassment, if established, would require the removal of a Respondent from campus or imposition of another Disciplinary Sanction to end the Sex-Based Harassment and prevent its recurrence;
- The age and relationship of the Parties, including whether the Respondent is an employee of The Cooper Union;
- The scope of the alleged Sex-Based Harassment, including information suggesting a pattern, ongoing Sex-Based Harassment, or Sex-Based Harassment alleged to have impacted multiple individuals;
- The availability of evidence to assist a decisionmaker in determining whether Sex-Based Harassment occurred; and
- Whether The Cooper Union could end the alleged Sex-Based Harassment and prevent its recurrence without initiating this Grievance Procedure.

If after considering these and other Relevant factors, the Title IX Coordinator determines that the conduct as alleged present as an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents The Cooper Union from ensuring equal access on the basis of sex to its Education Program or Activity, the Title IX Coordinator may initiate a Complaint.

If the Title IX Coordinator does initiate the Complaint after making this determination, the Title IX Coordinator must notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing Supportive Measures as listed above.

Is there a particular format that the Complaint needs to be in?

A Complaint can be an oral or written request to The Cooper Union that objectively can be understood as a request for The Cooper Union to investigate and make a determination about alleged Sex-Based Harassment at the institution.

Who can I report a Complaint to?

Any reports of Sex-Based Harassment may be made directly to the Title IX Coordinator, whose contact information is listed at the beginning of this Grievance Procedure. There are other ways in which a Party may report a Complaint.

The Cooper Union requires that any employee who is not a Confidential Employee and who either has authority to institute corrective measures on behalf of The Cooper Union or has responsibility for administrative leadership, teaching, or advising in The Cooper Union's Education Program or Activity must notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute Sex Discrimination, including Sex-Based Harassment. These employees are designated *Responsible Employees* under the policy.

All other employees at The Cooper Union who are not Confidential Employees and are not employees as identified above are required to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute Sex-Discrimination, including Sex-Based Harassment

Note: If an employee has personally been subject to conduct that reasonably may constitute Sex Discrimination, including Sex-Based Harassment, under Title IX or any institutional policy or this Grievance Procedure, these requirements do not apply to an employee reporting a personal Complaint.

What is the timeframe for The Cooper Union to evaluate if the Title IX Coordinator is initiating an investigation under this Grievance Procedure?

The Title IX Coordinator must evaluate whether the Complaint falls under this Grievance Procedure [X school/calendar/business days] after the Complaint is made, and must issue the Notice of Allegations as soon as practicable after the Complaint is evaluated. If there are any delays or extensions, the Title IX Coordinator must appropriately notice the Parties in writing, on a case-by-case basis, with good cause and the rationale for the extension or delay.

Can I make a Complaint and request initiation of the Grievance Procedure even if I have made a complaint to law enforcement?

Yes. The Cooper Union has an obligation to appropriately evaluate all Complaints, regardless of whether there is a concurrent complaint before law enforcement. This process is an

administrative process that is different from the criminal justice process. Per New York state law, it is required that The Cooper Union's process run concurrently with a criminal justice investigation and proceeding, however, temporary delays are allowed as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than ten days except when law enforcement specifically requests and justifies a longer delay.

Multi-Party Situations and Consolidation of Complaints

The Cooper Union may complaints alleging Sex-Based Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations of Sex-Based Harassment arise out of the same facts or circumstances.

The Cooper Union can consider factors when making this fact-specific determination, which include, but are not limited to:

- The facts and circumstances of the particular complaints when deciding whether to consolidate, including the toll of separate proceedings on the Parties; and
- Any risks to the fairness of the investigation or outcome.

Allegations Potentially Falling Under Two Policies:

If the alleged conduct, if true, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment, the Title IX Grievance Process will be applied in the investigation and adjudication of all of the allegations.

Dismissal of a Complaint

Grounds for Dismissal

The Cooper Union may dismiss a complaint of Sex-Based Harassment for any of the following reasons:

- The Cooper Union is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in The Cooper Union's Education Program or Activity and is not employed by The Cooper Union;
- The Complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint of these procedures, and The Cooper Union determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute Sex-Based Harassment under Title IX or this grievance procedure even if proven; or

- The Cooper Union determines that the conduct alleged in the complaint, even if proven, would not constitute Sex-Based Harassment under Title IX or these procedures. Note: The Cooper Union must make reasonable efforts to clarify the allegations with the Complainant before dismissing under this basis.

Notice of Dismissal

If The Cooper Union dismisses a complaint, The Cooper Union is required to promptly notify the Complainant of the basis for dismissal.

If the dismissal of the complaint occurs before a Notice of Allegations is issued to the Respondent, the Title IX Coordinator does not need to notice the Respondent at that time. However, if the Complainant appeals the dismissal, the Respondent will need to be noticed of the complaint allegations and given an opportunity to respond to the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then The Cooper Union must notify the Respondent and Complainant of the dismissal and the basis for the dismissal simultaneously in writing.

Appeal rights must also be outlined in any notification of dismissal of a complaint, as included below under *Appeal of Dismissals*.

Appeals of Dismissals

The Cooper Union must notify the Complainant that a dismissal may be appealed and provide the Complainant with an opportunity to appeal the dismissal of a complaint on the following grounds:

- Procedural irregularity: procedural irregularity that affected the outcome of the matter (i.e., a failure to follow The Cooper Union's own policy to a degree that had material effect on the outcome of the matter);
- New evidence: New evidence that would change the outcome and that was not reasonably available when the determination whether Sex-Based Harassment occurred or dismissal of the complaint was made; and
- The Title IX Coordinator, investigator(s), or decisionmaker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome of the matter.

If the dismissal occurs after the Respondent has been notified of the allegations, then The Cooper Union must also notify the Respondent that the dismissal may be appealed on the grounds set out above.

The submission of appeal stays any sanctions for the pendency of an appeal. Supportive measures and remote learning opportunities (if possible) remain available during the pendency of the appeal.

If a Party appeals, the institution will as soon as practicable notify the other Party in writing of the appeal, however the time for appeal shall be offered equitably to all Parties and shall not be extended for any Party solely because the other Party filed an appeal.

Appeals may be no longer than five (5) pages (including attachments). Appeals should be submitted in electronic form using ARIAL or TIMES NEW ROMAN, 12-point font, and single-spaced. Appeals should use footnotes, not endnotes. Appeals that do not meet these standards may be returned to the Party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the appeal document not to meet these standards.

Appeals will be decided by an Appeal Panel of three Appeal Officers, who will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or hearing decisionmaker in the same matter. Outcome of appeal will be provided in writing simultaneously to both Parties, and include rationale for the decision.

Notice of Allegations

Upon initiating The Cooper Union's Grievance Procedures, the Title IX Coordinator shall provide a Notice of Allegations in writing to the Parties whose identities are known. Such notice will occur as soon as practicable after the institution receives a Complaint, if there are no extenuating circumstances, if there are no extenuating circumstances. The Cooper Union will provide Notice of Allegations within 5 business days of receiving a complaint with affirmation to proceed from the Complainant, or in the case of a Title IX Coordinator-initiated Complaint, from the date the details required to provide Notice are made known.

The Parties will be notified by their institutional email accounts if they are a student or employee, and by other reasonable means if they are neither.

The institution will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview.

The Title IX Coordinator, or designee, may determine that the Formal Complaint must be dismissed on the mandatory grounds identified above, and will issue a Notice of Dismissal. If such a determination is made, any party to the allegations of sexual harassment identified in the Formal Complaint will receive the Notice of Dismissal in conjunction with, or in separate correspondence after, the Notice of Allegations.

What does the Notice of Allegations Include?

The written Notice of Allegations must include:

- The Cooper Union's Grievance Procedures, and where applicable to the Complaint, The Cooper Union's Informal Resolution process;

- Sufficient information available at the time of the issuance of the Notice of Allegations to allow the Parties to respond to the allegations, which includes the identities of the Parties involved in the incident(s), the conduct alleged to constitute Sex-Based Harassment under the Grievance Procedures, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available to The Cooper Union;
- A statement that the Parties are entitled to an accurate description of the Relevant and not otherwise impermissible evidence, with an equal opportunity for the Parties to access the underlying Relevant and not otherwise impermissible evidence upon request of any Party;
- A statement that the Respondent is presumed not responsible for the alleged Sex-Based Harassment until a determination is made at the conclusion of The Cooper Union's Grievance Procedure and that prior to the determination, the Parties will have an opportunity to present Relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- Parties may have an advisor of their choice, and that the advisor may be, but is not required to be, an attorney;
- The Cooper Union's code of conduct prohibits knowingly making false statements or knowingly submitting false information during The Cooper Union's Grievance Procedures; and
- If, in the course of an investigation, The Cooper Union decides to investigate additional allegations of Sex-Based Harassment by the Respondent toward the Complainant that are not included in the original written Notice of Allegations provided, The Cooper Union is required to provide written notice of any additional allegations to the Parties whose identities are known.

What if The Cooper Union decides to investigate additional allegations of Sex-Based Harassment?

If, in the course of an investigation, The Cooper Union decides to investigate additional allegations of Sex-Based Harassment by the Respondent toward the Complainant that are not included in the original issued written Notice of Allegations, or that are included in a complaint that is consolidated under this Grievance Procedure, The Cooper Union shall provide notice of the additional allegations to the Parties whose identities are known.

What if I have safety concerns about a Notice of Allegations being issued to a Respondent?

To the extent that The Cooper Union has reasonable concerns for the safety of any person as a result of providing a written Notice of Allegations, The Cooper Union through the Title IX Coordinator, may reasonably delay providing the written Notice of Allegations in order to address the safety concern appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

Advisor of Choice and Participation of Advisor of Choice

A Party's advisor of choice may accompany the Party to any meeting or proceeding, and that The Cooper Union cannot limit the choice of who that advisor may be or their presence for the Parties in any meeting or proceeding unless such advisor does not follow The Cooper Union's established rules of decorum and rules around participation.

The Cooper Union will not intentionally schedule meetings or hearings on dates where the Advisors of Choice for all parties are not available, provided that the Advisors act reasonably in providing available dates and work collegially to find dates and times that meet all schedules.

The Cooper Union's obligations to investigate and adjudicate in a prompt timeframe under Title IX and other college policies apply to matters governed under this Policy, and The Cooper Union cannot agree to extensive delays solely to accommodate the schedule of an Advisor of Choice. The determination of what is reasonable shall be made by the Title IX Coordinator, or designee. The Cooper Union will not be obligated to delay a meeting or hearing under this process more than five (5) days due to the unavailability of an Advisor of Choice, and may offer the party the opportunity to obtain a different Advisor of Choice or utilize one provided by The Cooper Union.

Investigation

General Rules of Investigations

The Title IX Coordinator and/or an investigator designated by the Title IX Coordinator will perform an investigation of the conduct alleged to constitute Sex-Based Harassment in a reasonably prompt timeframe, after issuing the Notice of Allegations.

The Cooper Union, and not the Parties, has the burden to conduct an investigation that gathers sufficient evidence to determine whether Sex-Based Harassment occurred under this Grievance Procedure. This burden does not rest with either Party, and either Party may decide not to share their account of what occurred, or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from The Cooper Union and does not indicate responsibility.

The Cooper Union cannot access, consider, or disclose medical records without a waiver from the Party (or parent, if applicable) to whom the records belong or of whom the records include information. The Cooper Union will provide an equal opportunity for the Parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, (i.e. evidence that tends to prove and disprove the allegations) as described below.

Notice of Participation

The Cooper Union will provide written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the Party to prepare to participate, if a Party is invited or expected to participate in any such meeting or proceeding.

Advisors of Choice and Participation of Advisors of Choice

The Cooper Union will provide the Parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of the advisor for the Complainant or Respondent in any meeting or proceeding.

The Cooper Union will provide the parties equal access to advisors and support persons; any restrictions on advisor participation will be applied equally.

The Cooper Union has a long-standing practice of requiring students to participate in the process directly and not through an advocate or representative. Students participating as Complainant or Respondent in this process may be accompanied by an Advisor of Choice to any meeting or hearing to which they are required or are eligible to attend. The Advisor of Choice is not an advocate. Except where explicitly stated by this Policy, as consistent with the Final Rule, Advisors of Choice shall not participate directly in the process as per standard policy and practice of The Cooper Union.

Investigative Report

At the conclusion of the initial fact-finding stage of the investigation, the Title IX Coordinator and/or an investigator designated by the Title IX Coordinator will create an Investigative Report that fairly summarizes relevant evidence, will and provide that Report to the parties at least ten (10) business days prior to the scheduling of follow-up meetings for the purpose of live questioning from the Parties, in an electronic format or a hard copy for each party's review and written response of any follow-up questions they wish to pose.

The Investigative Report is not intended to catalog all evidence obtained by the investigator, but only to provide a fair summary of that evidence.

Only relevant evidence (including both inculpatory and exculpatory – i.e. tending to prove and disprove the allegations - relevant evidence) will be referenced in the Investigative Report.

Access to and Review of the Investigative Report

The Title IX Coordinator and/or investigator designated by the Title IX Coordinator will provide each Party and their advisors of choice with an equal opportunity to access and review an accurate description of the Relevant evidence collected throughout the investigation that is not otherwise impermissible in the form of an investigative report.

The Parties and their advisors of choice will also have an equal opportunity to access and review the underlying Relevant and not otherwise impermissible evidence summarized in the investigative report upon the request of any Party.

The Title IX Coordinator and/or investigator designated by the Title IX Coordinator will provide each Party and their advisors of choice with a reasonable opportunity to respond to the investigative report. Both Parties will have the opportunity to respond to the investigative report prior to the live hearing.

The Cooper Union will take reasonable steps to prevent and address the Parties' and their advisors of choice's unauthorized disclosure of information and evidence obtained solely through this Grievance Procedure. Participating individuals who engage in the unauthorized disclosure of information and evidence obtained solely through this Grievance Procedure may be subject to The Cooper Union's Code of Conduct, and other institutional policies and/or procedures that may apply.

Note: Disclosures of information and evidence for purposes of administrative proceedings or litigation related to the complaint of Sex-Based Harassment are authorized and not considered unauthorized disclosures potentially subject to other disciplinary action.

Review and Access to Relevant and Not Otherwise Impermissible Evidence

Each Party will have an equal opportunity to present fact witnesses and other inculpatory and exculpatory evidence that are Relevant and not otherwise impermissible, to the Title IX Coordinator and/or an investigator designated by the Title IX Coordinator. The Title IX Coordinator and/or investigator designated by the Title IX Coordinator will review all evidence gathered through the investigation and determine what evidence is Relevant and what evidence is impermissible regardless of relevance, consistent with this Grievance Procedure.

Each Party and their advisors of choice will have an equal opportunity to review and access the evidence that is Relevant to the allegations of sex-based discrimination and not otherwise impermissible regardless of relevance prior to the conclusion of the investigation. The Title IX Coordinator and/or investigator designated by the Title IX Coordinator will provide each Party with a reasonable opportunity to respond to the evidence. Both Parties will have the opportunity to respond to the evidence prior to the live hearing.

The Cooper Union will take reasonable steps to prevent and address the Parties' unauthorized disclosure of information and evidence obtained solely through this Grievance Procedure. Participating individuals who engage in the unauthorized disclosure of information and evidence obtained solely through this Grievance Procedure may be subject to The Cooper Union's Code of Conduct, and other institutional policies and/or procedures that may apply.

Note: Disclosures of information and evidence for purposes of administrative proceedings or litigation related to the complaint of Sex-Based Harassment are authorized and not considered unauthorized disclosures potentially subject to other disciplinary action.

Relevant Evidence

Evidence is Relevant when it is related to the allegations of Sex-Based Harassment under investigation as part of this grievance procedure.

Questions are Relevant when they seek evidence that may aid in showing whether the alleged Sex-Based Harassment occurred, and evidence is Relevant when it may aid a decisionmaker in determining whether the alleged Sex-Based Harassment occurred.

Impermissible Evidence

The following types of evidence, and questions seeking that evidence, are excluded as impermissible (i.e., must not be accessed or considered, except by The Cooper Union to determine whether an exception applies, must not be disclosed, and must not otherwise be used) regardless of whether they are Relevant:

- Evidence that is protected under a privileged as recognized by Federal or State law or evidence provided to a Confidential Employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless The Cooper Union obtains that Party's or witness's voluntary, written consent for use in The Cooper Union's Grievance Procedures; and
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove Consent to the alleged Sex-Based Harassment. Note: the fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's Consent to the alleged Sex-Based Harassment or preclude determination that Sex-Based Harassment occurred.

Timeframes

An investigation shall take 90 calendar days to complete. If there are any delays or extensions, the Title IX Coordinator must appropriately notice the Parties in writing, as detailed below.

Extensions and Delays

The Cooper Union allows for the reasonable extension of timeframes on a case-by-case basis for good cause with written notice to the Parties that includes the reason for the extension or delay.

SINGLE INVESTIGATOR MODEL

The Cooper Union does not provide for a live hearing under this Grievance Procedure. However, Title IX requires that there be live questioning to assess a Party's or witness's credibility to the extent credibility is both in dispute and Relevant to evaluating one or more allegations of Sex-Based Harassment.

The investigator/decisionmaker will question Parties and witnesses to adequately assess a Party's or witness's credibility to the extent credibility is both in dispute and Relevant to evaluating one or more allegations of Sex-Based Harassment. This will occur during individual meetings with a Party or witness.

Each Party shall have the opportunity to propose questions that the Party wants asked of any Party or witness and have those questions asked by the investigator/decisionmaker during one or more individual meetings, including follow-up meetings, with a Party or witness, subject to the appropriate procedures outlined below regarding the decisionmaker's advance evaluation of all questions. Each Party will be provided with an audio or audiovisual recording or transcript with enough time for the Party to have a reasonable opportunity to propose follow-up questions.

Procedures for Decisionmaker's Evaluation of Questions and Limitation on Questions

The investigator/decisionmaker will determine whether a proposed question is Relevant and not otherwise impermissible as described in this Grievance Procedure, prior to the question being posed, and will explain any decision to exclude a question as not Relevant or otherwise impermissible.

If an investigator/decisionmaker determines that a Party's question is Relevant and not otherwise impermissible, then the question must be asked unless such question is unclear or harassing of the Party or witness being questioned. The investigator/decisionmaker must give a Party an opportunity to clarify or revise a question that investigator/decisionmaker has

determined is unclear or harassing and, if the Party sufficiently clarifies or revises a question so that it is no longer unclear or harassing, the question must be asked.

Refusal to Respond to Questions and Inferences Based on Refusal to Respond to Questions

An investigator/decisionmaker may choose to place less or no weight upon statements by a Party or witness who refuses to respond to questions deemed Relevant and not impermissible. The investigator/decisionmaker must not draw an inference about whether Sex-Based Harassment occurred based solely on a Party's or witness's refusal to respond to such questions.

Determination Regarding Responsibility and Sanctioning

Standard of Proof

The Cooper Union uses the preponderance of the evidence standard of proof to determine whether or not Sex-Based Harassment occurred. This means that the investigation and live questioning determine whether it is more likely than not that a violation of the Policy and Grievance Procedures occurred.

General Considerations for Evaluating Testimony and Evidence

The decisionmaker is required to evaluate Relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that Sex-Based Harassment occurred, whatever the quantity of the evidence is, the decisionmaker must not determine that Sex-Based Harassment occurred.

Determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the decisionmaker. Decisionmakers shall not draw inferences regarding a Party or witness' credibility based on the Party or witness' status as a Complainant, Respondent, or witness, nor shall it base its judgments in stereotypes about how a Party or witness would or should act under the circumstances.

Generally, credibility judgments should rest on the demeanor of the Party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence. However, credibility judgments should not rest on whether a Party or witness' testimony is non-linear or incomplete, or if the Party or witness is displaying stress or anxiety.

Decision makers will afford the highest weight relative to other testimony to first-hand testimony by Parties and witnesses regarding their own memory of specific facts that occurred.

Both inculpatory and exculpatory (i.e. tending to prove and disprove the allegations) evidence will be weighed in equal fashion.

A witness' testimony regarding third-Party knowledge of the facts at issue will be allowed, but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

Communication of the Determination in Writing

All determinations on whether Sex-Based Harassment occurred will be communicated to the Parties in writing, simultaneously.

The written determination will include:

- A description of the alleged Sex-Based Harassment;
- Information about the policies and procedures that The Cooper Union used to evaluate the allegations;
- The decisionmaker's evaluation of the Relevant evidence and determination on whether Sex-Based Harassment occurred;
- Any Disciplinary Sanctions The Cooper Union will impose on the Respondent, whether Remedies other than the imposition of Disciplinary Sanctions will be provided by The Cooper Union to the Complainant, and, to the extent appropriate, other students identified by The Cooper Union to be experiencing the effects of Sex-Based Harassment, if there is a finding that Sex-Based Harassment occurred; and
- The Cooper Union's procedures for Complainant and Respondent to appeal.

Timeline of Determination Regarding Responsibility

If there are no extenuating circumstances, the determination regarding responsibility will be issued by The Cooper Union within two (2) business days of the completion of the hearing.

Determination of Disciplinary Sanctions After a Finding of Responsibility

Per New York state law, past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction. However, it is not admissible prior to determination of responsibility.

In addition, the Complainant will have an opportunity to make an impact statement during the point of the proceeding where the decisionmaker is deliberating on appropriate sanctions.

Finality of Determination

The determination regarding responsibility becomes final either on the date that The Cooper Union provides the Parties with the written determination of the result of any appeal, or, if no Party appeals, the date on which an appeal would no longer be considered timely.

Disclosures of Outcome by the Parties

The Complainant and Respondent have the right to choose whether to disclose or discuss the outcome of a conduct or judicial process related to sexual assault, dating violence, domestic violence, or stalking.

The Complainant and Respondent have the right to have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.

Appeals

Each Party may appeal a determination regarding responsibility. To appeal, a Party must submit their written appeal within five (5) business days of being notified of the decision, indicating the grounds for appeal.

For appeals resulting from dismissal of a complaint, please see the section on *Dismissal of Complaints*.

Grounds for Appeal

The limited grounds for appeal available are as follows:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination whether Sex-Based Harassment occurred or dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.
- The sanctions imposed were incongruent with the severity of the determined policy violation.

Additional Procedures for Appeal Process

The Cooper Union will notify the Parties of any appeal, provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome, and will notify the Parties of the result of the appeal and the rationale for the result.

The submission of an appeal stays (or pauses) any sanctions for the period during which an appeal determination is being assessed. Supportive measures and remote learning opportunities remain available while an appeal is being deliberated and before a final decision has been made.

Appeals may be no longer than five (5) pages (including attachments). Appeals should be submitted in electronic form using ARIAL or TIMES NEW ROMAN, 12 point font, and single-spaced. Appeals should use footnotes, not endnotes. Appeals that do not meet these standards may be returned to the party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the appeal document not to meet these standards.

Appeals will be decided by an Appeal Panel of three Appeal Officers, who will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or decisionmaker in the same matter.

Outcome of appeal will be provided in writing simultaneously to both parties, and include rationale for the decision.

INFORMAL RESOLUTION

Procedures for Entering and Exiting Informal Resolution Process

At any time prior to determining whether Sex-Based Harassment occurred under this Grievance Procedure, including prior to making a Complaint, Parties may instead seek The Cooper Union's assistance to resolve allegations of Sex-Based Harassment, and may elect to enter the informal resolution process.

The Parties may voluntarily elect to enter the The Cooper Union's informal resolution process at any time through an informed written consent. This informed written consent will include all terms of the elected informal process, including a statement that any agreement reached through the process is binding on the Parties.

No Party may be required to participate in informal resolution, and The Cooper Union may never condition enrollment, employment, or enjoyment of any other right or privilege upon agreeing to informal resolution.

The Parties may elect to leave the informal resolution process at any point until the informal resolution process is concluded. If a Party elects to leave the informal resolution process, the Grievance Procedure that the Parties paused will continue. In participating in the informal resolution process, the Parties understand that the timeframes governing the Grievance Procedure will temporarily cease, and only reinstate upon reentry into the Grievance Procedure.

Supportive Measures will be available, or continue to be available if already provided, during an informal resolution process, if elected to proceed. The Title IX Coordinator will also, to the extent necessary, take other appropriate prompt and effective steps to ensure that Sex-Based

Harassment does not continue or recur within The Cooper Union's Education Program or Activity.

Notice Prior to Entry Into Informal Resolution Process

Before the initiation of an informal resolution process, the Title IX Coordinator must provide to the Parties a written notice that explains:

- The allegations;
- The requirements of the informal resolution process;
- That, prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and to initiate or resume The Cooper Union's Grievance Procedures;
- That the Parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the Parties from initiating or resuming The Cooper Union's Grievance Procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the Parties; and
- What information The Cooper Union will maintain and whether and how The Cooper Union could disclose such information for use in its Grievance Procedures if they are initiated or resumed.

Determination to Approve Entry into Informal Resolution Process

Even where the Parties agree to submit a matter to informal resolution, the Title IX Coordinator or other designated official **must** approve the decision to move the matter to the informal resolution process and may determine that informal resolution is not appropriate under the circumstances.

Factors that the Title IX Coordinator or other designated official may weigh in considering the appropriateness of the informal resolution process include, but are not limited to, the gravity of the allegations, whether there is an ongoing threat of harm or safety to the campus, whether the Respondent is a repeat offender, whether the alleged conduct would present a future risk of harm to others, and whether the Parties are participating in good faith. This determination is not subject to appeal.

At any time after the commencement of the informal resolution process, the Title IX Coordinator or other designated official may determine that the informal resolution process is not an appropriate method for resolving the matter, and may require that the matter be resolved through the Grievance Procedures. This determination is not subject to appeal.

If informal resolution is approved or denied, The Cooper Union will provide the outcome in writing simultaneously to the Parties. If informal resolution is approved, the Title IX Coordinator shall also provide the information of the facilitator in writing to the Parties in a reasonable timeframe once the facilitator is assigned.

Role of the Facilitator

Informal resolution processes are managed by trained facilitators. All facilitators must not be the same person as the investigator or the/a decisionmaker(s) in The Cooper Union's Grievance Procedures. Any person designated to facilitate informal resolution must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. The Title IX Coordinator may serve as the facilitator, subject to these restrictions. [NOTE: In cases where the Title IX Coordinator is/has been serving as the investigator, they would no longer be able to serve as a facilitator of informal resolution].

All facilitators must have specialized training, required by law and regulation. Such training includes:

- The Cooper Union's obligation to address sex discrimination, including Sex-Based Harassment, in its Education Program or Activity;
- The scope of conduct that constitutes sex discrimination, including Sex-Based Harassment, under Title IX, including the definition of Sex-Based Harassment;
- All applicable notification and information requirements related to parental, family, or marital status, including pregnancy and related conditions, and The Cooper Union's response to sex discrimination;
- The rules and practices associated with The Cooper Union's informal resolution process; and
- How to serve impartially, including by avoiding conflicts of interest and bias.

Contents of Informal Resolution Agreements

Potential terms that may be included in an informal resolution agreement between the Parties include, but are not limited to:

- Restrictions on contact; and
- Restrictions on the Respondent's participation in one or more of The Cooper Union's education programs or activities or attendance at specific events, including restrictions The Cooper Union could have imposed as Remedies or Disciplinary Sanctions had The Cooper Union determined at the conclusion of the Grievance Procedures that Sex-Based Harassment occurred.

Breach of Informal Resolution Agreements

If a Party breaches the resolution or if The Cooper Union has other compelling reasons, such as if it learns of any fraud by a Party in entering into the agreement, The Cooper Union may void the agreement and initiate or resume the Grievance Procedures.

Confidentiality

In entering the informal resolution process, the Parties agree that any testimony and evidence (including admissions of responsibility) they share or receive during the informal resolution process concerning the allegations of the complaint are confidential while the Parties participate in the informal resolution process. No evidence concerning the allegations obtained within the informal resolution process may be disseminated to any person, provided that any Party to the informal resolution process may generally discuss the allegations under investigation with a parent, friend, advisor, or other source of emotional support, or with an advocacy organization. Should the Parties withdraw from the informal resolution process, information disclosed or obtained for purposes of the informal resolution process may be incorporated into the Grievance Procedures, provided that this information is disclosed and reviewed by the Parties under The Cooper Union's Grievance Procedures.

Informal Resolution Options

The Cooper Union offers the following informal resolution procedures for addressing complaints of Sex-Based Harassment described under this Grievance Procedures:

Administrative Resolution

Should the Parties mutually determine to enter the informal resolution process, and the Respondent elects to accept responsibility for the allegations of the complaint at any point during the informal resolution process, the institution may administratively resolve the complaint.

Where the Respondent admits responsibility, the Parties will receive simultaneous written notification of the acceptance of responsibility, and a decision-maker will convene to determine the Respondent's sanction and other Remedies, as appropriate and consistent with institutional policy. The Parties will be given an opportunity to be heard at the sanctions process, including without limitation, the submission of impact statements, and the Parties may be accompanied by their Advisor, but questioning of Parties or witnesses will not be permitted. The Parties will receive simultaneous written notification of the decision regarding sanctions and Remedies, which may be appealed according to the process described above in the Grievance Procedures.

Mediation (previously known as *Negotiated Resolution* in past policy versions)

The purpose of mediation is for the Parties who are in conflict to identify the implications of a student's actions and, with the assistance of a trained facilitator, identify points of agreement and appropriate Remedies to address them. Either Party can request mediation to seek resolution; mediation will be used only with the consent of both Parties, who will be asked not

to contact one another during the process. The Title IX Coordinator will also review any request for mediation, and may decline to mediate based on the facts and circumstances of the particular case. Either Party has the right to terminate the mediation process and choose or resume another option for resolution at any time.

The mediation process will typically commence within [number, e.g. 10] days after the Title IX Coordinator receives consent to mediate from both Parties, and has made its determination to allow informal resolution to go forward. Mediation will continue until concluded or terminated by either Party, the facilitator, or the Title IX Coordinator. During mediation, any potential investigation will halt, and calculations for time frames will be stayed. If the mediation results in a resolution, the disciplinary process will be concluded, and the matter will be closed. If a resolution cannot be reached, the matter will be referred to the Title IX Coordinator or other designated official to re-evaluate other options for resolution, including investigation or proceeding forward with the Grievance Procedures.

During mediation, a facilitator will guide a discussion between the Parties. In circumstances where the Parties do not wish to meet face to face, either Party can request “caucus” mediation, and the facilitator will conduct separate meetings. Whether or not the Parties agree to meet face to face, each Party will be permitted to bring an advisor of their choice to any meetings who may be, but is not required to be, an attorney.

At the conclusion of the mediation, the facilitator will memorialize the agreement that was reached between the Parties. The Title IX Office will monitor adherence to the proposed solution and close the matter when compliance is satisfactory.

Transcript Notations

For crimes of violence, including, without limitation, sexual violence, defined as crimes that meet the reporting requirements pursuant to the Clery Act (20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII)), The Cooper Union is required to make a notation on the transcript of a student found responsible for suspension or expulsion. Further:

- Any student who is found responsible for domestic violence, dating violence, sexual assault, stalking or any other crime of violence, and suspended will have a notation on his or her transcript indicating, “suspended after a finding of responsibility for a policy violation.”
- Any student who is found responsible for domestic violence, dating violence, sexual assault, stalking or any other crime of violence, and expelled will have a notation on his or her transcript indicating, “expelled after a finding of responsibility for a policy violation.”
- Any student who withdraws from the Cooper Union while a complaint of domestic violence, dating violence, sexual assault or stalking is pending against him or her and

declines to complete the investigatory and disciplinary process, will have a notation on his or transcript indicating, “withdrew with conduct charges pending.”

If a finding of responsibility is vacated for any reason, the transcript notation will be removed. Students shall have the right to seek the removal of a notation of suspension after one year has elapsed since the end of the suspension. Students wishing to request removal should submit a letter to the Title IX Coordinator setting forth the justification for removal. Notations of expulsion cannot be removed.

Retaliation

When The Cooper Union has information about conduct that reasonably may constitute Retaliation under Title IX or its Grievance Procedures, The Cooper Union is obligated to initiate, as appropriate, its Grievance Procedures, Code of Conduct procedures, or informal resolution process.

The Cooper Union will keep the identity of any individual who has made a report or complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a complaint of Sex-Based Harassment or sex discrimination under The Cooper Union’s Title IX Grievance Procedures, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial/conduct proceeding under The Cooper Union’s Title IX Grievance Procedures.

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations.

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under The Cooper Union’s Grievance Procedures.

Any intimidation, threats, coercion, or discrimination, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations constitutes Retaliation. This includes any charges filed against an individual for code of conduct violations that do not involve sex discrimination or Sex-Based Harassment, but that arise from the same facts or circumstances as a report or complaint of sex discrimination or a report or complaint of Sex-Based Harassment. Please see above for The Cooper Union’s Drug and Alcohol Amnesty Policy under these Grievance Procedures.

Complaints alleging Retaliation may be filed according to the Policy Upholding Human Rights and Title IX Proections and/or the student Code of Conduct.

Separate Rights of Faculty and Bargaining Unit Staff

Except as otherwise required by law, complaints made by or against persons represented by a labor organization will be handled in a manner that is consistent with the applicable collective bargaining agreement. Nothing herein precludes faculty and bargaining unit staff from seeking redress under their collective bargaining agreements.

Management and supervisory personnel in particular are responsible for taking reasonable and necessary action to prevent discrimination and harassment in the workplace and for responding promptly and thoroughly to any such claims. Those individuals include any officer or dean having formal supervisory responsibility over employees. Any person who believes that they have been subjected to sexual or gender-based harassment may initially choose to deal with the alleged offender directly through a face-to-face discussion, a personal telephone conversation, e-mail correspondence, or letters. In many cases, this may effectively resolve the situation; however, individuals are not required to address the alleged offender directly. Such an approach may be ineffective in correcting the problem, or an individual may be uncomfortable in handling the situation alone.

ADDITIONAL POINTS OF CONSIDERATION UNDER THE GRIEVANCE PROCEDURES

Anonymous Reporting: Although The Cooper Union encourages victims to talk to someone, The Cooper Union has an e-mail address, titleix@cooper.edu, for reporting; however, initiating contact from your cooper.edu email address will remove that anonymity. Using one's Cooper Union e-mail address will convey personally identifying information may serve as notice to The Cooper Union for the purpose of triggering an investigation. Please be advised that anonymous complaints may be unable to be investigated if sufficient information is not shared.

Contents of Complaint: Although individuals are encouraged to submit complaints in writing (electronically or by hard copy), complaints can be made orally. The complaint should clearly describe the alleged incident, when and where it occurred, and the desired remedy, if known.

Reports from individuals other than the Complainant: If The Cooper Union receives an anonymous report of an incident of identity-based discrimination, harassment or bias or receives a report from a third party, the alleged victim will be promptly informed of the report. The policy and procedures will be applied in the same manner as if the alleged victim had reported the incident.

Seeking Help: Regardless of whether a community member decides to file a complaint with The Cooper Union, The Cooper Union strongly encourages the community member to seek out available medical and mental health resources, which The Cooper Union's Title IX Coordinator (for students) or the Director of Human Resources (for employees) can direct victims to.

Passage of Time: Community members who wish to make a complaint may contact any of the staff mentioned above at any time. Please note that a delay in reporting could weaken the information, or The Cooper Union's ability to gather information that will be used to determine whether a person is responsible for sexual misconduct. Furthermore, the ability of The Cooper Union to take action may be limited by the matriculation or employment status of the respondent.

Unknown or Unaffiliated Assailant: If the respondent is unknown or is not a member of The Cooper Union community, the Title IX Coordinator will assist the complainant in identifying appropriate resources and contacting local law enforcement if the complainant would like to file a report. In addition, The Cooper Union may take other steps to protect the complainant and the community.

INTERNAL COMPLAINT PROCEDURES FOR ALLEGED VIOLATIONS OF HUMAN RIGHTS OUTSIDE OF THE SCOPE OF TITLE IX⁵

COMPLAINTS OF DISCRIMINATION, IDENTITY-BASED, or DISCRIMINATORY HARASSMENT, BIAS, AND/OR RETALIATION INVOLVING STUDENTS, FACULTY, STAFF AND THIRD PARTIES

All members of The Cooper Union community are expected to adhere to The Cooper Union's policies and to cooperate with the procedures for responding to complaints of discrimination and harassment. All are encouraged to report any conduct believed to be in violation of these policies. It is in the best interest of the entire Cooper Union community for incidents of discrimination and harassment to be reported and addressed promptly.

Management and supervisory personnel in particular are responsible for taking reasonable and necessary action to prevent discrimination and harassment in the workplace and for responding promptly and thoroughly to any such claims. Those individuals include any officer or dean having formal supervisory responsibility over employees.

Any person who believes that he or she has been the subject of discrimination or harassment may initially choose to deal with the alleged offender directly through a face-to-face discussion, a personal telephone conversation, e-mail correspondence, or letters. In many cases, this may effectively resolve the situation; however, individuals are not required to address the alleged offender directly. Such an approach may be ineffective in correcting the problem, or an individual may be uncomfortable in handling the situation alone.

Any individual who believes he or she has been subjected to discrimination or harassment should submit a complaint, if possible in writing. After a complaint is received it will be referred to the Equal Opportunity Officer.

To Whom Should Complaints Be Submitted

If the complainant or respondent is a student, complaints can be submitted to the Equal Opportunity Officer, the Dean of Students, the Associate Dean of Students, or an Academic Dean.

If the complainant or respondent is a faculty member, complaints can be submitted to the Equal Opportunity Officer or an Academic Dean.

⁵ All complaints alleging sexual misconduct should be filed in accordance with the Sex-Based Harassment Grievance Procedures and/or Informal Resolution Process described in the preceding sections of this document.

If the complainant or respondent is a staff member, complaints can be submitted to the Equal Opportunity Officer, the Director of Human Resources, or the employee's manager.

If the complainant or respondent is a third party doing business with the Cooper Union, complaints can be submitted to the Equal Opportunity Officer or the Director of Human Resources.

Notice

Each party will receive reasonable and advance written or electronic notice of any meeting they are required or eligible to attend. Each party will be given prompt notice of any meeting relating to the proceeding at which either the complainant or the respondent will be present, except that the respondent will not be notified of meetings with the complainant relating solely to interim protective measures and other supportive accommodations.

Conflict of Interest

Both the Complainant and the Respondent have the right to have a fair and impartial investigation, determination and appeal. If either the Complainant or Respondent has any reason to believe that any party designated to assist in the investigation or resolution of any form of Human Rights and/or Title IX complaint has a conflict of interest or would otherwise be unable to be fair and impartial, the concerned party should submit a letter explaining the basis for his or her concern.

Concerns regarding an Investigator/Decisionmaker, Designee of the Title IX Coordinator, or the Appeal Panel member should be submitted to the Title IX Coordinator. Concerns regarding the Title IX Coordinator should be submitted to the Dean of Students and/or the Chief Talent Officer. Concerns regarding Human Resources or Security staff members should be reported to the Chief Talent Officer. Concerns regarding the Chief Talent Officer should be reported to the President (for employees) or the Title IX Coordinator (for students).

The other party will be provided with a copy of the letter and will have an opportunity to respond. If based upon those submissions and any independent inquiry the decision-maker may choose to make, it is determined that there is a conflict of interest, another individual will be appointed to take on the role in question. If it is found that there is no such conflict, the individual will continue in his or her role. Concerns regarding conflicts of interest should be raised as soon as they are identified and prior to the individual with the alleged conflict's rendering of his or her determination, e.g. prior to the submission of the investigation report, the determination, or the appeal decision.

Negotiated Resolution

Where appropriate and with the consent of the Complainant, the Equal Opportunity Officer or their designee may attempt to mediate a resolution of the matter as amicably and privately as possible. If a satisfactory resolution is reached, the matter will be considered closed. If it becomes clear that a mediated resolution will not be possible, the matter will be investigated.

Formal Investigation

In the event mediation is unsuccessful or inappropriate, the Equal Opportunity Officer or their designee will designate an investigator. The investigator will interview the complainant, the respondent and any material witnesses and will review any relevant documents or other evidence. The investigator will then make a determination as to whether it is more likely than not that a policy violation has occurred.

Timeline

The entire investigation process from receipt of complaint until issuance of the Notice of Determination (excluding an appeal) should be completed within 60 days. If circumstances arise that require the extension of certain deadlines (including but not limited to unavailability of witnesses due to winter or summer break), the parties will be informed of the change and of the anticipated date of completion of that stage of the process.

Notification of Outcome

At the conclusion of the investigation under any of the procedures set forth above, the complaining party and the accused party will be notified of the outcome of the investigation.

Discipline

If a policy violation is found, appropriate discipline will be imposed. If the respondent is a student, the Equal Opportunity Officer will consult with the Dean of Students and the student's academic dean to determine the appropriate discipline. If the respondent is a faculty member, the Equal Opportunity Officer will consult with the academic dean to determine appropriate discipline. If the respondent is a staff member, the Equal Opportunity officer will consult with the Director of Human Resources and/or the employee's manager to determine the appropriate discipline.

Penalties for a violation include, but are not limited to:

- warning
- probation

- loss of privileges
- demotion
- revocation of degree
- revocation of honors or awards
- training/counseling
- withholding promotion or pay increase
- suspension
- expulsion
- termination of employment

IMPORTANT NOTICE TO ALL EMPLOYEES: Employees who have experienced conduct they believe is contrary to this policy have an obligation to take advantage of this complaint procedure. An employee's failure to fulfill this obligation could affect his or her rights in pursuing legal action. Also, please note, federal, state and local discrimination laws establish specific time frames for initiating a legal proceeding pursuant to those laws.

Separate Rights of Faculty and Bargaining Unit Staff

Complaints against persons represented by a labor organization will be handled in a manner that is consistent with the applicable collective bargaining agreement. Nothing herein precludes faculty and bargaining unit staff from seeking redress under their collective bargaining agreements.

APPENDIX I – STUDENTS’ BILL OF RIGHTS UNDER NYS 129-B

RIGHTS IN CASES OF SEXUAL ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE AND STALKING

Students’ Bill of Rights

All students have the right to:

1. make a report to local law enforcement and/or state police;
2. have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
4. participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. access to at least one level of appeal of a determination;
10. be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
11. exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

Rights of All Complainants

- The right to request interim protective measures to ensure his or her safety during the complaint process.
- The right to a prompt, thorough, fair and impartial investigation and appropriate resolution of all credible complaints of sexual misconduct.
- The right to be treated with respect by The Cooper Union staff throughout the process.
- The right to be notified of available counseling, mental and physical health services on and off campus.
- The right to identify witnesses and to request that the Investigator contact those individuals as part of the investigation.

- The right to have an advisor present in a support or advisory role during the investigation and at any meeting relating to the complaint process.
- The right to report the incident to off-campus authorities and/or law enforcement and to be assisted by The Cooper Union staff in doing so.
- The right to know what provisions of this policy the respondent is charged with violating.
- The right to be informed of the determination and sanction in writing to the extent permissible by law.
- The right to privacy and the assurance that information regarding the complaint will be shared only with those necessary.
- The right to receive timely notice of any meeting relating to the complaint process at which respondent will be present.

Rights of the Respondent

- The right to a prompt, thorough, fair and impartial investigation and appropriate resolution of all credible complaints of sexual misconduct.
- The right to be treated with respect by The Cooper Union staff throughout the process.
- The right to be notified of available counseling, mental and physical health services, on and off campus.
- The right to identify witnesses and other parties, and to request that the Investigator contact those individuals as part of the investigation.
- The right to have an advisor present in a support or advisory role during the investigation and at any meeting relating to the complaint process.
- The right to receive written notice of which policy provisions they are alleged to have violated.
- The right to be notified of possible sanctions that may result if found responsible for violating this policy.
- The right to be informed of the determination and any sanction in writing.
- The right to privacy and the assurance that The Cooper Union will share information regarding the complaint only with those necessary.
- The right to receive timely notice of any meeting relating to the process at which the complainant will be present, except meetings related solely to interim protective measures or accommodations.

APPENDIX II - COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS PROMOTING EQUAL OPPORTUNITY, PROHIBITING DISCRIMINATION AND HARASSMENT AND AUTHORIZING AFFIRMATIVE ACTION

In accordance with all applicable laws and pursuant to its own policies and operating procedures, The Cooper Union provides for equal opportunity, prohibits unlawful discrimination and harassment, and takes affirmative action. The applicable laws include:

- **Title VI of the Civil Rights Act of 1964**, as amended, prohibits discrimination against any person on the basis of race, color, or national origin in programs or activities receiving federal financial assistance.
- **Title VII of the Civil Rights Act of 1964**, as amended, prohibits employment discrimination against any person because of race, color, religion, sex, pregnancy, or national origin.
- **Title IX of the Education Amendments of 1972**, as amended, prohibits discrimination on the basis of sex in the conduct or operation of a school's educational programs or activities, including employment in these programs and activities.
- **The Equal Pay Act of 1963**, prohibits discrimination on the basis of sex in rates of pay. The Lily Ledbetter Act of 2009 extends this protection. Executive Order 11246, as amended, prohibits discrimination in employment because of race, color, religion, sex, or national origin and requires affirmative action to ensure equality of opportunity in all aspects of employment.
- **Sections 503 of the Rehabilitation Act of 1973**, requires a federal contractor to take affirmative action to employ and advance in employment qualified workers with disabilities. **Section 504** prohibits the exclusion of any person solely on the basis of a disability from participation in or access to benefits of any federally financed program or activity; it also prohibits discrimination against any person solely on the basis of disability in any federally financed program or activity.
- **The Americans with Disabilities Act of 1990**, as amended, prohibits discrimination in public accommodations and in employment against a qualified person with a disability and requires an employer to provide qualified applicants and employees with reasonable accommodations.
- **The Age Discrimination in Employment Act of 1967**, as amended, prohibits discrimination in employment on the basis of age.
- **The Violence Against Women Act (VAWA)**, as amended and reauthorized, prohibits domestic and sexual violence against any person.
- **The Campus Sexual Violence Elimination Act ("Campus SaVE")**, a provision of the Violence Against Women Reauthorization Act of 2013 that amended the Clery Act,

requires that institutes of higher education provide data regarding incidents of sexual assault, domestic violence, dating violence, and stalking; and develop policies and procedures concerning the education, awareness, and prevention of sexual assault, domestic violence, dating violence, and stalking on campus.

- **The Uniformed Services Employment and Reemployment Rights Act (USERRA)**, prohibits discrimination in employment based on past, current, or future military obligations.
- **The Vietnam Era Veterans' Readjustment Assistance Act of 1974 and the Veterans Employment Opportunities Act of 1998**, as amended, prohibit job discrimination and require affirmative action to employ and advance in employment qualified special disabled veterans, veterans of the Vietnam Era, recently separated veterans, and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.
- **The Immigration Reform and Control Act of 1986**, prohibits employers from discriminating on the basis of citizenship status. The prohibition extends to employers who hire only U.S. citizens or U.S. citizens and green card holders, as well as to employers who prefer to employ unauthorized workers or temporary visa holders rather than U.S. citizens and other workers with employment authorization.
- **The Small Business Act of 1958**, as amended, Section 15(g)(1), requires federal contractors to afford maximum practicable business opportunities to Small Business Concerns, including businesses owned by disadvantaged individuals, disabled veterans, and women.
- **The New York Executive Law, Article 15, Section 296(1)**, prohibits discrimination against any person in employment because of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, genetic predisposition or carrier status, marital status, or arrest record. Section 296(4) prohibits an educational institution from denying the use of its facilities to anyone otherwise qualified or permitting harassment of a student or applicant on the basis of color, race, religion, disability, national origin, sexual orientation, military status, sex, age, and marital status.
- **The New York State Articles 129-A and 129-B**, also known as "Enough is Enough," intended to combat sexual assault on college and university campuses statewide and which requires all colleges to adopt a set of comprehensive procedures and guidelines, to ensure the safety of all students attending colleges in New York State.
- **The New York Labor Law, Section 194**, prohibits discrimination on the basis of sex in rates of pay.
- **The New York City Human Rights Law, Chapter 1, Section 8-107**, makes it an unlawful discriminatory practice for an employer to discriminate against any person because of his or her actual or perceived age, race, creed, color, national origin, gender (including gender identity and expression), disability, marital status, sexual orientation, alienage or citizenship status, partnership status, unemployment status or status as a perceived or actual victim of domestic violence.

APPENDIX III - RESOURCES AND SUPPORT FOR VICTIMS OF SEXUAL MISCONDUCT

Services provided by The Cooper Union are free of charge to all students. External agencies generally provide free consultation and crisis services, but may require use of insurance or payment of fees for other services. The Office of the Dean of Students will work with any student to address financial issues or concerns and ensure that costs is not a barrier to support of treatment.

MEDICAL ATTENTION AND EVIDENCE PRESERVATION

Victims of sexual violence, including sexual assault, dating violence, domestic violence, and stalking, are encouraged to seek prompt medical attention and to report the incident to the police. To gain assistance in getting to an emergency room, a victim can call 911 or notify The Cooper Union's security guards or the Dean of Students office. The nearest emergency rooms to The Cooper Union are at:

Beth Israel Medical Center
First Avenue and 16th Street
212.420.2840

Bellevue Hospital
First Avenue and 27th Street
212.562.4347

The hospital staff will do a detailed examination of the entire body, including an internal examination as appropriate, collect evidence, check for injuries, address pregnancy concerns and the possibility of exposure to sexually transmitted infections. Victims are advised that the best way to preserve evidence of sexual assault is to avoid bathing or washing yourself before being examined. Similarly, clothing, towels, sheets and other items should not be washed or moved, if possible. The clothing worn at the time of the assault should be brought to the hospital in a sanitary container, such as a paper bag or a clean sheet. If the clothing worn at the time of the assault is still being worn, it is advisable to bring a change of clothes to the hospital, if possible.

Seeking medical attention will in no way obligate a victim to file a complaint or press criminal charges. Conversely, electing not to seek medical attention or to contact police will not impact The Cooper Union's investigation or grievance process.

Victims are advised that the best way to preserve evidence of sexual assault is to avoid bathing or washing yourself before being examined. You should not take a shower, wash hands or face, comb your hair, or douche. Normal everyday behavior, such as going to the bathroom, can destroy or remove evidence of sexual assault; you should try to avoid doing so if possible.

Similarly, you should try not to smoke or drink anything. Altering your appearance can hide bruising or lacerations that can be cited as evidence when pressing charges. It is best not to apply make-up or any other substance that can change your appearance.

Evidence of the assault can be found in the fibers of your clothes, strands of your hair, or on other parts of your body, so it is important to try your best to preserve as much evidence as possible. Clothing, towels, sheets and other items should not be washed or moved, if possible. The clothing worn at the time of the assault should be brought to the hospital in a sanitary container, such as a paper bag or a clean sheet. If the clothing worn at the time of the assault is still being worn, it is advisable to bring a change of clothes to the hospital, if possible.

It is important to note that failure to take the steps described above **does not** preclude you from reporting an incident to The Cooper Union or to the police.

APPENDIX IV – VICTIM ADVOCACY SERVICES

Bellevue Hospital Center : Sexual Assault Response Team SAFE Center

462 First Avenue
CD Building, Ground Floor #GA74
New York, NY 10016

Contact: Carla Brekke , Program Coordinator
Phone: (212) 562-3435/3755
Fax: (212) 562-6103
E-Mail: carla.brekke@bellevue.nychhc.org

Safe Horizon Crisis Center

2 Lafayette Street #3
New York, NY 10007

Phone: (212) 577-7700

External Resources

Additional confidential counseling is available through one of the following local services. External counselors will not report any information to The Cooper Union.

St. Luke's-Roosevelt Hospital : Crime Victims Treatment Center - Roosevelt Office

432 West 58th Street
Suite 114
New York, NY 10019

Contact: Christine Fowley, LCSW
Phone: 212-523-9058
E-Mail: ChFowley@chpnet.org

Bellevue Hospital Center : Sexual Assault Response Team SAFE Center

462 First Avenue
CD Building, Ground Floor #GA74
New York, NY 10016

Contact: Carla Brekke , Program Coordinator
Phone: (212) 562-3435/3755
Fax: (212) 562-6103
E-Mail: carla.brekke@bellevue.nychhc.org

Beth Israel Medical Center : Rape Crisis & Domestic Violence Intervention Program

Dept. of Social Work

317 E 17th St.
New York, NY 10003

Contact: Carole Sher , Program Coordinator
Phone: (212) 420-4516
Fax: (212) 420-2036
E-Mail: csher@chpnet.org

New York Presbyterian Hospital DOVE : Domestic and Other Violent Emergencies Program

622 W 168th St., HP2
New York, NY 10032

Contact: Alma Withim , LCSW Program Coordinator
Phone: (212) 305-9060
Fax: (212) 305-6196
E-Mail: withima@nyp.org

Safe Horizon Crisis Center

2 Lafayette Street #3
New York, NY 10007

Phone: (212) 577-7700

WomanKind (New York Asian Women's Center)

39 Bowery St.
PMB 375
New York, NY 10002

Contact: Julie Kim-Richards , Director of Client Services
Phone: (212) 732-0054 ext. 113
Fax: (212) 587-5731
E-Mail: info@nyawc.org
Hotline: (888) 888-7702 (24-hour Hotline)

Gay and Lesbian Anti-Violence Project

240 W 35th St., Ste. 200
New York, NY 10001

Contact: Ivana Chapcakova , Client Services
Phone: (212) 714-1184

Fax: (212) 714-2627

E-Mail: ivana.chapcakova@avp.org

Hotline: (212) 714-1141

New York County District Attorney's Office

1 Hogan Place, Room 231

New York, NY 10003

Phone: (212) 335-9040 – Social Services

Phone: (212) 335-9633 – Counseling

APPENDIX V - PRIVILEGED VS CONFIDENTIAL COMMUNICATIONS

Professional Counselors

Professional, licensed counselors who provide mental-health counseling to members of the school community are not required to report any information about an incident to the Title IX coordinator without a victim's permission. Following is the contact information for these individuals:

Cassandra Jolicoeur, Student Care Coordinator

cassandra.jolicoeur@cooper.edu

Elizabeth London, Counselor

elizabeth.london@cooper.edu

Student Residence Hall

29 3rd Avenue, 3rd Floor

New York, NY 10003

Who Is Obligated to Report What I Tell Them to the Cooper Union?

A "responsible employee" is a Cooper Union employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty.

A responsible employee must report to the Title IX Coordinator all relevant details about any incident of sexual misconduct – including the names of the victim and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling The Cooper Union's response to the report. A responsible employee should not share information with law enforcement without the victim's consent or unless the victim has also reported the incident to law enforcement.

The following categories of employees are the Cooper Union's responsible employees:

- Academic Advising Staff
- Student Affairs Staff
- Student Residence Assistant Staff (RA)
- Student Peer Mentor Staff

- Admissions Staff
- Campus Security Staff
- Laboratory Technical Staff
- Studio Technical Staff
- Deans (including Assistant and Associate Deans)
- Officers of the Institution
- Faculty

Before a victim reveals any information to a responsible employee, the employee should ensure that the victim understands the employee's reporting obligations – and, if the victim wants to maintain confidentiality, direct the victim to confidential resources.

If the victim wants to tell the responsible employee what happened but also maintain confidentiality, the employee should tell the victim that The Cooper Union will consider the request, but cannot guarantee that The Cooper Union will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the responsible employee will also inform the Coordinator of the victim's request for confidentiality.

Responsible employees will not pressure a victim to request confidentiality, but will honor and support the victim's wishes, including for The Cooper Union to fully investigate an incident. By the same token, responsible employees will not pressure a victim to make a full report if the victim is not ready to do so.

Public Awareness Events

Sharing information regarding an incident of sexual misconduct at a public awareness event, such as Take Back the Night, the Clothesline Project, survivor speak-outs, and other forums, does not constitute notice to The Cooper Union and will not trigger an investigation under this policy.

CAN I REQUEST THAT THE COOPER UNION NOT TAKE ACTION REGARDING AN INCIDENT?

If a victim of sexual violence discloses an incident to a responsible employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, The Cooper Union must weigh that request against The Cooper Union's obligation to provide a safe, non-discriminatory environment for all member of The Cooper Union community, including the victim.

If The Cooper Union honors the request for confidentiality, a victim must understand that The Cooper Union's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited.

Although rare, there are times when The Cooper Union may not be able to honor a victim's request in order to provide a safe, non-discriminatory environment for the entire Cooper Union community.

The Title IX Coordinator will evaluate requests for confidentiality once a responsible employee is on notice of alleged sexual violence. When weighing a victim's request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including the following:

- The increased risk that the alleged perpetrator will commit additional acts of sexual or other violence, such as:
 - whether there have been other sexual violence complaints about the same alleged perpetrator;
 - whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
 - whether the alleged perpetrator threatened further sexual violence or other violence against the victim or others;
 - whether the sexual violence was committed by multiple perpetrators;
- whether the sexual violence was perpetrated with a weapon;
- whether the victim is a minor;
- whether The Cooper Union possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence);
- whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead The Cooper Union to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, The Cooper Union will likely respect the victim's request for confidentiality.

If The Cooper Union determines that it cannot maintain a victim's confidentiality, The Cooper Union will inform the victim prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling The Cooper Union's response.

The Cooper Union will remain ever mindful of the victim's well-being, and will take ongoing steps to protect the victim from retaliation or harm and work with the victim to create a safety plan. Retaliation against the victim, whether by students or The Cooper Union's employees, will not be tolerated.

The Cooper Union will also:

- assist the victim in accessing other available victim advocacy, academic support, counseling, disability, and health or mental health services;
- provide other security and support, which could include issuing a no-contact order, helping arrange a change of living or working arrangements or course schedules (including for the alleged perpetrator pending the outcome of an investigation) or adjustments for assignments or tests; and
- inform the victim of the right to report a crime to campus or local law enforcement – and provide the victim with assistance if the victim wishes to do so.

The Cooper Union will not require a victim to participate in any investigation or disciplinary proceeding.

Because The Cooper Union is under a continuing obligation to address the issue of sexual violence campus-wide, reports of sexual violence (including non-identifying reports) will also prompt The Cooper Union to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual violence occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

If The Cooper Union determines that it can respect a victim’s request for confidentiality, The Cooper Union will also take immediate action as necessary to protect and assist the victim.

WILL INFORMATION ABOUT AN INCIDENT BE SHARED WITH MY PARENTS?

The Family Educational Rights and Privacy Act (FERPA) allows The Cooper Union to share information with parents when (i) there is a health or safety emergency or (ii) where the student is a dependent on the parent’s prior year federal tax return. Generally speaking, The Cooper Union will not disclose a report of domestic violence, dating violence, sexual assault or stalking to a student’s parents without the student’s permission.

DUTY TO REPORT STATISTICS AND TIMELY WARNING

The Cooper Union has a duty to report data about various forms of sexual misconduct in accordance with *The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Act* (Clery Act). No personally identifiable information is disclosed, but statistical information is disclosed as part of The Cooper Union’s Annual Security Report. The information to be shared includes the date, location type (residence hall, public property, off-campus, etc.), and specific crime category.

The Clery Act also requires The Cooper Union to issue a “timely warning” when it receives a report of a crime that poses a serious and continuing threat to the campus community, except in circumstances where the issuance of the warning may compromise pending law enforcement efforts. No personally identifying information about the victim will be disclosed.

ADDITIONAL GOVERNMENT RESOURCES

The government resources listed here may provide additional assistance for students wishing to file an external complaint of sexual misconduct or students with inquiries regarding the application of Title IX and its implementing regulations:

<http://www.notalone.gov>

U.S. Department of Education, Office for Civil Rights
<http://www.ed.gov/ocr>

US Department of Education
Office for Civil Rights
New York – Region II
32 Old Slip, 26th Floor
New York, NY 10005
646-428-3800
OCR.NewYork@ed.gov

U.S. Department of Justice, Office on Violence Against Women
<http://www.ovw.usdoj.gov>
US Department of Justice
Office on Violence Against Women
145 N Street, NE, Suite 10W.121
Washington, DC 20530
(202) 307-6026

APPENDIX VI – SEX-BASED HARASSMENT CODE CHARGES AND POTENTIAL DISCIPLINARY SANCTIONS

CODE CHARGES

CODE CHARGE ONE: *Sex-Based Harassment*: sexual harassment and other harassment on the basis of sex, including harassment because of gender identity, sexual orientation, sex characteristics, sex stereotypes, and/or pregnancy and other conditions, that is:

- A. *Quid pro quo harassment.* An employee, agent or other person authorized by The Cooper Union’s Education Program or Activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct;

- B. *Hostile environment harassment.* Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from The Cooper Union’s Education Program or Activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - (i) the degree to which the conduct affected the Complainant’s ability to access The Cooper Union’s Education Program or Activity;
 - (ii) the type, frequency, and duration of the conduct;
 - (iii) the Parties’ ages, roles within The Cooper Union’s Education Program or Activity, previous interactions and other factors about each Party that may be Relevant to evaluating the effects of the conduct;
 - (iv) the location of the conduct and the context in which the conduct occurred; and
 - (v) other Sex-Based Harassment in The Cooper Union’s Education Program or Activity;

Code Charge Two: *Sexual Assault*: as defined in the Clery Act, meaning any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent;

Code Charge Three: *Dating Violence*: as defined in the Violence Against Women Act (VAWA) Reauthorization of 2022 and the VAWA Amendments to the Clery Act, is any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) Where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) the type of relationship; and (iii) The frequency of interaction between the persons involved in the relationship.

Code Charge Four: Domestic Violence: any felony or misdemeanor crimes committed by a person who: (A) is a current or former partner of the victim under the family or domestic violence laws of New York, or a person similarly situated to a spouse of the victim; (B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C) shared a child in common with the victim; or (D) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of New York.

Code Charge Five: Stalking: engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for the person's safety or the safety of others; or (B) suffer substantial emotional distress.

POTENTIAL DISCIPLINARY SANCTIONS

Pursuant to the Clery Act, the following range of Disciplinary Sanctions may be imposed following a final determination of responsibility in a disciplinary procedure regarding sexual assault, rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking:

- Expulsion,
- Revocation of degree,
- Suspension,
- Demotion,
- Termination of employment,
- Revocation of honors or awards,
- Warning or reprimand,
- Disciplinary probation,
- Loss of housing privilege,
- Loss of other privileges (including but not limited to use of facilities and participation in campus organizations and activities),
- Community service,
- Mandated training and education.

APPENDIX VII – NYS PENAL LAW

Although The Cooper Union only enforces its own policies, community members should be aware that some of the conduct prohibited by Cooper Union Policy may also be a violation of the New York state penal law.

The Penal Law and Social Services Law definitions in this document are provided for information purposes only. Those interested in filing a complaint with the police are encouraged to do so, and The Cooper Union will assist any complainant in contacting law enforcement.

New York Penal Code Section:

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 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, oral sexual conduct or anal sexual conduct, 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.

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

(a) less than seventeen years old; or

(b) mentally disabled; or

(c) mentally incapacitated; or

(d) physically helpless; or

(e) committed to the care and custody or supervision of the state department of corrections and community supervision or a hospital, as such term is defined in subdivision two of section four hundred of the correction law, and the actor is an employee who knows or reasonably should know that such person is committed to the care and custody or supervision 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 forty 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. For purposes of this paragraph, "employee" shall also mean a person, including a volunteer or a government employee of the state department of corrections and community supervision or a local health, education or probation agency, providing direct services to inmates in the local correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the local correctional department or, in the case of such a volunteer or government employee, a written agreement with such department, provided that such person received written notice concerning the provisions of this paragraph; 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 in which such person is committed to or placed at the time of the offense who, as part of his or her employment, performs duties consisting of providing custody, medical or mental health services, counseling services, educational services, vocational training, or direct supervision to persons committed to or placed in a residential facility operated by the office of children and family services; 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; or

(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.

130.20 Sexual misconduct.

A person is guilty of sexual misconduct when:

1. He or she engages in sexual intercourse with another person 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
3. He or she engages in sexual conduct with an animal or a dead human body.

Sexual misconduct is a class A misdemeanor.

§ 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 less than seventeen years old;
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.

§ 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;
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.

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 or she 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.

130.50 Criminal sexual act in the first degree.

A person is guilty of criminal sexual act in the first degree when he or she 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.

§ 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 for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire.

For the purposes of this section, forcible touching includes squeezing, grabbing or pinching. Forcible touching is a class A misdemeanor.

§ 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, excluding any time during which such person was incarcerated for any reason, 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.

Persistent sexual abuse is a class E felony.

§ 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 and 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; or
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.

§ 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, rectum 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, rectum 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 third degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another 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, rectum 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 or she inserts a finger in the vagina, urethra, penis, rectum 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. 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.

§ 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; or
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.

§ 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.

§ 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.

§ 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.

§ 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.

For the purposes of subdivision two of this section, "following" shall include the unauthorized tracking of such person's movements or location through the use of a global positioning system or other device.

Stalking in the fourth degree is a class B misdemeanor.

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.

§ 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, slungshot, shirken, "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; or
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.

§ 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.

Social Services Law section 459-a provides

"Victim of domestic violence" means any person over the age of sixteen, any married person or any parent accompanied by his or her minor child or children in situations in which such

person or such person's child is a victim of an act which would constitute a violation of the penal law, including, but not limited to acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted assault, attempted murder, criminal obstruction of breathing or blood circulation, or strangulation; and (i) such act or acts have resulted in actual physical or emotional injury or have created a substantial risk of physical or emotional harm to such person or such person's child; and (ii) such act or acts are or are alleged to have been committed by a family or household member.

2. "Family or household members" mean the following individuals:

(a) persons related by consanguinity or affinity;

(b) persons legally married to one another;

(c) persons formerly married to one another regardless of whether they still reside in the same household;

(d) persons who have a child in common regardless of whether such persons are married or have lived together at any time;

(e) unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household;

(f) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time.

Factors that may be considered in determining whether a relationship is an "intimate relationship" include, but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship"; or

(g) any other category of individuals deemed to be a victim of domestic violence as defined by the office of children and family services in regulation.

3. "Parent" means a natural or adoptive parent or any individual lawfully charged with a minor child's care or custody.