HIV/AIDS POLICY

The Board of Education recognizes the public concern over the health issues surrounding Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS). The Board recognizes, based upon the current state of medical knowledge, that the virus associated with AIDS is not easily transmitted and there is no evidence that AIDS or the HIV virus can be transmitted by casual social contact in the open school setting.

The Board further recognizes the privacy rights of students diagnosed with HIV infection or AIDS and their right to a free appropriate public education; the rights of HIV infected employees to privacy and reasonable accommodations; the rights of all non-infected individuals to a safe environment free of any significant risks to their health; and the rights of all students to instruction regarding the nature, transmission, prevention, and treatment of HIV infection, pursuant to the Commissioner's Regulation, Part 135.3.

No individual shall be denied access to any program or activity sponsored by or conducted on the grounds of the district, solely on the basis of his/her status as an HIV-infected individual.

Students

It is the policy of the Board that:

1. A student's education shall not be interrupted or curtailed solely on the basis of his/her 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/her 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/her 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/her 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 (DOH) approved form. (See *the generic Department of Health Authorization of Release of Confidential HIV Related Information*.)

Employees

It is the policy of the Board that:

1. No employees shall be prevented from continuing in his/her employment solely on the basis of his/her 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/her status as an HIV infected 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/her duties.
3. All employees shall have access to the district's exposure control plan as required by the federal Office of Safety and Health Association (OSHA).
4. In accordance with OSHA regulations, training in universal precautions and infection control shall be offered to all employees and shall be provided to every employee with potential occupational exposure.

Confidentiality

- Any information obtained regarding the HIV status of an individual connected to the school shall not be released to third parties, except to those persons who are:

    1. named on an Authorization for Release of Confidential HIV Related Information form;
    2. named in a special HIV court order; or
    3. 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).

- 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.
- 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 OSHA regulations in the event of an incident involving the exposure one individual to potentially infectious body fluids of another individual, particularly blood or any other fluid that 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.

To implement this policy, the Superintendent of Schools is directed to arrange for staff training, to distribute copies of this policy to all employees of the district, and to include it in the district's student handbook, and to oversee an advisory council to make recommendations on the development, implementation, and evaluation of HIV/AIDS instruction as a part of comprehensive health education.

Cross-ref: 4315.1, AIDS Instruction
5420, Student Health Services
5420-R, Student Health Services Regulation
8123, Hygiene Precautions and Procedures

Ref: 29 USC §§794 et seq. (Rehabilitation Act of 1973)
20 USC §§1400 et seq. (Individuals with Disabilities Education Act)
42 U.S.C. §12132, et seq. (Americans with Disabilities Act)
34 CFR Part 104
29 CFR Part 1910.1030
Executive Law §296 (Human Rights Law)
Education Law §§903; 913
Public Health Law, Article 27-F
8 NYCRR §§29.1(g); l35.3; 136.3
An Implementation Package for HIV/AIDS Policy in New York State School Districts, NYS HIV/AIDS Prevention Education Program, June 17, 1998

1st Reading June 21, 2000
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