

HIV/AIDS REGULATION

Students

1. A student's education shall not be interrupted or curtailed solely on the basis of his HIV status. HIV-infected students shall be afforded the same rights, privileges, and services available to every other student.
2. No student shall be referred to the Committee on Special Education solely on the basis of his HIV status. A student who is infected with HIV shall be referred to the Committee on Special Education (CSE) only when the student's disability interferes with his ability to benefit from instruction. Such referral shall be made in accordance with Part 200 of Commissioner's Regulations.
3. If a student who is HIV-infected requires special accommodations to enable him to continue to attend school, the student shall be referred to the appropriate multi-disciplinary team as required by §504 of the Rehabilitation Act.
4. No disclosure of HIV related information involving a student shall be made without first obtaining the informed consent of the parent, guardian or student on the Department of Health approval form.

Employees

1. No employees shall be prevented from continuing in his employment solely on the basis of his HIV status; such employees are entitled to all rights, privileges, and services accorded to other employees and shall be entitled to reasonable accommodations to the extent that such accommodations enable such individuals to perform their duties.
2. No disciplinary action or other adverse action shall be taken against any employee solely on the basis of his status as an HIV-infected person or a person with AIDS. Such action will only be taken where, even with the provision of reasonable accommodations, the individual is unable to perform his duties.
3. All employees shall have access to the district's exposure control plan.
4. In accordance with PESH regulations, training in standard precautions and infection control shall be offered to all employees and shall be provided to every employee with potential occupational exposure.

Confidentiality

1. Any information obtained regarding the HIV status of an individual connected to the school district shall not be released to third parties, except to those persons who are:
 - named on an Authorization for Release of Confidential HIV Related Information form;
 - named in a special HIV court order; or

- as indicated in Public Health Law §2782, when necessary to provide health care to the individual (i.e., to the school physician and the school nurse).
- 2. Any employee who breaches the confidentiality of a person who is HIV infected shall be subject to disciplinary action in accordance with applicable law and/or collective bargaining agreement.
- 3. To protect the confidentiality of an HIV infected individual, any documents identifying the HIV status of such individuals shall be maintained by the school nurse (or another authorized individual) in a secure file, separate from the individual's regular file. Access to such file shall be granted only to those persons named on the Department of Health approved Authorization for Release of Confidential HIV-Related Information form, or through a special HIV court order. When information is disclosed, a statement prohibiting further redisclosure, except when in compliance with the law, must accompany the disclosure.

HIV/AIDS Testing

No school official shall require a student or employee to undergo an HIV antibody test or other HIV-related test. In accordance with PESH regulations, in the event of an incident involving the exposure of one individual to potentially infectious body fluids of another individual, particularly blood or any other fluid which contains visible blood, an HIV test may be requested, but not required. The request and refusal must be documented.

However, school officials shall not be precluded from requiring a student or employee to undergo a physical examination pursuant to Education Law §§903 and 913, when other illness is suspected (e.g., tuberculosis), as long as no HIV antibody test or other HIV-related test is administered without the individual's informed consent as required by Public Health Law §27-F.