

EMPLOYEES WITH HIV-RELATED ILLNESS

The Board of Education recognizes the public concern over the health issues surrounding Acquired Immune Deficiency Syndrome (AIDS) and Human Immunodeficiency Virus infection (HIV). The Board also 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 acknowledges the interests of employees diagnosed as having AIDS or HIV infection in continuing their employment, as well as the interests of all students and employees of the school district to learn and work without being subjected to significant risks to their health. The Board also takes notice that under current law and regulations the disclosure of confidential AIDS and/or HIV-related information must be strictly limited.

Accordingly, it is the policy of the Board of Education that no district employee shall be prevented from continuing his or employment solely on the basis of such information.

In accordance with current law and regulations, it is also the policy of the Board to prevent any employee from being subjected to adverse or discriminatory treatment or stigma solely because he or she has been diagnosed as having AIDS or being HIV-infected.

The Superintendent of Schools is hereby directed to develop administrative regulations in regard to avoiding employment discrimination against individuals diagnosed as having AIDS or being HIV-infected.

The Superintendent shall also implement, and all school personnel shall comply with, guidelines and routine sanitary hygiene procedures for dealing with all spills of blood and other body fluids in or on school premises and grounds. The Superintendent should consult public health officials, as appropriate, for the most current methods and information pertaining to such procedures.

In addition, the Superintendent shall develop and immediately implement inservice education and training for all school personnel concerning AIDS and HIV infection and the routine sanitary hygiene procedures to be followed in the case of all spills of blood and other body fluids.

Reference: Public Health Law, Article 27-F
NY Executive Law 296
U.S. Rehabilitation Act 504
10 NYCRR Part 63
29 CFR § 1910.1030 (proposed)
Arline v. School Board of Nassau County, 692 F Supp 1286 (MD Fla., 1988)
School Board of Nassau County v. Arline, 480 US 273 (1987)

EMPLOYEES WITH HIV-RELATED ILLNESS REGULATION

If information is received regarding an employee's HIV status, the Superintendent of Schools may consult with the school attorney on the appropriate course of action to take under all the circumstances, bearing in mind the District's potential liability for defamation, employment discrimination, breach of the confidentiality requirements of the New York Public Health Law, and other possible causes of action.

Confidentiality

Information obtained pursuant to a Health Department release form or court order is confidential and shall not be released to anyone, except to:

1. persons listed on the said form;
2. persons listed on a court order pursuant to Public Health Law § 2785; or
3. persons authorized to receive such information without a release or court order under Public Health Law § 2782.

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 a part of such examination.

Standards for Avoiding Employment Discrimination

No disciplinary action or other adverse personnel action shall be taken against an employee solely because he/she has AIDS or HIV infection. Action may be taken against an employee only if he/she 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.