

Equal Employment and Educational Opportunity Non-Discrimination and Anti-Harassment Policy (for claims not involving Sexual Harassment or Sexual Misconduct)

Manhattan School of Music is committed to maintaining an environment that is free from discrimination, harassment, and retaliation. It is the policy of Manhattan School of Music (“MSM” or “the School”) not to tolerate discrimination, harassment, or retaliation based on age, actual or perceived race (including traits historically associated with race), color, creed, ethnic origin, national origin, alienage or citizenship status, disability, religion, sex (including sexual harassment), gender (including actual or perceived sex, gender identity and gender expression including a person’s actual or perceived gender-related self-image, appearance, behavior, expression, or other gender-related characteristic, regardless of the sex assigned to that person at birth), actual or perceived height or weight, sexual orientation, marital or partnership status, military or veteran status, predisposing genetic characteristics, unemployment status, pregnancy, familial status, caregiver status, sexual and reproductive health decision, prior criminal convictions, or status as a victim or witness of domestic violence, sex offenses, or stalking, or on any other legally protected basis. Such behavior is unlawful and inconsistent with the commitment of MSM. This commitment is central to MSM’s Mission as well as to its legal compliance obligations.

MSM also does not permit retaliation against individuals who oppose such alleged misconduct or who participate in an investigation into such allegations.

This policy applies to all terms and conditions of employment, including actions and decisions relating to recruitment, hiring, admission, financial aid, compensation, benefits, evaluation, promotion, and termination. It also requires non-discriminatory, non-harassing, and non-retaliatory treatment of students and of prospective students in all aspects of student life and studies, including during student application, admission, and financial aid processes.

As noted below, MSM maintains a comprehensive set of Equal Opportunity policies, including this Non-Discrimination Policy, that are intended to operate together to prohibit discrimination, harassment, and retaliation within our workplace and learning environment. These include two other policies that address, respectively, (i) Sexual Misconduct that does fall within the legal parameters of Title IX; and (ii) Sexual Harassment that does not fall within the purview of the School’s Title IX policy. Depending upon the allegations of a particular complaint, modifications to different procedures or timelines may be required in order to harmonize policy requirements, sequence investigations, and ensure a full and fair resolution of concerns. See Section III *Reservation of Rights* below, which details the circumstances in which the School may modify policies and timelines under this policy and the School’s other Equal Opportunity policies.

Other relevant MSM Equal Opportunity policies:

1. The *Manhattan School of Music Title IX/Sexual Misconduct Policy* prohibits sexual misconduct, including sexual harassment, by or against students or employees, where the complaint falls within the legal and regulatory parameters of the School’s Title IX policy. That policy can be found here: www.msmnyc.edu/msm-title-ix-sexual-misconduct-policy

2. The *Manhattan School of Music Sexual Harassment (Non-Title IX) Policy* addresses allegations of sexual harassment that do not fall within the legal parameters of the School's Title IX policy but that are taken seriously and will be addressed by the School. That policy can be found here: www.msmnyc.edu/equal-employment-and-educational-opportunity-sexual-harassment-policy

NOTE: All MSM employees, regardless of title or supervisory role, are obligated to report instances of sexual harassment or 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.msmnyc.edu/sexual-misconduct-report-form.

Please note the broad scope of this *Non-Discrimination and Anti-Harassment Policy*. It prohibits discrimination, harassment, and retaliation, as defined above, by or against all students, faculty, staff, applicants for employment or enrollment, interns, whether paid or unpaid, anyone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in our workplace (including persons commonly referred to as independent contractors, gig workers, and temporary workers). It also applies to persons providing equipment repair, cleaning services, or any other services through a contract with MSM, guest artists, and competition judges (the individuals described in this paragraph being collectively referenced within this policy as "covered individuals"). This policy not only broadly protects the individuals identified in this paragraph but also prohibits all such individuals from engaging in any of the conduct prohibited by this Policy.

This policy applies to all forms of discrimination, harassment, or retaliation -- other than sexual harassment and sexual misconduct, which also constitute discrimination but are separately and more specifically addressed under the School's Title IX and Non-Title IX Sexual Harassment policies described above. Disparate treatment on the basis of gender or gender characteristics, other than sexual harassment or sexual misconduct, falls within the provisions of this Non-Discrimination Policy. An example of disparate treatment that falls within this policy would be treatment of similarly situated employees differently with respect to the terms and conditions of employment, if based upon gender, or treatment of similarly situated students differently with respect to grades or programs, again if based upon gender. Complaints involving gender may include intermingled allegations of disparate treatment and sexual harassment. In such circumstances, complaints may be resolved using modified procedures and timelines to assure full and fair resolution of all concerns (as further described in Section III *Reservation of Rights* below).

Compliance with Equal Opportunity policies is every community member's responsibility. Faculty, department chairs, and supervisory and managerial staff are responsible for taking reasonable steps so that no faculty, staff, student, or other covered individual is subjected to -- or engages in -- conduct that constitutes discrimination, harassment, or retaliation.

Managers and supervisors **are required** to report any complaint that they receive, or any discrimination, harassment, or retaliation that they observe or of which they become aware. Any other faculty or staff member who has knowledge (whether direct or indirect) of any discriminatory, harassing, or retaliatory conduct is encouraged to make a report in accordance with the complaint procedure set forth below.

I. Complaint Procedure

Individuals are encouraged to use the School's *Discrimination, Harassment, and Retaliation Complaint Form* to report suspected or alleged instances of harassment, discrimination, or any other type of concerning conduct that might fall under one of these categories. A copy of the form is attached at the end of this Policy or can be submitted online here: [*Discrimination, Harassment, and Retaliation Complaint Form*](#).

The Office of Administration and Human Relations (or other investigators designated by Human Relations in its discretion) will investigate and resolve complaints of discrimination, harassment, and retaliation, consistent with the following standards:

1. All complaints or information will be reviewed as appropriate to the nature of the allegations, regardless of whether the concern was reported in verbal or written form or otherwise came to the attention of the School. Any investigation of a complaint, information, or concern covered by this policy will be prompt, full, and fair. An investigation will be kept confidential to the extent possible. All individuals involved, including those making a complaint, those responding to a complaint, and witnesses, will be treated respectfully and impartially.
2. Employees are required to cooperate as needed in any investigation of suspected misconduct covered by this policy. MSM will take disciplinary action against anyone engaging in retaliation (meaning, to take adverse action) against an individual who makes a complaint, supports another's complaint, or participates in investigations under this policy.
3. MSM recognizes that participating in an investigation can be uncomfortable. Those receiving claims and undertaking investigations will handle complaints and questions with sensitivity toward participants.
4. While the process may vary from case to case, investigations will be performed fully and fairly, typically in accordance with the following steps. Upon receipt of a complaint, the Office of Administration and Human Relations or its designated investigators will typically proceed as follows:

- a. **HR or designate will conduct a threshold review of the allegations to determine the applicable policy and other parameters for investigation (as further described in Section III *Reservation of Rights* below).**

HR or designate will assess the appropriate scope of the investigation, communicate with the parties about the parameters, and take any appropriate interim actions (for example, instructing the respondent and complainant to refrain from communications with each other pending investigation). Modifications to procedures or timelines will also be communicated to the parties. If a complaint is verbal, HR or designate will request that the individual completes a complaint form in writing. If the person reporting prefers not to fill out a form, the Office of Administration and Human Relations may prepare a complaint form or equivalent documentation based on the verbal report.

- b. **HR or designate will take steps to obtain, review, and preserve documents sufficient to assess the allegations, including documents, emails or phone records that may be relevant to the investigation.**

The Office of Administration and Human Relations will consider and implement appropriate document requests, review, and preservation measures, including for electronic communications.

- c. **HR or designate will seek to interview all parties involved, including witnesses with direct or relevant information.**

The investigator will determine in their discretion whether particular witnesses should be interviewed.

- d. **HR or designate will communicate on a regular basis with both the complainant and also the respondent individual who is the focus of the complaint.**

Communications will focus upon the progress of the investigation and memorialize any additional requests for documents, information, or interviews or any decisions to modify procedures or timelines.

- e. **HR or designate will keep the written documentation of an investigation and any associated documents in a secure and confidential location; and**

- f. **HR or designate will promptly notify the complainant, as well as the respondent individual(s) about whom the complaint was made, with regard to the resolution of the complaint.**

HR or designate will also implement any corrective actions substantiated by the investigative results.

Faculty or employee questions or concerns may be referred to the Vice President for Administration and Human Relations. Students may direct their questions and concerns to the Dean of Students, or to the Vice President for Administration and Human Relations.

Appropriate corrective or disciplinary actions may be taken against any faculty or staff member or any student substantiated after investigation to have violated the provisions of this Policy.

II. Important Notice to all Faculty, Staff, and Students

Faculty, staff, and students who have experienced treatment that they believe is contrary to this policy are encouraged 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 administration during all investigations.

The availability of this policy's 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.

Moreover, nothing in this policy requires individuals to use this complaint procedure in lieu or prior to filing a complaint with an external agency that has jurisdiction over Equal Opportunity complaints under federal, state, or local law. Nothing in this policy limits individual rights to pursue external agency remedies, and community members will not experience retaliation for pursuing external agency remedies.

III. Reservation of Rights

As noted above, MSM maintains a comprehensive set of Equal Opportunity policies, including this Non-Discrimination Policy, that work together to prohibit discrimination, harassment, and retaliation and use similar, but not identical, procedures and timelines. These include MSM's separate policies addressing Sexual Harassment and Title IX violations (two policies further described in Section I above). Sometimes it is not clear which policy applies to a particular complaint or concern – or whether more than one policy applies. In addition, some complaints involve complicated situations or multiple complainants or respondents.

To ensure a full and fair review even of complex complaints, the School will conduct a threshold review as soon as it receives a complaint or concern. Among the threshold matters reviewed by MSM may be: (i) which MSM policy is applicable; (ii) whether more than one policy is applicable; (iii) whether the procedures of different policies should be applied in sequence; (iv) whether investigators outside HR should be designated; (v) whether timelines should be extended; and (vi) whether multiple policies may need to be applied in sequence.

The School reserves the right to make such determinations, in the interest of obtaining full and fair resolutions of all complaints, and the School may modify the procedures and timelines set forth in its Equal Opportunity policies accordingly. The School will communicate to the complainant and to any individual who is the subject of the complaint about the results of this threshold review, including which policy or policies apply, how the investigation will be conducted and sequenced, and whether procedures or timelines will be modified. The School may also, at any time during an investigation, modify timelines or procedures if changed circumstances or new evidence may require modifications to achieve a full and fair resolution of the complaint and MSM will notify the parties accordingly.

Discrimination, Harassment, and Retaliation Complaint Form

Submit this form to the Office of Administration and Human Relations or online here:

[Discrimination, Harassment, and Retaliation Complaint Form](#)

If you believe that you have been subjected to discrimination, harassment, or retaliation and wish MSM to review your concerns, you are encouraged, but not required, to complete this form and submit it to the Office of Administration and Human Relations. No employee will be retaliated against for filing a complaint.

REPORTING PERSON INFORMATION:

Name: _____

Job Title/Student Status: _____

Email: _____

Work/MSM Address: _____

Work/Personal Phone: _____

Select Preferred Communication Method: Email Phone In person

**You may submit a report anonymously. However, please understand that the School's ability to investigate and to respond to anonymous information may be limited.*

SUPERVISORY INFORMATION (IF APPLICABLE AND TO THE EXTENT KNOWN)

Immediate Supervisor's Name: _____

Job Title: _____

Work Address: _____

Work Phone: _____

COMPLAINT INFORMATION

1. Your complaint of discrimination, harassment, and/or retaliation is made about:

Name: _____

Title/Student Status: _____

Work/MSM Address: _____

Work/Personal Phone: _____

Relationship to you: Supervisor Supervisee Co-Worker
 Fellow Student Other (please specify) _____

2. Please describe what happened and include as many details as possible. You may use additional sheets of paper if necessary. If you have any relevant documents, please include them.

3. Please list the date(s) that the incidents occurred (provide approximate dates, if you do not have exact dates):

4. Is the discrimination, harassment, and/or retaliation ongoing? Yes No

5. If possible, please list the name(s) of any witnesses or individuals that may have information related to your complaint:

6. Have you previously provided information (verbal or written) about related incidents? If yes, when and to whom did you provide information?

7. What action would you like the School to take in response to this situation?*

8. This Question is optional: if you have retained legal counsel and would like us to work with them, please provide their contact information.

Signature: _____

Date: _____

***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 and Human Relations immediately.