

Sexual offences

Protocol for the Prevention of Sexual Offences by School Staff Against Pupils

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Introduction

Title VIII of Book II of the Spanish Criminal Code regulates offences against sexual freedom and sexual integrity:

- Sexual assault (articles 178 to 180)
- Sexual abuse (articles 181 and 182)
- Sexual abuse and assault of minors under 16 (articles 183 to 183 quater)
- Sexual harassment (article 184)
- Exhibitionism and sexual provocation (articles 185 and 186)
- Prostitution, sexual exploitation and corruption of minors (articles 187 to 189)

The school declares "**zero tolerance towards any criminal conduct against sexual integrity and sexual freedom**", especially with regard to pupils.

This document sets out a protocol to prevent conduct classified as an attack on the sexual integrity and sexual freedom of pupils, and to determine the action to be taken in the event of possible infringements.

Persons covered

The protocol applies to:

- The school's teaching staff
- Administrative and support staff
- Leisure activity and sports school instructors
- Members of the Theatine Community
- Persons legally employed by third parties who provide services
- The school's pupils and their families

The school ensures that employees, pupils and legal representatives are aware of this document.

Conduct that will not be tolerated

The school categorically rejects the following conduct, inside or outside the school, whether or not it is of criminal relevance:

Inappropriate Physical Contact

- Unnecessary touching, patting, pinching or unwanted bodily contact.

Sexual Advances and Propositions

- Propositions or pressure to engage in sexual activities.
- Insistence on social activities outside school that are unrelated to it.
- Offensive flirting, suggestive comments, innuendo or obscenities.

Pornographic Material

- Showing, distributing or selling pornographic material among pupils.
- Sending sexually suggestive or pornographic photos.
- Lewd looks, whistling or offensive gestures.

Exhibitionism

- Exposure of the genitals.

Requests for Sexual Material

- Asking to be provided with pornographic material.
- Requesting sexually suggestive videos or photos of the pupil or of third parties.
- Asking for writings of a sexual nature to be sent.

Participation in Pornographic Material

- Proposing participation in the production of any pornographic material.

Sexual Favours in Exchange for Advantages

- Requesting sexual relations or sexual favours with the promise of academic, financial or other advantages.

Consensual Sexual Relations

- Having sexual relations with pupils without offering any advantages.

Coercive Sexual Relations

- Sexual relations involving violence, abuse of position, intimidation or threats.

Romantic Relationships

- Any romantic relationship with a pupil, even if the pupil is of legal age.

Other Conduct

- Any sexual conduct classified in articles 178 to 189 of the Criminal Code.
 - Similar conduct against pupils' family members.
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Prevention Measures

1. Inclusion in the Internal Regulations

The behaviours described are classified as very serious infringements under article 84 of the National Collective Agreement for Private Education Centres.

2. Clearance Certificate from the Sex Offenders Register

Pursuant to Organic Law 1/1996: *"A requirement for access to professions involving regular contact with minors shall be not having been convicted of offences against sexual freedom and sexual integrity."*

- Anyone hired must provide a clearance certificate from the Central Register.
- Maximum age of the certificate: one month.
- It is added to the employee's file.
- For third-party services: similar accreditation is required.

3. Information for the School Community

The school disseminates the protocol through:

- Publication on the school website (permanent and up to date).
- An information letter to parents/guardians.
- Inclusion in the school planner (since the 2019/2020 school year).
- Reference in the Internal Rules and Regulations.
- Integration into activities on bullying.
- Dissemination in group tutorials.
- Communication to pupils over the age of 14.
- Specific training within the quality plan.

4. Reporting Procedure

A swift and rigorous procedure that safeguards rights is established for reports, investigation and resolution.

5. Monitoring

The Management Board and the Guidance Department oversee the proper dissemination, implementation and application of the protocol, as well as any necessary changes and improvements.

Complaints and Reports: Procedure

1. Initiation

Who can report: Any member of the school community, for events suffered personally or by third parties.

How to submit (in writing):

- Placing it in the specific yellow mailboxes in common areas, managed by the Guidance Department (opened weekly, with documentary record).
- Handing it in to the Guidance Department.
- Email: orientacion@colegiosancayetano.com
- Sending it to the Head by any means.

Documentation: A form is available on the school website.

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Supporting evidence: Evidence may be submitted with the report, without prejudice to further evidence at a later stage.

Parallel actions: Submitting a report does not prevent criminal, civil or other legal action from being taken.

2. Identification Requirement

Reports cannot be anonymous, although the confidentiality of the reporting person's identity is guaranteed.

3. Referral to the Head

Once received, the report is passed to the Head within the next working day. If the report is submitted by a third party (not by the injured party/parents/guardians), the Head, together with a representative of the Guidance Department, will call the injured party to confirm the facts. If the injured party is a minor, the parents/guardians will be called.

4. Non-confirmation

If the report is not confirmed: a documentary record is made, the report is filed and the injured party and parents/guardians are informed in writing.

5. Confirmation and Investigating Body

If the report is confirmed, the Management Board appoints an investigating body made up of: the school Secretary, the school's legal adviser and a member of the Guidance Department. It meets within a maximum of 48 hours.

The initial analysis may result in:

- **Non-admission:** when the facts fall outside the scope of the protocol. Written notification with justified reasons.
- **Processing through another channel:** if the facts do not fit the conduct described but could constitute another infringement.
- **Admission and case file:** if the facts fall within the scope of the sexual harassment protocol, the report is admitted and an investigation file is opened. The parties are informed of its opening.

6. Information-Gathering Phase

Deadline: Maximum fifteen working days.

- Taking statements from the parties involved (with written record).
- Carrying out the necessary evidentiary measures proposed by the parties (unless they are irrelevant, useless or dilatory).
- Taking into account limitation periods under the applicable Collective Agreement.
- Means of evidence: all those provided for in the Civil Procedure Act.
- Statements by minors: parents/guardians and a member of the psychosocial team may be present.

Once the information has been gathered, the parties are given a hearing to submit a written assessment within 48 hours.

The **Investigator's Report** contains: background, the positions and submissions of the parties, the evidence obtained, the facts as established by the evidence and a proposal of measures to be adopted. It is submitted to the Head so that the Management Board can be convened.

7. Precautionary Measures

At any time, the investigating body may propose to the Head the adoption of precautionary measures if the circumstances so advise.

8. Notification of the Justice Authorities

At any time, if there are indications of criminal conduct, the Head must immediately inform the Justice Authorities of the facts under investigation.

9. Definition of Working Days

Monday to Friday, excluding public holidays and days within school holiday periods.

10. Principles and Guarantees of the Procedure

Respect for and Protection of Individuals: The school will take measures to guarantee the protection of dignity and privacy, the utmost discretion, prudence and respect, the prohibition of unfavourable treatment for taking part, and the right to be assisted by a companion of one's choice.

Confidentiality and Anonymity: Participants are obliged to maintain strict confidentiality and discretion, not to pass on or disclose information about reports, and to keep the identity of the reporting person private.

Diligence and Promptness: Investigation and resolution carried out professionally, without undue delay, completing the procedure in the shortest possible time and respecting due guarantees.

Impartiality and Right to Be Heard: Guarantee of an impartial hearing, fair treatment for everyone affected, and action in good faith in search of the truth and the clarification of the reported facts.

Secrecy: The persons involved must keep confidential the facts they learn of through their position, not use information for their own benefit or that of third parties, and not act against the public interest.

Prohibition of Retaliation: Action is expressly taken against retaliation towards persons who make a report, appear as witnesses or take part in the investigation. False or malicious reports may result in sanctions, without prejudice to civil or criminal liability.

Protection and Immunity: The school ensures that complainants, witnesses, informants and investigating bodies are not subjected to intimidation, threats or violence, unfair or unfavourable treatment, or persecution, discrimination or retaliation.

Report Form

Details of the Reporting Person

- First name and surname(s)
- Contact telephone number
- Contact email address
- Are you reporting on your own behalf? (Yes/No)
- If not: identity and contact details of the injured party (if known) and your relationship with them.

Details of the Reported Person

- First name and surname(s)
- Other identifying details available

What happened?

Description of the facts.

When did it happen?

Date/period of the facts.

Evidence

- **Witnesses:** identity and contact details of people who know about or witnessed the facts.
- **Documentation:** documents or other evidence for the investigation.

Other Information

Additional information useful for clarifying the facts.

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Data Protection Information

The controller of the personal data you provide to us through this report, and of any other data collected during the investigation procedure, is the **ORDEN DE CLÉRIGOS REGULARES TEATINOS**, owner of Colegio San Cayetano, tax ID (CIF) R0700014D, with registered address at Avenida Picasso nº 21, 07004 Palma. You can contact the school's data protection officer at dpd@colegiosancayetano.com

The purpose of this processing is the investigation and resolution of the sexual harassment report you have submitted. **Disclosures:** your data will be disclosed in the cases provided for in the school's action protocol for investigating this type of report and, where appropriate, may be brought to the attention of the Justice Authorities.

The legal basis for this processing is our compliance with legal obligations (article 6.1.f GDPR) and the performance of a task carried out in the public interest (art. 6.1.e GDPR).

We will keep the data and information for the applicable legal periods.

You may exercise your rights of access, rectification, erasure, objection and restriction of processing, under the terms set out in Spanish and European data protection legislation, by writing to the school's Secretary's Office at the address given above. Likewise, if you are not satisfied with the processing, you may lodge a complaint with the Spanish Data Protection Agency (Agencia Española de Protección de Datos).