


ETHICS FOR MUSIC EDUCATORS

by Paul K. Fox, PMEA State Retired Member Coordinator and
Chair of the Council for Teacher Training, Recruitment & Retention

Session for PCMEA and Pre-Service Teachers Slippery Rock University
October 24, 2018 © 2018 Paul K. Fox

<https://paulkfoxusc.wordpress.com/category/ethics/>



ETHICS FOR MUSIC EDUCATORS

*I keep a close watch on this heart of mine
I keep my eyes wide open all the time
I keep the ends out for the tie that binds
Because you're mine, I **walk the line.** — Johnny Cash*

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Shame on You
Mariah McManus
Album Nice to Meet You

I wish for little things – Promises we didn't keep – Say it's not happening – But I'm not so blind that I can't see



Shame on you – You pull a string – And now everything's unraveling – Watched it fall, did nothing at all –
Shame on you – Shame on me too


1. Volkswagen
2. Jerry Sandusky
3. Christopher Martinelli
4. Russian athletes' doping
5. Cynthia Hartopp
6. Jason Cooper
7. Fox News Roger Ailes
8. Lending Club Renaud Laplanche
9. Takata air bags
10. Thomas Harvey Matthews
11. Bank of America
12. Bernie Madoff pyramid scheme
13. BP Deepwater Horizon

14. Enron Kenneth Lay
15. Michael Cinefra
16. Adelpia
17. Martha Stewart
18. Kathleen Kane
19. WorldCom
20. Yahoo Scott Thompson
21. Walter Street
22. Wells Fargo
23. Richard Humphreys
24. Jeffrey Hahn
25. David Borghesani
26. Nick and Ruth Baggetta

UNETHICAL


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WHY IS THIS DISCUSSION IMPORTANT?

Ethics



What's the Buzz? (Tell me what's a happening) Jesus Christ Superstar

- Five groups of people are "fiduciaries" – doctors, counselors/therapists, attorneys, the clergy, and... teachers!
- Of the five, only one group does not receive formal ethics training – teachers.
- All others receive that training starting in pre-service and throughout their careers.
- Teachers are the only group who works with a captive audience.

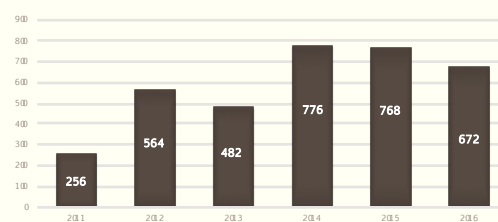


The Good Teacher: A Story of Sexual Misconduct
www.leadershipcred.com/docBase/The%20Good%20Teacher%20Storyboard.aspx

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PA Educator Misconduct Complaints Filed



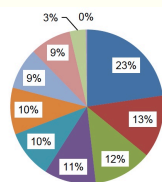
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PA Educator Disciplinary Case Resolutions



2016



- Surrender (81)
- No Legal Sufficiency (47)
- Revocation (44)
- No Probable Cause (39)
- Warning Letter (36)
- Other* (35)
- Suspension** (31)
- Public Reprimand (31)
- Private Reprimand (12)
- Local Action Sufficient (1)

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Shakeshaft: National Sexual Misconduct Statistics

- American Association of University Women
- Years = 2000-2003
- U.S. Dept. of Education Report 2004

Survey reported 9.6 percent of students suffered some form of sexual abuse during their school careers.

Source:
http://www.state.com/articles/news_and_politics/explainer/2012/02/is_sexual_abuse_in_schools_very_common.html



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Qualities of a Professional

- Higher education, constant training and retooling, goals, self-improvement
- Adoption of "best practices"
- Creativity, critical thinking, problem solving, communication skills
- Acceptance of criticism, peer review, teamwork, compromise, group vision
- High standards of behavior, etiquette, appearance, language, and **ethics**



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Effective teachers score high on

- Accepting
- Adult involvement
- Attending
- Consistency of message
- Conviviality
- Cooperation
- Student engagement
- Knowledge of subject
- Monitoring learning
- Optimism
- Pacing
- Promoting self-sufficiency
- Spontaneity
- Structuring

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Effective teachers score low on

- Abruptness
- Belittling
- Counting hours or “clock punching”
- Defiance
- Illogical statements
- Mood swings
- Oneness (treats whole group as “one”)
- Recognition-seeking

Source: “The California BTES – Overview of the Ethnographic Study” by David Berliner and William Tikunoff

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Demonstrations of “Moral Professionalism”

- Coming to work regularly and on time
- Being well informed about their student-matter
- Planning and conducting classes with care
- Regularly reviewing and updating instructional practices
- Cooperating with, or if necessary, confronting parents of underachieving students
- Cooperating with colleagues and observing school policies so the whole institution works effectively
- Tactfully but firmly criticizing unsatisfactory school policies and proposing constructive improvement

Source: Wynne, E.A. (1995). The moral dimension of teaching. In A.C. Ornstein (Ed.) Teaching: Theory into practice. (pp. 190-202). Boston: Allyn and Bacon

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Definitions: moral-ity and ethics

- **Morality** = “Principles concerning the distinction between right and wrong or good and bad behavior.”
- **Ethics** = “Moral principles that govern a person’s behavior or the conducting of an activity.”



Synonyms: moral code, morals, morality, values, rights and wrongs, principles, ideals, standards (of behavior), value system, virtues, dictates of conscience

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Code of Conduct vs. Code of Ethics

- Similarities: Self-regulation and guidance of (un)acceptable behaviors
- Code of Ethics outlines a set of principles that affect/govern **decision making**
- Code of Conduct outlines specific behaviors that are required or prohibited and govern **actions**



<http://smallbusiness.chron.com/difference-between-code-ethics-conduct-2724.html>
<https://www.whistleblowersecurity.com/code-of-ethics-and-code-of-conduct-whats-the-difference/>

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Sample Code of Ethics vs. Code of Conduct

#	NY State Code of Ethics	#	Violations of IA Code of Conduct
1	Educators nurture the intellectual, physical, emotional, social, and civic potential of each student.	1	Crimes, sexual or other immoral; conduct with or toward a student.
2	Educators create, support, and maintain challenging learning environments for all.	2	Misrepresentation, falsification of information.
3	Educators commit to their own learning in order to develop their practice.	3	Misuse of public funds and property.
4	Educators collaborate with colleagues and other professionals in the interest of student learning.	4	Violations of contractual obligations.
5	Educators collaborate with parents and community, building trust and respecting confidentiality.	5	Unethical practice toward other members of the profession, parents, students, and the community.
6	Educators advance the intellectual and ethical foundation of the learning community.	6	Incompetence.

Mark, Michael L. and Madura, Patrice: *Music Education in Your Hands* (Routledge 2010)

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The Search for Sample “Codes”



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Code of Professional Practices & Conduct

Sections

1. Mission
2. Introduction
3. Purpose
4. Practices
5. Conduct
6. Legal Obligations
7. Certification
8. Civil Rights
9. Improper personal or financial gain
10. Relationships with students
11. Professional relationships



<http://www.pdesp.org/education/Statutes-Regulations-Policies-Forms/Code-of-Professional-Practice-and-Conduct/Pages/default.aspx>

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Grounds for Imposition of Discipline

1. Immorality
2. Incompetency
3. Intemperance
4. Cruelty
5. Negligence
6. Sexual misconduct, abuse or exploitation
7. Violation of the PA Code for Professional Practice and Conduct Section 5(a)(10)
8. Illegal use of professional title
9. Failure to comply with duties under this act, including the mandatory reporting duties in section 9a.
10. Actions taken by an educator to threaten, coerce or discriminate or otherwise retaliate against an individual who in good faith reports actual or suspected misconduct under this act or against complainants, victims, witnesses or other individuals participating or cooperating in proceedings under this act

Educator's Discipline Act: 24 P.S. §§2070.1 et seq.
Chapter 237/Definition of Terms: <http://www.pdesp.org/education/Statutes-Regulations-Policies-Forms/Code-of-Professional-Practice-and-Conduct/Pages/default.aspx>

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Types of Discipline

- Private Reprimand
- Public Reprimand
- Suspension (temporary termination of certificate)
- Revocation (termination of certificate)
- Surrender (of certificate)
- Supplemental Sanctions

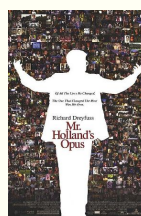


Educator's Discipline Act: 24 P.S. §§2070.1 et seq.
<http://www.pdesp.org/education/Statutes-Regulations-Policies-Forms/Educator-Discipline-Act/Pages/default.aspx>

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Mystery Theme...



Can you name the movie from which this sound track excerpt came?



Hints:

- 1995
- Bus stop
- Poor ethical model
- "Slippery slope"
- Rowena
- How to get fired as a music teacher.

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The Teacher-Student Relationship

1. **Trust** has evolved into the operative foundation of the relationship of students with their teachers.
2. The duty of teachers is to act as a **fiduciary** in their **students' best interest** and to create and maintain a **safe environment** for their students derives.
3. When a teacher enters into an inappropriate relationship with a student (e.g. "confidant" or "friend"), the teacher violates the recognized **student-teacher "boundary."**
4. Teachers must also ensure that their **colleagues** conform to the appropriate standard of ethical practice as well.



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Vulnerabilities

1. Teachers who are experiencing difficulties in their personal lives or are socially or emotionally immature may be particularly susceptible to the **"slippery slope."** Examples: viewing students as peers or lack of personal crisis skills
2. Dangers to rookie or new teachers:
 - Inexperience
 - Near students' ages - looking like one of them
 - Sharing common interests and music preferences
 - Overlapping circle of friends
3. "Cool" factor



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Broad definition of "Sexual Misconduct"

"Any act or conduct directed towards or with a child or a student of a romantic or sexual nature regardless of the age of the child or student..."

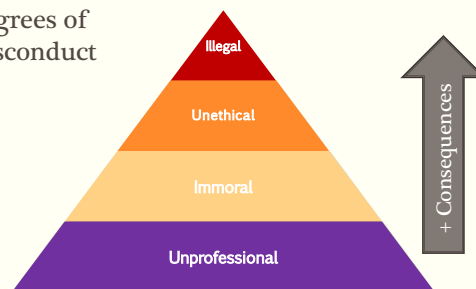
1. Sexual or romantic invitations
2. Dating or soliciting dates
3. Engaging in sexualized dialogue
4. Making suggestive comments
5. Exposure
6. Self-disclosure of a sexual or erotic nature
7. **Exchange of gifts with no educational purpose.**



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Degrees of Misconduct



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Scenario: "Musical Relations" (PA Code Section 10)

Reflections:

- A. What possible issues/concerns might this scenario raise?
- B. How could this situation become a violation of the law, the "Code" or other school/district policies?
- C. In this situation, what are some potential negative consequences for the teacher and the student?

Degree of Misconduct



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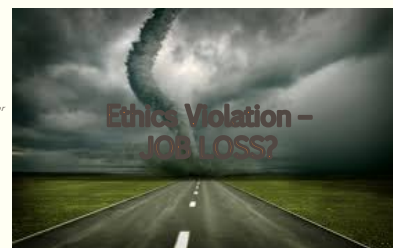
Scenario #1: "Musical Relations" (PA Code Section 10)

Reflections:

- A. What possible issues/concerns might this scenario raise?
- B. How could this situation become a violation of the law, the "Code" or other school/district policies?
- C. In this situation, what are some potential negative consequences for the teacher and the student?

Additional Questions:

1. Is it ethical or legal to have intimate relationships with students after graduation?
2. Can a teacher become romantically involved with a graduated student who is also over the age of consent?



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Blurred Student-Teacher Boundaries

- **Warning signs:** Look for the teacher-student relationship shifting from serving the needs of the student to focusing on the needs of the teacher.
- There may be an **increase in the frequency** of interaction as well as an increased level of **intimacy**, which ultimately may lead to a sexual relationship.
- In some areas in the world (Australia), there is the assumption within the profession that a relationship with a former student was permissible only as long as **it did not start while the student was at school.**
- However, this issue is more about the inherent **power imbalance** that can influence inappropriate relationships between teachers and students or former students – even after the student has left school.



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Off-Duty Conduct

Are teachers role models, even outside the classroom?

Court case example...

PA Supreme Court (1939) **Horsko v. Mt. Pleasant SD**:
"It has always been the recognized duty of the teacher to conduct himself in such way as to command the respect and good will of the community, though one result of the choice of a teacher's vocation may be to deprive him of the same freedom of action enjoyed by persons in other vocations."

Contrasting headlines:

"Unions and courts say educators deserve privacy," vs.
"A recent West Virginia Supreme Court decision could allow local school boards more authority to discipline school employees for misconduct that occurs outside the classroom."

http://www.mlive.com/news/grand-rapids/index.ssf/2010/12/are_teachers_role_models_outside.html
<http://www.nor.education.nsw.gov.au/Promoting-Ethical-Practices/Resources/Ethics-Toolkit/1.html?press=Off-Duty-Conduct.aspx>

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Scenario: "Are You a Role Model?" (PA Code Section 10)

Reflections:

- A. In this situation, what are some potential negative consequences for the teacher, students, and parents?
- B. How would this episode affect a teacher's efficacy in her classroom, demean the employing school entity, or damage her position as a moral exemplar in the community?



<https://www.youtube.com/watch?v=9DjUdL-9t0>

Ethical Issues in Music Education

- | | |
|--|--|
| I. Pedagogy | III. Resource Allocation |
| A. What to teach | A. Equity issues |
| B. How to teach | B. Fiscal authority and Influence |
| C. How to assess | C. Budgets |
| II. Enforcement | IV. Relationships |
| A. Activities - association, district, school, or union policies | A. Conflicts with colleagues, administrators, or parents |
| B. Copyright issues | B. Professional boundaries with students |
| C. Teaching licensure and credentials | C. Confidentiality |
| D. Students who break the law | D. Honesty |
| | V. Diversity |

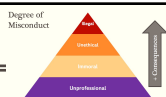
Lien, Joelle L. 2012. Ethical dilemmas of in-service music educators. *Action, Criticism, and Theory for Music Education* http://act.maydaygroup.org/articles/Lien11_1.pdf

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Pedagogical Issues

- "Holiday" vs. "Christmas" music (or sacred text) "emphasized" at December concerts: **Handel's Hallelujah Chorus, Hatikvah, & Rutter's Joy to the World**
- Daily performance grading vs. lesson or concert attendance and other requirements
- Identification/separation of the poorest singers or instrumentalists from competitive or adjudicated groups vs. **"Are our ethical obligations met if a large non-auditioned ensemble is open to all?"**
- Maintaining balance between pursuit of performance excellence and appropriate teaching practice
- Incidents of blatant honesty regarding a student's chances at a music career: **"Is it ethical to allow a private music student to continue the study of music performance based on their desire, when it is clear they do not have the talent, work ethic, or overall aptitude to succeed in the music profession?"**
- But, on the other hand, can we ever say, **"You do not have enough talent to go into music."**



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Enforcement Problems

- Holding a student accountable for breaking a law or rule, when doing so would jeopardize a musical group's performance: **"My drum major was suspended because she smoked pot and was caught. I needed her to run the half time show we had been practicing for months and so I convinced administration that she had to participate because it was part of my curriculum and part of her grade. I decided the other kids shouldn't be punished because of her idiosyncrasy so I worked hard to keep her in the show."**
- What about YOU making this decision?
- Quandary whether it is ever in the students' best interest to ignore an existing policy or rule, for example, staff noncompliance of "no smoking on campus" or other school regulations.
- "Fair use doctrine" and photocopying
- Recording of school performances and booster fund-raising by the making and selling of CDs or videos.
- Paying for *all* royalties of musicals/plays, even assemblies and dress rehearsals with parents in attendance.



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Resource Allocation Conflicts

- Competition for the enrollment of the same students (band/string/choir) within the music department
- Private lesson prerequisite for participating in an honors ensemble, music director giving them, and charging a fee for his/her "off-school" time
- (Lack of) equity in school budget allocation (inconsistencies within different academic areas and within the music department itself, not defending per-pupil costs and enrollments, etc.)
- **SCENARIO: Being invited by a vendor to a special dinner with gifts at a music conference.**
- Receipt of special favors or kickbacks from the music industry (touring companies, riser/music stand distributors, instrument rental companies, etc.): **"If you choose our travel agency for the Orlando trip, we will throw-in the gift of a new conductor's podium and band room music stands."**



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Audits

1. Accuracy of absence reports and sign-ins
2. Balancing school purchase orders and existing instrument, equipment, or music inventory
3. Management of school activity funds (tickets, marching band shoes/accessories, honorariums, and "under the table" compensations.)
4. Inspection of music libraries for illegal photocopying



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Relationships and Diversity

- Dual or conflicting relationships and inconsistent maintenance of clear, responsible, and professional boundaries between teachers and students... complications that arose when the **relationships became "too close."**
- Perception **"being knifed in the back"** by colleagues teaching other academic subjects (e.g. advising students to drop music)
- Disagreements with school administrators on **"the right thing to do"** (everything from grading to attending PMEA workshops)
- **Sensitivity** in meeting the needs of ALL students: **no discrimination** on the basis of race, gender & gender identity, ethnic origin, religious beliefs, socio-economics, etc.
- Balanced representation of lesson targets and course material on multiculturalism
- **"Many of our students see music education as 'white privilege' and we have to do a lot of convincing to get the kids to participate..."**
- Incidents with gossip or divulging confidential information about students



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Confidentiality

1. **Family Educational Rights & Privacy Act (FERPA)** of 1974 sets parameters on accessibility and disclosure of students records.
2. **Grassley Amendment** (1994) details privacy of student participation in surveys, analysis, and evaluation.
3. **Health Insurance Portability & Accountability Act (HIPAA)** of 1996 provides data privacy & security provisions for safeguarding medical info.
4. Drug and alcohol treatment records of students kept by any institution receiving federal assistance are protected under **Drug Abuse Office and Treatment Act** (1976).
5. Records of students in special education are affected by the above laws plus **Individuals with Disabilities Education Act (IDEA, 1997)**.

PRIVATE AND CONFIDENTIAL

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www.ec-connect.org/ethics/confidentiality%20and%20the%20law.pdf
<http://search.proquest.com/docview/11944>

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Social Media Rules for Educators

1. Know your school district or state's policies on social media.
2. Never "friend" or "follow" students on your personal accounts.
3. Keep your profile photos clean
4. Do not affiliate yourself with your school on a personal profile.
5. Do not geo-tag your posts with your school's location.
6. "Snaps" are forever! Anyone can take a screen shot of your posts.
7. Never mention your school or the names of staff or students in any post.
8. Set your Instagram account to private.
9. Never complain about your job online.
10. Never post photos of your students on social media

<https://www.americanboard.org/blog/?p=249>

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Three Scenarios for "The Jury"

Reflections:

- A. What possible issues/concerns might this scenario raise?
- B. How could this situation become a violation of the law, the "Code" or other school/district policies?
- C. In this situation, what are some potential negative consequences for the teacher and the student?



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Scenarios #2 for "The Jury"

Reflections:

- A. What possible issues/concerns might this scenario raise?
- B. How could this situation become a violation of the law, the "Code" or other school/district policies?
- C. In this situation, what are some potential negative consequences for the teacher and the student?



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Scenarios #3 for "The Jury"

Reflections:

- A. What possible issues/concerns might this scenario raise?
- B. How could this situation become a violation of the law, the "Code" or other school/district policies?
- C. In this situation, what are some potential negative consequences for the teacher and the student?



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Grandma Litmus Test for Ethical Behavior

Answer the following questions about the contemplated activity or decision:

1. Is it legal?
2. Is it consistent with the profession's values?
3. Is it consistent with the teacher's code of conduct?
4. Is it consistent with your district's policies?
5. Would you be comfortable if this decision was published online or in the newspaper (or made known to your "grandma")?
6. Does it feel right? (Is it the right thing to do?)

If you answered "NO" to any one of the questions (1, 3, and 5), do not engage in the contemplated activity and seek additional guidance.

If you answered "YES" to all of the questions (2, 4, and 6), then you may proceed with the contemplated activity. However, if you have any lingering doubts, do not hesitate to seek additional guidance.



<https://www.cove-associates.com/the-grandma-litmus-test-for-ethical-behavior/>

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Final Thoughts... Agree or Disagree?

"It's easier to ask forgiveness than it is to get permission."

– Rear Admiral Mary Brace Hopper, an early computer programmer

"It's easier to ask forgiveness than to beg for permission."

– Lora Leigh

"I value my reputation. I work hard to avoid even the appearance of impropriety."

– Richard Hanna

"Perception is reality."

– Lee Atwater

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CREDITS

- Pennsylvania's *Educator Ethics and Conduct Toolkit* by Dr. Oliver Dreon, Sandi Sheppard, and the Professional Standards and Practices Commission
- Shane Crosby, Executive Director & Legal Counsel/Office of the General Counsel/Professional Standards & Practices Commission
- PA State System of Higher Education
- Nebraska Professional Practices Commission
- Connecticut's Teacher Education & Mentoring Program
- Lien, Joelle: "Ethical Dilemmas of In-Service Music Educators" (*Actions, Criticism, and Theory for Music Education*, 2012)
- Mark, Michael L., and Madara, Patricia: *Music Education in Your Hands* (Routledge, 2010)

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SERIES BY PAUL FOX

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