

Cornerstone Montessori Elementary School  
**HARASSMENT AND VIOLENCE POLICY**

**I. PURPOSE AND GENERAL STATEMENT OF POLICY**

- A. It is the policy of Cornerstone Montessori Elementary (CMES) to maintain a learning and working environment that is free from harassment and violence. CMES prohibits any form harassment and violence.
- B. It shall be a violation of this policy for any pupil, teacher, administrator or other school personnel of CMES to harass a pupil, teacher, administrator or other school personnel through conduct or communication (e.g., physical, verbal, graphic or written) that is based upon that student or employee's actual or perceived race, color, creed, national origin, religion, sex/gender, sexual orientation, gender expression, disability, public assistance, or marital status or age [protected class] as defined by this policy. (For purposes of this policy, school personnel include school board members, school employees, agents, volunteers, contractors or persons subject to the supervision and control of the school.)
- C. It shall be a violation of this policy for any pupil, teacher, administrator or other school personnel of CMES to inflict, threaten to inflict, or attempt to inflict violence based upon a student or school employee's actual or perceived protected class as defined by this policy.
- D. CMES will act to investigate all complaints, either formal or informal, verbal or written, of harassment and/or violence based upon a student or employee's perceived or actual protected class and to discipline or take appropriate action against any student or school employee who is found to have violated this policy.

**II. DEFINITIONS**

The following definitions, which have been modified for purposes of this policy, are found in the Minnesota Human Rights Act. Please note that there is not a definition for every protected class.

- A. **Disability.** "Disability" means any condition or characteristic that renders a person a disabled person. A disabled person is any person who (1) has a physical, sensory, or mental impairment which materially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.
- B. **Discriminate.** "The term "discriminate" includes segregate or separate and, for purposes of discrimination based on sex, it includes sexual harassment."

- C. Educational institution.** "Educational institution" means a public or private institution and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system and a business, nursing, professional, secretarial, technical, vocational school, and includes an agent of an educational institution."
- D. National origin.** "'National origin" means the place of birth of an individual or of any of the individual's lineal ancestors."
- E. Sexual harassment.** "Sexual harassment" includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature. As defined in 34 C.F.R. §106.30, sexual harassment is formally defined as conduct on the basis of sex that consists of:
1. an employee conditioning an individual's receipt of aid, benefit, or service on that individual's participation in unwelcome sexual conduct;
  2. unwelcome conduct that a reasonable person would find "so severe, pervasive, and objectively offensive" that it effectively denies a person equal access to the school's education program or activity; or
  3. Sexual assault, dating violence, domestic violence, or stalking as those terms are defined by federal law.

If the conduct described by a formal complaint does not meet the definition, a complaint must be dismissed with respect to whether it is sexual harassment under Title IX. 34 C.F.R §106.45(b)(2)(B)(3)(i).

- F. Sexual Orientation.** 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.
- G. Gender Expression.** Gender expression means having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness

### III. HARASSMENT AND VIOLENCE GENERAL APPLICABILITY

- A.** The antidiscrimination laws apply to all of the academic and nonacademic (e.g., athletic, and extracurricular) programs of the school, whether conducted in school facilities or elsewhere.
- B.** For purposes of this policy, any student who is harassed or discriminated against, including subject to violence, by peers or school employees based upon that student's actual or perceived sex/gender, sexual orientation, race, color, creed, national origin,

religion, disability, receipt of public assistance, or marital status and age [protected class] may file a complaint as described more fully in section V below.

- C. For purposes of this policy, any school employee who is harassed or discriminated against, including violence, by students or other school employees based upon that employee's actual or perceived sex/gender, sexual orientation, race, color, creed, national origin, religion, disability, receipt of public assistance, or marital status and age may file a complaint as described more fully in section V below.
- D. The alleged harassment/violence consists of harassing conduct (e.g., physical, verbal, graphic, or written verbal or physical) based upon that student's actual or perceived protected class that interferes or limits the ability of that student to participate in, enjoy, or benefit from the education program, including athletics and extracurricular activities.
- E. The alleged harassment/violence may not be directed at a particular person, but may instead consist of harassing conduct (e.g., physical, verbal, graphic, or written) that creates a hostile environment for students based upon actual or perceived protected class that interferes with or limits the student's ability to participate in, enjoy, or benefit from the academic and nonacademic programs, including athletics and extracurricular activities.

#### **IV. DESCRIPTION OF HARASSMENT BASED ON A PERSON'S PERCEIVED OR ACTUAL PROTECTED CLASS**

- A. **Harassment** is unwelcome conduct that is based upon actual or perceived sex/gender, sexual orientation, race, color, creed, national origin, religion, disability, receipt of public assistance, or marital status and age.
  - 1. Harassing conduct may take many forms, including verbal acts and name-calling, as well as nonverbal behavior, such as graphic and written statements, or conduct that is physically threatening, harmful, or humiliating.
  - 2. It is unwelcome if the student or employee did not request or invite it and considered the conduct to be undesirable or offensive.
  - 3. The conduct is considered harassment if it creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities in the school's programs.
- B. **Sexual harassment based upon sex/gender and/or sexual orientation**
  - 1. Sexual conduct that is unwelcome:

- a. It is unwelcome if the student or employee did not request or invite it and considered the conduct undesirable or offensive. Students are, by law, incapable of giving consent.
- b. A student's submission or failure to complain does not mean that the conduct was welcome – look at circumstances.

**C. Sexual violence:** 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, as defined in Minnesota Statutes, section 609.341, includes the primary genital area, groin, inner thigh, buttocks or breast, as well as the clothing covering these areas.

1. Sexual violence includes rape, sexual assault, and dating violence. This includes coerced sexual intercourse or other sexual acts. The physical act is considered nonconsensual if a person is incapable of giving consent due to alcohol or drug use or due to an intellectual or other disability.
2. Sexual violence includes touching, patting, grabbing, or pinching another student's or employee's intimate parts of the clothing covering the intimate parts.
3. Sexual violence includes coercing or forcing or attempting to coerce or force a student or employee to touch anyone's intimate parts.
4. A police report does not relieve the school of its responsibilities under Title IX.

**D. Assault: Assault, as defined in state statute is:**

1. an act done with intent to cause fear in another of immediate bodily harm or death; or
2. the intentional infliction of or attempt to inflict bodily harm upon another.

**E. Racial, color, creed or national origin harassment/violence**

1. intimidation or abusive behavior toward a student, based on perceived or actual race, color, creed or national origin, that creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities in the school's programs.
2. Racial violence: Racial violence is a physical act of aggression or force, or the threat thereof, which is directed toward a student or employee based upon their perceived or actual race, color, creed, or national origin.

**F. Religious harassment/violence**

1. Intimidation or abusive behavior toward a student based on perceived or actual religious beliefs that create a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities in the school's programs.
2. Religious violence is the threat of or an actual physical act of aggression or force which is directed toward a student or employee based upon their perceived or actual religion.

**G. Disability harassment**

1. Intimidation or abusive behavior toward a student based on disability that creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities in the school's programs.
2. Disability harassment also may deny a student with a disability a free and appropriate public education (FAPE). Harassment of a student based on disability may decrease the student's ability to benefit from his or her education and amount to a denial of FAPE.

**V. REPORTING PROCEDURES**

- A.** Any person who believes he or she has been the victim of harassment or violence by a pupil, teacher, administrator or other school personnel of CMES, or any person with knowledge or belief of conduct which may constitute harassment or violence toward a pupil, teacher, administrator or other school personnel should report the alleged acts immediately to an appropriate CMES official designated by this policy. CMES encourages the reporting party or complainant to use the report form available from the Head of School or available from the CMES office, but oral reports shall be considered complaints as well. Nothing in this policy shall prevent any person from reporting harassment or violence directly to a CMES human rights officer, which is the Head of School.
- B.** The Head of School is the person responsible for receiving oral or written reports of harassment or violence at the building level. Any adult CMES personnel who receives a report of harassment or violence shall inform the Head of School immediately.
- C.** Upon receipt of a report, the Head of School must notify the school board chair. A written statement of the facts alleged will be prepared as soon as practicable by the Head of School. If the report was given verbally, the principal shall personally reduce it to written

form within 24 hours. If the complaint involves the Head of School, the complaint shall be made or filed directly with the school board chair.

- D. The school board hereby designates the Head of School as the CMES human rights officer(s) to receive reports or complaints harassment or violence. If the complaint involves the Head of School, the complaint shall be filed directly with the school board chair.<sup>1</sup>
- E. CMES shall conspicuously post the name of the human rights officer(s), including mailing addresses and telephone numbers.
- F. Submission of a good faith complaint or report of harassment or violence will not affect the complainant or reporter's future employment, grades or work assignments.
- G. Use of formal reporting forms is not mandatory.
- H. CMES will respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the school's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

## **VI. INVESTIGATION**

- A. By authority of the CMES Board, the human rights officer, upon receipt of a report or complaint alleging harassment or violence, shall immediately undertake or authorize an investigation. The investigation may be conducted by school d officials or by a third party designated by the school.
- 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, the school 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, CMES may take immediate steps, at its discretion, to protect the complainant, pupils, teachers, administrators or other school personnel pending completion of an investigation of alleged harassment or violence.
- E. The investigation will be completed as soon as practicable. The Head of School shall make a written report to the school board chair upon completion of the investigation. If the complaint involves the Head of School, the report may be filed directly with the school board chair. 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.

## **VII. CMES ACTION**

- A. Upon receipt of a report, CMES will take appropriate action. Such action may include, but is not limited to, warning, suspension, exclusion, expulsion, transfer, remediation, termination or discharge. Action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota and federal law and school policies.
- B. The result of the school's investigation of each complaint filed under these procedures will be reported in writing to the complainant by the school in accordance with state and federal law regarding data or records privacy.

## **VIII. REPRISAL**

CMES will discipline or take appropriate action against any pupil, teacher, administrator or other school personnel who retaliates against any person who makes a good faith report of alleged harassment or violence or any person who testifies, assists or participates in an investigation, or who testifies, assists or participates in a proceeding or hearing relating to such harassment or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

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

These procedures do not deny the right of any individual to pursue other avenues of recourse 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.

## **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 CMES from taking immediate action to protect victims of alleged harassment, violence or abuse.

## **XI. DISSEMINATION OF POLICY AND TRAINING**

- A. This policy shall be posted in the school building in an accessible area.
- B. This policy shall be given to each CMES employee and independent contractor at the time of entering into the person's employment contract.
- C. This policy shall appear in the student handbook.
- D. CMES will develop a method of discussing this policy with students and employees.
- E. This policy shall be reviewed at least annually for compliance with state and federal law.

**Legal References:** Minn. Stat. § 121A.03, Subd. 2 (Sexual, Religious and Racial Harassment and Violence Policy) Minn. Stat. Ch. 363 (Minnesota Human Rights Act) Minn. Stat. § 626.556 *et seq.* (Reporting of Maltreatment of Minors) 42 U.S.C. § 2000e *et seq.* (Title VII of the Civil Rights Act) 34 C.F.R §106.31-43 (Title IX)

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