

From the Art Student Council to The Cooper Union Community:

The Code of Conduct proposed by the Board of Trustees and upper administration which was released for periodic review on November 18th, 2013, to the Art school Administrative Chairs and their peers, stands as a major infraction upon student rights, fair judiciary practices, and the valued tradition of shared governance. The proposed Code of Conduct effectively disrupts environments conducive to academic endeavor, incites educational duress, oppresses student ambition, and invalidates the student commitment to a self-determined education. In effect the proposed Code of Conduct takes away integral functions of shared and student governance within the Cooper Union for the Advancement of Science and Art.

We the students in the School of Art, believe in and are committed to fostering the ideals of a self-determining governing process which encourages "good morals and good order throughout [our] connection with this institution."

Oppression

The Code of Conduct drafted by the Board of Trustees and the Office of Student Affairs is an oppressive revision of the student-drafted Code of Conduct from March of 2012. The broadened parameters of the document cover all non-academic behavior, both on and off campus, and "because it is not possible to set forth a comprehensive list of all the potential ways in which student conduct may fail to comport with The Cooper Union's standards", including items not articulated explicitly in the document.

Due to the overbearing breadth of the proposed document, where no aspect of student life is outside the purview of administrative admonishments, students are deprived of rudimentary freedoms of expression, speech, and acts done without fear and anxiety. There are no boundaries between the students subjected to Code of Conduct and those who can enforce it. There is no protection for the students from the punitive measures of the administration. The administration no longer answers to anyone in its decision making, neither students nor those who can most accurately speak to and understand student experiences, namely faculty and academic deans.

If The Cooper Union is to be the site of innovative, creative, and radical thought that we demand for it to be, such arbitrary and punitive power cannot be wielded by the administration. There can be no freedom when our every move is watched, scrutinized, and liable to get us suspended, or expelled. Such an oppressive system cannot be in place if our creative practices are to be encouraged.

Increased Role of Administration

The grossly increased role of the administration in the proposed Code of Conduct is one of many changes that warrants critical assessment. The purview of the President and the Officers of The Cooper Union (those individuals appointed annually by the Board of Trustees), along with the Board of Trustees at large, has been unreasonably expanded. Under the new "Authority" clause, "Authority for student conduct ultimately rests with the President of the Cooper Union and the Board of Trustees, who delegate authority for non-academic student conduct to the Office of Student Affairs." Through the Associate Dean of Student Affairs, and their expanded role, the President and the Board of Trustees have complete control over the actions of the students. Wresting from the students the agency to be the judiciary for their peers, the Associate Dean of Student Affairs has assumed an insurmountable level of control. The administrators who are the farthest removed from the students and have the least ability and authority to be imposing sanctions on them are those who occupy the highest level of authority.

The expanded purview of the Associate Dean of Student Affairs position has total control over the judicial process, able to bypass any section at any time, and subject to no one for assessment. In the absence of a Dean of Students, the Associate Dean of Student Affairs fills the responsibility of advocate for the students. They are explicitly committed to dealing with student concerns. Under the proposed Code of Conduct, that same position is now the one that wields excessive punitive authority over the students. In the "Authority" clause, "the Associate Dean of Student Affairs serves as the chief student conduct officer for The Cooper Union." The same person cannot fulfill both roles; both the powers of advocate and judge cannot reside in the same administrative position.

The Associate Dean of Student Affairs can now conduct investigations into whether "information in the complaint merits: formal disciplinary charges against a student or students, a formal admonishment, warning, pending termination of housing, pending suspension, or loss of privileges at the discretion of the Associate Dean, no charges, or informal resolution through mutual cooperation of the parties." The purview of this clause is unclear and may potentially infringe on rights of privacy. Pending their investigation, "The sanctions of formal admonishment, warning, or loss of privileges may be meted out in these cases by the Associate Dean of Student Affairs, at his/ her sole discretion." This is another example of a vague but powerful role the Associate Dean of Student Affairs would now undertake, one that is entirely subjective and does not take into account opinions of other members of the judicial process. Additionally, under their new role, the Associate Dean of Student Affairs may now invoke the arbitrary and autonomous sanction of Interim Suspension, without consulting anyone. This dangerous clause allows a student to be removed from the campus at the discretion of an Officer of The

Cooper Union, in conjunction with the Associate Dean of Student Affairs, for any reason they deem appropriate.

With the expanded scope of the administration in the judicial process, the students are displaced entirely from their decision-making positions. The position of the student in the judicial process is paramount to the authority and agency of the judicial process as a whole. The students are the only body that has the authority to draft regulations for and enforce sanctions on other students. Academic deans and related administrators should act as facilitators within student judiciary. Upper administration has no place in a system intended to try cases for students regarding student conduct, especially in the increased capacity outlined in the proposed Code of Conduct.

Student Governance

One of the most obstructive revisions to the Code of Conduct is the alteration to the composition of the Student Judicial Committee and the Judicial Appeals Committee. Committees formerly run by student representatives, who held the majority of seats, are now committees run by administrators. Students are rendered superfluous bodies, with no majority ability, and no real sway in the decision making process. "The Judicial Panel for each offense shall include a subcommittee of the Student Judicial Committee drawing one (1) representative from each student council, one (1) academic Dean, preferably from the school of the accused, plus any three (3) administrative officers of The Cooper Union as defined above." Previously, there were five seats on each panel, with students occupying three. Although two new seats have been added, student representation remains the same, effectively nullifying student majority and agency. Additionally, the faculty representative has been eliminated altogether. Peers and their faculty have an understanding of students that differs dramatically from the farther removed administrators. Reducing their four out of five seats to three out of seven invalidates the Student Judicial Committee and the Judicial Appeals Committee's ability to fairly assess the students' conduct, and renders any sanctions imposed ill-informed and ill-suited.

Further, the three new administrators will be chosen from "a pool of faculty and staff to be selected by the Associate Dean of Student Affairs at the outset of each academic year, and will be trained in administration of the Code of Conduct and in the Judicial Panel hearing process." By allowing the Associate Dean of Student Affairs the ability to pick those faculty and staff, the process has the potential of becoming corrupt and rigged. The "training" the selectees will undergo is similarly vague and likely capricious, at the whims of the Associate Dean of Student Affairs and those bodies they represent. A fair and just governing body cannot allow the majority of its seats to be filled with people hand-selected by a single body whose decisions are not accountable to and representative of the students. A fair and just governing body aiming to regulate student conduct cannot

allow for the majority of its seats to be selected without the student body's approval. The Student Judicial Committee and the Judicial Appeals Committee are the governing bodies for the students and, thus, must derive their authority from the students.

Even more problematic are several new terms written into the document that allow the the Associate Dean of Student Affairs or any Officials of The Cooper Union to bypass the Student Judicial Committee and the Judicial Appeals Committee. First, upon an "investigation" of the complaint, the Associate Dean of Student Affairs may met sanctions at their own discretion, without consultation from any student representative or member of the Student Judicial Committee. Second, "The Associate Dean of Student Affairs will perform an administrative review of all cases where a student was found responsible for the charges. In cases where the Judicial Panel has recommended expulsion or suspension for a semester or more, this review will be in consultation with the President. If, based upon the Review, the Associate Dean of Student Affairs and/or the President finds that the sanction is not consistent with the violation, the case will be sent back to the Judicial Panel to be reconsidered. If the Panel reconsiders the sanction and upholds the initial sanction, then the Associate Dean of Student Affairs shall convene a review panel for the purpose of reviewing the sanction. The panel shall consist of one student to be drawn from the Student Judicial Committee, one academic dean and one administrative member. The Associate Dean of Student Affairs shall participate in the panel but will not have a vote. The panel may maintain the initial sanction or reduce or increase the sanction based upon the recommendations of the Administrative Review. The decision of this panel is final and the sanction or the panel will be issued to the charged student."

Effectively, the Associate Dean of Student Affairs, with the President, is given the ability to veto the decision of the Student Judicial Committee, send it back for another round, and if the original sanction is upheld, convene a new panel to hear the same case (where student representation is further reduced to 1/3), whose decision is final. Third, "The Cooper Union retains the authority to impose an interim (immediate) suspension", against which the student can "immediately request an interim suspension review". At which point "the Associate Dean of Student Affairs will convene the review and will summon witnesses as he/she deems appropriate. During the review, the student will be given an opportunity to demonstrate why his or her continued presence on campus does not constitute a threat to self, others or property, or a major disruption to the normal operations of The Cooper Union. The decision of the interim suspension review will be final." Only then will the Judicial Panel be convened and the proper course of action, with whatever student representation it still has, be instituted. The proposed Code of Conduct creates these and many more ways for the most fair and objective processes, those of the Student Judicial Committee and the Judicial Appeals Committee, to be undermined and rendered void. There is no longer room for student representation or just process. There is no longer room for student protection from unfounded inclinations of a few administrators.

The amendments to the Code of Conduct outlined above, which replace student majority with a stacked administrative panel, undermines the student body of The Cooper Union. The proposed latitude of positions like the Associate Dean of Student Affairs, the President, the Board, and the Officials of The Cooper Union in regards to student conduct implies that the student body is incapable of mature reflection on transgressions of its constituents and doling out appropriate sanctions. Self-determination for students is negated and replaced with an oppressive system of arbitrary rules and regulations the students must obey without consent. We see this characterization of the student body as offensive and infantilizing and entirely counterproductive to the overall education of the student body as a whole.

Peter Cooper's initial vision for the governing of the students was outlined in a letter to the Board of Trustees from April 29, 1859 and reads:

"Desiring, as I do, that the students of this institution may become pre-eminent examples in the practice of all the virtues, I have determined to give them an opportunity to distinguish themselves for their good judgment by annually recommending to the Trustees for adoption, such rules and regulations as they, on mature reflection, shall believe to be necessary and proper, to preserve good morals and good order throughout their connection with this institution."

He envisioned a mechanism for the students to create their own rules and regulations which fit their own vision of the institution. The original Code of Conduct was written by students and sent to the Board of Trustees for adoption. This proposed Code of Conduct, the first set of amendments, was created by the Board of Trustees and merely shown to the students so that they may submit their comments and suggestions for consideration and evaluation. The students have not been allowed due process to review and amend the original document.

The Board of Trustees has even written the community out of the proposed Code of Conduct itself, replacing the phrase "The Cooper Union reserves the right to modify and/or amend this Code at any time it deems necessary and in accordance with applicable laws" to "The Cooper Union Board of Trustees reserves the right" Any semblance of shared governance and community agency is erased with the modification of this one sentence, which at one point included the immediate Cooper Union community in fundamental decision-making. The ability of the students to be a self-determining body was abolished with this one amendment.

The proposed Code of Conduct fails to uphold the ideological and traditional judicial framework of the Cooper Union that we find

necessary for just governance and further severs fundamental community relationships that sustain the integrity of the institution.

The students reserve the right to amend the Code of Conduct of their own accord with facilitation from relevant bodies, in accordance with the process prescribed by Peter Cooper and set forth by those individuals who drafted the initial Code of Conduct.

For this reason, the student body of the Cooper Union School of Art, for which the Art Student Council speaks as representative, rejects the Board of Trustees' draft for the proposed Code of Conduct and seeks instead to revise the original Code of Conduct in conjunction with the Joint Student Council, in such a way that the student body maintains the agency and authority to be a self-determined body.

Sincerely,
The Art Student Council

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