

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

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I. Introduction

Statement of Nondiscrimination

Manhattan School of Music is committed to maintaining an environment that is free from discrimination, harassment, and retaliation. Accordingly, Manhattan School of Music (“MSM” or “the School”) prohibits discrimination and harassment 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.

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

The protections in this policy apply regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction.

Scope and Jurisdiction

This policy prohibits discrimination, harassment, and retaliation, as defined herein, by or against all students, faculty, staff, applicants for employment or enrollment, interns, whether paid or unpaid, volunteers, 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 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.

What Is Prohibited By This Policy

The following may also be referred to as Prohibited Conduct.

Discrimination is defined as:

1. Unfavorable action taken against members of a protected category under MSM authority;

2. Because of their actual or perceived membership in that category; and
3. Not under circumstances when the action or inaction would have been taken regardless of an individual's protected category.

Unfavorable action under MSM authority is defined as adverse or unequal action that materially interferes with an individual's ability to participate in programs, activities, or employment of MSM, and/or receive services, benefits, or aid of MSM, unless required or authorized by law. An unfavorable action must be taken because of an individual's actual or perceived protected category to constitute Discrimination under this Policy. If the action or inaction would have been taken regardless of an individual's protected category, then it does not constitute an unfavorable action under this Policy.

Under MSM authority means that the action was taken by an employee, student leader, or third party designated by MSM to provide services, benefits, aid, or other access to MSM programs, activities, or employment.

Evidence of different treatment may include comparators to similarly situated employees or students that are not members of that protected category. Other evidence that the unfavorable action was motivated by discrimination may be gathered or submitted in the absence of comparative evidence.

Disparate Impact Discrimination:

Having a policy or practice that adversely impacts the members of one protected category more than others.

Discriminatory Harassment:

Discriminatory Harassment is subjecting an individual to unwelcome conduct, whether verbal or physical, that creates an intimidating, hostile, or abusive working, learning or campus living environment; that alters the conditions of employment or education; or unreasonably interferes with an individual's work or academic performance on the basis of someone's actual or perceived membership in a protected category.

Harassment may include, but is not limited to, verbal abuse; epithets or slurs; negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes; insulting or obscene comments or gestures; and the display or circulation of written or graphic material (including in hard copy, by email or text, or through social media) that denigrates or shows hostility or aversion toward an individual or group members of a protected category. Calls, texts, emails, and social media usage that occurs on or off campus can contribute to a hostile work, learning, or living environment.

MSM will determine whether the conduct was discriminatory based on both subjective and objective factors, based on the totality of the circumstances surrounding an alleged incident or course of conduct, including, the frequency, nature, and severity of the conduct, and whether a reasonable person would find the conduct discriminatory. Harassment need not be severe or pervasive to be unlawful and can be any harassing conduct that consists of more than petty slights or trivial inconveniences. Protected speech or expression can create a hostile environment.

Delegation of Duties Under This Policy

Obligations in this policy assigned to a particular title, such as the Title VI Coordinator, may be designated as appropriate by MSM, including to external professionals.

II. Reporting Discrimination or Harassment

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.

Employee Reporting Obligations

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.

All MSM employees, regardless of title or supervisory role, are obligated to report instances of **sexual assault, domestic violence, dating violence, and stalking** either to the Title IX Coordinator, Carol Matos, Vice President for Administration & Human Relations, or anonymously by filling out the [*Title IX Sexual Misconduct and Discrimination Report Form*](#).

How to Make a Report to MSM

All reports of violations of this policy will be taken seriously and in good faith. **MSM** will provide information and guidance regarding how to **request an investigation by MSM** and/or local law enforcement, as well as information and assistance about what course of action may best support the individual(s) involved and how best to address the report. 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. The form can be submitted online here: [*Discrimination, Harassment, and Retaliation Complaint Form*](#).

To contact Title VI Coordinator Carol Matos directly, please email cmatos@msmnyc.edu, or call 917-493-4450. To contact Dean of Students Monica Christensen, who serves as Deputy Title VI Coordinator, please email mchristensen@msmnyc.edu or call 917-493-4036.

If a complaint is verbal, MSM 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.

Reporting to Police

Some Prohibited Conduct may constitute a violation of both the law and MSM policy. MSM encourages students to report alleged crimes promptly to local law enforcement agencies. All persons have the right to file with law enforcement, as well as the right to decline to file with law enforcement. The decision not to file shall not be considered as evidence that there was not a violation of MSM policy.

Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. However, when a report is made to MSM as well as to law enforcement, MSM may delay its process if a law enforcement agency requests that MSM delay its process for a reasonable amount of time to allow law enforcement to gather evidence of criminal misconduct. Criminal or legal proceedings are separate from the processes in this policy and do not determine whether this policy has been violated.

In the case of an emergency, where the physical well-being of a member of the MSM community or the safety of MSM as an institution is threatened, any individual with such knowledge should promptly inform Andersen Hall Front Desk at 917-493-4700. MSM may take any immediate steps as may be necessary and appropriate under the circumstances to ensure the well-being of the MSM community and MSM as an institution.

Confidential Disclosures

MSM Counseling Center provides confidential counseling. The MSM Counseling Center is located on the first floor of the Main Building at MSMSM, rooms 104 and 106 and is available to all students. Counselors see students by appointment booked through the MSM Counseling Center Scheduling Form (located on the MSM website). Please fill out this [form](#) if you are looking to meet with one of our counselors. In case of a mental health emergency, please call: (917) 493-4000.

MSM Campus Health Nurse provides confidential services and is available on a walk-in basis. The MSM Campus Health & Wellness Office is located on the first floor of the main building across from the Counseling Center. The waiting and check-in area is Room 105. To speak to the nurse over the phone please call (917) 493-4278 or send an email to campushealth@msmnyc.edu to schedule a time to speak.

III. Responding to a Report

The following process will be used following the receipt of a report of Prohibited Conduct under this Policy.

Initial Contact

Following receipt of a report alleging a potential violation of this policy, MSM will contact the complainant to meet with the MSM for an initial intake and assessment meeting, and will provide the following:

- An invitation to meet to offer assistance and explain their rights, resources, and options under this policy;
- Notice of and access to this policy;
- Information regarding available campus and community resources for counseling and other support;
- The availability of Supportive Measures regardless of whether a written complaint is made and/or any resolution is initiated;
- The options for resolution and how to initiate such resolution processes;
- The right to notify law enforcement as well as the right not to notify law enforcement, if applicable;
- The importance of preserving evidence and, in the case of potential criminal misconduct, how to get assistance from MSM or local law enforcement in preserving evidence;

Supportive Measures

Supportive measures are individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to restore or preserve that party's access to MSM's education program or activity, including measures that are designed to protect the safety of the parties or MSM's educational environment; or provide support during a resolution process under this Policy.

Supportive measures may include, but are not limited to, counseling; extensions of deadlines and other course-related adjustments; restrictions on contact applied to one or more parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; no-contact directives; and training and education programs related to anti-harassment or nondiscrimination. Supportive measures are non-disciplinary and non-punitive. Supportive Measures will also be offered to respondents when they are notified of the allegations.

Any Supportive Measures put in place will be kept confidential, except when doing so impairs the ability of the institution to provide the Supportive Measures.

The Title VI Coordinator and the Dean of Students have the discretion to implement or modify supportive measures. Violation of the parameters of supportive measures may violate existing codes or handbooks.

Intake and Assessment

MSM will conduct a threshold review of the allegations to determine the applicable policy and other parameters for investigation. 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 MSM should be designated; (v) whether timelines should be extended; and (vi) whether multiple policies may need to be applied in sequence.

MSM will assess the appropriate scope of the investigation, communicate with the parties about the parameters, and offer supportive measures to the parties. MSM will also take any appropriate interim actions (for example, instructing the respondent and complainant to refrain from communications with each other pending investigation).

The Initial Assessment process seeks to gather information about the nature and circumstances of the report to determine whether this policy applies to the report and, if so, which resolution process may be appropriate, as well as which section of the resolution procedures apply based on the conduct and the status of the parties. MSM may also determine that the provision of supportive measures only is the appropriate response under the policy. The initial assessment is not a finding of fact or responsibility. If the individual bringing forward the report is not the actual complainant, MSM will limit communication to general information on policies and processes.

Should the complainant wish to make a written complaint, MSM will determine whether this policy applies and, if so, the appropriate process under this policy. MSM will communicate to the complainant this determination.

If the information provided does not suggest a potential violation of this policy, MSM will provide the complainant written notice that the matter is being referred for handling under a different policy, and/or to another appropriate office for handling.

Requests for Confidentiality or No Further Action

If a complainant requests that MSM not use their name as part of any resolution process, or that MSM not take any further action, MSM will generally try to honor those requests. However, there are certain instances in which MSM has a broader obligation to the community and may need to act against the wishes of the complainant. In such circumstances, MSM will notify the complainant in writing of the need to take action.

Referrals for Other Misconduct

MSM has the discretion to refer reports of misconduct not covered by this policy for handling under any other applicable policy or code. As part of any such referral for further handling, MSM may use evidence already gathered through any process covered by this policy.

Should there be a conflict between the provision of this policy and other MSM policies, procedures, rules, regulations, or terms or conditions of employment, the provisions of this policy will govern unless specifically stated otherwise.

This policy and these procedures are separate from MSM's student disciplinary processes, by which MSM may bring a discipline charge against a student for violating MSM policy according to the provisions found in the [MSM code of conduct](#).

Conduct that falls outside of this policy may fall under another relevant MSM policy such as:

1. The *Title IX Sexual Misconduct Policy* addresses Title IX sexual harassment as defined by the applicable regulations. That policy can be found here: www.msmnyc.edu/msm-title-ix-sexual-misconduct-policy
2. The *Equal Employment and Educational Opportunity 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

Consolidation

MSM may consolidate reports under this policy as appropriate: for example, if there are multiple reports where the allegations of Prohibited Conduct arise out of the same facts or circumstances, or there are multiple reports with overlapping parties.

MSM also reserves the right to use this policy to adjudicate other allegations and conduct charges as defined by policies outside of the scope of this policy in instances when the conduct is associated with an alleged issue of Prohibited Conduct under this policy. MSM will address these consolidated reports in collaboration and coordination with other appropriate offices. Allegations of a violation of a separate policy are not required to be handled using the procedural requirements set forth in this policy.

Dismissing Complaints

Before dismissing a formal complaint, MSM will make reasonable efforts to clarify the allegations with the complainant.

MSM may dismiss a complaint brought under this policy, or any specific allegations raised within that formal complaint, at any time during the investigation, if:

- MSM is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in MSM's education program or activity and is not employed by MSM;
- If specific circumstances prevent MSM from gathering evidence sufficient to reach a determination regarding the formal complaint or allegations within the formal complaint; or
- The complainant voluntarily withdraws their complaint in writing.

MSM may continue to assess whether someone experienced a hostile environment and take steps reasonably designed to restore that person's access to the MSM program or activity, even if MSM cannot otherwise investigate or adjudicate the concern.

Student Withdrawal or Employee Resignation while Matters are Pending

If a student or employee respondent permanently withdraws or resigns from MSM with unresolved allegations pending, MSM will consider whether and how to proceed with the resolution process. MSM

will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s) and any ongoing effects of the alleged Prohibited Conduct.

MSM Response When No Respondents Are Known or Identified

If the Respondent is unknown or is not otherwise subject to sanctions imposed by the School, MSM will offer the Complainant supportive measures, remedies, and resources as appropriate, such as, support identifying appropriate campus and local resources and support options or, when criminal conduct is alleged, assistance in contacting local law enforcement if the individual would like to file a police report. MSM may investigate allegations that relate to MSM policy or practices, including where there is not an identified respondent. MSM may also investigate allegations of discriminatory harassment without an identified respondent in order to make an assessment about hostile environment and provide appropriate remedies to impacted people.

IV. Options for Resolution

There are multiple ways to resolve a report under this Policy. Whenever possible, MSM will utilize the resolution method chosen by the complainant. During the resolution of a report, MSM will determine whether to implement reasonable supportive measures designed to assist all parties (complainants and respondents) and community members in maintaining access to and participation in MSM programs, services and activities during the resolution of the report.

This section includes information on support-based resolution, agreement-based resolution, and investigation and hearing procedures.

Support Based Resolution

A written complaint is not required for a support-based resolution. A support-based resolution is an option for a complainant who does not wish MSM to take any further steps to address their concern, and when MSM determines that another form of resolution, or further action, is not required. Some types of support that may be appropriate include: adjustments or changes to class schedules; moving from one residence hall room to another; adjusted deadlines for projects or assignments; adjustments to work schedule or arrangements; escorts to and around campus; or counseling.

A support-based resolution does not preclude later use of another form of resolution, for example if new information becomes available to MSM and MSM determines there is need for additional steps to be taken, or the complainant later decides to pursue a formal complaint

Agreement-Based Resolution

Agreement-Based Resolution is an alternative to the investigation procedures where the Parties each voluntarily agree to resolve the complaint in a way that does not include any finding of responsibility. Agreement-Based Resolution is a voluntary, structured interaction between or among affected parties that balances support and accountability. If MSM offers Agreement-Based Resolution to the parties, and they voluntarily consent to engage in that process, MSM must still take other prompt and effective steps as needed to ensure that the prohibited conduct alleged does not continue or recur within the education program or activity. Parties and MSM may agree to pause or exit the investigation resolution procedures to explore Agreement-Based Resolution.

Investigation Resolution

MSM will assign a trained investigator to conduct an adequate, reliable, and impartial investigation and determination, if applicable, in a reasonably prompt timeframe. MSM reserves the right to utilize internal or external investigators.

All parties have the option to participate in the investigation, and each have the same rights during the resolution process including the right to be accompanied by one support person and to submit relevant witness names and evidence for the investigator to consider. Except where explicitly stated by this policy, advisors shall not participate directly in the process. The advisor may not represent, advocate, or speak on behalf of a complainant or respondent. An advisor may not disrupt or impede any resolution proceeding.

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.

Evidence Gathering

MSM 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. MSM 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.

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.

The investigator will establish deadlines for submission of names of relevant witnesses and submission of evidence and communicate those deadlines to the parties in writing.

Communications

MSM will communicate on a regular basis with the Parties. 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.

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.

Documentation and Notice of Outcome

MSM or designate will keep the written documentation of an investigation and any associated documents in a secure and confidential location and maintain the documents in accordance with the MSM records retention schedule.

MSM or designate will promptly notify the parties about the resolution of the complaint. MSM or designate will also implement any corrective actions substantiated by the investigative results.

V. Additional Provisions

The timeline for any part of the resolution process may be extended for good cause by MSM. All parties shall be notified, in writing, of any extension to the timeline that is granted, the reason for the extension, and the new anticipated date of conclusion of the investigation and/or hearing. Good cause reasons for extension may include ensuring availability of witnesses and other participants and ensuring participants have sufficient time to review materials.

MSM shall provide the Parties with periodic status updates, in writing.

Compliance with Education Law 129-a, § 6436-a

This section describes MSM's obligations and actions relating to compliance with Education Law 129-a.

MSM has designated Carol Matos as the Title VI Coordinator (TVIC). The TVIC will:

- Offer supportive measures;
- Notify reporting individuals of the institution policy/process;
- Ensure there is a process for investigations and resolutions;
- Ensure notification to the campus community of policies;
- Appropriate recordkeeping, including all records related to assessment of reports and actions an institution took under the laws. Maintain records of training attended and the materials.

MSM will notify all students and employees annually of policies and procedures for reporting discrimination and harassment, including:

- Discrimination policy statement;
- Web links to all relevant policies and procedures;
- TVIC contact information; and
- Other information deemed necessary.

MSM will develop "training to promote equal access and participation." Training is to be delivered annually to all students and employees in the first full academic year after the effective date (academic year 2026-27). MSM will ensure that TVIC and designees are trained.

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 have experienced discrimination or harassment, you are encouraged, but not required, to complete this form and submit it to the Office of Administration and Human Relations. No one will be retaliated against for filing a complaint.

Thank you in advance 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.

YOUR INFORMATION

Your Name

Your Email

Phone Number

Select Preferred Communication Method: ☐ Email ☐ Phone

* The School's ability to investigate and to respond to anonymous information may be limited.

COMPLAINT INFORMATION

1. Please describe what happened and include as many details as possible, including the names of individuals involved, if known, witnesses, and dates. You may use additional sheets of paper if necessary. If you have any relevant documents, please include them.
2. Is the discrimination, harassment, and/or retaliation ongoing? ☐ Yes ☐ No
3. What action would you like the School to take in response to this situation? **

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.*