

Manhattan School of Music Title IX/Sexual Misconduct Policy

Protecting Students

Preventing sexual harassment, gender-based harassment, dating violence, domestic violence, stalking, and sexual assault at Manhattan School of Music

Introduction

Manhattan School of Music complies with Title IX of the Higher Education Amendment of 1972 which prohibits discrimination on the basis of sex and gender in educational programs and activities. Title IX states as follows:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any education program or activity receiving federal financial assistance.”

Equal educational opportunity has been and will continue to be a fundamental principle at Manhattan School of Music. Acts of sexual misconduct, as defined in this Policy, are considered a form of sex and/or gender discrimination prohibited by Title IX and this Policy. This Policy specifically addresses sexual harassment, gender-based harassment, sexual misconduct, domestic violence, dating violence, and stalking. For more information regarding the School’s prohibition against discrimination on the basis of sex, race, color, religion, sexual orientation, age, national origin, marital status, citizenship, disability, and other characteristics protected by law, please see the Equal Employment and Educational Opportunity Policies:
<http://www.msmnyc.edu/Portals/0/Equal%20Employment%20and%20Educational%20Opportunity%20Policy.pdf>

The School is committed to creating an environment in which students feel safe to focus on their education and their art. It is our goal to provide educational and preventative programs to minimize the occurrence of sexual misconduct, to provide needed support to individuals who have been impacted by sexual misconduct, and to provide prompt and equitable investigation into allegations.

The United States government and Manhattan School of Music consider sexual misconduct and sexual harassment to be forms of sex discrimination. Manhattan School of Music does not discriminate on the basis of sex (or any other protected category) in its employment or education. Students who believe they have been subjected to violations of this Policy are encouraged to report these incidents so that the Institution can provide needed support and take steps to protect the community. This policy outlines procedures for making such a report, including options for making an anonymous or confidential report.

Sexual harassment, sexual misconduct (including sexual assault), domestic violence, dating violence, and stalking can be experienced by individuals regardless of gender or other personal characteristics. Manhattan School of Music is committed to addressing sexual violence on behalf of *all* members of the student community.

Title IX Coordinator

In compliance with Title IX, Manhattan School of Music has designated Carol Matos, Vice President for Administration and Human Relations, to be the School's Title IX Coordinator. Carol Matos is located in A-427 Andersen Hall and can be reached by telephone at 917-493-4450 and by email at cmatos@msmny.edu. Ms. Matos works to ensure compliance with Title IX. Questions regarding Title IX can be directed to her or to the United States Office of Civil Rights: <http://www2.ed.gov/about/offices/list/ocr/index.html>.

Jurisdiction

It doesn't matter whether the incident or incidents happened on campus or off; if you are a Manhattan School of Music student and you have experienced sexual misconduct, we want to help.

Confidential and Anonymous Reporting

All MSM employees will treat reports of sexual misconduct as confidentially as possible; however, most personnel are required to report incidents they learn about to the Title IX Coordinator. The exceptions are the Campus Health Nurse and the counseling staff, who are not required under Title IX to report the name and/or other identifying information about an alleged victim to the Title IX Coordinator.¹

To contact MSM's Campus Health Nurse, Susan Mitchell, please visit her in Room 105, or via email and phone at 917-493-4278 / smitchell@msmny.edu. Our School counselors work in Room 104 and Room 106. To contact them for an appointment, please email any one of the following addresses: Shara Sand, shara@drsharasand.com; Michelle Barnett drmicheleb@gmail.com; Peter Haddad, peterjhaddad@gmail.com; Elizabeth Clark, lizclarkpsyd@gmail.com.

To make an anonymous report of sexual misconduct, see the School's Campus Health Nurse or a member of the counseling staff during business hours, or fill out our anonymous on-line *Sexual Misconduct Report Form* <http://code.msmny.edu/HR/SexualMisconductReportForm.aspx>

¹The School's Campus Health Nurse and counselors are subject to Mandated Reporter requirements under New York State Law regarding abuse or maltreatment of persons under the age of eighteen.

Definitions

Sexual harassment, gender-based harassment, sexual misconduct (including sexual assault and sexual violence), dating violence, domestic violence, and stalking are prohibited by this Policy. Any acts of retaliation or intimidation are also prohibited.

Sexual Harassment: Unwanted sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when, for example:

- Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, instruction, or participation in work- or education-related or artistic activity.
- Submission to or rejection of such conduct is used as the basis for employment or education-related decisions affecting the individual.
- Such conduct has the purpose or effect of interfering with the individual's work or academic or artistic performance or creating an intimidating, hostile, or offensive work, learning, or performing environment.

Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include, but are not limited to: unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess, or sexual deficiencies; leering, catcalls, or touching; insulting or obscene comments or gestures; display or circulation in the School or in any School-related setting (including through e-mail) of sexually suggestive objects or pictures; and other physical, verbal, or visual conduct of a sexual nature.

Gender-based Harassment: Gender-based harassment is harassment on the basis of a subset of protected characteristics. Harassment on the basis of any of these characteristics (including race, creed, color, national origin, alienage or citizenship status, sex, age, disability, marital status, sexual orientation, gender identity or expression, or any other characteristic protected by law) is prohibited at Manhattan School of Music. Gender-based harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of conforming with or failing to conform with stereotypical notions of masculinity or femininity, and that:

- Has the purpose or effect of creating an intimidating, hostile, or offensive work, learning or artistic environment.
- Has the purpose or effect of interfering with an individual's work, academic, or artistic performance.
- Otherwise adversely affects an individual's employment, academic or artistic opportunities.

Harassing conduct includes, but is not limited to: epithets, slurs, or negative stereotyping; threatening; intimidating or hostile acts; denigrating jokes; and the display or circulation in the

School or in a School-related setting of written or graphic material that denigrates or shows hostility or aversion toward an individual or group.

FOR MORE INFORMATION ABOUT MSM's commitment to a harassment-free environment, please see the School's *Equal Employment and Educational Opportunities Policy* on the School's website: <http://www.msmnyc.edu/Portals/0/Equal%20Employment%20and%20Educational%20Opportunity%20Policy.pdf>

Domestic Violence: Violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

Dating Violence: Violence committed by a person who is or has been in a romantic or intimate relationship with the victim. The existence of such a relationship shall be determined based on factors such as the length and type of relationship, and frequency of interaction between the persons involved.

Stalking: A course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress. Typical stalking behaviors include, but are not limited to:

- Making unwanted phone calls
- Sending unsolicited or unwanted letters, text messages, or e-mails
- Following or spying on the victim
- Showing up at places without a legitimate reason
- Waiting at places for the victim
- Leaving unwanted items, presents, or flowers
- Posting information or spreading rumors about the victim on the Internet, in a public place, or by word of mouth

Sexual misconduct offenses (including sexual assault):

Sexual assault, which includes:

- Non-consensual sexual intercourse, which is any sexual intercourse by any person upon another without consent. It includes oral, anal, and vaginal penetration, to any degree, with any object.
- Non-consensual sexual contact, which is any sexual touching with any object, by any person upon another, without consent. Sexual touching is contact of a sexual nature, however slight.

Sexual exploitation, which includes, but is not limited to:

- Indecent Exposure

- Sexual exhibitionism
- Sex-based cyber-harassment
- Prostitution or the solicitation of a prostitute
- Peeping or other voyeurism
- Going beyond the boundaries of consent, e.g., by allowing others to view consensual sex or the non-consensual video or audiotaping of sexual activity

FOR A FULL DESCRIPTION OF NEW YORK STATE LAW related to sexual assault, including penalties under the law, see the MSM Annual Campus Security Report: [Annual Security Report 2015](#)

Consent: Affirmative consent is a voluntary, knowing and mutual agreement 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. Someone who is incapacitated cannot consent. Past consent does NOT imply future consent. Silence or lack of resistance, in and of itself, does not demonstrate consent. Consent to engage in one sexual activity does NOT necessarily constitute consent to any other sexual act. Consent can be withdrawn at any time. Consent must be free of coercion, force, intimidation, restraint or threat of harm. A person initiating sexual activity is still responsible to obtain consent even if the initiating person is under the influence of drugs or alcohol. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

Incapacitation: This occurs anytime when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness due to intoxicants (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) or being asleep or because of being involuntarily restrained, or because of an intellectual or other disability that prevents a student from having the capacity to give consent or if an individual otherwise cannot consent. New York State law establishes age 17 as the age of consent. (Individuals under age 17 cannot legally consent to sexual activity.)

Retaliation and Intimidation: Any effort to harass or intimidate an individual to prevent or obstruct the reporting of a violation of this Policy, in response to that individual's choice to report a violation of this Policy, in response to an individual's cooperation with an investigation of such a report.

Hostile Environment: An environment in which the actions of individuals or groups of individuals has the purpose or effect of interfering with a student's academic or artistic performance, or creating an intimidating or offensive learning or performing environment.

Complainant: An individual who reportedly experienced sexual misconduct.

Respondent: An individual connected with Manhattan School of Music who is reported to have engaged in sexual misconduct.

Resources for Students Who Experience Sexual Misconduct

If you believe you are a victim of *violence*, **get to a safe place**, and get help! The following resources are available for immediate assistance following an incident of sexual misconduct.

If you are on campus, you can call the Resident Assistant, the Director of Residence Life, the Director of Student Engagement, or the Dean of Students. (The Dean of Students and the Student Affairs and Residence Life staff are required to report all incidents of Sexual Misconduct to the Title IX Coordinator.)

- They can be reached through the Security Desk of Andersen Hall (917) 493-4700 at any time or by visiting their offices during office hours.
- The Campus Health Nurse and counseling staff at MSM are available to provide confidential assistance, and they can provide someone to accompany you to get medical treatment or to file a police report if you so choose. (See note on page 2.) The Campus Health Nurse and counseling staff can also provide ongoing support during the Institutional investigation or criminal process. To contact the School's Campus Health Nurse, Susan Mitchell, please visit her in Room 105, or via phone or email at (917) 493-4278 / smitchell@msmny.edu. Our School counselors work in Room 104 and Room 106. To contact them for an appointment, please email any one of the following addresses: Shara Sand, shara@drsharasand.com; Michele Bartnett, drmicheleb@gmail.com; and Peter Haddad, peterjhaddad@gmail.com; Elizabeth Clark, lizclark@gmail.com.
- You may also contact the Title IX Coordinator, Carol Matos, Vice President for Administration and Human Relations, located in A-427 Andersen Hall. She can be reached by telephone at (917) 493-4450 and by email at cmatos@msmny.edu.
- Contact the New York City Police Department at 911 for assistance with criminal sexual misconduct, such as sexual assault, domestic violence, dating violence, or stalking. Anyone who reports an assault to police may have a member of the Special Victims Squad speak with them. Reports of criminal sexual misconduct can also be made by calling the NYPD's sex crimes hotline at (212) 267-RAPE or the Manhattan District Attorney's hotline at (212) 335-9373.
- Go to Mount Sinai St. Luke's Hospital located at 1111 Amsterdam Avenue (or other hospital near you) to get medical help, and, in the case of sexual assault, to be tested for sexually transmitted disease and to preserve evidence to ensure a full range of options for holding the perpetrator accountable.
IMPORTANT: To preserve evidence, do not shower, bathe, brush teeth, change clothing, or drink any liquids.

Further assistance for victims of all forms of sexual misconduct is available from:

- The **Dean of Students, Director of Student Engagement, or Director of Residence Life**
- **Crime Victims Treatment Center**, 411 West 114 Street, (212) 523-4728
- MSM's and Counseling Staff located in Room 104 and 106 in the Main Building
- **Safe Horizon Sexual Assault 24-Hour Hotline** at (866) 689-HELP (Safe Horizon offers 57 victims' services program locations throughout New York City.)
- **National Domestic Violence Hotline** at 1-800-799-7233
- **National Teen Dating Abuse Helpline** at 1-866-331-9474
- **Stalking Resource Center** at 1-202-467-8700
- The **New York State courts**. For instructions regarding filing an Order of Protection in New York State go to: <http://www.nycourts.gov/faq/orderofprotection.shtml>
- **NotAlone** (federal VAWA clearing house) at <https://www.notalone.gov/>

The School wants to help you. The counselors, the Campus Health Nurse, the Student Affairs staff, and the Title IX Coordinator can answer questions, assist in connecting you to these resources and provide moral support!

Where to File a Report Alleging a Violation of this Policy:

Students who believe that they have experienced an incident of sexual misconduct, domestic violence, dating violence, or stalking may choose to report to the School and/or to law enforcement, or may choose not to make a report. As noted above, allegations may be reported anonymously or confidentially to the Campus Health Nurse or counseling staff during office hours, or via the *Sexual Misconduct Report Form* <http://code.msmnyc.edu/HR/SexualMisconductReportForm.aspx>. (See note on page 2.) MSM offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information students provide to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution. Students, faculty and staff can report an incident even if they are not the victim in order to make the School aware of the misconduct.

Allegations of violations of this Policy may be made to the Title IX Coordinator, Carol Matos, Vice President for Administration and Human Relations: cmatos@msmnyc.edu or (917) 493-4450. The Title IX Coordinator will handle all matters brought to her attention in as confidential a manner as possible. A victim who makes a report may choose not to participate in the MSM Sexual Misconduct Resolution process (outlined below), and will never be forced to do so. However, the Title IX Coordinator may choose to investigate the report to the extent possible without that cooperation, if she, in consultation with others, believes not to do so would pose a danger to the community or violate Title IX or MSM policy.

MSM provides emergency access to a trained official, Jim Love, the Director of Residence Life, when a student needs assistance outside of regular business hours. He can be reached at (917) 376-2418 or (917) 683-7864 at any time and can help students understand their options and their rights. Tell whoever picks up the phone that you wish to speak to Jim Love about a Title IX matter.

Students who wish to report a violation of this Policy may also approach any employee of Manhattan School of Music, including any faculty member or administrator -- including the Student Affairs staff, the Provost, the Vice Provost, etc. -- to make an allegation of sexual misconduct. In accordance with the requirements of Title IX, all College employees other than the Campus Health Nurse or the counseling staff are “responsible employees” who must report the allegation to the Title IX Coordinator.

Note: The health and safety of every student at MSM is of utmost importance. MSM 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. MSM strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to School officials. A bystander acting in good faith that discloses any incident of domestic violence, dating violence, stalking or sexual assault to MSM’s officials or law enforcement will not be subject to MSM’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. In addition, at a Complainant’s request, the School will review any disciplinary actions taken against the Complainant to see if there is a connection between the incident of sexual misconduct, domestic violence, dating violence, or stalking and the misconduct that may have resulted in the Complainant being disciplined (*e.g.*, absence from class).

Students may also wish to file a report with the New York City Police Department or other local law enforcement agency, or may want to seek an order of protection. The MSM system for responding to allegations and the police/criminal justice system work independently. Thus, students can file a report with either or both institutions. Because the standards for finding a violation of criminal law are different from the lower standards of proof which colleges and universities are required to follow, findings in one system are not necessarily going to be the same as the findings in another. The School will investigate alleged or suspected violations of this Policy regardless of whether a victim chooses to pursue a criminal complaint.

What will happen if I file a report?

If you file a report regarding any type of sexual misconduct by visiting or calling the counseling staff or MSM Campus Health Nurse, the Campus Health Nurse and counselors must keep your name and any other personal identifiers completely confidential. (See note on page 2). They will immediately provide emotional support and help you identify resources. They will support you as you decide whether or not to make a report to the Title IX Coordinator and/or the police if what

you report is considered a violation of criminal law and can provide ongoing support as requested. They can also provide someone to accompany you to obtain medical treatment or to file a police report.

If you file a report with any faculty member or administrator, that employee will help you get help. MSM employees (other than the Campus Health Nurse and counseling center employees) are “responsible employees” who are required to report the incident to the Title IX Coordinator, Carol Matos. When the Title IX Coordinator learns either directly or indirectly of alleged sexual misconduct, she will:

- Make every attempt to inform you when she learns of an allegation through a third party, and make every attempt to meet with you.
- Connect you with support services; any request for assistance that is reasonably available will be provided regardless of whether or not you choose to ask the School to pursue an investigation and/or file a formal complaint with the police or other legal authorities. This support can include counseling, arranging for changes in housing, providing academic accommodations, providing changes to a student’s on-campus work schedule, arranging for someone to accompany you to the hospital or to get HIV testing, or to have an examination by a Sexual Assault Nurse Examiner. All of the above can be obtained free-of-charge through local community services; the exception is a change in housing. Individuals must pay the charges for any room in Andersen Hall to which a student agrees to be moved. Every effort will be made to find options which are financially neutral, but given limited space, this will not always be possible.
- Inform you of your right to contact the police if the complaint is a violation of criminal law, and arrange for someone to accompany you if you choose to do so.
- Assist you in initiating proceedings in family or civil court if applicable and if desired, usually through the auspices of a local agency which specializes in such assistance.
- In most cases, issue a no-contact order to the Respondent pending the outcome of the College’s investigation.
- Inform you that you have a right to be free from retaliation from the Respondent or anyone connected with the Respondent. The Title IX Coordinator will fully investigate any complaint of retaliation that is brought to her attention.
- Inform all parties who are asked to cooperate in an investigation, and alert them to their obligation to maintain confidentiality, privacy, and non-retaliation.

Confidentiality

If the victim requests that his or her name not be disclosed to the alleged perpetrator or requests that the School take no investigatory or disciplinary action, the Title IX Coordinator will evaluate the request and determine whether the request can be honored in light of the School’s obligation to provide a safe and nondiscriminatory environment for all members of its community. If a victim’s request for confidentiality limits the School’s ability to investigate a particular matter, the School may

take steps to limit the effects of the alleged sexual misconduct and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the complainant.

The Title IX Coordinator may determine that a request for confidentiality cannot be honored when failing to investigate could result in a hostile or unsafe environment, or would violate Title IX or another MSM policy. In all instances, the School will protect the privacy of all parties to a report of sexual misconduct (including sexual assault), dating violence, domestic violence, and stalking to the extent possible consistent with the School's obligation to address such conduct. However, in no event will a Complainant or Respondent be required to abide by a nondisclosure agreement.

Timeframe

MSM does not limit the timeframe for filing a report alleging sexual misconduct; however, timeliness in reporting increases the School's ability to fully investigate. MSM will make every effort to resolve an allegation of sexual misconduct within sixty (60) calendar days after receipt of the first report. Circumstances may arise in which more time may be needed to resolve a complaint, such as the number of or unavailability of witnesses, the School holiday calendar, or the effect of a concurrent criminal investigation. In the event that an investigation cannot be concluded within sixty (60) calendar days after the initial report, the School will notify both the Complainant and the Respondent of the reasons for the delay. Both Complainant and Respondents may ask the Title IX Coordinator for status updates at reasonable intervals.

The School is not required to wait for the completion of a criminal investigation by police or legal authorities to proceed with its own investigation. In fact, the School must base any findings on "preponderance of the evidence," not "beyond reasonable doubt," which makes the two investigations very different. There may be times, however, when the School may choose to or be required to delay proceedings until the fact-finding portion of a criminal investigation has been concluded; this delay should not last longer than 10 days except when law enforcement requests or justifies a longer delay.

Unaffiliated Offenders

If the offender is not a member of the MSM community, the School will still respond to reported sexual misconduct by offering support and appropriate resources to a Complainant. MSM will also assist the Complainant in filing a report with the police if the allegation is of a violation of criminal law. MSM will take the measures it deems necessary to protect the community in any case where there is a perceived threat to the well-being of students and/or other members of the community.

Interim Measures

During an investigation, the School reserves the right to impose certain interim measures which are deemed necessary by the Title IX Coordinator. These include, but are not limited to, restricting contact between the Complainant and the Respondent, restricting the Respondent from areas of campus, altering class schedules, altering on-campus work schedules, providing academic support,

and removal or restriction of the Respondent from residential areas. The Respondent's failure to comply with these interim measures will be considered a violation of the MSM Sexual Misconduct Policy, and the Respondent will be subject to additional conduct charges. If the Respondent and Complainant observe each other in a public place, it shall be the responsibility of the Respondent to leave the area immediately and without directly contacting the Complainant.

Upon request and consistent with Institution policies and procedures, students have the right to be afforded a prompt review, reasonable under the circumstances, of the need for and terms of a "no contact" order, housing adjustment or interim suspension, and for a review to determine if additional, desired measures are needed. Students shall be allowed to submit evidence in support of his or her request.

Orders of Protection

Complainants have the right to seek an order of protection from a court of law. In cases of domestic violence, dating violence, stalking, and sexual assault, Complainants who choose to seek an order of protection will be assisted in doing so by MSM, usually with the help of a local agency. If the School receives a copy of an order of protection, School officials will explain what it means and the legal consequences of violating it. MSM will assist in contacting the NYPD if the School becomes aware that the order is violated.

Informal Resolution

The Title IX Coordinator can pursue an informal resolution between the Complainant and Respondent, *except in the case of an accusation of sexual misconduct, domestic violence, dating violence, or stalking, which cannot be handled through informal resolution*. If the Complainant agrees, the Title IX Coordinator can contact the person alleged to have committed an act or acts of misconduct. If a conclusion can be reached which satisfies the Complainant, the matter can be considered completed without a formal investigation and adjudication. Efforts to resolve an accusation informally will end at any time in the informal resolution process when either Complainant or Respondent decides that an informal resolution is not desired.

Appeal is not an option following a mutually accepted resolution arrived at through informal resolution.

Investigation

Once the Title IX Coordinator determines an investigation is warranted, an investigation of sexual misconduct will be conducted in a prompt and thorough manner. The Respondent and Complainant will be given the opportunity to meet with the Title IX Coordinator and another official who has received training regarding Title IX and sexual misconduct. In cases involving sexual misconduct offenses, domestic violence, dating violence, or stalking, both the Complainant and the Respondent have the right to have an advisor of their own choosing present when they meet

with the Title IX Coordinator and/or her designee during the investigation process. The advisor may not represent the student nor ask questions of the Title IX Coordinator.

The Title IX Coordinator and/or her designee will attempt to interview the Complainant, the Respondent, and any other witnesses, and gather any appropriate documentation materials. Both parties will have equal opportunity to present witnesses and other evidence, and will have equal access to information during the investigation.

The Title IX Coordinator will NOT interview witnesses whose sole contribution will be to provide character witness. The romantic and sexual history of either the Complainant or Respondent will not be considered in the investigation, except for relevant romantic or sexual history between the parties, where appropriate. It should be noted that a prior romantic or sexual history is not in and of itself proof of consent.

All witnesses are expected to give truthful testimony as part of the investigation. Presenting purposely false or misleading information may result in separate disciplinary action.

In cases where the Respondent refuses to participate in the investigative process, the Title IX Coordinator will continue the investigation and proceed to the adjudication process. As noted above, if the Complainant refuses to participate in the investigative process, the Title IX Coordinator will make a determination as to whether the investigation must continue.

Findings

A written investigative report and summary of provisional findings will be produced as a result of the Title IX Coordinator's investigation of alleged sexual misconduct and will be transmitted to the Chief Resolution Officer for adjudication.

Retaliation and Intimidation are Prohibited

As outlined above, retaliation and intimidation are violations of the MSM Sexual Misconduct Policy. Complainants should contact the Title IX Coordinator immediately to report any attempts at retaliation from any community member.

Right to Review

Pertaining only to cases of domestic violence, dating violence, stalking, and sexual assault, both the Complainant and the Respondent have the right to review available evidence in the case file or otherwise in possession of MSM. The School will make such evidence, subject to limited redaction, available for review at MSM. Photographing or copying the case file will not be permitted.

Complainant and Respondent have the right to have past sexual history (other than with the other party) and mental diagnosis and/or treatment excluded from adjudication (though this information may be used when determining a sanction).

Resolution by Decision

The Title IX Coordinator will present the results of the investigation, including provisional findings, to the Chief Resolution Officer. The Chief Resolution Officer will be a School official who has received thorough training on Title IX and this Policy, in most cases the Provost and Senior Vice President. The Chief Resolution Officer will review the investigative report and may consult with other School officials as needed. In some cases, he or she may choose to convene a panel of up to two Deputy Resolution Officers to help review a particular complaint. If either party believes that the Title IX Coordinator, Chief Resolution Officer, or a Deputy Resolution Officer has a conflict of interest, the party should bring this to the attention of the Assistant to the Provost and Senior Vice President.

The Chief Resolution Officer (and other members of the Panel if applicable) will have an opportunity to ask questions of the investigator to gain clarification on any elements of the report if needed and to discuss provisional findings. Based on the review of the investigation and provisional findings, and in consultation with Panel members if applicable, the Chief Resolution Officer will determine if the Respondent is responsible or not and will issue a sanction and remedial measures as appropriate. The standard of proof for determining whether a violation of this Policy occurred is the “preponderance of the evidence” standard (*i.e.*, whether it is more likely than not a violation occurred).

As is permitted under the Federal Education Right to Privacy Act (FERPA), both the Respondent and the Complainant will be simultaneously informed in writing of the outcome of the investigation, including any sanctions imposed and their rights to appeal.

In cases of domestic violence, dating violence, stalking, and sexual assault, both the Respondent and the Complainant will be simultaneously informed in writing of the outcome of the investigation. When the Respondent has been found responsible, prior to the determination of any sanctions, both parties have the right make an impact statement. After sanctions have been imposed, both parties will be simultaneously informed.

Range of Sanctions

Sanctions will depend on the nature of the misconduct. Sanctions for individuals found responsible for violation of this Policy may include one or more of the following:

Sanctions for Employees:

- A written warning placed in the Respondent’s personnel file
- Reassignment of responsibilities
- Suspension of employment
- Termination of employment
- Educational sanctions, such as counseling, courses in anger management, education on alcohol and/or drug use, written apology, substance abuse treatment

Sanctions for Students:

- Disciplinary warning or probation
- Reassignment of housing
- Removal from housing
- Adjustment of class schedule
- Reassignment or removal from on-campus employment
- Educational sanctions, such as counseling, courses in anger management, education on alcohol and/or drug use, reflection paper or written apology, substance abuse treatment, community service
- Suspension
- Dismissal

When students are found responsible for sexual assault or other violent offenses as defined by the Clery Act and are suspended or expelled as a result, it will be noted on their transcripts as a finding of responsibility for a code of conduct violation.

MSM allows for an appeal to remove the notation for a suspension, but this may be granted only after one year of the suspension. The notation for an expulsion may never be appealed.

Remedial Measures

In addition to any sanctions imposed, the School will implement appropriate remedial measures to the Complainant. Such remedial measures may include, but are not limited to:

- Providing or facilitating access to holistic victim services, including medical, counseling, academic accommodations, and academic support services, even if refused as an interim measure.
- Ensuring the Complainant and Respondent do not share classes or extracurricular activities.
- Moving the Respondent or Complainant (if the Complainant so requests) out of the residence hall or to a different room or floor.

The School may also implement remedies (*e.g.*, training or prevention programming) for the broader campus population as needed.

Appeals Process

In cases involving sexual misconduct, domestic violence, dating violence, and stalking, the Complainant and the Respondent have the right to file an appeal with the Title IX Coordinator, who will present the appeal to an Appeals Panel comprised of the President and two members he selects from the President's Council for a decision. President's Council members who have had involvement with the Investigation or the Resolution by Decision process in the case cannot be selected. In all other cases, only the Respondent will have the right to appeal. In most cases, appeals will not be entertained if they are filed more than five (5) business days from the date the parties are

notified of the panel adjudication. As noted earlier, appeal is not an option following a mutually accepted resolution arrived at through informal resolution. Appeals will be entertained for the following reasons only:

- When new evidence comes to light
- When an error has been made in following the resolution process
- When either Complainant or Respondent finds the sanction too severe/not severe enough given the gravity of the infraction

The President will issue a decision within 30 days of the filing of the appeal. If the President finds any of the above circumstances to be present, the President will modify the outcome and/or sanctions as he or she deems appropriate. The parties will be notified simultaneously in writing of the outcome of any appeal. The President's decision is final.

Prevention, Education, and Training

The Title IX Coordinator is responsible for overseeing compliance with the law regarding prevention, education, and training related to sexual misconduct. She is assisted in this effort by the Advisory Committee on Campus Security, appointed annually by President Gandre according to the dictates of New York State Law 129A. The frequency and form of training will be determined annually by the Title IX Coordinator and the Advisory Committee on Campus Security based on conditions at the School. All students and all personnel in the direct, full-time employ of the School will be fully informed of School policy related to Title IX, Title IX reporting obligations, and the School's grievance procedures, as well as educated in sexual misconduct prevention and bystander intervention. Finally, the Title IX Coordinator ensures that she and all others involved in the investigation and resolution of complaints under Title IX receive annual training on a variety of Title IX related topics in compliance with the law.

Training in the 2014-15, 2015-16 and 2016-17 Academic Year has included:

- NACUA Title IX Coordinator Training (Title IX Coordinator and deputies, 2014-15)
- Academic Impressions Title IX Coordinator Training (Title IX Coordinator and deputies, 2014-15)
- PETA (Personal Empowerment Through Training on Sexual Assault) video (Resolution Officers, RAs, and Students, 2014-15)
- EduRisk Online Course – Workplace Harassment Prevention 110 (Employees, including Title IX Coordinator and deputies and Resolution Officers, 2014-15)
- EduRisk Online Course – Intro to Campus Sexual Violence Elimination (Students, Faculty and Staff, including Title IX Coordinator and Resolution Officers, 2014-15)
- Behind Closed Doors: Survivor Challenge (Event for Students, 2014-15)
- Title IX Sexual Misconduct training by consultant to the Council of Chairs (2014-15)
- Title IX Sexual Misconduct training by consultant to the President's Council (2014-15)

- Sexual Jeopardy (Event for Students -2015-16 & 2016-17)
- Title IX Sexual Misconduct/NYS 129B training by Dean of Students to the President's Council (2015-16)
- MSM Doctoral Fellows training by Dean of Students (2015-16)
- Bond, Schoeneck and King seminar on Enough is Enough (2015-16)
- *Think About It* online course for incoming students (2015-16 & 2016-17)
- Dean of Students' presentation on sexual misconduct to the Summer English Study students (2015-16 & 2016-17)
- EduRisk Sexual Misconduct ("Protecting Our Children") training for full camp staff and counselors (2015-16 & 2016-17)
- *It's on Us* Campaign by Advisory Committee on Campus Safety (2016-17)
- *Title IX Investigations: Case Studies In Intimate Partner Violence & Stalking* (Title IX Coordinator, Deputies, Trained Official, Dean of Students, Chief Resolution Officer, 2015-16)
- *Intersections: Supervisor Anti-Harassment & Title IX/Campus SaVE Act* online training program (New Employee Supervisors, 2016-17)
- *Intersections: Preventing Harassment & Sexual Violence (Title IX/Campus SaVE Act)* online training program (New Employees Non-Supervisor, 2016-17)
- *Protect Children* online training program (New Precollege Faculty and Substitutes, 2016-17)
- *Interpersonal Violence* by CONNECT (Title IX team, 2016-17)
- *Why Sexual Assault Investigations Should be Trauma Informed* presentation by Jeffrey Nolan sponsored by the National Center for Campus Public Safety (via YouTube, Title IX Team, 2016-17)

Recordkeeping and Reporting

The Title IX Coordinator will keep a confidential record of complaints of violations of this Policy for a period of ten (10) years after a final decision is reached, although the Title IX Coordinator will keep the records longer as needed. The Title IX Coordinator will also keep records of investigation reports, decisions, and sanctions for ten (10) years, but has the discretion to keep the records longer.

Manhattan School of Music, in compliance with the Clery Act, publishes an annual statistical report of campus crime. This report is available to students on the School website. The School also issues timely warnings to apprise its community about safety and security concerns and about relevant crimes occurring in the area.

New York State Sexual Misconduct Student 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 to participate in the judicial or conduct process and/or criminal justice process free from pressure by the Institution.
4. Participate in a fair and impartial process that 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. (Note: MSM has a Counseling Center and Campus Health Nurse Office, both of which are committed to handling student needs with respect; MSM students also have access to the Crime Victims Treatment Center, which provides an advocate to accompany crime victims while they receive medical care at Mt. Sinai St. Luke's Hospital.)
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 Institutional 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 at least one level of appeal of a determination. (At Manhattan School of Music, appeals may be made to a panel chaired by the President.)
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.
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the Institution.