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## ***COLOGNE ACADEMY***

### ***MANUAL OF SCHOOL POLICIES APPROVED BY THE BOARD***

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#### **413 HARASSMENT AND VIOLENCE**

##### **I. PURPOSE**

The purpose of this policy is to maintain a learning and working environment that is free from harassment and violence on the basis of race, color, creed, religion, national origin, sex, gender, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability.

##### **II. GENERAL STATEMENT OF POLICY**

- A. The policy of Cologne Academy is to maintain a learning and working environment that is free from harassment and violence on the basis of race, color, creed, religion, national origin, sex, gender, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability. The Cologne Academy prohibits any form of harassment or violence on the basis of race, color, creed, religion, national origin, sex, gender, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability.
- B. A violation of this policy occurs when any student, teacher, administrator, or other Cologne Academy personnel harasses a student, teacher, administrator, or other Cologne Academy personnel or group of students, teachers, administrators, or other Cologne Academy personnel through conduct or communication based on a person's race, color, creed, religion, national origin, sex, gender, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability, as defined by this policy. (For purposes of this policy, Cologne Academy personnel includes school board members, school employees, agents, volunteers, contractors, or persons subject to the supervision and control of the district.)
- C. A violation of this policy occurs when any student, teacher, administrator, or other Cologne Academy personnel inflicts, threatens to inflict, or attempts to inflict violence upon any student, teacher, administrator, or other Cologne Academy personnel or group of students, teachers, administrators, or other Cologne Academy personnel based on a person's race, color, creed, religion, national origin, sex, gender, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability.

- D. Cologne Academy will act to investigate all complaints, either formal or informal, verbal or written, of harassment or violence based on a person’s race, color, creed, religion, national origin, sex, gender, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability, and to discipline or take appropriate action against any student, teacher, administrator, or other Cologne Academy personnel who is found to have violated this policy.

### III. DEFINITIONS

- A. “Cologne Academy employee” includes school board members, school employees, agents, volunteers, contractors, or persons subject to the supervision and control of Cologne Academy.
- B. “Assault” is:
  - 1. an act done with intent to cause fear in another of immediate bodily harm or death;
  - 2. the intentional infliction of or attempt to inflict bodily harm upon another; or
  - 3. the threat to do bodily harm to another with present ability to carry out the threat.
- C. “Harassment” prohibited by this policy consists of physical or verbal conduct, including, but not limited to, electronic communications, relating to an individual’s or group of individuals’ race, color, creed, religion, national origin, sex, gender, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability when the conduct:
  - 1. has the purpose or effect of creating an intimidating, hostile, or offensive working or academic environment;
  - 2. has the purpose or effect of substantially or unreasonably interfering with an individual’s work or academic performance; or
  - 3. otherwise adversely affects an individual’s employment or academic opportunities.
- D. “Immediately” means as soon as possible but in no event longer than 24 hours.
- E. Protected Classifications; Definitions
  - 1. "Age" harassment prohibited by this policy prohibits using a person's age as a basis for a decision if the person is over the age of majority except for Minnesota Statutes section 363A.13, which shall be deemed to protect any individual over the age of 25 years
  - 2. “Disability” means any condition or characteristic that renders a person a disabled person. A disabled person is any person who:

- a. has a physical, sensory, or mental impairment which materially limits one or more major life activities;
  - b. has a record of such an impairment; or
  - c. is regarded as having such an impairment.
3. “Familial status” means the condition of one or more minors being domiciled with:
    - a. their parent or parents or the minor’s legal guardian; or
    - b. the designee of the parent or parents or guardian with the written permission of the parent or parents or guardian. The protections afforded against harassment on the basis of family status apply to any person who is pregnant or is in the process of securing legal custody of an individual who has not attained the age of majority.
  4. “Marital status” means whether a person is single, married, remarried, divorced, separated, or a surviving spouse and, in employment cases, includes protection against harassment on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.
  5. “National origin” means the place of birth of an individual or of any of the individual’s lineal ancestors.
  6. “Sex” includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.
  7. “Sexual orientation” means having or being perceived as having an emotional, physical, or sexual attachment to another person without regard to the sex of that person or having or being perceived as having an orientation for such attachment, or having or being perceived as having a self-image or identity not traditionally associated with one’s biological maleness or femaleness. “Sexual orientation” does not include a physical or sexual attachment to children by an adult.
  8. “Status with regard to public assistance” means the condition of being a recipient of federal, state, or local assistance, including medical assistance, or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.
- F. “Remedial response” means a measure to stop and correct acts of harassment or violence, prevent acts of harassment or violence from recurring, and protect, support, and intervene on behalf of a student who is the target or victim of acts of harassment or violence.

G. Sexual Harassment; Definition

1. Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:
  - a. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment or an education; or
  - b. submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or
  - c. that conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education, or creating an intimidating, hostile, or offensive employment or educational environment.
2. Sexual harassment may include, but is not limited to:
  - a. unwelcome verbal harassment or abuse;
  - b. unwelcome pressure for sexual activity;
  - c. unwelcome, sexually motivated, or inappropriate patting, pinching, or physical contact, other than necessary restraint of student(s) by teachers, administrators, or other Cologne Academy personnel to avoid physical harm to persons or property;
  - d. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's employment or educational status;
  - e. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to an individual's employment or educational status; or
  - f. unwelcome behavior or words directed at an individual because of gender.

H. Sexual Violence; Definition

1. Sexual violence is a physical act of aggression or force or the threat thereof which involves the touching of another's intimate parts, or forcing a person to touch any person's intimate parts. Intimate parts, includes the primary genital area, groin, inner thigh, buttocks, or breast, as well as the clothing covering these areas.
2. Sexual violence may include, but is not limited to:
  - a. touching, patting, grabbing, or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex;
  - b. coercing, forcing, or attempting to coerce or force the touching of anyone's intimate parts;
  - c. coercing, forcing, or attempting to coerce or force sexual intercourse or a sexual act on another; or
  - d. threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another.

I. Violence; Definition

Violence prohibited by this policy is a physical act of aggression or assault upon another or group of individuals because of, or in a manner reasonably related to, race, color, creed, religion, national origin, sex, gender, age, marital status, and familial status, status with regard to public assistance, sexual orientation, or disability.

**IV. REPORTING PROCEDURES**

- A. Any person who believes he or she has been the target or victim of harassment or violence on the basis of race, color, creed, religion, national origin, sex, gender, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability by a student, teacher, administrator, or other Cologne Academy personnel, or any person with knowledge or belief of conduct which may constitute harassment or violence prohibited by this policy toward a student, teacher, administrator, or other Cologne Academy personnel or group of students, teachers, administrators, or other Cologne Academy personnel should report the alleged acts immediately to an appropriate Cologne Academy official designated by this policy. A person may report conduct which may constitute harassment or violence anonymously. However, the Cologne Academy may not rely solely on an anonymous report to determine discipline or other remedial responses.
- B. Cologne Academy encourages the reporting party or complainant to use the report form set forth in this policy, but oral reports shall be considered complaints as well. The report form is also available from the Title IX coordinator, Executive Director,

the main office, and on the Cologne Academy website. Use of the report form is not mandatory.

- C. Cologne Academy encourages the reporting party or complainant to report conduct which may constitute harassment or violence within thirty (30) days of the alleged conduct whenever possible. Upon filing a report (also referred to as a complaint) with Cologne Academy, the reporting party or complainant will be asked to provide a brief description of the alleged conduct, the date of the alleged conduct, and the name of the person(s) responsible for the alleged conduct.
- D. Prior to the submission of a complaint, the reporting party or complainant may request a pre-complaint contact with the individual alleged to be directly responsible for the conduct and/or with the persons having immediate supervisory authority related to the complaint. These persons may make reasonable efforts to meet with the Executive Director to discuss the complaint that the reporting party or complainant wishes to bring to their attention. Such a pre complaint contact shall be at the option of the reporting party or complainant; it shall not be a precondition for the submission of a complaint to the appropriate Cologne Academy official designated by this policy.
- E. The executive director, or the director's designee, is the person responsible for receiving oral or written reports of harassment or violence prohibited by this policy at the building level. Any adult Cologne Academy personnel who receives a report of harassment or violence prohibited by this policy shall inform the building report taker immediately. If the complaint involves the building report taker, the complaint shall be made or filed directly with the school board chair by the reporting party or complainant. The building report taker shall ensure that this policy and its procedures, practices, consequences, and sanctions are fairly and fully implemented and shall serve as a primary contact on policy and procedural matters.
- F. A teacher, school administrator, volunteer, contractor, or other school employee shall be particularly alert to possible situations, circumstances, or events that might include acts of harassment or violence. Any such person who witnesses, observes, receives a report of, or has other knowledge or belief of conduct that may constitute harassment or violence shall make reasonable efforts to address and resolve the harassment or violence and shall inform the building report taker immediately. Cologne Academy personnel who fail to inform the building report taker of conduct that may constitute harassment or violence or who fail to make reasonable efforts to address and resolve the harassment or violence in a timely manner may be subject to disciplinary action.
- G. Upon receipt of a report, the building report taker must notify the Cologne Academy human rights officer immediately, without screening or investigating the report. The building report taker may request, but may not insist upon, a written complaint. A written statement of the facts alleged will be forwarded as soon as practicable by the building report taker to the human rights officer. If the report was given

verbally, the building report taker shall personally reduce it to written form within 24 hours and forward it to the human rights officer. Failure to forward any harassment or violence report or complaint as provided herein may result in disciplinary action against the building report taker.

- H. The school board hereby designates the executive director as the Cologne Academy human rights officer(s) to receive reports or complaints of harassment or violence prohibited by this policy. If the complaint involves a human rights officer, the complaint shall be filed directly with the board chair.

Mailing address: Cologne Academy  
1221 Village Parkway  
Cologne, MN 55322  
Telephone: 952.466.2276

The Cologne Academy shall conspicuously post the name of the human rights officer(s), including mailing addresses and telephone numbers.

- I. Submission of a good faith complaint or report of harassment or violence prohibited by this policy will not affect the complainant or reporter's future employment, grades, work assignments, or educational or work environment.
- J. Reports of harassment or violence prohibited by this policy are classified as private educational and/or personnel data and/or confidential investigative data and will not be disclosed except as permitted by law.
- K. The Cologne Academy will respect the privacy of the complainant(s), the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Cologne Academy's legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations.
- L. Retaliation against a victim, good faith reporter, or a witness of violence or harassment is prohibited.
- M. False accusations or reports of violence or harassment against another person are prohibited.
- N. A person who engages in an act of violence or harassment, reprisal, retaliation, or false reporting of violence or harassment, or permits, condones, or tolerates violence or harassment shall be subject to discipline or other remedial responses for that act in accordance with the Cologne Academy's policies and procedures.

Consequences for students who commit, or are a party to, prohibited acts of harassment or violence or who engage in reprisal or intentional false reporting may range from remedial responses or positive behavioral interventions up to and including suspension and/or expulsion. Remedial responses to the harassment or violence shall be tailored to the particular incident and nature of the conduct.

Consequences for employees who permit, condone, or tolerate harassment or violence or engage in an act of reprisal or intentional false reporting of violence or harassment may result in disciplinary action up to and including termination or discharge.

Consequences for other individuals engaging in prohibited acts of harassment or violence may include, but not be limited to, exclusion from Academy property and events and/or termination of services and/or contracts.

## **V. INVESTIGATION**

- A. By authority of the Cologne Academy, the human rights officer, within three (3) days of the receipt of a report or complaint alleging harassment or violence prohibited by this policy, shall undertake or authorize an investigation. The investigation may be conducted by Cologne Academy officials or by a third party designated by Cologne Academy.
- B. The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigator.
- C. In determining whether alleged conduct constitutes a violation of this policy, Cologne Academy should consider the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved, and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.
- D. In addition, Cologne Academy may take immediate steps, at its discretion, to protect the target or victim, the complainant, and students, teachers, administrators, or other Cologne Academy personnel pending completion of an investigation of alleged harassment or violence prohibited by this policy.
- E. The alleged perpetrator of the act(s) of harassment or violence shall be allowed the opportunity to present a defense during the investigation or prior to the imposition of discipline or other remedial responses.
- F. The investigation will be completed as soon as practicable. The Cologne Academy human rights officer, if not the executive director shall make a written report to the executive director upon completion of the investigation. If the complaint involves the executive director, the report may be filed directly with the school board. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy.

## **VI. APPEAL OF COMPLAINT AND REVIEW OF APPEAL**

### **A. Appeal of Complaint**

In the event the complainant does not believe that the complaint has been resolved to his or her satisfaction, he or she may appeal to the school board. If the school board (as opposed to some other individual designated by the Cologne Academy) conducted the investigation, the appeal may be filed directly with the Executive Director. Any appeal must be made in writing within ten (10) school days of receipt of the written result of the Cologne Academy's investigation.

### **B. Review of Appeal**

The executive director shall conduct a review of a timely appeal and within ten(10) school days of receipt of the appeal, shall investigate further if necessary and respond in writing to the complainant to the extent allowed by law. If the executive director conducted the investigation, this review shall be conducted by the school board. The decision of the school board (or of the Executive Director if that individual conducted the review) is final but does not prohibit the complainant from pursuing alternative complaint procedures as discussed below in Section IX.

## **VII. Cologne Academy ACTION**

A. Upon completion of an investigation that determines a violation of this policy has occurred, the Cologne Academy will take appropriate action. Such action may include, but is not limited to, warning, suspension, exclusion, expulsion, transfer, remediation, termination, or discharge. Disciplinary consequences will be sufficiently severe to try to deter violations and to appropriately discipline prohibited behavior. Cologne Academy action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota and federal law, and applicable Cologne Academy policies and regulations.

B. The Cologne Academy is not authorized to disclose to a victim private educational or personnel data regarding an alleged perpetrator who is a student or employee of the Cologne Academy. School officials will notify the parent(s) or guardian(s) of targets or victims of harassment or violence and the parent(s) or guardian(s) of alleged perpetrators of harassment or violence who have been involved in a reported and confirmed harassment or violence incident of the remedial or disciplinary action taken, to the extent permitted by law.

C. In order to prevent or respond to acts of harassment or violence committed by or directed against a child with a disability, the Cologne Academy shall, where determined appropriate by the child's individualized education program (IEP) or Section 504 team, allow the child's IEP or Section 504 plan to be drafted to address the skills and proficiencies the child needs as a result of the child's disability to allow the child to respond to or not to engage in acts of harassment or violence.

## **VIII. RETALIATION OR REPRISAL**

Cologne Academy will discipline or take appropriate action against any student or Academy employee who commits an act of reprisal or who retaliates against any person who asserts, alleges, or makes a good faith report of alleged harassment or violence prohibited by this policy, or who testifies, assists, or participates in an investigation, proceeding, or hearing relating to such harassment, violence, or retaliation. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment, or intentional disparate treatment. Disciplinary consequences will be sufficiently severe to deter violations and to appropriately discipline the individual(s) who engaged in the retaliation or reprisal.

#### **IV. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES**

These procedures do not deny the right of any individual to pursue other avenues of recourse at any time which may include filing charges with the Minnesota Department of Human Rights, initiating civil action, or seeking redress under state criminal statutes and/or federal law, or contacting the Office for Civil Rights for the United States Department of Education or the Equal Employment Opportunity Commission.

U.S. Department of Education  
Office for Civil Rights, Chicago Office  
500 W. Madison Street - Suite 1475  
Chicago, IL 60661

Tel: 312-730-1560  
Fax: 312-730-1576  
Email: [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov) Email: [Info.MDHR@state.mn.us](mailto:Info.MDHR@state.mn.us)

MN Department of Human Rights Freeman Building  
625 Robert Street North  
St. Paul, MN 55155

Tel: 651-539-1100  
Toll-free: 1-800-657-3704  
Fax: 651-296-9042

Equal Employment Opportunity Commission  
330 S. 2nd Avenue, Suite 720  
Minneapolis, MN 55401

Tel: 1-800-669-4000  
Fax: 612-335-4044

#### **X. HARASSMENT OR VIOLENCE AS ABUSE**

- A. Under certain circumstances, alleged harassment or violence may also be possible abuse under Minnesota law. If so, the duties of mandatory reporting under Minn. Stat. § 626.556 may be applicable.
- B. Nothing in this policy will prohibit the Cologne Academy from taking immediate action to protect victims of alleged harassment, violence, or abuse.

**XI. DISSEMINATION OF POLICY AND TRAINING**

- A. This policy shall be conspicuously posted throughout each school building in areas accessible to students and staff members.
- B. This policy shall be given to each Cologne Academy employee and independent contractor who regularly interacts with students at the time of initial employment with the Cologne Academy.
- C. This policy shall appear in the student handbook.
- D. The Cologne Academy will develop a method of discussing this policy with students and employees.
- E. The Cologne Academy may implement violence prevention and character development education programs to prevent and reduce policy violations. Such programs may offer instruction on character education including, but not limited to, character qualities such as attentiveness, truthfulness, respect for authority, diligence, gratefulness, self-discipline, patience, forgiveness, respect for others, peacemaking, and resourcefulness.
- F. This policy shall be reviewed at least annually for compliance with state and federal law.