

Adopted: MSBA/MASA Model Policy 420

Revised: 2022 (Originated. 1995)

420 Employees with Sexually Transmitted Infections and Diseases and Certain Other Communicable Diseases and Infectious Conditions

[Note: School districts are not required by statute to have a policy addressing these issues. However, Minnesota Statutes section 121A.23 provides that school districts must have a program that incorporates the provisions contained in this policy.]

I. PURPOSE

Public concern that staff of the service cooperative be able to attend work without becoming infected with serious communicable or infectious diseases, including, but not limited to, Human Immunodeficiency Virus (HIV), Acquired Immunodeficiency Syndrome (AIDS), Hepatitis B, and Tuberculosis, and COVID-19 requires that the BrightWorks board adopt measures effectively responding to health concerns while respecting the rights of all employees, and contractors, including those who are so infected. The purpose of this policy is to adopt such measures.

II. GENERAL STATEMENT OF POLICY

A. Employees

It is the policy of BrightWorks, the service cooperative, to ensure that employees with communicable diseases not be excluded from attending to their customary employment so long as they are physically, mentally, and emotionally able to safely perform tasks assigned to them and so long as their employment does not create a significant risk of the transmission of illness to other employees, or others in the service cooperative. If a reasonable accommodation will eliminate the significant risk of transmission, such accommodation will be undertaken unless it poses an undue hardship to the service cooperative.

B. Circumstances and Conditions

Determinations of whether a contagious individual's service cooperative job performance creates a significant risk of the transmission of the illness to employees of BrightWorks or a school district will be made on a case by case basis. Such decisions will be based upon the nature of the risk (how it is transmitted), the duration of the risk (how long the carrier is infectious), the severity of the risk (what is the potential harm to third parties), and the probabilities the disease will be transmitted and will cause varying degrees of harm.



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The BrightWorks board recognizes that some employees, because of special circumstances and conditions, may pose greater risks for the transmission of infectious conditions than other persons infected with the same illness. These conditions need to be considered in assessing the risk of transmission of the disease and the resulting effect upon the employment of an employee by consulting with the Commissioner of Health, and the physician of the employee.

C. Precautions

The service cooperative will develop routine procedures for infection control at BrightWorks and for educating employees about these procedures. The procedures shall be developed through cooperation with health professionals taking into consideration any guidelines of the Minnesota Department of Education and the Minnesota Department of Health. (These precautionary procedures shall be consistent with the service cooperative's procedures regarding blood-borne pathogens developed pursuant to the service cooperative's employee right to know policy.)

D. Information Sharing

Employee health information shall be shared with the executive director of the service cooperative and only with those whose jobs require such information and with those who have a legitimate educational interest (including health and safety) in such information and shall be shared only to the extent required to comply with employees' right to know requirements.

Employee health data shall be shared outside the service cooperative only in accordance with state and federal law and with the BrightWorks' policies on employee records and data.

E. Reporting

If a medical condition of staff threatens public health, it must be reported to the Minnesota Commissioner of Health.

F. Vaccination and Screening

The service cooperative will develop procedures regarding the administration of Hepatitis B vaccinations and Tuberculosis screenings in keeping with current state and federal law. The procedures shall provide that the Hepatitis B vaccination series be offered to all who have occupational exposure at no cost to the employee.



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Legal References: Minn. Stat. § 121A.23 (Programs to Prevent and Reduce the Risks of Sexually Transmitted Infections and Diseases)
Minn. Stat. § 144.441 (Tuberculosis Screening in Schools)
Minn. Stat. § 142 (Testing in School Clinics)
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)
20 U.S.C. § 1400 et seq. (Individuals with Disabilities Education Act)
29 U.S.C. § 794 et seq. (Rehabilitation Act of 1973, § 504)
42 U.S.C. § 12101 et seq. (Americans with Disabilities Act)
29 C.F.R. 1910.1030 (Bloodborne Pathogens)
Kohl by Kohl v. Woodhaven Learning Center, 865 F.2d 930 (8th Cir.), cert. denied, 493 U.S. 892 (1989)
School Board of Nassau County, Fla. v. Arline, 480 U.S. 273 (1987)
16 EHLR 712, OCR Staff Memo, April 5, 1990

Cross References: MSBA/MASA Model Policy 402 (Disability Nondiscrimination)
MSBA/MASA Model Policy 407 (Employee Right to Know – Exposure to Hazardous Substances)
MSBA/MASA Model Policy 521 (Student Disability Nondiscrimination)