

# **The Sexual Misconduct, Molestation, and Harassment Policy of the Florida School Music Association**

**The Florida School Music Association (FSMA) prohibits, and has a zero tolerance for, sexual abuse misconduct, harassment, or molestation in the workplace or during any organization-related activity. Making direct or implied threats that submission to sexual advances will be a condition of employment or affiliation with the organization is also prohibited. FSMA provides procedures for employees, volunteers, board members or other victims of abuse or misconduct to report such improper/illegal acts. Any employee, volunteer, adjudicator, board member, or any other person who holds a position with the FSMA or its component organizations who is suspected or believed to have committed sexual misconduct or molestation will be investigated. If the evidence is sufficient to warrant action against the individual accused of sexual misconduct or molestation, the FSMA will act to discipline that individual up to and including termination of employment, removal from a position of volunteer, disqualification from component board approval adjudication status, FSMA board membership, or other action the Ethics Committee/Executive Board deems appropriate. Individuals can also be referred to the proper authorities for criminal prosecution if the behavior reaches the threshold for reporting abuse under the Florida *mandatory reporter* law - § 39.201(1)(a) which states, “No employee, volunteer, board member or other person, regardless of his or her title or position, has the authority to commit or allow sexual abuse, misconduct, or molestation.”**

## **Definitions and Examples of Sexual Abuse, Harassment, and/or Misconduct**

The following definitions or examples of sexual abuse, misconduct, or harassment may apply to any and/or all the following persons – employees, FSMA board members, volunteers, vendors, or other third parties.

### **Sexual abuse or misconduct may include, but is not limited to, the following:**

1. Child sexual abuse is defined as any sexual activity, involvement, or attempt of sexual contact with a person who is a minor (under 18 years of age) where consent is not or cannot be given.
2. Sexual activity, involvement, or an attempt of sexual contact includes a person older than 18 years of age if that person is a student at an FSMA member school.
3. Sexual activity with any person who is legally incompetent or otherwise unable to give consent.
4. Physical assaults or violence, such as rape, sexual battery, abuse, molestation, or any attempt to commit such acts.
5. Unwanted and intentional physical conduct that is perceived to be sexual in nature, such as touching, pinching, patting, brushing, and massaging someone’s neck or shoulders.
6. Sending, personally delivering, or displaying materials such as pornographic or sexually explicit images, posters, calendars, or objects.
7. Making unwelcome and/or inappropriate sexual activities, advances, comments, innuendoes, bullying, telling jokes of a sexual nature, making sexual or suggestive gestures, delivering in-person or electronic

communications or messages (e.g., notes, photos, telephone calls, emails, texts, social media, voicemails), exploitation, exposure, stalking, or invasion of sexual privacy.

8. Interfering with the performance or the ability to effectively do one's job by creating an intimidating, hostile, or offensive environment by employing actions, comments, or conduct.
9. Building a relationship, trust, and emotional connection with someone in order to manipulate, exploit, and/or sexually abuse that person (sexual grooming).

## **Reporting Procedure**

Any person who feels they have been a victim of sexual abuse or misconduct during an FSMA sanctioned event should report the suspected abuse or misconduct to a member of the FSMA Executive Board or directly to a member of the FSMA Ethics Committee.

1. The victim of sexual abuse or misconduct does not have to directly confront the person who is the subject of the abuse or misconduct report, question, or complaint before notifying an FSMA executive officer or Ethics Committee member.
2. FSMA will make every reasonable measure to ensure that the third-party investigating the sexual abuse or misconduct will not be any person or persons named in the complaint.
3. FSMA will take every reasonable measure to ensure that any person or persons who are determined to be "closely associated" with any person or persons named in the complaint, or "closely associated" to the victim of the abuse or misconduct will not be a member of the third-party investigating the accusation of sexual abuse or misconduct.
4. Upon completion of its investigation, the third-party will present findings to the Ethics Committee.

## **Investigation and Follow-up**

The FSMA President will appoint a third-party, someone not directly associated with FSMA or one of its components, to investigate all allegations of misconduct.

1. Based on the results of the investigation of the third-party, the committee will determine whether allegations of abuse of sexual misconduct or abuse have taken place.
2. FSMA will cooperate fully with any investigation conducted by law enforcement or other regulatory/protective services agencies.
3. FSMA will make every reasonable effort to keep the matters involving alleged misconduct confidential.
4. The chair of the FSMA Ethics Committee will report all findings of the committee to the President with recommendations for disciplinary action, if warranted.

## **Anti-Retaliation and False Allegations**

FSMA prohibits retaliation against any employee, volunteer, board member, or any other person who lodges a good faith complaint of abuse (sexual or other) or misconduct or who participates in any related investigation. To knowingly make false or malicious accusations of abuse of misconduct can have serious consequences for those who are wrongly accused.

## **Deliberately Making False Allegations and Information**

FSMA prohibits its employees or board members from deliberately making false or malicious sexual misconduct allegations and prohibits providing false information during an investigation of sexual abuse or misconduct. FSMA employees or board members who violate this policy are subject to disciplinary

action that can include termination of employment and/or criminal prosecution. FSMA board members can be removed from the FSMA board.

## **Employee, Worker, Volunteer, Adjudicator Screening and Selection**

As part of its sexual abuse and misconduct prevention program, FSMA is committed to maintaining a diligent screening program for prospective and existing employees, volunteers, adjudicators, and others who may interact with those employed by, associating with, or serviced by FSMA. All school-based volunteers who have direct contact with minors/students while attending an FSMA-sanctioned event will have a background screening performed by the local school district in the manner prescribed by the district and/or the State of Florida. Any other person having direct contact with students will be screened by means designated by the component organization and approved by the FSMA Board of Directors.

### **Regulations Specific to Adjudicators**

To work or associate with minor/students at an FSMA-sanctioned event in any capacity, all adjudicators must have had a background check within the last 5 (five) years.

1. Each FSMA component district chair will keep background screening data on file for adjudicators employed by that district.
  - i. *For the protection of the FSMA and the component, adjudicator screening records must be retained in case of litigation is brought against a previous adjudicator alleging sexual molestation/sexual abuse, no matter the county or state, or when the alleged crime took place.*
2. Included as a part of each FSMA component's Board Approved Adjudicator process, training regarding professional expectations specific to that component's sexual abuse, harassment, and sexual misconduct policies for (a) approved-adjudicator candidates as well as for (b) previously approved adjudicators who apply to renew their BAA status, will be presented in the manner approved by the component.
3. When minors/students are present, adjudicators must be accompanied by at least one other adult when fulfilling the services for which the adjudicator was retained.
4. It is the duty of adjudicators to report any suspicious activity or behavior immediately, including acts of abuse or sexual molestation, to the FSMA-sanctioned event chair or on-site official.
  1. To avoid possible prosecution, an adjudicator must follow up any report made to the MPA chair, or other person in the place of authority at the MPA site, to verify that the incident was reported to the Florida Department of Children and Families.

### **Supervision of Youth/Recommendations and Requirements**

FSMA strives to create a safe environment for the minors/students it serves and the events it sponsors. In situations where there are fewer than ten students involved, one of the ways to provide a safe environment for those minors/students is to require a minimum of two supervising adult workers/volunteers at FSMA-sanctioned activities.

Other professional practices that should be observed in situations involving minors/students and an adult include:

1. Avoid private one-on-one interactions between an adult and a minor/student.

- a. When private interactions cannot be avoided, make another adult aware of the meeting and keep the door open.
  - b. If a private meeting between an adult and a minor/student is necessary, make another adult aware of the meeting and keep the door to the office or other meeting space open and unlocked.
  - c. When the door cannot remain open in situations such as private lessons, auditions, solo MPA performances, the door should be unlocked and there should be another adult in the room or there should be an unobstructed view into the room from the outside.
2. At FSMA-sanctioned MPA's, the ratio of 1 adult volunteer (*an adult who has been screened with a background check within the last five years*) to every 10 students (10:1 ratio) will be maintained unless a member school is required by its school district to provide a higher number of chaperones per student than the 10:1 ratio specified here.
  3. While at an FSMA-sanctioned MPA site, all minors/students must remain supervised at the ratio required by the FSMA and within the area assigned them by MPA officials.

### **Training FSMA Associated Personnel**

Training relating to the FSMA Sexual Misconduct, Molestation, Abuse, and Harassment Policy is required of the FSMA staff, FSMA board members, educators representing member schools, volunteers, adjudicators, or any person who has been hired or who volunteers to work with/around minors/students at an FSMA sanctioned event.

1. The FSMA President will be responsible for the training of the members of the FSMA board on the points of the FSMA Sexual Misconduct, Molestation, Abuse, and Harassment Policy that apply to them however the President deems appropriate.
  - a. The FSMA will include a report on this training as a part of the President's report at the fall meeting of the board each year.
2. The Executive Director will provide for the training of the employees of FSMA on the points of the FSMA Sexual Misconduct, Molestation, Abuse, and Harassment Policy that apply to them however the Executive Directors deems appropriate.
  - a. The Executive Director will include a report of that training as a part of the Executive Director's report each year at the fall meeting of the FSMA.
3. Each component will be responsible for the training of their new district chairs each year regarding the FSMA Sexual Misconduct, Molestation, Abuse, and Harassment Policy however each component deems appropriate.
  - a. Each component will offer training regarding the FSMA Sexual Misconduct, Molestation, Abuse, and Harassment Policy each year to their membership who have not previously been trained in whatever each component deems appropriate.
  - b. Each component representative to the FSMA board will present a report each year on the state-wide training regarding the FSMA Sexual Misconduct, Molestation, Abuse, and Harassment Policy as a part of their fall FSMA component report.
  - c. It will be the responsibility of the representative(s) (director(s)) from each FSMA member school to provide training regarding the FSMA Sexual Misconduct, Molestation, and Harassment Policy for their adult volunteers who supervise minors/students at an FSMA sanctioned event in the manner that school representative deems appropriate.

4. Any person receiving FSMA Sexual Misconduct, Molestation, Abuse, and Harassment Policy training must submit the **FSMA Acknowledgement Form** to the person or organization providing the training.
  - a. The form will be kept on file by the person or organization providing the training however the component organization deems to be appropriate.
  - b. It is the responsibility of the person(s) in charge of an FSMA sanctioned event to prohibit any person who has not received the FSMA Sexual Misconduct, Molestation, Abuse, and Harassment Policy training, and who does not have an FSMA Acknowledgement Form on file with the component they represent, from supervising students or other event personnel, working as an adjudicator or paid worker, volunteering in any event capacity, or in any other position that represents FSMA at an FSMA sanctioned event.

**THE POLICIES IN THIS DOCUMENTS DO NOT TAKE THE PLACE OF  
OR SUPERSEDE LOCAL SCHOOL DISTRICT POLICY**