

## **522 STUDENT SEX NONDISCRIMINATION**

### **I. PURPOSE**

Students are protected from discrimination on the basis of sex pursuant to Title IX of the Education Amendments of 1972 and the Minnesota Human Rights Act. The purpose of this policy is to provide equal educational opportunity for all students and to prohibit discrimination on the basis of sex.

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

- A. Birch Grove Community School provides equal educational opportunity for all students, and does not unlawfully discriminate on the basis of sex. No student will be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any educational program or activity operated by Birch Grove Community School district on the basis of sex.
- B. It is the responsibility of every Birch Grove Community School employee to comply with this policy.
- C. The school board hereby designates Birch Grove Community School's Director as its Title IX coordinator. This employee coordinates Birch Grove Community School's efforts to comply with and carry out its responsibilities under Title IX.
- D. Any student, parent or guardian having questions regarding the application of Title IX and its regulations and/or this policy should discuss them with the Title IX coordinator. Questions relating solely to Title IX and its regulations may be referred to the Assistant Secretary for Civil Rights of the United States Department of Education. In the absence of a specific designee, an inquiry or complaint should be referred to the school administration, school Director.

### **III. REPORTING GRIEVANCE PROCEDURES**

- A. Any student who believes he or she has been the victim of unlawful sex discrimination by a teacher, administrator or other school district personnel, or any person with knowledge or belief of conduct which may constitute unlawful sex discrimination toward a student should report the alleged acts immediately to an appropriate Birch Grove Community School district official designated by this policy or may file a grievance. Birch Grove Community School encourages the reporting party or complainant to use the report form available from the school district office, but oral reports shall be considered complaints as well. Nothing in this policy shall prevent any person from reporting unlawful sex discrimination toward a student directly to the Birch Grove Community School Director.

- B. In Each School Building. The school Director is the person responsible for receiving oral or written reports or grievances of unlawful sex discrimination toward a student at the building level. Any adult Birch Grove Community School district personnel who receives a report of unlawful sex discrimination toward a student shall inform the school Director immediately.
- C. Upon receipt of a report or grievance, the school Director must notify the school board chair, without screening or investigating the report. The Director 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 Director to the school board chair. If the report was given verbally, the Director shall personally reduce it to written form within 24 hours and forward it to the school board chair. Failure to forward any report or complaint of unlawful sex discrimination toward a student as provided herein may result in disciplinary action against the school Director.
- D. The school board hereby designates Birch Grove Community School's Director as the school district human rights officer(s) to receive reports, complaints or grievances of unlawful sex discrimination toward a student. If the complaint involves a human rights officer, the complaint shall be filed directly with the School Board.
- E. Birch Grove Community School shall conspicuously post the name of the Title IX coordinator and human rights officer(s), including office mailing addresses and telephone numbers.
- F. Submission of a good faith complaint, grievance or report of unlawful sex discrimination toward a student will not affect the complainant or reporter's future employment, grades or work assignments.
- G. Use of formal reporting forms is not mandatory.
- H. Birch Grove Community School 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 Birch Grove Community School district's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

#### **IV. INVESTIGATION**

- A. By authority of Birch Grove Community School, the school Director, upon receipt of a report, complaint or grievance alleging unlawful sex discrimination toward a student shall promptly undertake or authorize an investigation. The investigation may be conducted by school district officials or by a third party designated by Birch Grove Community 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, Birch Grove Community 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, Birch Grove Community School 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 unlawful sex discrimination toward a student.
- E. The investigation will be completed as soon as practicable. The Birch Grove Community School Director shall make a written report to the school board chair upon completion of the investigation. If the complaint involves the Director, 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.

## **V. SCHOOL DISTRICT ACTION**

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

## **VI. REPRISAL**

Birch Grove Community School will discipline or take appropriate action against any pupil, teacher, administrator or other school personnel who retaliates against any person who reports alleged unlawful sex discrimination toward a student 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 unlawful sex discrimination. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

## **VII. 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, or contacting the Office of Civil Rights for the United States Department of Education.

## **VIII. DISSEMINATION OF POLICY AND EVALUATION**

- A. This policy shall be made available to all students, parents/guardians of students, staff members, employee unions and organizations.
- B. Birch Grove Community School district shall review this policy and Birch Grove Community School's operation for compliance with state and federal laws prohibiting discrimination on a continuous basis.

***Legal References:*** Minn. Stat. § 121A.04 (Athletic Programs; Sex Discrimination)  
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)  
20 U.S.C. §§ 1681-1688 (Title IX of the Education Amendments of 1972)  
34 C.F.R. Part 106 (Implementing Regulations of Title IX)

***Cross References:*** MSBA/MASA Model Policy 102 (Equal Educational Opportunity)  
MSBA/MASA Model Policy 413 (Harassment and Violence)  
MSBA/MASA Model Policy 528 (Student Parental, Family, and Marital Status Nondiscrimination)