

413 HARASSMENT AND VIOLENCE

I. PURPOSE

The purpose of this policy is to maintain a learning and working environment that is free from religious, racial or sexual harassment and violence. Birch Grove Community School prohibits any form of religious, racial or sexual harassment and violence.

II. GENERAL STATEMENT OF POLICY

- A. It is the policy of Birch Grove Community School to maintain a learning and working environment that is free from religious, racial or sexual harassment and violence. Birch Grove Community School prohibits any form of religious, racial or sexual harassment and violence.
- B. It shall be a violation of this policy for any pupil, teacher, administrator or other school personnel of Birch Grove Community School to harass a pupil, teacher, administrator or other school personnel through conduct or communication of a sexual nature or regarding religion and race as defined by this policy. (For purposes of this policy, school personnel includes school board members, school employees, agents, volunteers, contractors or persons subject to the supervision and control of the district.)
- C. It shall be a violation of this policy for any pupil, teacher, administrator or other school personnel of Birch Grove Community School to inflict, threaten to inflict, or attempt to inflict religious, racial or sexual violence upon any pupil, teacher, administrator or other school personnel.
- D. Birch Grove Community School will act to investigate all complaints, either formal or informal, verbal or written, of religious, racial or sexual harassment or violence, and to discipline or take appropriate action against any pupil, teacher, administrator or other school personnel who is found to have violated this policy.

III. RELIGIOUS, RACIAL AND SEXUAL HARASSMENT AND VIOLENCE DEFINED

- A. 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 or retaining

employment, or of obtaining 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 pupil(s) by teachers, administrators or other school 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.

B. Racial Harassment; Definition

Racial harassment consists of physical or verbal conduct relating to an individual's race 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.

C. Religious Harassment; Definition

Religious harassment consists of physical or verbal conduct which is related to an individual's religion 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. 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, as defined in Minn. Stat. § 609.341, 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.

E. Racial Violence; Definition

Racial violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race.

F. Religious Violence; Definition

Religious violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, religion.

G. Assault; Definition

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.

IV. REPORTING PROCEDURES

- A. Any person who believes he or she has been the victim of religious, racial or sexual harassment or violence by a pupil, teacher, administrator or other Birch Grove Community School personnel of Birch Grove Community School, or any person with knowledge or belief of conduct which may constitute religious, racial or sexual harassment or violence toward a pupil, teacher, administrator or other Birch Grove Community School personnel should report the alleged acts immediately to Birch Grove Community School director. Birch Grove Community School encourages the reporting party or complainant to use the report form available from school district 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 school district human rights officer or to the school director.
- B. Upon receipt of a report, the school director must notify the school board chair immediately, without screening or investigating the report. The school 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 school director to the board chair immediately. If the report was given verbally, the school director shall personally reduce it to written form within 24 hours and forward it to the school board chair. Failure to forward any harassment or violence report or complaint as provided herein will result in disciplinary action against the school director. If the complaint involves the school director, the complaint shall be made or filed directly with the school board chair by the reporting party or complainant.
- D. In the District. The school board hereby designates the Birch Grove Community School director as the school district human rights officer(s) to receive reports or complaints of religious, racial or sexual harassment or violence. If the complaint involves a human rights officer, the complaint shall be filed directly with the members of the school board.¹
- E. Birch Grove Community School district shall conspicuously post the name of the

school board chair, including mailing addresses and telephone numbers.

- F. Submission of a good faith complaint or report of religious, racial or sexual 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. 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 the school district's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

V. INVESTIGATION

- A. By authority of Birch Grove Community School, the school director, upon receipt of a report or complaint alleging religious, racial or sexual harassment or violence, shall immediately undertake or authorize an investigation. The investigation may be conducted by Birch Grove Community School 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 religious, racial or sexual harassment or violence.
- E. The investigation will be completed as soon as practicable. The school director shall make a written report to the school board chair upon completion of the investigation. If the complaint involves the school director, the report may be filed directly with the Birch Grove Community 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. SCHOOL DISTRICT ACTION

- A. Upon 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 Minnesota and federal law and school district policies.
- B. The result of Birch Grove Community School district'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.

VII. REPRISAL

Birch Grove Community School will discipline or take appropriate action against any pupil, teacher, school director or other school personnel who retaliates against any person who makes a good faith report of alleged religious, racial or sexual 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.

VIII. 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.

IX. 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 Birch Grove Community School from taking immediate action to protect victims of alleged harassment, violence or abuse.

X. DISSEMINATION OF POLICY AND TRAINING

- A. This policy shall be conspicuously posted throughout the Birch Grove Community School building in areas accessible to pupils and staff members.
- B. This policy shall be given to each Birch Grove Community school district 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. Birch Grove Community School will develop a method of discussing this policy with students and employees.
- E. Birch Grove Community School 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.

Legal References: Minn. Stat. § 121A.03, Subd. 2 (Sexual, Religious and Racial Harassment and Violence Policy)
 Minn. Stat. Ch. 363A (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)

Cross References: MSBA/MASA Model Policy 102 (Equal Educational Opportunity)
 MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)
 MSBA/MASA Model Policy 406 (Public and Private Personnel Data)
 MSBA/MASA Model Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)
 MSBA/MASA Model Policy 506 (Student Discipline)
 MSBA/MASA Model Policy 525 (Violence Prevention)