

Equal Employment and Educational Opportunity Policies

Manhattan School of Music expects that all relationships among persons in the School will be professional and free of bias, prejudice, discrimination, and harassment. It is the policy of the School to ensure equal opportunity without discrimination or harassment based on race, color, religion, sex, sexual orientation, gender identity or expression, the status of being transgender, age, national origin, marital status, citizenship or veteran status, disability, or any other characteristic protected by federal, state, or local laws and regulations. The School prohibits and will not tolerate any such discrimination or harassment.

This policy of equal opportunity applies to all policies and procedures relating to recruitment, hiring, admission, financial aid, compensation, benefits, termination, and all other terms and conditions of employment and education.

The Manhattan School of Music Title IX / Sexual Misconduct Policy Protecting Students pertains to students who experience sexual harassment. That policy can be found here:
www.msmyc.edu/msm-title-ix-sexual-misconduct-policy

NOTE: All MSM employees, regardless of title or supervisory role, are obligated to report instances of **sexual assault** either to the Title IX Coordinator, Carol Matos, Vice President for Administration & Human Relations, or anonymously by filling out the *Sexual Misconduct Report Form* online at www.msmyc.edu/sexual-misconduct-report-form

Persons and Conduct Covered by these Policies

The School's *Equal Employment and Equal Opportunity Policies* apply to faculty, staff, applicants for employment or enrollment, and students in the School and in School-sponsored settings outside the School facilities, such as School-sponsored artistic and social events. The School's policies prohibit unlawful discrimination, harassment, and retaliation whether engaged in by faculty, staff, or students, or, to the extent the School exercises control over the non-affiliated individual, by someone associated with, although not directly employed or enrolled by, the School (e.g., an outside vendor, consultant, guest artist, competition judge, etc.).

Faculty, department chairs, and supervisory and managerial staff are responsible for taking reasonable steps so that no faculty, staff, or student is subjected to conduct that constitutes discrimination or harassment in the School and in School-sponsored settings. Any faculty or staff member or student who has knowledge of any discriminatory, harassing, or retaliatory conduct is encouraged to make a report in accordance with the complaint procedure set forth below.

Notice of Nondiscrimination

Equal employment and equal educational opportunity are fundamental principles at Manhattan School of Music. The School strictly prohibits discrimination or harassment because of race, color, religion, sex, sexual orientation, gender identity or expression, the status of being transgender, age, national origin, marital status, citizenship or veteran status, disability, or any other characteristic protected by federal, state, or local laws and regulations. Manhattan School of Music does not permit retaliation against individuals who oppose a discriminatory practice or participate in an investigation.

The office of Administration and Human Relations maintains reporting and monitoring procedures for these policies. Questions or concerns should be referred to the Vice President for Administration and Human Relations and Title IX Coordinator. Students may direct their questions and concerns to the Executive Vice President and Provost, Dean of Students, or the Vice President for Administration and Human Relations and Title IX Coordinator.

Appropriate disciplinary action may be taken against any faculty or staff or student for violating this policy after review and investigation by administration.

Sexual Harassment Policy

Manhattan School of Music is committed to a work and learning environment free from harassment, including sexual harassment. The School is further committed to a work and learning environment in which all individuals are treated with respect and dignity. The School has a zero-tolerance policy for any form of harassment or discrimination. Sexual harassment is a form of workplace discrimination, employee misconduct, and could subject the School and its employees to legal liability. Those who perpetrate such conduct may be individually legally liable for their own conduct and subject to disciplinary action by the School. Manhattan School of Music expects that all members of the School community will act professionally and free of bias, prejudice, discrimination, or harassment.

Definitions

1. Sexual Harassment

Sexual harassment, a form of gender-based discrimination, is unwelcome verbal or physical behavior based on a person's gender. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and/or transgender status. Sexual harassment occurs under this policy and under the law when an employee is treated unequally or "less well" than other employees because of his or her sex/gender by, for example, being subjected to unwelcome verbal or physical conduct of a sexual nature. Sexual harassment can include unwanted touching, offensive and suggestive gestures or comments, asking about a person's sex life, or telling sexual jokes.

Generally, sexual harassment is described as either "hostile environment" or "quid pro quo." Sexual harassment which creates a "hostile environment" consists of words, signs, jokes, pranks, intimidation or physical conduct, which is of a sexual nature, or which is directed at an individual because of that individual's sex/gender. Sexual harassment also includes unwanted verbal or

physical advances, sexually explicit derogatory statements, or sexually discriminatory remarks made by someone in the workplace which have the purpose or effect of unreasonably interfering with an individual's work performance or creating a hostile work environment, even if the complaining individual is not the intended target of the sexual harassment.

Quid pro quo sexual harassment is another form of sexual harassment, which occurs when a person in authority makes sexual demands or requests sexual favors in exchange for job benefits, continued employment, or as a basis for making any other employment decision. A person in authority for this purpose is someone who can affect or impact an employee's terms, conditions, or privileges of employment because he/she can take or impact action such as hiring, firing, promoting, disciplining, scheduling, training, evaluating, or deciding how to compensate that employee.

A single incident of inappropriate behavior may be enough to rise to the level of sexual harassment. Conduct that a reasonable person would consider nothing more than "petty slights" and/or "trivial inconveniences" may not amount to sexual harassment under this Policy. However, such conduct may still violate other provisions of this Policy or expectations for appropriate/professional employee conduct set by the School and, accordingly, may result in discipline as determined appropriate by the School. What is "reasonable" or what amounts to "trivial inconveniences" or "petty slights" will depend on the circumstances and the parties involved, as well as the nature and duration of the conduct.

Sexual harassment is not limited to the physical workplace and can occur at School activities off premises and while traveling on School business. Conduct on personal or work cell phones, emails, text messages, and social media, even if it occurs away from the workplace and not during work hours, can also constitute harassment.

Examples of sexual harassment are:

- Unwanted touching; offensive and suggestive gestures or comments; asking about a person's sex life or making sexualized remarks about a person's appearance; sexualizing the work environment with imagery or other items; or telling sexual jokes.
- Physical assaults of a sexual nature, such as:
 - Rape, sexual battery, molestation, or attempts to commit these assaults;
 - Intentional or unintentional physical conduct which is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another employee's body, or poking another employees' body;
 - Adverse action or treatment after someone refuses sexual advances.
- Unwanted sexual advances, propositions, or other sexual comments, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning the victim's job performance evaluation, a promotion, or other job benefits or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities;
 - Sexually oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience.
- Written conduct such as authoring sexually threatening, derogatory, or offensive letters, emails, or text messages

- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning or pornographic.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, and the status of being transgender, such as:
 - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work;
 - Bullying, yelling, name-calling.

2. Harassment Based on Other Protected Categories

Harassment on the basis of any other protected characteristic is also strictly prohibited. This type of harassment includes verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, sex, sexual orientation, gender identity or expression, the status of being transgender, age, national origin, marital status, citizenship or veteran status, disability, or any other characteristic protected by federal, state, or local laws and regulations and that:

- a. Has the purpose or effect of creating an intimidating, hostile, or offensive work, learning, or artistic environment;
- b. Has the purpose or effect of interfering with an individual's work, academic, or artistic performance; or
- c. Otherwise adversely affects an individual's employment, academic, or artistic opportunities.
- d. Has the purpose or effect of treating an individual unequally or less well than others with regard to the 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.

Retaliation Is Prohibited and Unlawful

The School prohibits retaliation against any individual who makes a good faith report of discrimination, harassment, sexual harassment, or participates in any investigation of such a report. Retaliation against individuals in these circumstances is also unlawful. Retaliation against an individual for reporting harassment, or sexual harassment, or discrimination or for cooperating with an investigation, including testifying at a proceeding, is unlawful and a serious violation of this policy and, like discrimination and harassment, will result in disciplinary action by the School.

School Complaint Procedure: Reporting an Incident of Harassment, Discrimination, or Retaliation

Manhattan School of Music strongly urges the reporting of all incidents of discrimination, harassment, and retaliation. Any faculty, staff member, or student who believes he or she has experienced conduct that is contrary to the School's policy, or who has concerns about such matters, should file a complaint as soon as possible.

This procedure, including its investigation and disciplinary processes, supersedes all other employee grievance procedures otherwise applicable.

How to Make a Complaint

All employees are encouraged to use the School's **Workplace Harassment Complaint Form** <https://code.msmnyc.edu/EX/Intranet/HR/Workplace%20Harassment%20Complaint%20Form/WorkplaceHarassmentComplaintForm.aspx> to report suspected or alleged instances of sexual harassment, harassment, or discrimination or any other type of concerning conduct that might fall under one of these categories. A copy of the Complaint Form is attached at the last page of this Policy.

Faculty may address their complaints to their immediate supervisor, the Vice President for Administration and Human Relations and Title IX Coordinator, or the Executive Vice President and Provost.

Staff may address their complaints to their immediate supervisor, the Vice President for Administration and Human Relations and Title IX Coordinator, or the Senior Vice President and Chief Financial Officer.

Students may address their complaints to the Executive Vice President and Provost, Dean of Students, or the Vice President for Administration and Human Relations and Title IX Coordinator.

Faculty, staff, and students should not feel obligated to file their complaints with their department chairs or supervisors before bringing the matter to the attention of the Vice President for Administration and Human Relations and Title IX Coordinator, the Senior Vice President and Chief Financial Officer, the Executive Vice President and Provost, or the Dean of Students.

Important Notice to Supervisors and Managers: All supervisors and managers who receive a complaint or information about suspected sexual harassment, or any other type of conduct covered by this Policy, or who otherwise for any reason suspect such conduct has or may be occurring, are required to report such conduct to the Vice President for Administration and Human Relations and Title IX Coordinator. Disciplinary measures will be taken against any supervisor who fails to report sexual harassment to the Vice President for Administration and Human Relations and the Title IX Coordinator or who knowingly allows sexual harassment to continue.

Important Notice to all Faculty, Staff, and Students

Faculty, staff, and students who have experienced conduct they believe is contrary to this policy have an obligation to take advantage of this complaint procedure.

Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of discrimination, harassment, or retaliation. While there is no time limit for reporting to the School, Manhattan School of Music strongly urges the prompt reporting of complaints or concerns so that a fair investigation can be conducted and appropriate action taken in a timely manner. Employees are expected to cooperate with the School's administration during all investigations.

The availability of this complaint procedure does not preclude individuals who believe they are being subjected to discriminatory, harassing, or retaliatory conduct from promptly advising the offender that his or her behavior is unwelcome and requesting that it stop.

The Investigation

All reports of discrimination, harassment, or retaliation in violation of the School's policies will be taken seriously and investigated promptly, thoroughly, and impartially by the School's administration. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge. Anyone accused of sexual harassment will be informed of the allegations against them, and will be given an opportunity to present their own version of events and any relevant evidence to the investigator. The investigator may adapt and modify the investigatory procedure in his or her discretion, based on the nature of the complaint and the conduct at issue.

All employees and other individuals covered under this Policy are required to cooperate with the School's investigation into suspected sexual harassment and are required to provide truthful and complete answers to any questions asked by the investigator. Confidentiality will be maintained throughout the investigatory process to the greatest extent possible.

Once the investigation is complete and a determination has been made, the determination will be communicated to the individual who complained, the victim of the harassment (if the victim is not the person who made the complaint), and the accused harasser. Follow-up interview(s) or other communication(s) with the individual who complained, the victim of the harassment (if the victim is not the person who made the complaint), and/or any individual that participated in the School's investigation into a complaint of unlawful harassment may be conducted where appropriate, to ensure the sexual harassment has not resumed and that no retaliation has occurred.

Corrective Action

Following an investigation, if it is determined by the appropriate administrative official in consultation with the investigator that misconduct constituting sexual harassment, harassment, discrimination, or retaliation occurred, it will be dealt with appropriately. Corrective action may include, but is not limited to, training; referral to counseling; monitoring of the alleged offender; and/or disciplinary action such as warning, reprimand, probation, withholding of promotion or pay increase, reduction of salary or wages, demotion, reassignment, leave of absence or temporary suspension with or without pay, or dismissal, as the School believes appropriate under the circumstances. Any individual found to have engaged in sexual or any other form of harassment will be disciplined as appropriate, up to and including dismissal, discharge, or expulsion.

If an individual making a complaint does not agree with its resolution, he or she may appeal to the School's President.

Legal Protections and External Remedies

Sexual harassment and other forms of harassment and discrimination are not only prohibited by the School, but are also prohibited by state, federal, and local law. Aside from the internal complaint process at the School, employees may also choose to pursue administrative remedies with the following government entities.

The School encourages employees to use the School's internal reporting process as a starting point so that the School can promptly address conduct.

United States Equal Employment Opportunity Commission (EEOC)

The EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court. Federal courts may award remedies if discrimination is found to have occurred.

New York State Division of Human Rights (DHR)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 *et seq.*, applies to employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns, and non-employees regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with DHR or in New York State Supreme Court. Complaints with DHR may be filed any time within one year of the harassment. The DHR will investigate the complaint to determine if unlawful harassment occurred and if the circumstances amount to a violation of the law. If unlawful discrimination is found after a hearing, the DHR or the court may award relief, which varies, but may include requiring the employer to take action to stop the harassment, or redress the damage caused, including reversing an unlawful employment action, paying monetary damages, attorneys' fees and civil fines.

New York City Commission on Human Rights

The New York City Human Rights Law protects all individuals against discrimination based on gender, which includes sexual harassment in the workplace, in housing, and in public accommodations such as stores and restaurants. Employees may also file complaints of sexual harassment with the New York City Commission on Human Rights. Employees have three years to file claims of gender/sexual harassment with the NYC Commission on Human Rights.

Romantic or Sexual Relationships Policy

Romantic or sexual relationships within the School community may lead to unhappy complications and significant difficulties for all concerned, including but not limited to tension and poor morale among coworkers. Therefore, the School strictly prohibits such relationships between a supervisor and a subordinate and between faculty or staff and student(s), including work-study students, subject to the guidelines stated below. The School discourages such relationships between staff members, between faculty and staff, and between faculty.

It is essential to understand that romantic and sexual relationships between faculty or staff and any student or subordinate, without regard to gender or sexual orientation, may lead to unforeseen complications. Even if a relationship is wholly consensual while on-going, it can have nuances that are not evident at the time and can create expectations that, when unfulfilled, can lead to charges that are detrimental to all concerned, including the participants, the School, faculty, staff, and students. The respect and trust accorded a more senior/supervisory person by a lower-level faculty or staff member or student, as well as the power held by any faculty member or staff member in relation to students, or by a more-senior individual to evaluate or otherwise supervise the lower-level individual, could diminish the extent to which the student or lower-level individual feels free to choose. In addition, even when both parties wholly welcome the relationship, their coworkers and/or fellow students may perceive and resent conflicts of interest.

This policy applies to romantic or sexual relationships between faculty or staff and any student or subordinate, without regard to gender and without regard to the sexual orientation of the participants. If such a relationship exists when this policy is promulgated, develops subsequently, or is subsequently brought within the scope of this policy by personnel action or academic enrollment, it shall be the responsibility and obligation of the party more senior in rank to promptly disclose the existence of the relationship to the Vice President for Administration and Human Relations or to the Executive Vice President and Provost. The participant lower in rank may make the disclosure as well, but the burden of doing so shall be upon the more senior participant. Individuals in positions of authority must not allow these relationships to develop or continue.

Upon being informed or learning of the existence of such a relationship, the School may take any steps that, in its discretion, it deems appropriate. At a minimum, the individual more senior in rank must withdraw from participation in activities or decisions that may reward or disadvantage any staff member or student with whom the more senior in rank has or has had a relationship. Examples of such activities or decisions include hiring, evaluations, grading and other academic evaluation, promotions, compensation, work and academic assignments, performance opportunities and referrals, and discipline.

In addition, the School may reassign or rearrange reporting functions or other roles to limit potential problems. Where this is not possible, the School may terminate one party or take such other steps as the School, in its sole discretion, determines to be appropriate in the circumstances. While the School will attempt to accommodate the preferences of the parties concerned, the decision is solely in the School's discretion. In unusual circumstances the president may grant an exemption from this policy when termination of the School relationship would create undue academic or financial hardship.

The ambiguity of and the variety of meanings that can be given to the term "romantic or sexual relationship" are acknowledged. The School expects that either or both of the parties to such a relationship will appreciate the meaning of the terms as they apply to either or both of them and will act in a manner consistent with this policy. If needed, clarification may be obtained from the Vice President for Administration and Human Relations.

The School's faculty, staff, and students are responsible for the implementation and active support of this policy. Faculty, staff, and students are encouraged to express their ideas and concerns about this policy. Any faculty or staff member with questions or concerns about any type of

discrimination in the School is encouraged to bring these issues to the attention of his or her department chair or supervisor or directly to the Vice President for Administration and Human Relations, the Senior Vice President and Chief Financial Officer, or the Executive Vice President and Provost. Any student with questions or concerns about any type of discrimination in the School is encouraged to bring these issues to the attention of the Vice President for Administration and Human Relations and Title IX Coordinator, the Executive Vice President and Provost, or the Dean of Students. Any faculty member, student, or staff member can raise concerns and make reports without fear of reprisal.

Finally, these policies should not, and may not, be used as a basis for excluding individuals of a particular gender, or any other protected characteristic, from participating in school business, work or education-related activities, or discussions or artistic activities in order to avoid allegations of harassment. The law and the policies of Manhattan School of Music prohibit disparate treatment on the basis of sex or any other protected characteristic, with regard to terms, conditions, privileges, and perquisites of employment or education. The prohibition against harassment, discrimination, and retaliation is intended to complement and further these policies, not to form the basis of an exception to them.

(3) Please list the name(s) of any witnesses or individuals that may have information related to the incidents of concern:

(4) Have you previously reported this conduct? If so, please explain the person(s) to whom the information was reported and any action(s) taken about which you are aware:

(5) What action would you like the School to take in response to this situation?*

***The School will consider your preference and additional information gathered through an investigation. The School may not necessarily respond in the way most preferred by the reporting individual. However, a reporting individual's wishes will be considered when deciding what responsive action is appropriate.*

Thank you for reporting this information. We will be in touch with you promptly. If any additional incidents occur, including if you experience any act of retaliation, please inform the office of Administration & Human Relations immediately.

The form can also be submitted online by following the link below:

<https://code.msmnyc.edu/EX/Intranet/HR/Workplace%20Harassment%20Complaint%20Form/WorkplaceHarassmentComplaintForm.aspx>