

## **EMPLOYEES WITH HIV-RELATED ILLNESS REGULATION**

### **CONFIDENTIALITY**

#### **A. Definitions**

“HIV-related illness” means any clinical illness that may result from or be associated with HIV infection, including AIDS.

“Protected individual” shall mean a person who is the subject of an HIV-related test or who has been diagnosed as having HIV-related illness.

“Capacity to consent” means an individual’s ability to understand and appreciate the nature and consequences of a proposed health care service treatment or procedure.

#### **B. Confidentiality and Release of Information**

School officials and employees shall keep HIV-related information confidential, however obtained. The information shall not be disclosed to any person, unless the protected individual (or a person with capacity to consent) has completed and signed the Health Department Authorization for Release Form (“Authorization Form”), a court order granted under Public Health Law §2785 has been issued, or the person to whom the information has been furnished is authorized to receive such information under Public Health Law (PHL) §2782 without a release form. Persons authorized to receive HIV information without release include physicians providing care, agencies monitoring such care, and insurance companies for payment purposes. Disclosure to any school personnel requires a release or court order.

If disclosure occurs pursuant to a signed release or order, the information shall only be released to those listed on such form or order, for the time period specified and only for the purpose stated on the form or order.

Such form shall be signed by the protected individual, or when the protected individual lacks the capacity to consent, a person authorized pursuant by law to consent to health care for the individual. Questions in regard to such capacity shall be referred to the school attorney.

#### **C. Penalties**

Persons who disclose confidential HIV information to unauthorized parties or who fail to obtain informed consent for the HJV test may be subject to a \$5,000 penalty and a criminal misdemeanor charge.

#### **D. Procedures**

1. The procedure set forth here shall be followed in any instance where the school district receives confidential HIV-related information concerning an employee from the employee without benefit of an authorization form or court order

(a) the superintendent of schools or building administrator to whom the information has been given may request a meeting with the employee for the purpose of discussing the employee’s condition, concerns and, should the situation arise, modifications to their job. At this point, school or public health personnel may be consulted provided that the appropriate authorization form is obtained. The employee should be apprised of this and asked to sign such release form for personnel whose consultation is needed for delivery of job modification.

(b) If a school officer or employee who has not been made privy to confidential HIV-related information pursuant to an authorization form or court order reasonably believes that any employee may present a clear and imminent danger to an individual whose life or health may unknowingly be at significant risk as a result of contact with the person, s/he should express these concerns to the superintendent of schools who may attempt to obtain an authorization form from the individual or someone else with the capacity to consent.

Should this request be refused, the superintendent of schools may recommend to the Board of Education that the district seek an order for disclosure of confidential HIV-related information, pursuant to Public Health Law §2785

2. The procedures set forth here shall be followed in any instance where the school district receives confidential HIV-related information concerning an employee through the authorization form or through a court order.

- (a) the school staff member who receives disclosure will immediately and directly notify only the superintendent of schools if an authorization form is obtained. If any authorization form is not obtained, the staff member will attempt to obtain one. If this request is refused, the staff member will (1) contact the superintendent of schools to advise awareness of having received confidential HIV information, (2) acknowledge an inability to disclose names, and (3) request guidance and assistance, as needed, from the superintendent of schools and/or school district physician without name disclosure, assuring that confidentiality is honored
- (b) the superintendent of schools may request a meeting with the school district and/or private physician, appropriate school personnel, and the employee for the purpose of discussing the need for job modifications. The superintendent of schools may enlist the expertise of the school district physician, the employee's physician, or any school or public health personnel deemed appropriate by the superintendent of schools provided that the appropriate release forms have been obtained
- (c) (1) If a school officer or employee who has not been made privy to confidential HIV-related information pursuant to an Authorization Form or court order reasonably believes that an employee may present a clear and imminent danger to an individual whose life or health may unknowingly be at significant risk as a result of contact with the person, he/she should express these concerns to the Superintendent of Schools. If the Superintendent of Schools has been given the authority, through the Authorization form, to inform such person(s) who may be at significant risk he/she should attempt to obtain an Authorization Form from the individual or someone else with the capacity to consent. Should this request be refused, the Superintendent of Schools may recommend to the school board that the district seek an order for disclosure of confidential HIV-related information, pursuant to Public Health Law §2785.

(2) If a professional staff member of a school district who has been made privy to confidential HIV-related information pursuant to an Authorization Form or court order reasonably believes that an employee present a clear and imminent danger to an individual whose life or health may unknowingly be at significant risk as a result of contact with the person, he/she should make a referral of the employee to the Superintendent of Schools. The Superintendent of Schools will discuss the matter with the school district physician and attorney to determine if referral to the County Health department is appropriate.

When seeking, the confidential information through either said Form or court order, the Superintendent of Schools may attempt to have the person or court agree to disclose such information to the employee's supervisor and any other personnel the Superintendent of Schools, the district physician, and the school attorney believe are appropriate.

3. If no such consent or court order is obtained, the district shall take no further action in this matter shall instruct the appropriate officers or employees not to disclose information in regard to the case

4. If confidential HIV-related information is obtained, it shall be disclosed only to those individuals listed on the form or pursuant to the court order and only for the purposes specified, for the specified time period.

5. At such time as the Superintendent of Schools receives confidential HIV-related information he/she shall, on a case-by-case basis, review all of the medical information pertinent to the individual situation with the school district physician and with his/her input and recommendation make a determination as to whether the current job responsibilities and setting for the employee meets his or her current and on-going needs or if it is appropriate. In making his/her recommendation, the school district physician shall consider the following factors: (1) the physical condition of the employee and any behavior which might increase the risk of transmission of the virus; and (2) the expected type of interaction with others in the school setting. The Superintendent of Schools may also consult with appropriate public health officials pursuant to article 27-F of the Public Health Law.

Because of the provisions of Article 27-F of the Public Health Law permitting physicians to disclose confidential HIV-related information under certain circumstances, the school physician will be an on-going resource to the superintendent of schools in regard to employees suspected or diagnosed as having HIV-related illness.

The superintendent of schools shall also have the authority to invite the appropriate professional familiar with HIV-related illness to any meeting concerning the job modification for any such employee, providing, however, that such professional is named on a completed and signed authorization form or court order granted under Public Health law §2785.

If an authorization form is not available and the superintendent of schools has concerns about the ability of an employee to carry out job responsibilities, standard procedures for determining disabled/impaired employee status may be initiated without specific disclosure of the diagnosis.

6. Pursuant to Public Health Law Article 27-F, the school district physician may, upon consent of the employee, disclose confidential HIV-related information to a state, county or local health officer for the purpose of reviewing the medical history or an employee to determine the fitness for duty.

#### E. AIDS/HIV Testing

No school official shall require any employee to undergo an HIV antibody test or other AIDS test. However, this policy shall not preclude school officials from ordering an employee to undergo an examination under Education Law §913, when other illness is suspected, as long as no involuntary HIV antibody test or other AIDS test is administered as part of the examination.

#### F. Standards for Avoiding Employment Discrimination

No disciplinary action or other adverse personnel action shall be taken against an employee solely because s/he has AIDS or HIV infection. Action may be taken against an employee only if s/he is disabled *and* the disability interferes with his/her ability to perform in a reasonable manner the activities involved in the job or occupation.

The district shall make such reasonable accommodation to enable the employee to perform employment duties as may be required by federal or state law.

#### G. Procedures for Dealing with All Spills of Blood and Other Body Fluids

1. Treat all persons the same, as if anyone may be a carrier of Hepatitis B, HIVB or other body fluid borne organisms
2. Wash hands with warm water and soap frequently and especially after any potential exposure to blood or other body fluids
3. Cover with bandages all open cuts, blisters, rashes, or abrasions, or oozing lesions. Change dressing if it becomes wet. Extra band-aids and bandages are available in the Health Office.
4. Use disposable gloves when dealing with secretions, vomitus, blood or excretions. Wash hands thoroughly after removal of gloves and discard gloves in a red bag designated for biohazardous waste. If gloves are unavailable and hands become contaminated with a body fluid, scrub hands and nails thoroughly with warm water and soap using much friction for at least three minutes at the first available opportunity. Report exposure to supervisors. Disposable gloves are located in the Health Office, the cafeteria, the custodian's closet, and are available to classroom teachers upon request. It is suggested that each teacher have one pair of gloves in each classroom in the teacher's desk for emergency use.
5. Use eyeglasses or protective goggles whenever spurting blood needs to be managed. If an eye splash occurs, rinse the eye immediately with water or saline and continue the rinse for at least 15 minutes. Report exposure to supervisors. Eyewash bottles are available in the Health Office and science labs. Protective goggles are available in the Health Office.
6. Dispose of needles and sharp objects in a container that is designated for these items and is impervious to penetration. Disposal boxes must be conspicuously labeled "biohazardous" and be kept in a secure location until they can be disposed of at an approved medical waste site according to established district guidelines. Do not bend, clip, break, or attempt to recap needles. Disposal boxes are located in the Health Office.
7. Separate waste receptacles must be designated for biohazardous waste and must be lined with either an impervious red medical waste liner or red double bagged on the outside of a

contaminated waste bag becomes contaminated, the entire bag must be carefully placed into another red bag and securely sealed. Use of disposable gloves is required for the handling of biohazardous waste. Thorough handwashing after handling red bags is essential. Red bags are available in the health office and custodian's closet.

8. Health Offices and bathrooms require daily disinfecting with solution of 1:10 chlorine bleach to *water* or another suitable disinfectant cleaner in all areas at risk for contamination. Any spills that occur in any 'area of the building; require prompt cleanup and disinfecting by staff educated to handle biohazardous waste. Chlorine bleach is available in the Health Office and custodian's closet.
9. Use disposable mouthpieces for resuscitation whenever possible. If mouthpieces' are unavailable and exposure occurs; rinse the mouth thoroughly with water or mouthwash and report exposure to supervisors. Mouthpieces and mouthwash are available in the Health Office.
10. Contaminated cloth or clothing must be placed in double bags for delivery home. Soiled school property should be double bagged, labeled, "Contaminated", and sent to be laundered.
11. Reusable equipment and instruments must be properly disinfected with a solution of 1:10 chlorine bleach to water.

The avoidance of high-risk behaviors that facilitate transmission of the above disease and the use of **universal precautions** should prevent the contraction of HIV and Hepatitis B in virtually all school staff and students under routine circumstances.

Biohazardous waste as it pertains to schools consists of human blood, items **saturated** and/or dripping with human blood (either wet or dried), intravenous bags, sharps, syringes, slides and cover slips from science labs that were in contact with biological cultures or blood or body fluid, soiled dressings, toweling or sponges, human emesis.

The following are not considered to be regulated medical waste, providing the patient is not infected with a known highly communicated disease: disposable towels, gowns, and paper sheeting, **unsaturated** blood-stained bandages, gauze, and cotton swabs and tongue depressors.

However, any additional waste that a health care professional believes may pose a risk may also be handled as a regulated medical waste. Blood and other body fluids from all patients, although regulated, may be disposed of in a sanitary sewer system with the permission of the local sewer district.

#### **ADDITIONAL MATTERS**

In the event of the presence of any contagious or communicable disease (such as chicken pox or measles, etc), in the school population, which may constitute a risk to an infected individual, the superintendent of schools or school nurse, with authorization to obtain confidential HIV-related information may inform the employee. Any temporary decision or recommendation in such circumstances should be made by the individual's personal physician and in consultation with the superintendent of schools, school physician and nurse.

**ADOPTED:** May 7, 1997