



Policy 413 Harassment and Violence Policy

BrightWorks POLICY, Disability Nondiscrimination

Copied from 413 MSBA Model Policy Manual, Disability Nondiscrimination Policy

Note: State law (Minnesota Statutes, section 121A.03) requires that BrightWorks adopt a sexual, religious, and racial harassment and violence policy that conforms with the Minnesota Human Rights Act, Minnesota Statutes, section 363A (MHRA). This policy complies with that statutory requirement and addresses the other classifications protected by the MHRA and/or federal law. While the recommendation is that school districts incorporate the other protected classifications, in addition to sex, religion, and race, into this policy, they are not specifically required to do so by Minnesota Statutes, section 121A.03. Each executive committee/school board must submit a copy of the policy the committee has adopted to the Commissioner of MDE.]

I. PURPOSE

The purpose of this policy is to maintain a learning and working environment free from harassment and violence on the basis of race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability (Protected Class).

II. GENERAL STATEMENT OF POLICY

- A. The policy of BrightWorks is to maintain a learning and working environment free from harassment and violence on the basis of Protected Class. BrightWorks prohibits any form of harassment or violence on the basis of Protected Class.
- B. A violation of this policy occurs when any student, instructor or BrightWorks personnel harasses a student, instructor or BrightWorks personnel or group of students, instructors, or other BrightWorks personnel through conduct or communication based on a person's Protected Class, as defined by this policy. (For purposes of this policy, BrightWorks personnel include executive committee members, employees, agents, volunteers, contractors, or persons subject to the supervision and control of BrightWorks.)
- C. A violation of this policy occurs when any student, instructor, or other BrightWorks personnel inflicts, threatens to inflict, or attempts to inflict violence upon any student, instructor, or other BrightWorks personnel or group of students,

instructors, or other BrightWorks personnel based on a person's Protected Class.

- D. BrightWorks will act to investigate all complaints, either formal or informal, verbal or written, of harassment or violence based on a person's Protected Class, and to discipline or take appropriate action against BrightWorks personnel found to have violated this policy.

III. DEFINITIONS

A. **"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.

- B. "Harassment" prohibited by this policy consists of physical or verbal conduct, including, but not limited to, electronic communications, relating to an individual's or group of individuals' race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, gender identity or expression, or disability, 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. "Immediately" means as soon as possible but in no event longer than 24 hours.

D. **Protected Classifications; Definitions**

1. "Disability" means, with respect to an individual who
 - a. a physical sensory or mental impairment that materially limits

- one or more major life activities of such individual;
- b. has a record of such an impairment; or
 - c. is regarded as having such an impairment.
2. “Familial status” means the condition of one or more minors being domiciled with:
- a. their parent or parents or the minor’s legal guardian; or
 - b. the designee of the parent or parents or guardian with the written permission of the parent or parents or guardian. The protections afforded against harassment or discrimination on the basis of family status apply to any person who is pregnant or is in the process of securing legal custody of an individual who has not attained the age of majority.
3. “Marital status” means whether a person is single, married, remarried, divorced, separated, or a surviving spouse and, in employment cases, includes protection against harassment or discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.
4. “National origin” means the place of birth of an individual or of any of the individual’s lineal ancestors.
5. “Sex” includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.
6. “Sexual orientation” means having or being perceived as having an emotional, physical, or sexual attachment to another person without regard to the sex of that person or having or being perceived as having an orientation for such attachment or having or being perceived as having a self-image or identity not traditionally associated with one’s biological maleness or femaleness. “Sexual orientation” does not include a physical or sexual attachment to children by an adult.
7. “Status with regard to public assistance” means the condition of being a recipient of federal, state, or local assistance, including medical assistance, or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.

- E. “Remedial response” means a measure to stop and correct acts of harassment or violence, prevent acts of harassment or violence from recurring, and protect, support, and intervene on behalf of a student who is the target or victim of acts of harassment or violence.

F. Sexual Harassment; Definition

1. Sexual harassment includes 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 employment or 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 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 student(s) by teachers, administrators, or other BrightWorks 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 sexual orientation, or gender identity or expression.

G. Sexual Violence; Definition

1. Sexual violence is a physical act of aggression or force or the threat thereof that involves the touching of another's intimate parts or forcing a person to touch any person's intimate parts. Intimate parts, as defined in Minnesota Statutes, section 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
 - 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.

H. Violence; Definition

Violence prohibited by this policy is a physical act of aggression or assault upon another or group of individuals because of, or in a manner reasonably related to an individual's Protected Class.

IV. REPORTING PROCEDURES

- A. Any person who believes he or she has been the target or victim of harassment or violence on the basis of Protected Class by a student, instructor, or other BrightWorks personnel, or any person with knowledge or belief of conduct which may constitute harassment or violence prohibited by this policy toward a student, instructor, or other BrightWorks personnel or group of students, instructors, or other



BrightWorks personnel should report the alleged acts immediately to an appropriate BrightWorks official designated by this policy. A person may report conduct that may constitute harassment or violence anonymously. However, BrightWorks may not rely solely on an anonymous report to determine discipline or other remedial responses.

- B. BrightWorks encourages the reporting party or complainant to use the report form available from the Google drive or available from the BrightWorks executive assistant, but oral reports shall be considered complaints as well.
- C. Nothing in this policy shall prevent any person from reporting harassment or violence directly to the associate director or to the executive director. If the complaint involves the associate director, the complaint shall be made or filed directly with the executive director by the reporting party or complainant.
- D. The associate director or executive director is the person responsible for receiving oral or written reports of harassment or violence prohibited by this policy. Any BrightWorks employee who receives a report of harassment or violence prohibited by this policy shall inform the associate director or executive director immediately. If the complaint involves the associate director, the complaint shall be made or filed directly with the executive director by the reporting party or complainant. The executive director shall ensure that this policy and its procedures, practices, consequences, and sanctions are fairly and fully implemented and shall serve as a primary contact on policy and procedural matters.
- E. A volunteer, contractor, or other BrightWorks employee shall be particularly alert to possible situations, circumstances, or events that might include acts of harassment or violence. Any such person who witnesses, observes, receives a report of, or has other knowledge or belief of conduct that may constitute harassment or violence shall make reasonable efforts to address and resolve the harassment or violence and shall inform the associate director or executive director immediately. BrightWorks personnel who fail to inform the associate director or executive director of conduct that may constitute harassment or violence or who fail to make reasonable efforts to address and resolve the harassment or violence in a timely manner may be subject to disciplinary action.
- F. Upon receipt of a report by the associate director, the associate director must notify

the executive director immediately, without screening or investigating the report. If the report was given verbally, the receiving official shall personally reduce it to written form within 24 hours. Failure to forward any harassment or violence report or complaint as provided herein may result in disciplinary action.

- G. The executive committee hereby designates the associate director and the executive director to receive reports or complaints of harassment or violence prohibited by this policy. If the complaint involves the executive director, the complaint shall be filed directly with the chairperson of the executive committee ([Minnesota School Board Association](#)).
- H. BrightWorks shall conspicuously post the names of the associate director, executive director, and chairperson of the executive committee, including mailing address, email address, and telephone numbers.
- I. Submission of a good faith complaint or report of harassment or violence prohibited by this policy will not affect the complainant or reporter's future employment, work assignments, or work environment.
- J. Use of formal reporting forms is not mandatory.
- K. Reports of harassment or violence prohibited by this policy are classified as private educational and/or personnel data and/or confidential investigative data and will not be disclosed except as permitted by law.
- L. BrightWorks 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 the BrightWorks's legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations.
- M. Retaliation against a victim, good faith reporter, or a witness of violence or harassment is prohibited.
- N. False accusations or reports of violence or harassment against another person are prohibited.
- O. A person who engages in an act of violence or harassment, reprisal, retaliation, or false reporting of violence or harassment, or permits, condones, or tolerates



violence or harassment shall be subject to discipline or other remedial responses for that act in accordance with the BrightWorks's policies and procedures.

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

Consequences for other individuals engaging in prohibited acts of violence or harassment may include, but not be limited to, exclusion from BrightWorks property and events and/or termination of services and/or contracts.

V. INVESTIGATION

- A. By authority of BrightWorks, the executive director, within three (3) days of the receipt of a report or complaint alleging harassment or violence prohibited by this policy, shall undertake or authorize an investigation. The investigation may be conducted by BrightWorks officials or by a third party designated by BrightWorks.
- 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, BrightWorks 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, BrightWorks may take immediate steps, at its discretion, to protect the target or victim, the complainant, and students, instructors, or other BrightWorks personnel pending completion of an investigation of alleged harassment or violence prohibited by this policy.

- E. The alleged perpetrator of the act(s) of harassment or violence shall be allowed the opportunity to present a defense during the investigation or prior to the imposition of discipline or other remedial responses.
- F. The investigation will be completed as soon as practicable. The investigating party shall make a written report to the executive director upon completion of the investigation. If the complaint involves the executive director, the report may be filed directly with the executive committee. 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. **BRIGHTWORKS ACTION**

- A. Upon completion of an investigation that determines a violation of this policy has occurred, BrightWorks will take appropriate action. Such action may include, but is not limited to, warning, remediation, or termination. Disciplinary consequences will be sufficiently severe to try to deter violations and to appropriately discipline prohibited behavior. BrightWorks action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota and federal law, and applicable BrightWorks policies and regulations.
- B. BrightWorks is not authorized to disclose to a victim private educational or personnel data regarding an alleged perpetrator who is a student or an employee of BrightWorks. BrightWorks will notify the targets or victims and alleged perpetrators of harassment or violence, the parent(s) or guardian(s) of targets or victims of harassment or violence and the parent(s) or guardian(s) of alleged perpetrators of harassment or violence who have been involved in a reported and confirmed harassment or violence incident of the remedial or disciplinary action taken, to the extent permitted by law.
- C. In order to prevent or respond to acts of harassment or violence committed by or directed against a child with a disability, BrightWorks shall, where determined appropriate by the child's individualized education program (IEP) 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 acts of harassment or violence.

VII. RETALIATION OR REPRISAL

BrightWorks will discipline or take appropriate action against any student, or BrightWorks personnel who commits an act of reprisal or who retaliates against any person who asserts, alleges, or makes a good faith report of alleged harassment or violence prohibited by this policy, who testifies, assists, or participates in an investigation of retaliation or alleged harassment or violence, 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, 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 harassment or violence. Remedial responses to the harassment or violence shall be tailored to the particular incident and nature of the conduct.

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 or another state or federal agency, 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 Minnesota Statutes Chapter. 260E may be applicable.
- B. Nothing in this policy will prohibit BrightWorks 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 at BrightWorks in areas accessible to staff members.
- B. This policy shall be given to each BrightWorks employee and independent contractor who regularly interacts with students at the time of initial employment with the BrightWorks.



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- C. BrightWorks will develop a method of discussing this policy with employees.
- D. This policy shall be reviewed at least annually for compliance with state and federal law.



This form is copied from 413 MSBA Model Policy Manual

BrightWorks

Harassment and Violence Report Form

General Statement of Policy Prohibiting Harassment and Violence

BrightWorks maintains a firm policy prohibiting all forms of discrimination. Harassment or violence against students or employees or groups of students or employees on the basis of race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, including gender identity and expression, or disability is strictly prohibited. All persons are to be treated with respect and dignity. Harassment or violence on the basis of race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, gender identity and expression, or disability by any pupil, teacher, administrator, or other school personnel, which create an intimidating, hostile, or offensive environment will not be tolerated under any circumstances.

Complainant

Home Address

Work Address

Home Phone

Work Phone

Date of Alleged Incident(s)

Basis of Alleged Harassment/Violence - circle as appropriate: race \ color \ creed \ religion \ national origin \ sex \ age \ marital status \ familial status \ status with regard to public assistance \ sexual orientation \ gender identity and expression \ disability

Name of person you believe harassed or was violent toward you or another person or group.

If the alleged harassment or violence was toward another person or group, identify that person or group.



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Describe the incident(s) as clearly as possible, including such things as: what force, if any, was used; any verbal statements (i.e., threats, requests, demands, etc.); what, if any, physical contact was involved; etc. (Attach additional pages if necessary.)

Where and when did the incident(s) occur?

List any witnesses that were present

This complaint is filed based on my honest belief that _____ has harassed or has been violent to me or to another person or group. I hereby certify that the information I have provided in this complaint is true, correct, and complete to the best of my knowledge and belief.

Complainant Signature

Date

Received by

Date