

Berkshire Music School

SEXUAL HARASSMENT POLICY

[Proposed 1/31/2023]

A. Introduction

It is the goal of the Berkshire Music School to promote an educational environment and workplace that is free of sexual harassment. Sexual harassment is unlawful and will not be tolerated. The Berkshire Music School community constitutes a wide spectrum of people: students, family members, audience members, volunteers and employees. Every person, regardless of one's gender, engaged in any of the activities of Berkshire Music School is entitled to a safe environment free from sexual harassment.

Further, any retaliation against an individual who has complained about sexual harassment, or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint, is similarly unlawful and will not be tolerated.

To achieve our goal of providing an institution free from sexual harassment, the conduct that is described in this Policy will not be tolerated, and we have provided a procedure by which inappropriate conduct will be dealt with, whether encountered by students, faculty, employees or others connected with Berkshire Music School.

Because Berkshire Music School takes allegations of sexual harassment seriously, we will respond promptly to complaints of sexual harassment, and where it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective measures, including disciplinary action, which are deemed appropriate.

B. Definition of Sexual Harassment

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

- submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment or academic decisions.
- such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's academic or work performance by creating an intimidating, hostile, humiliating or sexually offensive learning or working environment.
- The legal definition of sexual harassment is broad, and in addition to the above examples, other sexually oriented conduct that is unwelcome and has the effect of creating a work or educational environment that is hostile, offensive, intimidating, or humiliating to another may also constitute sexual harassment, whether or not the conduct was intended to be so. While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which, if unwelcome, may constitute sexual harass-

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ment depending upon the totality of the circumstances, including the severity of the conduct and/or its pervasiveness:

- Unwelcome sexual advances – whether they involve physical touching or not.
- Repeated, unsolicited propositions for dates and/or sexual intercourse.
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comments on an individual's body, comments about an individual's sexual activity, deficiencies, or prowess.
- Displaying sexually suggestive objects, pictures, cartoons – either in physical form or via electronic media.
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments.
- Verbal harassment or abuse on the basis of sex.
- Inquiries into another person's sexual activities, practices or experiences.
- Discussion of one's own sexual activities, practices or experiences.

This broad legal definition of sexual harassment applies to any individual of either gender, sexual orientation or self-identification who participates in the Berkshire Music School community, including students, faculty members, administrators or any other persons having dealings with the school.

All faculty, employees, students, and others having dealings with Berkshire Music School should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, or retaliation against individuals who have cooperated with an investigation of sexual harassment is unlawful and will not be tolerated by Berkshire Music School.

C. Complaints of Sexual Harassment

If any member of the Berkshire Music School community believes that he/she/they have been subjected to sexual harassment, he/she/they have a right to file a complaint under this Policy, either in writing or orally.

Anyone who witnesses or believes they have witnessed an incident of sexual harassment can also make a report, either in writing or orally.

All complaints or reports of sexual harassment shall proceed under this Policy's Complaint Procedure. To file a complaint or make a report, a person may do so by contacting a responsible person in the Berkshire Music School organization, who can be either an instructor uninvolved in the incident complained of, the Executive Director, or a member of the Board of Trustees. These persons are also available to discuss any concerns a person may have and to provide information about the Policy on Sexual Harassment and the complaint process.

D. Sexual Harassment Investigation

A complaint or report of sexual harassment will be promptly investigated in a fair and expeditious manner. A committee, composed of the Executive Director and members of the Executive Commit

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tee of the Board of Trustees, aided by legal counsel, will be convened for this purpose. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. The investigation will be conducted in accordance with this Policy's Complaint Procedure and will include a private discussion with the person filing the complaint and separate discussions with witnesses, if there are any. The person alleged to have committed sexual harassment will also be interviewed. Once the investigation is completed, BMS will, to the extent appropriate, inform the parties of the results of that investigation.

If it is determined that a violation of this Policy has occurred, Berkshire Music School will act promptly to eliminate the offending conduct, and where it is appropriate also impose disciplinary action on the person in violation of the Policy.

E. Disciplinary Action

Disciplinary action for violating this Policy may include, but is not limited to, mandatory counseling or training, verbal or written warnings, suspension, termination from employment, or expulsion from any activities connected with Berkshire Music School.

F. State and Federal Remedies

In addition to the above, if any member of the Berkshire Music School community believes that he/she/they believe they have been subjected to sexual harassment, they have the right to file a formal complaint with the governmental agencies set forth below. Filing a complaint under this Policy does not restrict or prohibit you from filing a complaint with these agencies. Please be aware that each of the agencies has a short period during which a claim may be filed (EEOC – 300 days; OCR – 180 days; MCAD – 300 days).

United States Equal Employment Opportunity Commission ("EEOC")
One Congress Street, 10th Floor
Boston, MA 02114
(617) 565-3200

The Office For Civil Rights ("OCR")
U.S. Department of Education John W. McCormack Post
Office and Courthouse, Room 222
Boston, MA 02109
(617) 223-9662

Massachusetts Commission Against Discrimination ("MCAD")
436 Dwight St., Rm. 220
Springfield, MA 01103
(413) 739-2145

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Pittsfield District Court
24 Wendell Avenue
P.O. Box 875, Pittsfield, MA 01202
(413) 499-0558

G. Support Structures for Survivors of Sexual Harassment

Berkshire Music School offers survivors of sexual harassment the following support structures:

- Access to recommended counseling services.
- Sick leave.

H. Review of Sexual Harassment Policy

It shall be the policy of Berkshire Music School to reiterate this Policy at the annual performance review of each faculty member or employee.

I. Massachusetts Criminal Offender Record Information (CORI), Sex Offender Registry Information (SORI)

It shall be the policy of Berkshire Music School to require faculty members, employees, and volunteers to provide the School with current Massachusetts Criminal Offender Record Information (CORI) and Sex Offender Registry Information (SORI) reports.

I have read and understood this Policy, and I agree to abide by it.

Signed:

Employee/Contract Service Provider

Date