

**Someone  
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has AIDS.**

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# **Someone at School has AIDS.**

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## **A GUIDE TO DEVELOPING POLICIES FOR STUDENTS AND SCHOOL STAFF MEMBERS WHO ARE INFECTED WITH HIV**

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**National Alliance of Black School Educators**

**National Conference of State Legislatures**

**National Education Association**

**National School Boards Association**

**National School Nurse Association**

**The Council for Exceptional Children**

**The National PTA**



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## WHICH TERM TO USE: HIV or AIDS?



This guide uses the word "HIV" more often than "AIDS" for the following reasons.

We are accustomed to hearing about AIDS—AIDS policies, people with AIDS, and AIDS education. People also talk about the "AIDS virus," which is HIV (human immunodeficiency virus). Sometimes the words "AIDS" and "HIV" are used as if they have the same meaning. If policymakers understand these words, they will know why researchers urge that we talk about HIV, rather than simply discussing AIDS.

AIDS is a condition that is caused by infection with a virus called HIV. HIV damages the immune system and eventually cripples the body's ability to fight disease. People who are infected with HIV are diagnosed as having AIDS if they develop certain serious diseases or conditions such as Kaposi's sarcoma (a rare cancer), pneumocystis carinii pneumonia, or HIV dementia. Therefore, AIDS is the end stage of HIV infection.

Many more people (perhaps 1.5 million in the United States) are infected with HIV than have developed AIDS. In fact, many people who are infected with HIV will have no symptoms of illness for a long time—sometimes 8 years or more.

Thus, use of the word "AIDS" can cause confusion. The condition called AIDS cannot be spread from person to person. The virus called HIV **can** be spread to other people. People who are infected with HIV, even if they have no symptoms of illness and do not have AIDS, can spread HIV to others through sexual intercourse or sharing contaminated needles. Infected mothers can also pass the virus to their infants before or during birth. A few medical workers have been infected by exposure to infected blood. Some people acquired HIV from infected blood transfusions before blood was screened for the virus, but this is no longer a problem.

HIV is not spread through casual contact. It is not spread through shaking hands, a kiss on the cheek, sharing an office or classroom, or through food that is prepared by a person with the infection. HIV is not spread through sneezing, coughing, mosquitoes, contact with pets, donating blood, swimming pools, drinking fountains, public toilet seats, or door knobs. In short, it is not transmitted easily. It is important that everyone know how HIV is spread and how to avoid infection.

For more information about AIDS, HIV, and education, see the National Association of State Boards of Education's 1988 publication, **Effective AIDS Education: A Policymaker's Guide**. Ordering information is in Appendix I.

# INTRODUCTION



by Katherine Fraser  
National Association of State Boards of Education

Is it safe for students and staff members to work and study at school with people who are infected with HIV? Yes, it is safe.

If this is true, why did we write this long, and sometimes complicated, guide?

If you are like most people, you have been overwhelmed with conflicting information about the "acquired immunodeficiency syndrome," or AIDS. You have many nagging questions. HIV is a new virus, and it causes a devastating disease. There is a great deal of medical, legal, and public health information to help answer your questions about it. But do you have the time to digest it all?

We developed this guide to help state and local policymakers with difficult issues related to HIV and AIDS. Like most people, we were confused by legal and medical terms, and by an avalanche of information. To assist state boards of education with policies, we needed to know accurate answers to questions such as: Who needs to know the identity of a nine-year-old student who is infected with HIV but has no symptoms of illness? What about a student who bites? Which federal laws protect a teacher with AIDS from discrimination? Which policies are needed to help ensure that everyone at school stays healthy?

These questions need answers from experts in different fields—medicine, law, public health, and education. To inform ourselves, and to give our findings to those who need them, we developed this guide.

## **For whom was this guide developed?**

We developed this guide for state and local policymakers. It will also be useful to anyone who wants to know more about AIDS, HIV, schools, and policies.

## **How was this guide developed?**

In May of 1988, we convened a two-day meeting of AIDS experts in law, medicine, public health, and education. We asked these experts to tell us which policies they would recommend to states and local districts for students and school staff members who are infected with HIV. We asked if they could agree upon "ideal policies" that would reflect the best information available.

These experts split into small groups to write policy statements, which were then discussed by the entire group. After long and sometimes heated discussion, the group's recommendations were surprisingly unanimous. Thus, the recommendations that you will read are the product of a good deal of hard work by and cooperation among lawyers, physicians, pediatricians, public health officials, and educators.

## **Why did we ask the committee to develop "ideal policies"?**

We believed that concrete policy statements would be the most useful for states and districts. It has been difficult for non-experts to translate research findings, technical language, and recommendations about HIV into policy statements that districts can use and understand. In addition, we wanted no confusion about what our committee experts recommended.



## **How is this guide organized?**

This guide is divided into several sections. It begins with **Summary Recommendations**, which you should read even if you don't have time to read anything else. Much of the rest of the guide explains why we make these recommendations.

Following the **Summary Recommendations** is the section entitled **Policy Recommendations**, which contains five suggested policy statements on:

- general principles,
- evaluating students and staff members who are infected with HIV,
- confidentiality,
- testing, and
- infection control.

Each suggested policy is followed by a discussion. We have tried to anticipate questions that readers might ask about our policies. Many of these questions were also debated by the committee. We did not want to duck difficult issues; thus, we also discuss various problems that states and districts might encounter with these policies.

We have also added a **Resource** section that discusses HIV education, discrimination, reporting, policymaking, and crisis management. Appendix I provides ordering information for documents that are referenced in this book. Appendix II is a bibliography and offers other sources of information. Appendix III lists our project advisory board.

## **How should this guide be used?**

States and local districts will use this guide differently. We are not encouraging states to require that local districts adopt our suggested policies. Rather, we have provided examples of the kinds of policies that state boards of education may wish to encourage and that districts may wish to adopt. We wanted to provide a guide for reviewing and writing policies, based on the latest information about HIV.

Those who wish to enact or revise policies based on our recommendations should use our suggested policies as a starting point. It is important that they be tailored and refined based on state and local laws and conditions. As stated elsewhere, we strongly believe that policies must be "homegrown" to be effective. The process of developing a policy, especially when it educates the community, can be as important as the policy itself.

We urge, however, that your policies be guided by these facts and principles: that HIV is not transmitted casually, that transmission is not a problem at the school setting, and that individual cases can be handled simply, confidentially, and compassionately.

## **How does this publication differ from other guidelines and recommendations?**

First, our recommendations are based on new information that makes it clear that we need not worry about the transmission of HIV at school. Previously, we needed to be more cautious about the risk posed by children who bite or who lack control of their bodily functions. This concern has not been substantiated by extensive research about HIV.

Second, since HIV transmission is not a problem inside schools, we recommend that decisions about infected students and staff members be made in a standard way, which we describe.

Third, we have found that the legal, medical, education, and public health information that policymakers need is located in a wide variety of publications. The technical language is often difficult to understand. We have attempted to provide a wide range of information in a single place and have avoided jargon whenever possible.

#### **A last word**

Until now, many people have been fearful that HIV could be transmitted at school. We have enough information to stop worrying about this. What we do need to worry about—and the place to put our energy and concern—is into education. We need to ensure that everyone, especially the young people for whom we are responsible, knows about the ways that HIV is spread and how to protect themselves from infection.

## SUMMARY RECOMMENDATIONS



1. **Is it safe for students and staff members to work and study with someone at school who is infected with HIV?**

Yes, it is safe. The "AIDS virus," HIV, is not transmitted by casual, everyday contact. HIV is most often spread through sexual intercourse and sharing contaminated needles, and these activities are obviously prohibited at school.

2. **What does a superintendent need to know about a student or staff member who is infected with HIV?**

When a school official is notified that a student or staff member has any serious disease, school officials should consult with the person's physician and a public health official for two reasons. First, they may be concerned that the disease would be transmitted to others at school. This is a medical question, and it is appropriately answered by the physician and public health official. Since HIV is not transmitted casually, the purpose of the school official's consultation with the physician and public health official is to determine if the person who is infected with HIV has a secondary infection, such as tuberculosis, that might pose a serious risk to others.

The second, and most important, purpose of the consultation is to plan to support and assist a person with a serious disease. School officials should ask if the disease might affect a student's performance at school or how the school might assist with problems that may arise. The infected person, and a student's parents or guardian, can discuss any special needs that require attention.

This is a standard process that districts use for other communicable diseases. HIV infection does not need to be handled differently.

3. **Why might a staff member's job or a student's education program be changed?**

This would happen if medical experts advised the superintendent that something about the infected person's condition posed a serious health risk to others. It would also happen if infected students or staff members needed schedule changes because their physicians had advised them that a significant health problem would permanently restrict their ability to work or attend class.

Superintendents may also worry that diseases in the school environment will harm the health of a person who is infected with HIV. They should ask the infected person's physician if this is a possibility, but they should also realize that final decisions about the health of the infected person are the responsibility of that person and his or her physician.

If a change is needed in job or classroom placement, the superintendent, physician, public health officer, the person who is infected with HIV, and a student's parent or guardian should develop an individually tailored plan. The plan should have minimal impact on either education or employment and should be medically, legally, and ethically sound. A superintendent may wish to consult a school attorney to make sure that any official action is consistent with federal and state law. There must also be a fair and timely procedure for the infected person, or their parents or guardian, to appeal the superintendent's final decision about the case.

4. **Do superintendents always have the legal authority to make the final decision about a student or staff member who is infected with HIV?**

No. The superintendent is used as an example of the decisionmaker to simplify this document. In truth, the person who has this responsibility will vary according to local conditions and laws. In many locations, the superintendent is legally responsible. But in some locations, a public health official, principal, or school board makes the final determination. School officials should consult their state and local laws and their school attorney.

5. **Who needs to know that a student or staff member who is infected with HIV is at school after this information has been brought to the superintendent's attention?**

Only the decisionmakers described above (superintendent, physician, public health official) always need to know. In local districts, persons who are infected with HIV need to consult their physician and the superintendent to determine if anyone else should know. Decisions should be approved by the infected person and a student's parents or guardians.

All persons should treat all information about HIV infection as highly confidential. All medical information and written documentation of discussions, telephone conversations, proceedings, or meetings should be kept by the superintendent in a locked file, with access granted only to those persons who have the written consent of the infected person and a student's parent or guardian.

6. **What happens to students or staff members who are infected with HIV while a decision is being made about whether their physical condition constitutes a health risk?**

The infected person's physician and a public health official can tell the superintendent if there is an immediate reason to remove the person from school. This should not be necessary unless the person has an easily transmissible disease, such as chicken pox. If the person is removed from school, a decision about his or her future schedule should be made quickly, so that he or she can return to school as soon as possible. Long absences from the classroom invite speculation and destroy confidentiality.

7. **Should all students and school staff be tested to make sure that they do not have an HIV infection?**

No. There is no medical, legal, or practical justification for testing all students and staff members for HIV or any other infection that is not spread by casual, everyday contact.



There have been many newspaper stories about school districts that unnecessarily barred students and staff members who are infected with HIV from their classrooms and jobs. The result has been a public relations and legal nightmare for communities, schools, and infected persons and their families. Such incidents show, with painful clarity, what happens when state or local officials are uneducated about HIV, lack policies, or are unprepared to deal with community fear. This guide was developed to help prevent such incidents from happening again.

What policymakers and educators do now will help determine if medically correct decisions are made; if infected persons are treated with respect and compassion; if medical information remains confidential, as required by law; and if the community supports school district actions. The two key elements to success are:

1. A clear, well-informed policy that has been developed collaboratively with a diverse group of community members; and,
2. A community that has been well educated about AIDS, HIV infection, and the rationale for the policy.

The following section presents five suggested policies and related information that states and districts can use to update their own policies and guidelines. The suggested policies are on:

- general principles,
- evaluating students and staff members who are infected with HIV,
- confidentiality,
- testing, and
- infection control.





### **Suggested Policy:**

HIV is not spread by casual, everyday contact. Therefore, barring special circumstances [see **discussion**], students who are infected with HIV shall attend the school and classroom to which they would be assigned if they were not infected. They are entitled to all rights, privileges, and services accorded to other students. Decisions about any changes in the education program of a student who is infected with HIV shall be made on a case-by-case basis, relying on the best available scientific evidence and medical advice.

There shall be no discrimination in employment based on having an HIV infection or AIDS. No school employee shall be terminated, non-renewed, demoted, suspended, transferred, or subjected to adverse action based solely on the fact that he or she is infected with HIV (or is perceived to be infected). School employees who are unable to perform their duties due to an illness, such as those related to HIV, shall retain eligibility for all benefits that are provided for other school employees with long-term diseases or disabling conditions.

All schools shall provide a sanitary environment and establish routines for handling body fluids that are recommended by the Centers for Disease Control.

School districts shall administer a program of on-going education about HIV for students, their families, and all school employees, including full-time, part-time, and temporary professional and support staff to ensure that all are informed in a consistent manner about:

- the nature of HIV infection, including how it is and is not transmitted according to current scientific evidence,
- school district policies and procedures related to employees and students with diseases such as HIV infection,
- resources within the school district and elsewhere for obtaining additional information or assistance, and
- procedures to prevent the spread of all communicable diseases at school.

For non-English-speaking employees and families, this education shall be provided in their primary language, if feasible. In addition, appropriate job-related training shall be provided to specific employee groups. New personnel shall be provided with education about HIV and communicable diseases before beginning work. The development and provision of these programs shall be coordinated with the local department of health.



### **Comments:**

This policy statement is based on the most current information about HIV, the "AIDS virus." Despite extensive research, there is no evidence that HIV is spread through casual, everyday contact. Therefore, infected persons do not pose a risk to others in the school setting and should stay in their classrooms and at their jobs. Each case should be considered individually, confidentially, and with competent medical advice.

The "special circumstances" mentioned in the second sentence of the policy would include instances in which the physician of the person who is infected with HIV has advised that this person:

- has a serious secondary infection, such as tuberculosis, that may be transmitted to others or
- has a significant health problem that will permanently restrict his or her ability to work or attend class.

The mere fact that school employees are infected with HIV is not a cause for suspending them or terminating their employment. In fact, such actions are prohibited under Section 504 of the Rehabilitation Act of 1973 (see page 24). A school district may suspend or terminate an employee who, for any reason, is permanently unable to perform the functions of his or her job. This suggested policy recommends, however, that school districts release employees in such a way that they will retain eligibility for all benefits that are provided for other school employees with long-term diseases or disabling conditions.

Public concern about the HIV epidemic provides a opportunity to stress the need for districts to enact policies for handling all communicable diseases in the schools. This will help ensure a sound process for maintaining a safe, healthy environment for all students and staff members. These policies can discuss two types of diseases: those that are casually transmitted, such as chicken pox, and those that are not casually transmitted, such as HIV. Officials should periodically review policies to ensure that they reflect current recommendations about specific diseases. States can support these efforts by providing updated information to local school districts. They can also offer to periodically review local policies to ensure that they reflect the most current scientific information about communicable diseases.



### **Suggested Policy:**

HIV infection is not transmitted casually; therefore, it is not, in itself, a reason to remove a student or staff member from school. A superintendent who has been notified that a student or staff member is infected with HIV shall follow a standard procedure to ensure the safety of persons in the school setting and to plan to support the person with the illness.

In the case of HIV, the superintendent shall determine whether the person who is infected with HIV has a secondary infection, such as tuberculosis, that constitutes a recognized risk of transmission in the school setting. This is a medical question, and the superintendent shall answer it by consulting with the infected person's physician, a qualified public health official who is responsible for such determinations, and the infected person and a student's parent or guardian. This group shall also discuss ways that the school may help anticipate and meet the needs of the student or staff member infected with HIV.

If there is no secondary infection that constitutes a medically recognized risk of transmission in the school setting, the superintendent shall not alter the education program or job assignment of the infected person. However, the superintendent or designee shall periodically review the case with the infected person (and student's parent or guardian) and the medical advisors described above.

If there is a secondary infection that constitutes a medically recognized risk of transmission in the school setting, the superintendent shall consult with the physician, public health official, and the infected person (and student's parent or guardian). If necessary, they will develop an individually tailored plan for the student or staff member. Additional persons may be consulted, if this is essential for gaining additional information, but the infected staff member, or the parents or guardian of a student, must approve of the notification of any additional persons who would know the identity of the infected person. The superintendent should consult with the school attorney to make sure that any official action is consistent with federal and state law. When the superintendent makes a decision about the case, there shall be a fair and confidential process for appealing the decision. [Local districts may wish to describe this appeal process.]

If an individually tailored plan is necessary, it shall have minimal impact on either education or employment. It must be medically, legally, educationally, and ethically sound. The superintendent will establish guidelines for periodic review of the case and will oversee implementation of the plan in accordance with local, state, and federal laws, including due process and appeal. [Relevant state and local laws should be included here.]

Utmost confidentiality shall be observed throughout this process.



### **Comments:**

The reaction of many school officials, upon learning that a student or staff member in their system is infected with HIV, has been to exclude the infected person from the school and then call together a large committee to decide what to do next. The committee may discuss the case in a series of formal meetings with official notetakers, inviting the participation of



a number of persons, such as attorneys and other community representatives, who are not suggested as decisionmakers in the preceding policy.

Based on today's knowledge about HIV, these actions are no longer necessary. Indeed, they can disrupt the school community and cause needless trauma for infected persons and their families. Outbreaks of meningitis or measles — or individual cases of tuberculosis or hepatitis— do not require large committee reviews. They can be handled competently and confidentially through standard consultations between the responsible school official, the infected person's physician, a public health official, and the infected individual and his or her family.

Our suggested policy describes a simple, standard process for determining whether a person who is infected with HIV has a secondary infection that poses a medically recognized risk of transmission at school. Since medical expertise is needed, the superintendent will consult with medical experts and the infected person (or their family) to make a decision. The physician and public health official can provide an answer with information about the infected person's health and the most up-to-date medical information about HIV and its transmission.

HIV is not transmitted casually, but a person who is infected with HIV would stay home from school if he or she had a secondary infection, such as chicken pox, that is easily transmitted. The person would stay home until the secondary infection had been resolved, as determined by a physician. This is the same procedure that is followed with other infections that can be transmitted at school.

It is natural that superintendents would be concerned about whether diseases in the school environment will threaten the health of a person who is infected with HIV. They should ask the physician about this possibility, but they should also realize that final decisions about the health of the infected person are the responsibility of that person and his or her physician.

### **Other Reasons to Change Classroom Placement or a Job Assignment**

In the future, superintendents will be asked to approve changes in job or classroom placement not because of fear of HIV transmission, but because the infected person's physician has advised that a significant health problem will permanently prevent that person from doing his or her job or attending school regularly. In fact, most people will notify school officials about an HIV infection because they need special accommodation. Districts need to plan for such cases, since they will occur more frequently in the future. School officials need to be ready to offer information about community resources related to health care, counseling, and other sources of help.

Note: Policymakers should be wary of using the word "exclusion" in their HIV policies, since students who are infected with HIV are not excluded from the right to an education, and workers who are infected with HIV are not excluded from the right to employment (see page 24).

### **Potential Problems or Concerns**

Although the great majority of cases of HIV infection at school should offer few difficulties, fears about the virus and the short time it has been recognized may raise a number of questions and concerns. Some of these are discussed below.

#### **1. Confusion regarding appropriate consultation with medical professionals**

The superintendent needs to make decisions in consultation with the infected person's physician, but the physician's role may be difficult. The physician must be assured that school policies adequately protect the confidentiality and rights of infected persons, since

physicians should not agree to such consultations without their patient's approval. With adequate information, physicians and their patients can make informed decisions regarding consultations with school and health officials.

In some cases, the infected person's physician may be unable to help the superintendent answer all of his or her questions. The superintendent should also consult with a public health official who is responsible for such consultations. The official does not always need to know the identity of the infected person to make a recommendation. Some local public health officials may not be experienced with HIV infections in the school setting. If the superintendent needs help in identifying a knowledgeable person, he or she should contact the HIV prevention coordinator in the state health department.

## **2. Instances in which additional persons may be asked to help the superintendent make a decision about a student or staff member who is infected with HIV**

This **Guide** does not suggest that large review committees be convened to evaluate persons at school who are infected with HIV. Yet, there may be instances in which a superintendent may wish to include additional persons—other than the infected person, his or her physician, and a public health official—in the decisionmaking process. The reasons for this may include: the infected person feels that his or her rights would be better served if additional persons were involved; the superintendent is unsure about HIV and wants the support of additional expert advice; district personnel have not been educated about HIV and have strong misconceptions; or, there is disagreement about who should know the identity of the infected person.

The infected person (and parent or guardian) should approve the notification of any additional persons to be involved in the decisionmaking process. **The group of decision-makers should be small and include only those people who need to be involved.** Large groups may have trouble deciding what to do, and the process may become more political than medical.

When policies require that the decisionmakers be convened, the superintendent should quickly determine whether the infected person has a health problem that poses an immediate risk to others through casual contact. If there is no such risk, the infected individual should remain at school while the group meets. For an excellent description of the process that such a group might use in making recommendations to the superintendent, see the Michigan State Board of Education's Model Communicable Disease Control Policy. Ordering information is in Appendix I.

## **4. Misconceptions about hemophilia**

Policies should not discuss "persons who are infected with HIV, who may have hemophilia." Only a small percentage of people who are infected with HIV have hemophilia. In addition, policies that isolate this one group for public attention promote fear of hemophilia.

Bleeding disorders—such as hemophilia—are inherited, and they are not directly related to HIV or AIDS. Some people with hemophilia were infected with HIV because they were treated with infected blood products before the blood supply was screened beginning in 1985. New infections from infected blood products will be rare. Persons who are infected with HIV and have hemophilia are no different from other persons who are infected with HIV. They will not, for example, spontaneously bleed.

If a student or staff member with hemophilia suffers an injury, he or she should receive appropriate attention, and then any spilled blood should be handled in the same way that other spilled blood is handled, with universal precautions that are described by the Centers for Disease Control (see pages 19–21).

## 5. Biting

School officials need not worry about biting as a mode of HIV transmission.

In August, 1985, the Centers for Disease Control (CDC) published guidelines for the education and foster care of children infected with HIV. These guidelines advised caution until more was known about transmission through biting. Today, much more is known. A March, 1988 article by a CDC epidemiologist in the **Journal of the American Medical Association** discusses the risk of spreading HIV through saliva. It concludes that the risk is "extremely low, if present at all."

While HIV has been found in saliva, it is not found very often. In one study, HIV was found in the saliva of only 1 of 83 infected patients. In on-going research, saliva appears to block HIV from infecting healthy cells. Extensive studies of health care workers and children who have been bitten by persons who are infected with HIV have revealed no evidence of transmission. Despite extensive research, HIV transmission through kissing (exposure to saliva) has never been documented.

In summary, biting is not a concern. Still, scientists will state that HIV transmission through biting is "theoretically possible," and this statement frightens some people. "Theoretically possible" means that an event has never happened and is unlikely to happen, but scientists will not state that it is absolutely impossible. In science, there are no absolutes. It is not absolutely impossible for a meteor to fall and destroy your school building, but the chances of this happening are so remote that, for all practical purposes, it is not a concern.

But what about the rare case of a student who bites repeatedly and viciously, drawing blood? Such students have serious behavior problems that threaten the safety of others. This behavior cannot be permitted, whether the biters are infected with HIV or not. Their education program should be altered because of their behavior problem, regardless of HIV infection.

## 6. Cleaning up after "accidents"

Recent data indicate that HIV is not transmitted through contact with urine, feces, tears, nasal secretions, or vomit. In August, 1985, CDC guidelines were cautious about the possibility that HIV could be spread by children who lack control of their body functions. This cautiousness implied that cleaning up after childhood accidents, such as urinating or defecating, might transmit the virus. According to a 1988 Centers for Disease Control report, "The risk of transmission of HIV and HBV [hepatitis B virus] from these fluids and materials is extremely low or nonexistent" (see the **Morbidity and Mortality Weekly Report** of June 24, 1988, Appendix I). Thus, school officials should not worry about HIV transmission through handling urine, feces, tears, nasal secretions, or vomit; however, these fluids should always be cleaned up safely to prevent the spread of infectious diseases.

For cleaning up blood, the most current CDC "universal precautions" should be followed. There is a very low risk that HIV could be transmitted through exposure to blood at school, but universal precautions are not cumbersome or difficult, and they will protect school staff from hepatitis B, HIV, and other diseases. For more information, see the section on Infection Control, pages 19-21.

Finally, persons infected with HIV are in schools; in many cases, no one knows this. Infected persons do not always know that they are infected. If they do know, they do not always share this information with school authorities. Commonsense handling of body fluids, and CDC-recommended universal precautions for handling blood, should be followed at all times with all fluids. This will provide the best protection for everyone.

## **7. Contact sports and other school activities**

People with health problems should participate in their normal activities whenever possible. Their physicians will help them decide if their health problems will require them to change their work schedule or their activities, including participation in sports.

If a superintendent is concerned that a person who is infected with HIV will participate in activities such as contact sports, the superintendent should discuss this with the infected person's physician and a public health official. There is no special reason to worry about transmitting HIV through participation in contact sports, such as wrestling, if CDC universal precautions are followed with injuries involving blood (see pages 19–21). These are commonsense, simple procedures for preventing the spread of disease. Coaches and students should be trained in the proper techniques of first aid. This will keep them healthy and provide protection from a wide range of infections, including HIV.

## **8. Special concerns about the modes of HIV transmission: sexual intercourse and the sharing of contaminated needles at school**

### **Students**

Activities that transmit HIV are prohibited by existing district policies and procedures. When students break these rules, and they sometimes do, they are at risk for a range of serious health problems. They can be suspended, and expelled if necessary, regardless of the HIV epidemic. \*\*

In addition to maintaining discipline and order, schools need to establish comprehensive school health programs that can help prevent student drug use and irresponsible sexual behavior. Young people need to develop the skills to make wise decisions about their health. This includes avoiding the activities that transmit HIV, at school and elsewhere.

### **Staff Members**

Staff members who are infected with HIV do not pose a risk in the school setting, since they are never allowed to have sexual relations or engage in intravenous (I.V.) drug use on school facilities. School employees have ethical, as well as legal, responsibilities; they are role models for young people. Any employee who engages in activities at school that are likely to transmit HIV to students or other staff will be subject to discipline pursuant to school district policies. School districts may wish to review their policies to ensure that such activities are clearly prohibited.

\*\* If the student who violates these rules has disabilities and is provided services under P.L. 94-142, the superintendent needs to obtain the advice of counsel concerning discipline.



### **Suggested Policy:**

The people who shall know the identity of a student or school staff member who is infected with HIV are those who will, with the infected person and a student's parent or guardian, determine whether the person who is infected with HIV has a secondary infection that constitutes a medically recognized risk of transmission in the school setting. They are as follows:

1. The superintendent, or a person designated by the superintendent to be responsible for the decision
2. The personal physician of the infected person
- \*\* 3. A public health official

\*\* Note: Public health officials do not always need to know the infected person's name. This practice will vary according to state laws and the particular case. In some instances, the official will study facts of the case without needing to know the identity of the student or staff member to make a decision.

### **Notification of Additional Persons**

The decisionmakers listed above and the person infected with HIV (and a student's parent or guardian) will determine whether additional persons need to know that an infected person attends or works at a specific school. The additional persons will not know the name of the infected person without the consent of the infected person and a student's parent or guardian. Depending on the circumstances of the case, the following persons may know about the person who is infected with HIV, but do not know his or her identity:

1. The school nurse
2. The school principal or designee

Additional persons may be notified if the decisionmakers feel that this is essential to protect the health of the infected student or staff member, or if additional persons are needed to periodically evaluate or monitor the situation. Consent for notifying these additional persons must be given by the infected person (and a student's parent or guardian).

### **Confidentiality**

All persons shall treat all information as highly confidential. No information shall be divulged, directly or indirectly, to any other individuals or groups. All medical information and written documentation of discussions, telephone conversations, proceedings, and meetings shall be kept by the superintendent in a locked file. Access to this file will be granted only to those persons who have the written consent of the infected staff member or the infected student's parent or guardian. To further protect confidentiality, names will not be used in documents except when this is essential. Any document containing the name, or any other information that would reveal the identity of the infected person, will not be shared with any person, not even for the purposes of word processing or reproduction.

Any school staff member who violates confidentiality will: (Districts should insert appropriate wording about disciplinary procedures, based on existing personnel policy and negotiated personnel agreements. Staff should be advised of the seriousness of confidentiality requirements and that a breach could make them liable to a lawsuit).

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### **Comments:**

A strong policy on confidentiality is essential if schools are to maintain an atmosphere of trust with families, students, and staff members. For this to happen, people who are infected with HIV must feel certain that their names will not be released, against their wishes, to people who have no need to know. Those who have experienced community fear and rage have stated that if they could do it all over again, they would never notify school officials about an HIV infection.

A policy on confidentiality that is strictly enforced will also provide protection to the school district from legal action and from the adverse publicity and community response that is likely to follow. There are serious penalties for violating state and federal laws that protect the confidentiality of health records.

### **Who needs to know the identity of, or about the presence of, a student or staff member who is infected with HIV?**

Since HIV is not transmitted through behaviors that are permitted at school, the identity of a student or staff member who is infected with HIV need not be shared with many people. Further, the more people who know, the greater the chance that one of them will reveal the name and expose the system to a civil suit. No single set of rules fits all circumstances, but all decisions should be made cooperatively with the infected person or a student's parents or guardian.

Staff members who are infected with HIV can decide whether they want their colleagues or students to know about the illness, but no one needs to know. Students and their families should consult with the superintendent if they would like to be notified by the school nurse when there are illnesses reported in the school that may threaten the health of the student. If a school is large, or there is no school nurse, the family may wish to notify a principal, teacher, or other staff member. The superintendent, the infected student, and the family should discuss whether the infected student could use the support of, for example, a school counselor. Parents of a student with AIDS may consider telling a sympathetic teacher, principal, or other staff member who can provide support. A physician can assist the family in making these decisions.

For specific information about special education students, see the section on federal legislation on discrimination and protection for the handicapped (page 24).

## Potential Problems or Concerns:

Staff members may express different concerns. Some staff members do not want to know if a person who is infected with HIV is at school; they may be afraid of liability or feel that they don't need to know. Others are afraid of HIV and will argue that they need to know who is infected, so that they can take special precautions in the case of accidents involving blood.

Teachers may also want to know about any serious problem that could affect a student's academic performance. If a student who is infected with HIV is coping with a serious illness, a teacher can provide support, and if necessary, tailor classroom lectures or materials to the student's situation. Some community members will also feel that someone at school or other community members need to know the names of infected students or staff members.

All these concerns can be met with education about HIV transmission and the rationale for this policy—before there is an infected student or employee at school. The desire of staff members and students to know the identity of infected persons must be weighed against the damage done when confidentiality is needlessly violated against the wishes and advice of affected persons, their physicians, and public health officials.

It is also essential that staff members understand that **no one will always know which students or staff are carrying transmissible diseases**, even if district policies require that this information be reported to school authorities. The infected persons do not always know. If staff members only use correct procedures for handling body fluids when they **know** that someone has a communicable disease, then they are using those procedures carelessly and incorrectly.

Because immunizations may cause illness in students with immune deficiencies, principals may learn that a student is infected with HIV when they are asked to approve an immunization waiver. The principal should ensure that other school staff do not learn about the infected student by seeing the waiver, which should state that the student is "immune compromised" rather than "infected with HIV." The principal may wish to conduct communications about the student by telephone, rather than by using written documents. Parents and physicians should mark any relevant letters "confidential," and only the school principal should read them.

Some existing policies allow school officials to notify a community, without revealing the person's name, that someone who is infected with HIV attends or works at a given school. This notification is unnecessary, and it will violate confidentiality in small communities or within an individual school, where the infected person's identity may be quickly guessed.




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## **Suggested Policy:**

Mandatory screening for communicable diseases that are not spread by casual, everyday contact, such as HIV infection, shall not be a condition for school entry or attendance, or for employment or continued employment.

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## **Comments:**

There is no medical reason for routinely testing students or school staff for evidence of HIV infection. (This policy does not apply to diseases, such as tuberculosis, that are transmitted more easily.) It is important, however, that voluntary counseling and testing for HIV antibodies be offered, encouraged, and made available at facilities outside of the school. It is also important that staff members and students know where they can obtain counseling and testing services.

### **Should school officials require an HIV antibody test if they suspect that a student or staff member is infected?**

In a word, no. School officials should be aware of two facts. First, there are very few, if any, instances where an HIV antibody test could be required of anyone. Applicants for certain federal jobs are an exception; in other instances, state laws describe the process for requiring a test for sexually transmitted or other diseases. Procedures for the latter are formal, require proof that the infected person is threatening the health of others, and are typically initiated by public health officials.

Second, state and local policies should be coordinated with department of health procedures and regulations. Public health officials have the knowledge and responsibility to evaluate whether an HIV antibody test might be required, but school officials do not. In addition, public health professionals operate outside the school system, an arrangement that protects the school system from liability and accusations of discrimination.

A staff member who believes that someone at school may be transmitting HIV to other people at school can approach the principal (or superintendent) and convey this information. If having sexual intercourse or sharing needles within the boundaries of school properties is a concern, it should be handled on its own. If the principal is seriously concerned about health conditions at the school, then he or she should contact a local, county, or state health official.

The school official, by notifying a public health official, will protect the confidentiality of anyone involved and minimize any embarrassment and trauma. This precaution will also prevent unnecessary excitement among other students and school staff. It is not anticipated that any staff member or employee would be involved in conduct that would warrant the notification of a public health officer. If a staff member is involved in conduct that could spread HIV at school, local policies or contracts will handle the matter.

See page 24 for more information about the rights of persons who are infected with HIV.

### **Are there Constitutional issues involved if a school official requires that someone at school be tested for HIV antibodies?**

Yes. The United States Constitution prohibits unreasonable search and seizure, and the Supreme Court has ruled that the taking of blood is a search. It is unlikely that a court would consider an HIV antibody test reasonable.





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## Suggested Policy:

School districts shall follow (district or state guidelines) to prevent the spread of diseases at school. Districts shall also follow the **most current** Centers for Disease Control (CDC) "Universal Precautions for Prevention of Transmission of Human Immunodeficiency Virus, Hepatitis B Virus, and Other Bloodborne Pathogens in Health-Care Settings."

As prescribed by CDC guidelines, training about techniques for preventing the spread of infectious diseases shall be comprehensive and shall be provided for **all** staff. The training shall include a demonstration of procedures and an opportunity for hands-on experience to demonstrate proficiency.

The superintendent shall be responsible for the effective implementation of these programs and procedures, which shall be developed in collaboration with local or state health agencies.

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## Comments:

HIV transmission is not a problem at school, but the HIV epidemic has made educators pay more attention to commonsense standards for keeping schools clean and healthy for students and school staff. This long-overdue improvement fosters a better environment for teaching and learning.

### How should body fluids be handled to prevent HIV transmission?

There is no evidence that HIV has been transmitted through contact with vomit, nasal discharge, saliva, urine, vomit, or feces (see pages 13–14). Still, these body fluids commonly transmit infections such as hepatitis A, colds, flu, and cytomegalovirus. Staff members should not clean up body fluids with their bare hands; instead, gloves or paper towels should be used. Good handwashing and disinfection of exposed surfaces such as floors and furniture is essential. Mops should be rinsed in disinfectant. Recommended procedures are described in the National Association of School Nurse's **Guidelines for the Handling of Body Fluids in the School Environment** (see Appendix I for ordering information). Such procedures are common sense and do not require extraordinary effort or equipment.

### What is the risk that HIV could be transmitted through exposure to blood at school?

Extremely low. Even in health care settings, the risk of transmitting HIV is very low, although health care workers are routinely exposed to blood. Needlestick accidents present the most risk, but data indicate that the rate of HIV transmission following needlestick accidents is less than one percent.

### How should blood be cleaned up?

These procedures are described in the **most current** Centers for Disease Control (CDC) "Universal Precautions for Prevention of Transmission of Human Immunodeficiency Virus, Hepatitis B Virus, and Other Bloodborne Pathogens in Health-Care Settings" (1988) and "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers" (1989). See Appendix I for ordering information.

Universal precautions describe how to prevent the spread of diseases that are transmitted through exposure to blood. CDC precautions are recommended because they are based on the most current research and are updated as necessary. They describe necessary techniques and also avoid advocating overcautious, unnecessary procedures.

Routine scrapes and cuts present no special problem. When possible, students should be encouraged to take care of their own minor injuries. They can wash the cuts and apply bandages. Employees who help clean minor cuts and scrapes should remember that getting blood on their own unbroken skin is not a risk. HIV cannot penetrate unbroken skin. Hands must, of course, be washed afterwards.

Large blood spills—as from serious nosebleeds or cuts—should be handled according to CDC universal precautions. This has always been true, although the HIV epidemic has underscored the need. Employees should provide a barrier between their skin and the blood of others. This can be done with rubber gloves. Teachers or coaches can also encourage students to apply pressure with their own hand over a bloody nose or wound, and the teacher can press down on the student's hand. A thick layer of paper towels or cloth can also provide a barrier.

### **What about training?**

Demonstration combined with practice is the best way to teach school employees how to clean up body fluids. This is better than distributing written materials. Techniques are best demonstrated by qualified professionals, and hands-on experience shows whether or not employees understand the procedures. Demonstration is also helpful for staff members who have difficulty reading or understanding English.

CDC Guidelines recommend that training in infection control techniques be a condition of employment. All staff should be so trained, particularly staff members who interact with students in “casual” settings; for example, on the playground, in the school bus, or in the classroom where first aid is delivered.

Collaboration between education and health officials at state and local levels is the best way to set standards and teach these procedures. Since community education is a local responsibility, states need to actively assist and support local efforts to enact and carry out policies.

### **Why do some guidelines recommend the use of rubber gloves at school?**

Hospital workers use rubber gloves when they clean up body fluid spills to help prevent the spread of germs. Some guidelines recommend that school personnel do the same. Yet, many school staff members are not accustomed to using rubber gloves, and the new emphasis on infection control may scare some of them. It may discourage them from comforting or assisting injured students. School employees commonly assist students with their injuries, and they should know that the risk of HIV transmission through assisting injured students is extremely low, if present at all. Handwashing afterwards is the most important precaution they can take.

To allay fears, programs must be carefully planned and presented. School employees need to understand about the transmission of HIV and other infectious diseases before they learn how to control the spread of diseases at school. Employees need to understand that rubber gloves are recommended to prevent the spread of many diseases, not just HIV.

School personnel may argue that rubber gloves are not always required to clean up body fluids, particularly since HIV is not casually transmitted. This is true, but the CDC and other

guidelines do recommend such precautions. Although gloves may not be necessary in every situation, it may be better to be overly cautious.

### **Potential Problems or Concerns:**

Procedures for handling body fluids are difficult to enforce. Program planners need to consider how to monitor the way that injuries are treated and body fluids cleaned up. In addition, funding for training and materials must be budgeted. Disposable gloves are not prohibitively expensive, but items such as soap, paper towels, disinfectants, bleach, mops, pails, dust pans, plastic bags, and running water also need to be readily available.

Even when adequate funding exists, some educators consider infection control procedures too costly and time consuming. These educators would rather know the identity of persons who are infected with HIV, so as to exercise special care with just those persons. When these concerns arise, they offer the opportunity to stress that school employees and students bring a variety of diseases to the school setting. Commonsense procedures will help prevent students and employees from transmitting a range of infections to each other, including colds and the flu. This is why it is best to treat all body fluids as if they were infectious.

In large districts where it is difficult to train everyone, videotapes for training can be purchased or developed. Videotapes may be of limited value, however, since experience has shown that some people misinterpret techniques and may, for example, contaminate themselves by the way they take off rubber gloves.

### **Medical Equipment and Procedures in the School Setting**

Schools accommodate children who have a variety of medical conditions. HIV infection aside, school staff members have been asked to perform complicated medical procedures for students, such as giving injections, cleaning tracheal tubes, and applying catheters. A few students who are not infected with HIV, but who have other health problems, are unable to attend school without special medical equipment, such as respirators. Policymakers need to give careful thought to adequate training if teachers and other school staff members will be asked to assist students with medical procedures or equipment.

# RESOURCE INFORMATION



## GENERAL PRINCIPLES FOR HIV EDUCATION

A good resource for developing an HIV education program is the "Guidelines for Effective School Health Education to Prevent the Spread of AIDS" published by the Centers for Disease Control. The following principles should be stressed:

1. Education about HIV infection will be most appropriate and effective when carried out within a comprehensive program of school health, K-12, that establishes a foundation for understanding the relationships between personal behavior and health.

However, HIV education should be provided as rapidly as possible, even if it is taught **initially** as a separate subject. Lessons should be repetitive and should accommodate new students.

The exact grade at which students receive this essential information should be determined locally in accordance with community and parental circumstances. HIV education in schools and communities needs to be age appropriate, scientifically accurate, and consistent within the community. Students need to hear the same information at school, at home, and in the community.

2. A team of representatives, including the local school board, parent-teacher associations, school administrators, community and school physicians, school nurses, teachers, educational support personnel, school counselors, and other relevant school personnel, should be involved in the development of HIV education programs.
3. HIV education programs should address the needs of school-aged youth who are not in school. School officials should use their resources and experience to help educate this hard-to-reach population. Schools can work collaboratively with other agencies; when such collaborations do not exist, schools can initiate joint projects between schools, health agencies, and other community resources.
4. HIV education programs should address the specific needs of minorities, non-English-speaking persons, and persons with visual or hearing impairments or other learning disabilities.
5. Those who teach about HIV should be comfortable with the subject before they are required to teach it. Thus, adequate training is an integral part of an effective HIV education program. Teachers who have been trained, but still feel uncomfortable about providing this instruction, should not be forced to do so.
6. Teachers should have a variety of approved materials to draw from and should have the latitude to exercise professional judgment in the use of these materials.
7. The local school board, parent-teachers associations, school administrators, school physicians, school nurses, teachers, educational support personnel, school counselors, and other relevant school personnel should receive general information about HIV so that messages to youth are consistent. Therefore, two levels of in-service training are necessary: training for teachers who will teach the subject; and, general training for all school employees about the disease and infection control procedures.

8. Compassion for persons infected with HIV needs to be stressed in any HIV education program. Students and staff should understand that people with AIDS or HIV infection face not only physical illness, but often social rejection. The fight against AIDS and HIV infection is against a health problem and not against people.
9. Teachers who instruct students about HIV should consider the opportunity provided by "teachable moments," such as the death of a teacher or student, to convey the seriousness of HIV infection.
10. School districts should be prepared to deal with parents who wish to exempt their children from class when HIV education is taught. Districts should consider holding students accountable for information by requiring an alternative assignment and grading that assignment.
11. Evaluation studies are needed to determine if HIV education programs are working. Are students and school staff members avoiding behaviors that could expose them to HIV?

Some teachers who have received adequate training still feel uncomfortable teaching about HIV. If this is so, they are unlikely to teach effectively and should be allowed to decline. Otherwise, they are likely to convey their fears to the students, give a mixed message, and inhibit students from asking questions. Teachers who are uneasy should also be given strategies that will help them feel more comfortable and confident. It is important to phrase information positively; that is, avoid the approach that "HIV is a subject matter that is very difficult to teach and will probably make you feel uncomfortable."

It is also important that teacher training institutions provide instruction about HIV and other diseases, routine infection control procedures for the school, and comprehensive school health programs. It is particularly important that special education teachers be better prepared for dealing with communicable diseases in the school setting. A student with severe disabilities who has been institutionalized and hospitalized may have been exposed to diseases such as hepatitis B.

Schools should take the initiative to educate parents about HIV education programs. Parents sometimes object to the programs because of rumors they have heard, and they should be given the opportunity to see the materials that the school will use. One good approach is a "parent's night" when parents can look at the HIV education curriculum and talk to the teachers. It is useful to invite a medical professional to give a presentation about HIV at such meetings. This gives parents the opportunity to learn the latest information about HIV and helps them to reinforce classroom lessons about HIV prevention at home. Schools can also offer materials to parents who do not want their children to receive HIV education at school, but would prefer to teach about HIV at home.

Teaching compassion for people who are infected with HIV may be controversial if it leads to discussions about tolerance for people with lifestyles of which communities disapprove. The Michigan Department of Education's AIDS curriculum, by reminding young children about how upset they feel when they are sick, stresses attitudes of caring and concern for others who are ill. Michigan's high school lesson helps students understand the needs of people with HIV infection or AIDS. Students list different ways to help care for a person who is ill and learn about places where people with AIDS can get help. The lesson gives

students the opportunity to discuss economic, insurance, and ethical issues related to H.I.V., including state laws prohibiting discrimination. In summary, the lesson suggests that the teacher:

Explain to the students that all of us will be affected by the AIDS epidemic. Sometimes when discussing statistics, medical costs, and research, we forget the people who are suffering or dying from this epidemic. All of us must be prepared to help others, and to protect ourselves and the ones we love.

For copies of the Centers for Disease Control's "Guidelines for Effective School Health Education to Prevent the Spread of AIDS" or Michigan's curriculum, see Appendix I. For writing AIDS education policies, see **Effective AIDS Education: A Policymaker's Guide**, Appendix I.

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## **PERTINENT FEDERAL LEGISLATION ON DISCRIMINATION AND PROTECTION FOR THE HANDICAPPED**



### **Federal Legislation:**

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against individuals who have handicaps, including individuals with AIDS and HIV infection, as long as they are "otherwise qualified" for their jobs. Reasonable accommodations must be made for these persons, if necessary to help insure their qualification for a position or services. Students and school staff are not "otherwise qualified" if, even with reasonable accommodation, they cannot do the job for which they are hired; or, if they pose a significant risk of communicating an infectious disease to others and reasonable accommodation would not eliminate that risk. Conflicts about the latter point are resolved by the courts, which base their decisions on the reasonable medical judgments of public health officials.

The Education for All Handicapped Children Act (Public Law 94-142) protects the right to a free and appropriate public education for students with disabilities who require special education programs. Students who are covered under this statute must both have disabilities **and** be in need of special education and related services.

Policymakers should ensure that all policies developed for students and school staff who are infected with HIV are consistent with the provisions of Section 504, P.L. 94-142, and state handicap discrimination laws and special education statutes. Otherwise, federal and state funding may be jeopardized, and the schools will be vulnerable to lawsuits. Policies recommended in this document are consistent with these statutory provisions.

### **Discussion:**

There are four issues to consider:

1. **Policymakers should assume that students and school staff members who are infected with HIV are protected against discrimination under Section 504 of the Rehabilitation Act of 1973.**

In 1987, the Supreme Court determined that a person with a communicable disease may be considered "handicapped" under Section 504. Subsequent federal courts found that Section 504 prohibits discrimination against people who are infected with HIV and people with AIDS. In September of 1988, the U.S. Department of Justice issued a legal opinion

stating that people with AIDS and people who are infected with HIV are covered under Section 504. Therefore, if the job of a staff member or the education program of a student is changed simply because that person is infected with HIV, there are grounds for a lawsuit.

An HIV infection does not, by itself, threaten the health of others in casual settings. However, actions **can** be taken under Section 504 to guard against contagious diseases that are more easily transmitted and pose a health risk to others. Such decisions should be made in consultation with public health officials, who can determine if a risk exists.

As an example, students who are infected with HIV can be on an athletic team if they are "otherwise qualified" for the team, that is, if their skills and physical condition qualify them to join. HIV infection cannot be the basis for exclusion from the team, unless it can be proven that the student athlete poses a direct health threat to others. If a student who is infected with HIV qualifies for the team, but the coaches are concerned about exposure to blood after an injury, reasonable accommodation might require the coaches and team members to learn and practice approved procedures for handling blood and other body fluids.

**2. A student who has disabilities and participates in a special education program, and who subsequently becomes infected with HIV, is covered under P.L. 94-142.**

Some students who are infected with HIV participated in a special education program **before** they became infected. Therefore, their education program has been developed in accordance with P.L. 94-142.

Education officials need to ensure that policies for persons at school who are infected with HIV do not conflict with the provisions of P.L. 94-142. Specifically, only an individualized education program (IEP) team has the legal authority to change a special education student's program, if such an action is necessary. School officials and others who make decisions about persons who are infected with HIV should not usurp the IEP team's responsibility to change a student's program.

If a superintendent becomes aware that a special education student is infected with HIV, the process should be the same as for other persons infected with HIV. The superintendent should discuss the case with the student's parent, their physician, and a public health official. If there is no risk to the school community, and therefore no need to change the student's education program, then the IEP team need not consider the case. The superintendent may wish to consult a representative from the special education department to provide continuity and ensure that the IEP team's responsibilities are not being violated.

If the special education student does need a change in his or her program, the IEP team must meet. As discussed on page 26, a medical expert might be asked to join the IEP team to help plan the student's program. The IEP team must make special efforts to ensure that the student's confidentiality is not violated needlessly during this process.

**3. The health of students who are infected with HIV may deteriorate to the point where they need modifications in their education programs. Changes, when they are necessary, can be made in accordance with P.L. 94-142.**

Students who are infected with HIV, and who did not have disabilities before their infection, may eventually need changes in their school program because of deteriorating health. If they both have disabilities and need a special education program, they will be covered by P.L. 94-142. Also, parents have the right to initiate the procedures that are available under P.L. 94-142 to seek eligibility for a special program.

Two special considerations are connected with this issue. First, there has been confusion about whether infected students who have no disabilities are covered by P.L. 94-142 and should be placed in special education programs. State policies have been unclear on this issue. Students who are infected with HIV should not be placed in special education classes simply because of the infection, particularly if the student has no symptoms of illness. A school system can be sued for violating Section 504 if an infected student is unnecessarily segregated in a special education classroom.

Similarly, students who are infected with HIV may need to alter their classroom schedule from time to time because of illness, but they can also have long periods without illness. They should be treated like other students who have occasional illnesses, unless the parents request otherwise. These students do not need a special education program.

Second, there needs to be a smooth transition from a basic to a special program if the health of an infected student deteriorates to the point where this is necessary. For this to happen, state special education statutes must clearly allow students who are infected with HIV and in poor health to receive special programs and services. State policymakers should examine their special education statutes, particularly their definition of students who would receive services under the category of "Other Health Impaired." Each state has defined which conditions will be covered under this category, but these definitions were written before anyone knew about HIV. Statutes may be unclear about whether a student who is infected with HIV and needs special education and related services may receive them.

**4. A student who already receives special education services may be re-evaluated under P.L. 94-142 if the student may pose a risk of transmitting HIV or other diseases to other people.**

If a superintendent has determined that a special education student with a long-term communicable disease may pose a risk to others, procedures outlined by existing special education laws and regulations can be used to determine whether the student's education program needs to be changed. This process provides protection for both infected and non-infected persons. Medical experts, such as the student's physician or a public health official, can help the IEP team to ensure that the student receives a free, appropriate education and that the health of others is protected. The IEP team will want to examine the classroom setting and the nature of the risk.

Communicable disease policies for special education students need to be flexible, so that the IEP committee can consider questions such as: What kinds of behavior would pose a health risk to other students, and how can these be handled best? What other kinds of children are in the special education classroom with an infected student? Is the teacher appropriately trained to handle the situation? Does the classroom have the necessary equipment to clean up blood spills? Should more information be requested? Do other persons need to join the IEP team?

State policymakers may need to issue guidelines for local districts on evaluating special education students who have communicable diseases, such as hepatitis B, HIV, or others. States should provide guidance on modifications to the IEP team so that potential risks can be properly evaluated. States should also provide guidance on evaluating the health conditions of special education classrooms.

Section 504 policies and compliance officers already exist in local districts. Districts should ensure that these policies and officers are consulted as communicable disease policies are developed.



## REPORTING



School officials may wonder if they need to report cases of HIV infection to health officials. They should know that the parties who are typically responsible for making such reports include physicians, laboratories, hospitals, and clinics. Thus, schools should not report cases of AIDS or HIV infection unless state law explicitly requires this reporting.

In general, communicable diseases are reported to public health officials to enable them to describe the extent and patterns of the spread of a disease, in order to target public health resources for treatment, control, and prevention. Reportable conditions and reporting mechanisms are defined by state and local public health laws. These laws define the disease to be reported, who makes the report, the content of the report (including types of identifiers, if any, on the infected persons), and who in the public health department receives the report.

Virtually all states require that AIDS cases be reported to state or local health officials. An increasing number of states also require that cases of HIV infection be reported. AIDS cases are likely to be identified with a name and address, but states that require reporting of HIV infection often do not require that other "identifiers" be attached.

### **What is the responsibility of a school staff member who becomes aware that someone who is infected with HIV works at or attends a school?**

Schools should make sure that they are **aware** of and that they **follow** appropriate state and local laws. Staff members need to understand state laws regarding reporting of communicable diseases; district policy; liability for reporting or not reporting, or for breaking confidentiality; and, sources for further information (such as the state attorney general's office). Revealing the infection status of a student or staff member in a way that is inconsistent with state and local laws represents a breach of confidentiality and will not aid public health efforts.

Employees should be educated so that they can offer information if they learn that a person who is infected with HIV attends school. They should be well briefed to explain the district's policy and to refer colleagues, a student, or a student's parents to other sources of information and counseling, such as AIDS service agencies, the clergy, or a public health agency.

If parents tell a staff member confidential information about their child's health, the staff member is put in an awkward position. If a district policy requires that communicable diseases be reported to school officials, then the staff member can explain the policy and urge that the parent notify the appropriate person. A better approach is for district policies to urge parents to report student health problems to the appropriate district official, assuring that cases will be handled individually and confidentially. When such policies are enacted, districts need to appoint a responsible official to receive reports. Parents need to know who this person is and how to contact him or her.

If a staff member reports information about a student's health condition to a district official in good faith and in accordance with state laws and district policy, the staff member may not be legally liable for divulging the information. Yet, staff members should be careful, since they can be sued for sharing confidential information with someone who does not need to know it. Effective district policies and programs will do much to minimize fear and misinformation so that persons who are infected with HIV (or their parents) and their personal physicians will not hesitate to notify school officials about health problems when this notification is medically appropriate.

As with other medical conditions, staff members who are infected with HIV will not routinely inform school officials unless: (1) their physicians advise them that a significant health problem will permanently prevent them from doing their job, (2) their illness requires special accommodation from the school, or (3) they may transmit a disease to others. For many staff members who are infected with HIV, none of the conditions above would apply.

It is also important that employees and students know how to handle gossip, founded or unfounded, regarding students or staff members who may be infected with HIV. Employees and students should be able to explain that transmission of HIV is not a problem at school and that the superintendent (or other responsible person) handles cases individually and confidentially. People conveying hearsay (fact or fiction) should not be able to find out whether or not the superintendent has already reviewed the case of a person who is suspected of being infected with HIV.

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## **GETTING YOUR DISTRICT READY FOR A RATIONAL APPROACH TO STUDENTS AND STAFF WHO ARE INFECTED WITH HIV**



As a school official, sooner or later you will receive the inevitable phone call telling you that a student or staff member is infected with HIV or has AIDS. What you do now will help determine if there is a full-blown crisis or if the situation is handled confidentially, compassionately, and effectively. The following sections discuss collaborative policy development and planning to handle a potential crisis.

### **Collaborative Policy Development**

The way you develop policies about communicable diseases, such as HIV, and the way you educate others about those policies is critically important. Therefore we suggest that you:

- Develop policies collaboratively with health and education officials and staff members to reflect education, health, and legal requirements;
- Review and revise your policies annually to reflect the latest research from reliable sources about the disease;
- Write policies in clear language so that a wide variety of people, including students, can understand them; and
- Write or review your policies **now**.

A good policymaking process includes the following elements, whether the issue is drug education, teen pregnancy prevention, textbook selection, or cases of HIV infection. The ten basic steps are:

- Step 1:** Gather existing information on state and federal laws and model policies, existing district policies, and the most current scientific and medical information. In states that have collective bargaining agreements, the adoption of the policy may be a subject for bargaining between the school board and the employee union.
- Step 2:** Identify sources for assistance, including local community experts, and state and national agencies and organizations.

**Step 3:** Form the committee that will develop the policy. The committee should include:

- A broad range of community representatives who offer diverse perspectives on the issue, for example, the health department, parents, the clergy, hospitals, and the PTA. Try to involve as many constituents and community special interest groups as possible, such as those who work with intravenous drug users, run-aways, homeless youth, and the gay community, so that you can obtain a full range of opinions and broad support.
- Medical and legal experts who are knowledgeable about HIV and infectious diseases.
- School representatives, including: administrators, teachers (including representatives of associations and unions), students, clerical workers, building maintenance workers, school nurses, cafeteria workers, bus drivers, support staff, and other employee unions.

**Step 4:** Educate the committee and hold a study session for the school board about HIV infection and other relevant issues, thereby providing an opportunity for members to share their knowledge, attitudes, and fears. You may want to invite a non-committee medical or public health expert from, for example, the state health department, to give a presentation and answer questions.

**Step 5:** Identify the policy issues that must be addressed. Find out which issues are already covered by state and federal law. Then, develop a list of topics that must be addressed. These would include: the procedure for evaluating the job placement/educational program of infected staff and students, provisions for review and appeal, "universal precautions" and other guidelines for handling body fluids, considerations for special education students, confidentiality, and student and staff education.

**Step 6:** Prepare a first draft of the policy. Have committee members share this draft with their constituencies, gather opinions, and report back to the full committee.

**Step 7:** Prepare the final draft of the policy.

**Step 8:** Present the draft to the school board. Begin the policy adoption process, which may include public hearings.

**Step 9:** Inform the community about the policy. Hold information sessions for the media and concerned groups such as the PTA.

**Step 10:** Set guidelines for periodically reviewing and evaluating the policy.

In summary, there are four important points:

1. A policy development process is an educational process. The process of making policy, if sound, will reveal soft points where additional work is needed. A good process is creative and can change people's minds.
2. The process of policymaking may be as important—or more important—than the policy itself.
3. Though it may seem like re-inventing the wheel, policies must be "homegrown" to be effective. Local districts need to develop their own policies. Even if several districts adopt the same policy, it is essential to the policy's success for communities to make it their own.

4. A policy is only as good as the message that is conveyed to the general public. This means that policymakers must find effective ways of educating the community.

## **Planning to Manage a Crisis**

Even if you have a sound communicable disease policy, a day may arrive when the presence of a student or staff member infected with HIV or diagnosed with AIDS causes some community members to become alarmed. The best way to avoid this situation is to have already developed policies collaboratively and to have educated the community about HIV and the rationale for the policy. Still, since an unexpected crisis may cause considerable damage, policymakers should accompany their policies with an action plan. This plan will outline who will manage a potential crisis and what they will do.

**Critical elements of an action plan to manage a crisis:**

**By what it says and what it does, the district must convey its effective management of the situation.**

- **Act with confidence**, even if you are in a new situation and are not completely sure what to do. If you do not provide strong management, a vacuum will develop that is likely to be filled by destructive leadership. This can damage all your best efforts in developing a policy and educating the community.
- **Identify a single, effective spokesperson** who can represent the district in a calm, well-informed, and sensitive manner. The spokesperson should be a board member or top school official who receives special preparation for this role. Once a spokesperson is chosen to handle a crisis, he or she should be the **only** person speaking publicly on the issue. The school community should know the spokesperson's identity so that they can refer media questions to that person.

Consistency of the message is essential in reassuring the community that the matter is being handled competently. When training spokespersons, use analogies. For example, board members should not discuss child abuse cases with the press. Similarly, the district must protect the confidentiality of an person who is infected with HIV.

- **Use your connections** (for example, with the PTA and the clergy) to reach out to those who may not be typically involved in a crisis, but are leaders in the community, formally or informally.
- **Make certain that procedures to protect the confidentiality** of the infected student or staff member are "airtight." Even if there is some public knowledge about the case, the school district must never disclose the person's identity, location, or even gender. In some cases, people who are infected with HIV have willingly identified themselves, and communities have rallied around that person or their family. But the decision to "go public" must be made by people who are infected with HIV and their families.
- **Establish and maintain effective working relationships with the media.** Educate and brief the media on your policies, especially on confidentiality, so that you will not look defensive in a crisis. Tell them, before the first public case of HIV infection in the schools, what kind of information you can give them and what kind must be kept confidential. Also, examine your policies and procedures regarding the presence of news media personnel inside schools or on school property.

States and communities have had great successes working cooperatively with the media. Consider that many potential crises turn into "non-events" when the crisis is averted. Because they are success stories, they are seldom reported.

- **Be prepared to deliver intensive in-service and community education programs to the school/community in crisis.** Develop a plan for using school and public health officials, as well as community leaders, to reassure concerned parents and the public. In educating the public, it is best to make no assumptions about how well a school or community member understands the facts about HIV and AIDS, regardless of that person's title or profession. Provide the facts and give everyone a chance to have their questions answered by a medical authority who is knowledgeable about HIV and other infectious diseases.
- **Recognize the potential minority dimensions of the issue.** Respect the needs and interests of minority groups. Beware of condescending language. Some people do not appreciate language that stresses that AIDS education materials need to be "culturally sensitive" to minorities, since such statements can sound insulting. Find people who can deliver education in a way that is understood and trusted by the community members they are addressing. It is important to develop education strategies in cooperation with local organizations that are in touch with a community being addressed. Information needs to be appropriately presented. For example, one Spanish version of a brochure will not serve all Hispanic communities, not all of which use the same vocabulary, share the same life experiences, or have the same cultural background.

There is a possibility of "dual bias" on the part of a community; that is, discrimination on the basis of HIV, and discrimination on the basis of color or ethnicity. School districts may have to handle both issues, and this will complicate a potential crisis. It is important to stress that HIV is transmitted by risky behavior, not by "risk groups." Anyone can be infected if they engage in activities that may expose them to HIV.

- **Identify an expert in conflict resolution,** in case one is needed. Policymakers should identify, in advance, potential sources for help with resolving conflicts. Superintendents and administrators who have already resolved AIDS-related conflicts in their communities can be particularly helpful. They can share practical tactics that have helped settle a crisis. A superintendent who is facing a potential or real crisis can place a confidential call to the state department of education to discuss the situation and obtain referrals to people in the region who have handled a similar problem. State departments of education can aid superintendents by keeping a list of people and organizations that can offer assistance. Other resources include the organizations that helped develop this publication, other national and state education associations, the National Council of Churches, and the Community Relations Service at the U.S. Department of Justice. The publication by Jonathan Chace of the Community Relations Service is very helpful (see Appendix I). For more information, contact the AIDS education coordinator in your state department of education.

Representatives from state departments of health and education, with advice from a public relations expert, can form a "response team" that is available when communities request it, especially in an immediate crisis. A state team can help a community write policies, educate the public, interact with the media, and resolve conflicts. For a discussion of the role of state teams in regard to students or school staff who are infected with HIV, see the National Association of State Boards of Education's **Effective AIDS Education: A Policy-maker's Guide** (to order, see Appendix I).

## APPENDIX I



### ORDERING INFORMATION FOR PUBLICATIONS MENTIONED IN THIS DOCUMENT

#### State of Michigan

For information about ordering the **Michigan Model for Comprehensive School Health Education K—6: AIDS Education Supplement** or **Model Communicable Disease Control Policy with Considerations when Developing District Communicable Disease Control Policy and Position Paper on Dealing with School-Age Children and School Staff who have Contracted AIDS**, write to the Michigan State Department of Education, School Program Services at P.O. Box 30008, Lansing, Michigan 48909.

#### U.S. Centers for Disease Control

Single copies of the following articles are available free from the National AIDS Information Clearinghouse at P.O. Box 6003, Rockville, Maryland 20850. Phone: (301) 762-5111. The Clearinghouse is a direct source of free, government-approved HIV education materials, including brochures and posters. Staff specialists can answer questions, make referrals, and suggest publications pertaining to HIV. A Spanish-speaking specialist is available, and selected materials are available in Spanish, Chinese, Portuguese, and braille.

"Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers," **Morbidity and Mortality Weekly Report** 38 (June 23, 1989).

"Guidelines for Effective School Health Education to Prevent the Spread of AIDS," **Morbidity and Mortality Weekly Report: Supplement** 37 (January 29, 1988).

"Update: Universal Precautions for Prevention of Transmission of Human Immunodeficiency Virus, Hepatitis B Virus, and Other Bloodborne Pathogens in Health-Care Settings," **Morbidity and Mortality Weekly Report** 37 (June 24, 1988).

"Education and Foster Care of Children Infected with Human T-Lymphotropic Virus Type III/Lymphadenopathy-Associated Virus," **Morbidity and Mortality Weekly Report** 35 (August 30, 1985).

Orders for bulk quantities of publications can be placed through the Clearinghouse's toll-free telephone line: (800) 458-5231.

#### National Association of State Boards of Education

To order the following publications, write to the Association at: 1012 Cameron Street, Alexandria, VA 22314. Phone: (703) 684-4000.

**Effective AIDS Education: A Policymaker's Guide** (July, 1988). \$7.00, prepaid. Inquiries about bulk rates are encouraged.

**The NASBE HIV/AIDS Education Survey: Profiles of State Policy Actions** (August, 1989). \$7.00, prepaid.

**AIDS and Urban American: A Policymaker's Guide** (September, 1989).

## Other Publications and Sources of Information

Chace, Jonathan. "Advice to School Superintendents: Planning for the Admission of Students with AIDS and Managing Potential Adverse Community Reaction." Single copies may be requested free from: Jonathan Chace, Regional Director, Community Relations Service, U.S. Department of Justice, Room 309, Custom House, Second and Chestnut Streets, Philadelphia, PA 19106. The Community Relations Service is a source for information about a number of HIV-related issues, including a special interest in minority communities. For information about the latter issue, contact Frank Tyler at (215) 597-2344.

Lifson, Alan R., MD, MPH. "Do Alternate Modes for Transmission of Human Immunodeficiency Virus Exist? A Review." **Journal of the American Medical Association** 259 (March 4, 1988): 1353-1356. One copy of this article may be obtained free from Dr. Lifson at the AIDS Office, San Francisco Department of Health, 1111 Market Street, 4th Floor, San Francisco, CA 94103. If you need multiple copies, please ask Dr. Lifson for permission to duplicate them yourself.

National Association of School Nurses. **AIDS Document**. This document contains the "Guidelines for the handling of body fluids in the school environment" that were referenced in this document. Copies of the **AIDS Document** are available for \$7.00 from the National Association of School Nurses, P.O. Box 1300, Scarborough, Maine 04074.

The Council for Exceptional Children, in cooperation with the Association for the Advancement of Health Education and the U.S. Centers of Disease Control, conducts an HIV education project that focuses on children and youth with handicaps. They have evaluated materials that are available or could be adapted for youth with handicaps. The Council has also published guidelines for evaluating HIV education curricula and materials for special needs populations. For more information, contact Ginger Katz, Department of Professional Development at The Council for Exception Children, 1920 Association Drive, Reston, VA 22091. Phone: (703) 264-9494.

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## APPENDIX II

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