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Yinghua Academy Policy 514

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514 BULLYING PROHIBITION POLICY

I. PURPOSE

A safe and civil environment is needed for students to learn and attain high academic standards and to promote healthy human relationships. Bullying, like other violent or disruptive behavior, is conduct that interferes with students' ability to learn and teachers' ability to educate students in a safe environment. Yinghua Academy cannot monitor the activities of students at all times and eliminate all incidents of bullying between students, particularly when students are not under the direct supervision of school personnel. However, to the extent such conduct affects the educational environment of the school and the rights and welfare of its students and is within the control of Yinghua Academy in its normal operations, it is the school's intent to prevent bullying and to take action to investigate, respond, remediate, and discipline those acts of bullying which have not been successfully prevented. The purpose of this policy is to assist Yinghua Academy in its goal of preventing and responding to acts of bullying, intimidation, violence, reprisal, retaliation, and other similar disruptive and detrimental behavior.

II. GENERAL STATEMENT OF POLICY

- A. An act of bullying, by either an individual student or a group of students, is expressly prohibited:
1. on the school premises, at the school functions or activities, on the school transportation;
 2. by the use of electronic technology and communications on the school premises, during the school functions or activities, on the school transportation, or on the school computers, networks, forums, and mailing lists; or
 3. by use of electronic technology and communications off the school premises to the extent such use substantially and materially disrupts student learning or the school environment.
- B. A school-aged child who voluntarily participates in a public school activity, such as a cocurricular or extracurricular activity, is subject to the policy provisions applicable to the public school students participating in the activity.

- C. This policy applies not only to students who directly engage in an act of bullying but also to students who, by their indirect behavior, condone or support another student's act of bullying. This policy also applies to any student whose conduct at any time or in any place constitutes bullying or other prohibited conduct that interferes with or obstructs the mission or operations of Yinghua Academy or the safety or welfare of the student, or other students, or materially interferes with a student's educational opportunities or performance or ability to participate in school functions or activities or receive school benefits, services, or privileges. This policy also applies to an act of cyberbullying regardless of whether such act is committed on or off school property and/or with or without the use of school resources. This policy also applies to sexual exploitation.
- D. Malicious and sadistic conduct involving race, color, creed, national origin, sex, age, marital status, status with regard to public assistance, disability, religion, sexual harassment, and sexual orientation and gender identity as defined in Minnesota Statutes, chapter 363A is prohibited. This prohibition applies to students, independent contractors, teachers, administrators, and other school personnel.
- Malicious and sadistic conduct and sexual exploitation by a charter school or school staff member, independent contractor, or enrolled student against a staff member, independent contractor, or student that occurs as described in Article II.A above is prohibited.
- E. No teacher, administrator, volunteer, contractor, or other employee of Yinghua Academy shall permit, condone, or tolerate bullying.

- F. Apparent permission or consent by a student being bullied does not lessen or negate the prohibitions contained in this policy.
- G. Retaliation against a victim, good faith reporter, or a witness of bullying is prohibited.
- H. False accusations or reports of bullying against another student are prohibited.
- I. A person who engages in an act of bullying, reprisal, retaliation, or false reporting of bullying or permits, condones, or tolerates bullying shall be subject to discipline or other remedial responses for that act in accordance with school policies and procedures, including Yinghua Academy's discipline policy #506. Yinghua Academy may take into account the following factors:
 - 1. The developmental ages and maturity levels of the parties involved;
 - 2. The levels of harm, surrounding circumstances, and nature of the behavior;
 - 3. Past incidences or past or continuing patterns of behavior;
 - 4. The relationship between the parties involved; and
 - 5. The context in which the alleged incidents occurred.

Consequences for students who commit prohibited acts of bullying may range from remedial responses or positive behavioral interventions up to and including suspension and/or expulsion. The school shall employ research-based developmentally appropriate best practices that include preventative and remedial measures and effective discipline for deterring violations of this policy, apply throughout the school, and foster student, parent, and community participation.

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

Consequences for other individuals engaging in prohibited acts of bullying may include, but not be limited to, exclusion from school property and events.

- J. Yinghua Academy will act to investigate all complaints of bullying reported to the school and will discipline or take appropriate action against any student, teacher, administrator, volunteer, contractor, or other employee of Yinghua Academy who is found to have violated this policy.

III. DEFINITIONS

For purposes of this policy, the definitions included in this section apply.

- A. “Bullying” means intimidating, threatening, abusive, or harming conduct that is objectively offensive AND:
1. there is an actual or perceived imbalance of power between the student engaging in the prohibited conduct (bullying) and the target of the behavior and the conduct is repeated or forms a pattern: OR
 2. materially and substantially interferes with a student’s educational opportunities or performance or ability to participate in school functions or activities or receive school benefits, services, or privileges.

The term, “bullying,” specifically includes cyberbullying, malicious and sadistic conduct and sexual exploitation as defined in this policy.

- B. “Cyberbullying” means bullying using technology or other electronic communication, including, but not limited to, a transfer of a sign, signal, writing, image, sound, or data, including a post on a social network, Internet website, or forum, transmitted through a computer, cell phone, or other electronic device. The term applies to prohibited conduct which occurs on school premises, on school property, at school functions or activities, on school transportation, or on school computers, networks, forums, and mailing lists, or off school premises to the extent that it substantially and materially disrupts student learning or the school environment.

- C. “Intimidating, threatening, abusive and harming conduct” means, but is not limited to conduct that does the following:

- Causes physical harm to a student or a student’s property or causes a student to be in reasonable fear of harm to person or property;
- Violates (under Minnesota common law) a student’s reasonable expectation of privacy, defames a student or constitutes intentional infliction of emotional distress against a student;
- Is directed at any student or students, based on a person’s actual or perceived race, ethnicity, color, creed, religion, national origin, immigration status, sex, marital status, familial status, socio-economic status, physical appearance, sexual orientation – including gender identity and expression, academic status related to student performance, disability, or status with regard to public assistance, age, or any additional protected class as defined in the Minnesota Human Rights Act. However, prohibited conduct need not be based on any particular characteristic defined in this paragraph or the MHRA.

- E. ”Malicious and sadistic conduct” means creating a hostile learning environment by acting with the intent to cause harm by intentionally injuring another without just cause or reason or engaging in extreme or excessive

cruelty or delighting in cruelty.

- D. “On school premises, on school property, at school-related functions or activities or on school transportation” means all school buildings, school grounds, and school property or property directly adjacent to school grounds, school bus stops, school buses, school vehicles, school contracted vehicles, or any other vehicles approved for school purposes, the area of entrance or departure from school grounds, premises, or events, and all school-related functions, school-sponsored

activities, events, or trips. School property also may mean a student's walking route to or from school for purposes of attending school or school-related functions, activities, or events. While prohibiting bullying at these locations and events, Yinghua Academy does not represent that it will provide supervision or assume liability at these locations and events.

- E. "Prohibited conduct" means bullying, cyberbullying malicious and sadistic conduct, sexual exploitation, or retaliation or reprisal for asserting, alleging, reporting, or providing information about such conduct or knowingly making a false report about prohibited conduct.
- F. "Remedial response" means a measure to stop and correct prohibited conduct, prevent prohibited conduct from recurring, and protect, support, and intervene on behalf of a student who is the target or victim of prohibited conduct.

IV. REPORTING PROCEDURE

- A. Any person who believes he or she has been the target or victim of bullying or any person with knowledge or belief of conduct that may constitute bullying or prohibited conduct under this policy shall report the alleged acts to an appropriate school official designated by this policy in a timely manner. A person may report bullying anonymously. However, Yinghua Academy may not rely solely on an anonymous report to determine discipline or other remedial responses.
- B. Yinghua Academy encourages the reporting party or complainant to report possible instances of bullying directly to the Executive Director or to the Dean of Students in writing, but oral reports shall be considered complaints as well.
- C. The Executive Director and the Dean of Students are the persons responsible for receiving reports of bullying or other prohibited conduct at the school level. Any person may report bullying or other prohibited conduct directly to the Executive Director or Dean of Students. If the complaint involves the Executive Director, the complaint shall be made or filed directly with the School Board Chair by the reporting party or complainant.

The Executive Director or Dean of Students (or School Board Chair) shall ensure that this policy and its procedures, practices, consequences, and sanctions are fairly and fully implemented and shall serve as the primary contact on policy and procedural matters. The Executive Director or Dean of Students (or School Board Chair) shall be responsible for the investigation. The Executive Director or Dean of Students (or School Board Chair) shall provide information about available community resources to the target or victim of the bullying or other prohibited conduct, the perpetrator, and other affected individuals as appropriate.

- D. A teacher, school administrator, volunteer, contractor, or other school employee shall be particularly alert to possible situations, circumstances, or events that might

include bullying. Any such person who witnesses, observes, receives a report of, or has other knowledge or belief of conduct that may constitute bullying or other prohibited conduct shall make reasonable efforts to address and resolve the bullying or prohibited conduct and shall inform the Executive Director or Dean of Students in a timely manner. School personnel who fail to inform the Executive Director or Dean of Students of conduct that may constitute bullying or other prohibited conduct in a timely manner may be subject to disciplinary action.

- E. Reports of bullying or other prohibited conduct are classified as private educational and/or personnel data and/or confidential investigative data and will not be disclosed except as permitted by law. The Executive Director or Dean of Students (or School Board Chair), in conjunction with the responsible authority, shall be responsible for keeping and regulating access to any report of bullying and the record of any resulting investigation.
- F. Submission of a good faith complaint or report of bullying or other prohibited conduct will not affect the complainant's or reporter's future employment, grades, work assignments, or educational or work environment.
- G. Yinghua 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 Yinghua Academy's obligation to investigate, take appropriate action, and comply with any legal disclosure obligations.

V. SCHOOL ACTION

- A. Upon receipt of a complaint or report of bullying, Yinghua Academy shall undertake or authorize an investigation by school officials or a third party designated by Yinghua Academy within 3 days of receiving the report of possible bullying.
- B. The investigation will be completed within 10 school days, unless the Executive Director or Dean of Students grants in writing an additional 5-day extension due to extenuating circumstances.
- C. Yinghua Academy may take immediate steps, at its discretion, to protect the target or victim of the bullying or other prohibited conduct, the complainant, reporter, students, or others pending completion of an investigation of bullying or other prohibited conduct, consistent with applicable law.
- D. The alleged perpetrator of the bullying or other prohibited conduct shall be allowed the opportunity to present a defense during the investigation or prior to the imposition of discipline or other remedial responses.
- E. Upon completion of an investigation that determines that bullying or other prohibited conduct has occurred, Yinghua 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 conduct. Remedial responses to the bullying or other prohibited conduct shall be tailored to the particular incident and nature of the conduct shall take into account the factors specified above in this policy. School action taken for violation of this policy will be consistent with the requirements of applicable statutory authority, including the Minnesota Pupil Fair Dismissal Act; the Safe & Supportive Schools Act; the student discipline policy and other applicable school policies; and applicable regulations.

- F. Yinghua 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 Yinghua Academy. School officials will notify the parent(s) or guardian(s) of students who are targets of bullying or other prohibited conduct and the parent(s) or guardian(s) of alleged perpetrators of bullying or other prohibited conduct who have been involved in a reported and confirmed bullying incident of the remedial or disciplinary action taken, to the extent permitted by law.
- G. In order to prevent or respond to bullying or other prohibited conduct committed by or directed against a child with a disability, the school shall, when determined appropriate by the child's individualized education program (IEP) team 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 bullying or other prohibited conduct.

VI. RETALIATION OR REPRISAL

Yinghua Academy will discipline or take appropriate action against any student, teacher, administrator, volunteer, contractor, or other employee of the school who commits and act of reprisal or who retaliates against any person who asserts, alleges, or makes a good faith report of alleged bullying or prohibited conduct, who provides information about bullying or prohibited conduct, who testifies, assists, or participates in an investigation of alleged bullying or prohibited conduct, or who testifies, assists, or participates in a proceeding or hearing relating to such bullying or prohibited conduct. Retaliation includes, but is not limited to, any form of intimidation, reprisal, 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 prohibited conduct. Remedial responses to the prohibited conduct shall be tailored to the particular incident and nature of the conduct and shall take into account the factors specified in Section II.F. of this policy.

VII. TRAINING AND EDUCATION

- A. Yinghua Academy annually will discuss this policy with school personnel and volunteers and provide appropriate training to school personnel regarding this policy. The school shall establish a training cycle for school personnel to occur

during a period not to exceed every three school years. Newly employed school personnel must receive the training within the first year of their employment with the school. Yinghua Academy may accelerate the training cycle or provide additional training based on a particular need or circumstance. This policy shall be included in employee handbooks, training materials, and publications on school rules, procedures, and standards of conduct, which materials shall also be used to publicize this policy.

- B. The school shall require ongoing professional development, consistent with Minn. Stat. § 122A.60, to build the skills of all school personnel who regularly interact with students to identify, prevent, and appropriately address bullying and other prohibited conduct. Such professional development includes, but is not limited to, the following:
1. Developmentally appropriate strategies both to prevent and to immediately and effectively intervene to stop prohibited conduct;
 2. The complex dynamics affecting a perpetrator, target, and witnesses to prohibited conduct;
 3. Research on prohibited conduct, including specific categories of students at risk for perpetrating or being the target or victim of bullying or other prohibited conduct in school;
 4. The incidence and nature of cyberbullying; and
 5. Internet safety and cyberbullying.
- C. Yinghua Academy annually will provide education and information to students regarding bullying, including information regarding this school policy prohibiting bullying, the harmful effects of bullying, and other applicable initiatives to prevent bullying and other prohibited conduct.
- D. The administration of Yinghua Academy is directed to implement programs and other initiatives to prevent bullying, to respond to bullying in a manner that does not stigmatize the target or victim, and to make resources or referrals to resources available to targets or victims of bullying.
- E. The administration is encouraged to provide developmentally appropriate instruction and is directed to review programmatic instruction to determine if adjustments are necessary to help students identify and prevent or reduce bullying and other prohibited conduct, to value diversity in school and society, to develop and improve students' knowledge and skills for solving problems, managing conflict, engaging in civil discourse, and recognizing, responding to, and reporting bullying or other prohibited conduct, and to make effective prevention and intervention programs available to students.

The administration must establish strategies for creating a positive school climate and use evidence-based social-emotional learning to prevent and reduce discrimination and other improper conduct.

The administration is encouraged, to the extent practicable, to take such actions as it may deem appropriate to accomplish the following:

1. Engage all students in creating a safe and supportive school environment;
 2. Partner with parents and other community members to develop and implement prevention and intervention programs;
 3. Engage all students and adults in integrating education, intervention, and other remedial responses into the school environment;
 4. Train student bystanders to intervene in and report incidents of bullying and other prohibited conduct to the schools' primary contact person;
 5. Teach students to advocate for themselves and others;
 6. Prevent inappropriate referrals to special education of students who may engage in bullying or other prohibited conduct; and
 7. Foster student collaborations that, in turn, foster a safe and supportive school climate.
- F. Yinghua Academy may implement violence prevention and character development education programs to prevent or 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.
- G. The school shall inform affected students and their parents of rights they may have under state and federal data practices laws to obtain access to data related to an incident and their right to contest the accuracy or completeness of the data. The school may accomplish this requirement by inclusion of all or applicable parts of its protection and privacy of pupil records policy (See Policy 515) in the student and family handbook.

VIII. NOTICE

- A. Yinghua Academy will give annual notice of this policy to students, parents or guardians, and staff, and this policy shall appear in the Student and Family Handbook.
- B. This policy or a summary thereof must be conspicuously posted throughout each school building, in the administrative offices of the charter school, and in the office of each school.
- C. This policy must be distributed to each school employee and independent contractor at the time of hiring or contracting with the charter school.
- D. Notice of the rights and responsibilities of students and their parents under this policy must be included in the student discipline policy (See Policy 506) distributed to parents at the beginning of each school year.
- E. This policy shall be available to all parents and other school community members in an electronic format in the language appearing on the school's website.
- F. Each school must develop a process for discussing this policy with students, parents of students, independent contractors, and school employees.
- G. The school shall provide an electronic copy of its most recently amended policy to the Commissioner of Education.

IX. POLICY REVIEW

To the extent practicable, the school board shall, on a cycle consistent with other school policies, review and revise this policy. The policy shall be made consistent with Minn. Stat. sections 121A.031 and 121A.0312 and other applicable law. Revisions shall be made in consultation with students, parents, and community organizations.

- Legal References:*** Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Stat. § 120A.05, Subds. 9, 11, 13, and 17 (Definition of Public School)
Minn. Stat. § 120B.232 (Character Development Education)
Minn. Stat. § 121A.03 (Sexual, Religious and Racial Harassment and Violence)
Minn. Stat. § 121A.0695 121A.031 (School Board Policy; Prohibiting Intimidation and Student Bullying Policy)
Minn. Stat. § 121A.0312 (Malicious and Sadistic Conduct)
Minn. Stat. § 121A.0311 (Notice of Rights and Responsibilities of Students and Parents under the Safe and Supportive Minnesota Schools Act)
Minn. Stat. §§ 121A.40-121A.56 (Pupil Fair Dismissal Act)
Minn. Stat. § 121A.69 (Hazing Policy)
Minn. Stat. § 124E (Charter School)
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)
20 U.S.C. § 1232g *et seq.* (Family Educational Rights and Privacy Act)
34 C.F.R. §§ 99.1 - 99.67 (Family Educational Rights and Privacy)
- Cross References:*** MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)
MSBA/MASA Model Policy 413 (Harassment and Violence)
MSBA/MASA Model Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)
MSBA/MASA Model Policy 415 (Mandated Reporting of Maltreatment of Vulnerable Adults)
MSBA/MASA Model Policy 423 (Employee-Student Relationships)
MSBA/MASA Model Policy 501 (School Weapons Policy)
MSBA/MASA Model Policy 506 (Student Discipline)
MSBA/MASA Model Policy 507 (Corporal Punishment)
MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)
MSBA/MASA Model Policy 521 (Student Disability Nondiscrimination)

MSBA/MASA Model Policy 522 (Student Sex Nondiscrimination)
MSBA/MASA Model Policy 524 (Internet Acceptable Use and Safety
Policy)
MSBA/MASA Model Policy 525 (Violence Prevention)

MSBA/MASA Model Policy 526 (Hazing Prohibition)

MSBA/MASA Model Policy 529 (Staff Notification of Violent Behavior by Students)

MSBA/MASA Model Policy 709 (Student Transportation Safety Policy)

MSBA/MASA Model Policy 711 (Video Recording on School Buses)

MSBA/MASA Model Policy 712 (Video Surveillance Other Than on Buses)

MDE Model Bullying Prohibition Policy