

Equal Employment and Educational Opportunity Policies

Notice of Nondiscrimination

Equal employment and equal educational opportunity have been and will continue to be fundamental principles at Manhattan School of Music, where employment and enrollment are based upon personal capabilities and qualifications without discrimination or harassment because of race, color, religion, sex, sexual orientation, gender identity or expression, 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.

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 office of the Vice President for 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. Students may direct their questions and concerns to the 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.

Anti-Harassment Policy

Manhattan School of Music is committed to a work and learning environment in which all individuals are treated with respect and dignity. Each individual has the right to teach, learn, work and/or study in a professional atmosphere that promotes equal opportunity and prohibits discriminatory practices, including harassment. Therefore, Manhattan School of Music expects that all relationships among persons in the School will be professional and free of bias, prejudice, 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, 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.

Definitions of Harassment

1. Sexual harassment is strictly prohibited. Sexual harassment constitutes discrimination and is illegal under federal, state, and local laws. For the purposes of this policy, sexual harassment is

defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when, for example:

- a. 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;
- b. submission to or rejection of such conduct is used as the basis for employment or education-related decisions affecting the individual; or
- c. 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 working, learning, or performing environment.

Conduct may constitute harassment or discrimination if it is severe or pervasive and directed at faculty, staff, or students because of their sex or other protected characteristic – even though it does not involve conduct or language explicitly referring to the protected characteristic.

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.

The Manhattan School of Music Title IX / Sexual Misconduct Policy Protecting Students pertains to students who experience sexual harassment that involves domestic violence, dating violence, stalking or sexual misconduct (including sexual assault)

<http://www.msmnyc.edu/Portals/0/MSM%20Sexual%20Misconduct%20Policy.pdf>

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 <http://code.msmnyc.edu/HR/SexualMisconductReportForm.aspx>

2. 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, 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.

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.

Individuals and Conduct Covered

The School's policies apply to faculty, staff, and 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.

Retaliation Is Prohibited

The School prohibits retaliation against any individual who reports discrimination or harassment or participates in any investigation of such a report. Retaliation against an individual for reporting harassment or discrimination or for cooperating with an investigation of such a report is a serious violation of this policy and, like discrimination and harassment, will be subject to disciplinary action.

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

Manhattan School of Music strongly urges the reporting of all incidents of discrimination, harassment, or retaliation, regardless of the offender's identity or position in the School. 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 before the conduct becomes severe and pervasive. Faculty may address their complaints to their immediate supervisor, the Vice President for Administration and Human Relations or the Provost. Staff may address their complaints to their immediate supervisor, the Vice President for Administration and Human Relations or the Vice President for Business and Finance. Students who experience conduct they believe is contrary to the School's policy may address their complaints to the Vice President for Administration and Human Relations, the Provost, or the Dean of Students. This procedure, including its investigation and disciplinary processes, supersedes all other grievance procedures otherwise applicable.

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, the Vice President for Business and Finance, the Provost or the Dean of Students.

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. An individual's failure to fulfill

this obligation could affect his or her rights in pursuing legal action within the time frames established under federal, state, or local laws or ordinances.

Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of discrimination, harassment, or retaliation. Therefore, while no fixed reporting period has been established, 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. The School is committed to making significant efforts to stop alleged harassment before it becomes severe or pervasive, but it can only accomplish this with the cooperation of its faculty, staff, and students.

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

Any report of discrimination, harassment, or retaliation in violation of the School's policies will be documented in writing and investigated promptly, thoroughly, and impartially, as appropriate in the circumstances, 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. Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action.

Responsive Action

Misconduct constituting harassment, discrimination, or retaliation will be dealt with appropriately. Responsive 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.

Romantic or Sexual Relationships

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 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 Vice President for Business and Finance or the 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, the 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 or separating 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.