

**NEW YORK STUDIO SCHOOL**

**OF DRAWING, PAINTING AND SCULPTURE**

**8 WEST 8 STREET NEW YORK NY 10011 212 673 6466 FAX 212 777 0996**



## **Sexual Assault Policy & Information**

### **Introduction**

In 1990, the New York State Assembly amended the Education Law on campus security, mandating that colleges and universities form special committees on campus security and to distribute information on preventing assault.

The New York Studio School Security Concerns Committee is the body that deals with these issues, and is comprised of students, faculty and administrative staff. This handout is one way of educating students and the entire School community about sexual assault, and to focus attention on the need for safety and security both within the Schools' building and on the streets of the city, which serves as our extended campus.

## BILL OF STUDENT RIGHTS

### Pertaining to Sexual Assault and Misconduct

Located on the New York Studio School website:  
<http://www.nyss.org/admissions-services/registrar/>

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## II. Sexual Assault

The following forms of sexual misconduct are prohibited: Sexual Harassment; Sexual Assault; Sexual Coercion; Sexual Exploitation; Dating Violence; Domestic Violence; Intimidation; Stalking. NYSS students, who experience campus-related sexual or gender-based harassment or sexual violence, including sexual assault, stalking, domestic violence, intimate partner violence or dating violence, are **entitled to the following rights:**

1. To report the incident to the School;
2. and/or to file a criminal complaint with the NYPD, or to choose not to report;
3. To receive assistance from the School campus or others in filing a criminal complaint, which may include seeking an Order of Protection;
4. To describe the incident only to those School officials who need the information in order to properly respond and to repeat the description as few times as practicable;
5. To request that the School file conduct charges against the respondent(s). The decision on whether to bring charges rests with the campus;
6. To be protected by the School from retaliation for reporting the incident, and to have any allegations of retaliation addressed by the School;
7. To receive assistance and resources from the School, including confidential and free on-campus counseling, and to be notified of other available services on- and off-campus, including, among other resources, the New York State Office of Victim Services;
8. To receive assistance in seeking necessary medical services or treatment, including a Sexual Assault Forensic Examination (SAFE exam), on or off campus;
9. To have your complaints handled respectfully by the School, and to be informed about how the School will protect your privacy and confidentiality;
10. To have your complaint investigated in a prompt, impartial and thorough manner by individuals who have received appropriate training in conducting investigations and the issues related to sexual harassment and sexual violence, and to be accompanied by a person of your choice at all meetings or hearings related to the process;
11. To have your complaint against a student adjudicated by individuals who have received appropriate training on issues related to sexual harassment and sexual violence;
12. To report incidents of sexual harassment or sexual violence that you experience while under the influence of alcohol or drugs without receiving discipline for your alcohol or drug use;
13. To have the same opportunity as the respondent(s) to participate in a student disciplinary hearing before a faculty-student disciplinary committee, including the right to be present, to be represented by a person of your choice, including an attorney, to present evidence, call witnesses, cross-examine witnesses, have your prior sexual history with persons other than the respondent(s) excluded from the hearing, have your prior mental health diagnosis and/or

- treatment excluded from the hearing, receive written notice of the outcome of the hearing, and to appeal from the decision;
14. To participate in the investigative and disciplinary processes of the campus without interference with your civil rights or practice of religion;

*It is the policy of New York Studio School to comply with Title IX of the Education Amendments of 1972, which prohibits discrimination (including sexual harassment and sexual violence) based on sex in the School's educational programs and activities. Title IX also prohibits retaliation for asserting claims of sex discrimination. The New York Studio School has designated its Title IX Coordinator as Kaitlin McDonough to coordinate the School's compliance with and response to inquiries concerning Title IX.*

**Title IX Contact Information:**

Kaitlin McDonough  
New York Studio School, 8 West 8<sup>th</sup> Street, New York, NY 10011  
Phone: 212-673-6466, ext. 125  
Fax: 212-777-0996  
Email: kmcdonough@nyss.org

A person may also file a written complaint with the Department of Education Office for Civil Rights regarding an alleged violation of Title IX online at:

<http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>

**Sexual Assault & Harassment**

While rape is the most common type of sexual assault, there are other forms of such assault. The New York State Penal Code describes the five types of sexual assault with up to three degrees of seriousness for each, and descriptions of them are included at the end of this pamphlet. The penal code changes from time to time and updates copies are available in the Student Services Office.

An important distinction between sexual assault and sexual harassment should be defined. Sexual harassment is a form of discrimination based on one's gender or sexual orientation, and this type of harassment may be subtle or blatant, physical or verbal, and includes such behaviors as unwelcome sexual advances, requests for sexual favors, and other communications or physical conduct of a sexual nature. The School's policy on sexual harassment and further descriptions are laid out in further detail in the Student Handbook. Sexual harassment is an abuse of power employing coercion, threat, bribery or unwanted attention. Rape is a crime of violence, anger and power.

**Getting Immediate Support**

Being raped or assaulted is not the victim's fault. No matter what, no one deserves to be raped. Do not blame yourself if you were the victim of rape or any other form of sexual assault.

### **Where do I go for Help?**

The following list, together with the one included in your Student Handbook, provides information on local hospitals and medical facilities where you can go if you have been sexually assaulted, together with numbers to call for advice and counseling.

- Lenox Health Greenwich Village, 30 7<sup>th</sup> Avenue (646) 665-6000 24 Hour Emergency Room, 24-hour Center of Excellence (COE) for its Sexual Assault Forensic Examiner (SAFE) Program
- Mt. Sinai St. Luke's Hospital, Emergency Dept., 1111 Amsterdam Avenue (212) 523-3335
- New York-Presbyterian/Lower Manhattan Hospital Emergency Medicine (212) 312-5070
- Bellevue Hospital Center, Rape Crisis Program, 462 First Ave ( at27th Street) (212) 562-3435/3755
- Harlem Hospital-Columbia University Medical Center, 506 Malcolm X Blvd. (212) 939-4621 Hotline (212) 939-4613
- Brooklyn Hospital Center, 121 DeKalb Avenue, Brooklyn (718) 250-8075
- NYU-Lutheran Medical Center, 150 55<sup>th</sup> Street, Brooklyn (718) 630-7185
- Woodhull Medical Center, 760 Broadway, Brooklyn (718) 963-8000
- Beth Israel Medical Center, Rape Crisis & Domestic Violence Program, 317 E.17<sup>th</sup> Street. (212) 420-4516. Hours by appt.
- Safe Horizon Rape Crisis/Sexual Abuse Hotline (212) 227 3000
- NYPD Rape Hotline (646) 610 7273
- Rape Abuse & Incest National Network Sexual Assault Hotline (800) 656 4673
- New York City Alliance Against Sexual Assault [www.nycagainstrape.org](http://www.nycagainstrape.org)

### **Reporting a Sexual Assault**

If you are a victim of sexual assault:

- Tell someone immediately – a friend, family member, member of staff, anyone. If you tell a member of the School staff or faculty, they will be able to offer support and advice and assist

you in where and how to get medical treatment, as well as help in the process of reporting the crime, if you decide to do so.

- ❑ While victims of such crimes are not obligated to report a sexual assault to the police, you are strongly recommended to do so. Reporting a sexual assault does not necessarily mean that a court appearance would be required.
- ❑ Extreme care is taken at all times to protect your privacy and confidentiality.
- ❑ Whether or not you decide to inform the police, it is important to get a medical examination as soon as possible. This action is important, not only in case injury or disease is involved but also because medical exams provide evidence needed should you decide to report the crime at a later date.
- ❑ Whether you report the crime or not, it is advisable to seek counseling. Numbers are provided at the front of this Handbook that may be useful in arranging counseling sessions.

### **If You Choose to Report an Assault**

- ❑ Do not wash, bathe or shower, douche, brush your teeth, comb your hair, change clothes or clean up in any way as such an action can destroy evidence of the attack.
- ❑ Do not touch, move or destroy any article that may be evidence.
- ❑ What to do in the hospital:
  1. Inform the doctor of the exact acts committed upon you
  2. The doctor will examine you in a private room. NO police personnel will be present while the examination takes place.
  3. The doctor will note any injuries or bleeding, bruises, etc., both internally and externally.
  4. With your permission, the doctor will use a sex crimes evidence collection kit during the examination to document the assault. The tests in the kit are designed to be as non-invasive as possible.

You are not obligated to press charges just because you consent to any of the above procedures. However, the use of the kit is very important as evidence, should you decide to prosecute the assailant at a later date.

A new provision requires hospitals that treat rape victims to provide information on emergency contraception. If you request it, the hospital must provide such contraception to you.

In New York State, the Crime Victims Board will provide direct reimbursement for sexual assault forensic exams performed by a hospital, sexual assault examiners program or licensed healthcare provider. You can get more information about the Crime Victims Board online at [www.cvb.state.ny.us/index.html](http://www.cvb.state.ny.us/index.html)

Inform the police department investigator assigned to you of ALL details of the attack, no matter how intimate or personal they are. All information is important.

### **Getting Support**

A variety of off-campus resource centers and programs are available throughout New York City, many of which are low-cost and some of which are free. Long Island College Hospital in Brooklyn keeps its Rape Crisis Intervention Program available 24 hours a day, 7 days a week. Counselors and trained volunteers

can provide many services, including accompanying victims through the hospital system and explaining options, offering support, and providing transportation home. They also provide short-term follow-up counseling. Most of the hospitals listed above have support programs for victims of sexual violence. A further list can be found online at [www.nycagainstrape.org](http://www.nycagainstrape.org)

### **On-Going Support Services**

People who have been sexually assaulted experience a variety of feelings with which it can be difficult to cope. Feelings can include guilt, shame, anger, powerlessness, hurt and rage, and these can affect personal and intimate relationships and friendships as well as your own self esteem. Sometimes, feelings of numbness can immediately follow an assault and/or treatment, together with a feeling that you do not need further assistance and that ignoring personal feelings, or not thinking about what happened, can make it go away. This is not the case. Sexual assault is a traumatic event and experience for any victim, their family and friends. It is in your best interest to seek professional help for as long as you feel necessary, both for yourself and for the important people in your life.

### **Sexual Assault and Its Penalties**

Sexual assault, including date or acquaintance rape, is considered a serious crime under the New York State Penal Code, and a serious offense against the New York Studio School's Community Standards. Penal Code section 130 governs the prosecution of sexual offenses in New York State, and was revamped and became law on February 1, 2001.

If the offender is a member of the School community, the School may initiate proceedings against the perpetrator, independent of any criminal action. If the offender is found guilty of any such assault through the School's investigatory process, penalties up to and including dismissal may be applied.

### **Explanation of Terms**

Under New York State Law, a sexual offense occurs when certain sexual acts are perpetrated against a victim without his or her consent. The law defines both the behavior and the physical nature (body parts, etc.) of a sex offense *and* the lack of consent involved.

**"Affirmative consent"** is defined as:

"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. 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."

**"Lack of consent"** is defined as occurring in the following circumstances:

1. Forcible Compulsion:
  - Actual physical force;
  - The threat of physical force, expressed or implied, that puts the victim in fear of being physically harmed or of another person being physically harmed (e.g. one's child)
  - The threat to kidnap the victim or a third person.

OR

2. Physically Helpless: Physically unable to indicate a lack of consent (e.g. because a victim is unconscious or because of a physical disability that makes one unable to physically or verbally communicate lack of consent).

OR

3. Under 17 years of age

OR

4. Mentally Incapacitated: when the victim is made temporarily incapable of understanding or controlling his or her conduct because a drug or other intoxicating substance (e.g. alcohol) was given to them without their consent.

OR

5. Mentally Disabled: when a person suffers from a mental illness or a condition that renders them incapable of understanding the nature of their conduct

OR

6. Inmate: when a person is literally or physically under the control of others

OR

7. Some Factor Other Than Incapacity in Consent: in the case of intercourse, if the victim expressed that he or she did not consent to the sex act in such a way that a reasonable person would have understood those words or acts as expressing lack of consent.

### **What constitutes a sexual offense?**

If any of the following acts are perpetrated against a victim "without his or her consent", as defined above, it is a crime under New York State Law.

1. *Sexual Intercourse*: the penetration of the penis into the vagina, however slight – in other words, if the penis goes into the vagina just a little, not in its entirety, that is considered completed "sexual intercourse". There is no requirement of physical injury, and usually no requirement that ejaculation or orgasm occur.
2. *Criminal Sexual Act (Oral or Anal Sexual Conduct)*: does not require any penetration and occurs upon contact between penis and mouth, penis and anus, mouth and anus, or mouth and vaginal area.
3. *Sexual Conduct*: any touching of the sexual or intimate parts of the body, whether under or over clothing done for the purpose of gratifying the sexual desire of either party and/or includes

touching of the victim’s sexual parts by the perpetrator AND the touching of the perpetrator’s sexual or intimate parts by the victim.

4. *Forcible Touching*: intentional or forcible touching of another done for the purpose of degrading or abusing another person or done for the purpose of gratifying the defendant’s sexual desire. Includes squeezing, grabbing or pinching.
5. *Aggravated Sexual Conduct*: insertion of a foreign object into the vagina, urethra, penis or rectum. Insertion of a finger into the vagina, urethra, penis or rectum causing injury constitutes 2<sup>nd</sup> degree sexual offense. If the insertion of the object causes physical injury, this constitutes a 1<sup>st</sup> degree offense. If no injury occurs, it constitutes a 3<sup>rd</sup> degree sexual offense.

**Penalties**

Overleaf is a table indicating sanctions under the penal code for specific instances of sexual assault. For more information on the specific terms, please see Student Services for a copy of the relevant sections of the New York State codes.

Act	Class	Penal Law Section	Max. Penalty
Sexual Misconduct	A-Misdemeanor	130.20	1 year
Forcible Touching	A-Misdemeanor	130.52	1 year
Rape, 3 <sup>rd</sup> Degree	E-Felony	130.25	4 years
Rape, 2 <sup>nd</sup> Degree	D-Felony	130.30	7 years
Rape, 1 <sup>st</sup> Degree	B-Felony	130.35	25 years
Sexual Abuse 3*	B-Misdemeanor	130.55	3 months
Sexual Abuse 2*	A-Misdemeanor	130.60	1 year
Sexual Abuse 1*	D-Felony	130.65	7 years
Aggravated Sexual Abuse 4*	E-Felony	130.65a	4 years
Aggravated Sexual Abuse 3*	D-Felony	130.66	7 years
Aggravated Sexual Abuse 2*	C-Felony	130.67	15 years
Aggravated Sexual Abuse 1*	B-felony	130.70	25 years

*Misdemeanor*: An offense (other than a traffic infraction) for which a sentence for a term of imprisonment in excess of 15 days may be imposed, but for which a sentence to a term of imprisonment in excess of 1 year cannot be imposed.

*Felony*: An offence for which a sentence for a term of imprisonment in excess of one year may be imposed.

### **Policy for Alcohol and/or Drug Use amnesty**

The health and safety of every student at the New York Studio School is of utmost importance. The School 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 School 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 School's officials or law enforcement will not be subject to the School'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.

### **Security Concerns Committee**

The New York Studio School Security Concerns Committee is comprised of student representatives, faculty and administrative staff. Its role is to provide ongoing reviews of security issues and safety concerns for the entire School community, including a yearly report with recommendations as to current policies and procedures as concern safety and security, including campus crime statistics. The Security Concerns Committee is also responsible for inviting community liaison officers from local police precincts to talk with students about safety and security in the city. If you are interested in speaking with any member of the Committee with suggestions or ideas, feel free to contact any member directly. A list of current active members is available from Student Services. If you are interested in standing for membership of the Committee, talk to the Student Services Director about how to go about the process.

#### ***Remember:***

- Being raped or sexually assaulted is not your fault.
- You are the only one who has a right to your body.
- Trust your feelings and your instincts.
- If you don't want to, say so and don't let anyone push you further.