

Sample Comprehensive HIV Policy for Schools: Pre-K - 12

Preamble

The evidence is clear that the risk of transmitting Human Immunodeficiency Virus (HIV) is extremely low in school settings when proper guidelines are followed. The presence of a person living with HIV infection or diagnosed with acquired immunodeficiency syndrome (AIDS) poses no significant risk to others in school, daycare, or school athletic settings. HIV is not transmitted through casual contact and, therefore, is not reason in itself to treat individuals having or perceived as having HIV differently from other members of the school community. HIV is a bloodborne pathogen and is treated as such in the same manner as any other bloodborne pathogen.

School/District/Supervisory Union shall strive to protect the safety and health of children and youth in its care, and its employees, recognizing:

- the rights of students and employees with HIV;
- the importance of maintaining confidentiality regarding the medical condition of any individual;
- the importance of an educational environment free of significant risks to health; and
- the necessity for HIV education and training for the school community and the community-at-large.

Rights of Faculty/Staff

I. Equal Employment

School/District/Supervisory Union does not discriminate on the basis of an employee's HIV infection or association with another person with HIV infection. No applicant shall be denied employment and no employee shall be prevented from continued employment on the basis of having or being perceived as having HIV.¹ In accordance with the Americans with Disabilities Act of 1990, an employee with HIV infection is welcome to continue working as long as he or she is able to perform the essential functions of the position, with reasonable accommodations if necessary.²

Rights of Students

II. School Attendance

A. A student with HIV infection has the same right to attend school and receive services as any other student and will be subject to the same rules and policies as any student without HIV. Except as deemed appropriate to accommodate students with disabilities, HIV infection shall not factor into decisions concerning class assignments, privileges, or participation in any school-sponsored activity.^{3&4}

¹ 21 V.S.A. § 495(a) (6) and (7)

² 42 U.S.C. §12101 et seq., American with Disabilities Act

³ 29 U.S.C. § 794, 34 C.F.R. § 104.1 et seq., The Rehabilitation Act of 1973 (Section 504)

- B. The special education coordinator, Section 504 coordinator or other designated school authorities will follow established policies and procedures for students with chronic health problems or students with disabilities to determine on a case-by-case basis the educational placement of a student known to be infected with HIV.⁵ Respecting students' and families' privacy rights school authorities may consult with the student's parent or guardian, seek waiver from parent/guardian to consult with the student's physician, and reassess the placement if there is a change in the student's need for accommodations or services.

Rights for Students and Staff

III. Nondiscrimination

- A. *School/District Supervisory Union* is committed to providing a learning environment and workplace free of discrimination. School staff members will strive to maintain a respectful school climate and not allow physical or verbal harassment against a student or staff member based on their HIV positive status.⁶ This includes conduct directed against a person living with HIV infection, a person perceived as having HIV infection or a student or employee's family member's actual or perceived status as HIV positive.
- B. This school district shall not discriminate against an applicant, prospective or current student on the basis of a person's having a positive test result from an HIV-related diagnostic test.⁷

IV. Confidentiality of HIV-related Information and Testing

- A. *School/District/Supervisory Union* will protect the student's and family's privacy rights consistent with state and federal law pursuant to the *School/District/Supervisory Union* Student Records Policy and Employment Records Policy.
- B. No school official shall require HIV-related testing of any employee applicant, current employee or prospective or current student for any purpose.⁸
- C. Students, students' parents/guardians, or applicants/employees are not required to disclose HIV status to any school personnel.⁹
- D. Service providers, including those dispensing medication, will maintain student confidentiality. Unless for the limited purpose of an exception of state law, federal law, the Student Records policy, or the Employee Records policy that applies, school personnel shall not disclose any HIV-related information about a prospective or current school personnel or students to anyone except in accordance with the terms of a written consent.¹⁰ The superintendent shall develop a written consent form (see Appendix A)

⁴ 42 U.S.C. §§ 2000d and 2000e, Title IV, Civil Rights Act of 1964 and as amended by the Equal Employment Act of 1972

⁵ 20 U.S.C. §1400 et seq., 34 C.F.R. § 300, Individuals with Disabilities Education Act (IDEA)

⁶ 18 V.S.A. §1127(a); see also 16 V.S.A. §§11(a) (26); 14; 565 regarding discrimination based on disability

⁷ 18 V.S.A. § 112 7

⁸ 18 V.S.A. § 112 7(a)

⁹ 18 V.S.A. § 112 7(b)

¹⁰ 1 V.S.A. § 317(b)(7) and (11)

which provides for a description of information to be disclosed, to whom it may be disclosed, its specified time limitation, and the specific purpose for the disclosure. The school district shall not discriminate against any individual who does not provide written consent.

- E. All health records, notes, and other documents that reference a person's HIV status will be kept confidential.¹¹ Access to these confidential records is limited to those named in written permission from the person or parent/guardian and to emergency medical personnel.

Health Protections and Universal Precautions

V. Infection Control

HIV is a bloodborne pathogen. Therefore, infection control for HIV is to be addressed in the same manner as any other blood borne pathogen.

- A. *School/District/Supervisory Union* shall comply with applicable Vermont Occupational Safety and Health Administration (VOSHA) rules in order to protect employees who are reasonably anticipated to be exposed to blood borne pathogens as part of their regular job duties.¹²
- B. The superintendent or his/her designee shall determine those employees (by job class and possibly by task or procedure) who are reasonably anticipated to have occupational exposure to blood or other potentially infectious materials as part of their duties. These employees will be protected in strict accordance with the provisions of the Bloodborne Pathogens Standards.¹³
- C. A written Exposure Control Plan concerning bloodborne pathogens, which includes the use of universal precautions, shall be developed, maintained and followed.¹⁴

Curriculum, Instruction and Extra-Curricular Activities

VI. HIV/AIDS Prevention Education

The school district shall provide systematic and extensive elementary and secondary comprehensive health education including education on HIV infection, other sexually transmitted diseases as well as other communicable diseases, and the prevention of disease.¹⁵

VII. Athletics

- A. Participation in physical education classes, athletic programs, competitive sports, and recess is not conditioned on a person's HIV status. School authorities will make reasonable accommodations to allow students living with HIV infection to participate in school-sponsored physical activities.¹⁶

¹¹ 20 U.S.C. § 1232g The Family Education Rights and Privacy Act, 1974 (FERPA)

¹² 29 U.S.C. §§653, 655, and 657 Occupational Safety and Health Act of 1970

¹³ 29 U.S.C. §§653, 655, and 657 Occupational Safety and Health Act of 1970

¹⁴ 29 C.F.R. § 1910.1030 Occupational Exposure to Bloodborne Pathogens Standard

¹⁵ 16 V.S.A. § 131 et seq., § 906

¹⁶ 29 U.S.C. § 794, 34 C.F.R. § 104.1 et seq., The Rehabilitation Act of 1973 (Section 504)

Cross References: See _____ School District's:

- A. Policy# _____ for Prevention of Harassment of Students
- B. Policy# _____ for Prevention of Harassment of Employees
- C. Policy# _____ for Confidentiality Student Records
- D. Policy# _____ for Confidentiality Employee Records
- E. Policy# _____ for Educational Support Systems
- F. Policy# _____ for Special Education
- G. Policy# _____ for Section 504
- H. Policy# _____ for Student Discipline
- I. Policy# _____ for Employee Discipline
- J. Policy# _____ for Health Insurance Portability and Accountability Act (HIPAA) Compliance
- K. Bloodborne Pathogens Exposure Control Plan
- L. See Applicable Collective Bargaining Agreements

Date Warned: _____

Date Adopted: _____

Recommended Best Practice Additions for HIV Policy

Privacy and Confidentiality:

1. The superintendent shall develop procedures which ensure confidentiality in the maintenance and, where authorized, dissemination of all medically-related documents (see Appendix A).
2. Information regarding HIV status will not be added to a student's permanent educational or health record without written consent.

Health Protections:

1. All employees shall consistently follow universal precautions guidelines on school property at all times, including at school-sponsored events, on school playgrounds and on school buses (see Appendix C).
2. Students and staff not covered by the Bloodborne Pathogens Standard shall be instructed to avoid contact with potentially infectious materials and blood and shall immediately contact a member or the staff who is covered by and trained in the exposure control plan. When this is not possible, any person providing assistance shall follow universal precautions (see Appendix C).
3. The superintendent or his/her designee shall provide annual training to all staff and students about the hazards of bloodborne pathogens, the recommended operating procedures of universal precautions, the existence of the VOSHA required exposure control plan, individuals or job classes to be notified in order to safely handle or clean up blood or other body fluid spill safely, and the location and use of appropriate protective equipment and first aid devices.
4. The superintendent or his/her designee shall provide training on the recommended operating procedures of universal precautions to teaching substitutes and school volunteers.

Student Health Services:

1. All students will have access to voluntary, confidential, age and developmentally-appropriate counseling about matters related to HIV infection.
2. School administrators will maintain referral information to facilitate confidential and voluntary student access to HIV counseling, and testing, and other HIV-related services.
3. Public information about resources in the community will be kept available for voluntary student use.

HIV/AIDS Prevention Curriculum and Instruction:

1. The comprehensive health education program will:
 - be provided in accordance with the Vermont Department of Education *Guidelines for the Development of an HIV/AIDS Education Program in Vermont Schools*;
 - be taught at every level, kindergarten through grade 12;
 - be consistent with community standards;
 - include current HIV epidemiology, methods of transmission and prevention, universal precautions, and psycho-social aspects of HIV;
 - be appropriate to students' developmental levels, behaviors, and cultural backgrounds;
 - build knowledge and skills from year to year;
 - stress the benefits of abstinence from sexual activity, alcohol, and other drug use;
 - include accurate information on reducing risk of HIV infection;
 - address students' own concerns;
 - include means for evaluation;
 - be an integral part of a part of a skills-based comprehensive health education program;
 - be taught by well-prepared instructors; and
 - involve parents and families as partners in education.
2. The superintendent shall designate a coordinator to oversee the district's HIV education plans and programs.
3. The school board shall establish a comprehensive health education community advisory council to assist the school board in developing and implementing comprehensive health education including HIV education. The school board shall provide public notice to the community to allow all interested parties to apply for appointment. The school board shall endeavor to appoint members who represent various points of view within the community regarding comprehensive health education.
4. The superintendent or his/her designee shall create a plan to ensure that all school employees, including newly hired staff, receive training regarding current HIV epidemiology, methods of transmission and prevention, universal precautions, psycho-social aspects of HIV, related school policies and procedures, and where appropriate, teaching strategies. The superintendent shall report annually to the school board regarding implementation of this plan.
5. The school district shall provide for parents, families, students and the community, opportunities for education, discussion, and the development of recommendations about a comprehensive HIV prevention education plan (including the promotion of abstinence, condom availability, and non-discrimination of people living with the disease). Educators, administrators, and health professionals shall be involved in such activities.

Athletics:

1. All employees shall consistently adhere to infection control guidelines in locker rooms and all play and athletic settings. Rule books will reflect these guidelines. First-aid kits will be on hand at every athletic event.
2. All physical education teachers and athletic program staff will complete an approved first-aid and injury prevention course that includes implementation of infection control guidelines.
3. Student orientation about safety on the playing field will include guidelines for avoiding HIV infection.

Staff Development:

1. All school staff members will participate in a planned HIV education program that conveys factual and current information; provides guidance on infection control procedures; informs about current law and state, district, and school policies concerning HIV; assists staff to maintain productive parent and community relations; and includes annual review sessions.
2. As necessary to meet their responsibilities, employees will also receive additional specialized training.

Policy Dissemination:

1. On an annual basis, school administrators will notify students, their family members, and school personnel about current policies concerning HIV infection, and provide convenient opportunities to discuss them.

Appendices

Appendix A

Procedures for Maintaining Confidentiality and Sample Written Consent Form

Appendix B

Sample Authorization for Release of Medical Information

Appendix C

Universal Precautions for School Staff

Appendix D

Annotated Legal References

Appendix E

Resources for HIV/AIDS Assistance Information

Recommended Best Practice Procedures for Maintaining Confidentiality

To maintain an atmosphere of trust with staff members, students, families, and the community, a policy that encourages confidentiality is essential. It is important that people who have the Human Immunodeficiency Virus (HIV) and their families feel certain that their names will not be released against their wishes to others without a need to know. A policy on confidentiality that is strictly enforced will also provide protection to the school district from potentially adverse reactions that might result, including legal action.

To protect the confidentiality of student and/or employee medical records, the school district/supervisory union will comply with federal and state law and follow its Student Records Policy or Employment Records Policy. In addition to compliance with the applicable laws and policies, the following procedures are suggested:

1. All medical information in any way relating to the HIV status of any member of the school community, including written documentation of discussions, telephone conversations, proceedings, and meetings shall be kept in a locked file. Unless an exception applies under federal law, state law, the Student Records Policy or the Employment Records Policy, access to this file shall be granted only to those persons identified in writing by the student or student's parent/guardian. Filing and photocopying of related documents may be performed only by persons named in the written consent.
2. Because of the potential for breach of confidentiality, no medical information shall ever be faxed or e-mailed.
3. Medically-related documents that are to be mailed shall be marked "Confidential." Names of persons mailing documents and those receiving the documents shall be identified on the written consent form by the student or student's parent/guardian, or the applicant/employee.
4. A written consent form shall be completed prior to each disclosure and release of HIV-related information (sample attached).
5. Each disclosure made shall be noted in the student or employee's personal file. The list of such disclosures shall be made available to the student, parent/guardian, or employee upon request.
6. Schools shall comply with Vermont Occupational Safety and Health Administration (VOSHA) rule §1910.20 which concerns maintenance of and access to employee medical records. [Note: §1910.20 is incorporated by reference into §1910.1030 (h).]

Sample Authorization for Release of Medical Information

Date: _____

To: Primary Care Provider _____
(name & address) _____

From: Parent/Guardian _____

Please send information about my child _____ whose date
of birth is _____ to:

Health Services Office
Anywhere Elementary School
123 School Street
Anywhere, US 12345

Please send all pertinent information regarding _____

Signature of
Parent/Guardian: _____

**Universal Precautions
for School Staff and Independent Contractors
Bloodborne Pathogens • Significant Contagious Disease**

Bloodborne Pathogens

Research shows that the risk of getting a significant contagious disease in a school setting is extremely small. However, school staff and contracted personnel in the school need to decrease the possibility of exposure to bloodborne pathogens.

Significant contagious disease (SCD) includes cytomegalovirus (CMV), hepatitis B virus (HBV) and human immunodeficiency virus (HIV) infections. The local board of health or the state health officer may determine that other diseases are significant contagious diseases.¹

“Universal Precautions” means protecting oneself from exposure to blood or body fluids through the use of latex gloves**, masks or eye goggles; cleaning blood and body fluid spills with soap and bleach solution and water; and disinfecting and incinerating or decontaminating infected waste before disposing in a sanitary landfill.¹

¹ North Dakota Administrative Rules, Sections 33-06-05.1-01, 33-06-05-02, 33-06-05.1-03

None of these are Modes of Transmission of Bloodborne Pathogens

- Sharing Restrooms
- Bathroom Fixtures
- Drinking Fountains
- Hugging
- Eating with Carriers
- Mosquitoes
- Working & Studying with Carriers
- Playing with Carriers
- Swimming Pools
- Shaking Hands
- Eating Food Prepared by Carriers

Modes of Transmission

"The two common methods of spreading HIV are having sex with an infected individual and using contaminated needles to inject drugs." (Surgeon General's Report to the American Public on HIV Infection and AIDS)

Universal Precautions in the School Setting

Reduce the risk of exposure to bloodborne pathogens by using universal precautions to prevent contact with blood and body fluids.*

BEGIN BY ATTENDING TO THE INJURED PERSON:

- Whenever blood and body fluids are present, a barrier (latex rubber gloves**, thick layer of paper towels, or cloth) should be used to minimize exposure of the attending person while the injury is cleansed and/or dressed.
- Soiled clothes of the injured person must be bagged to be sent home.
- Place waste in a plastic bag for disposal.
- Remove gloves and dispose in plastic bag.
- Thoroughly wash hands with soap.

CLEAN AND DISINFECT ENVIRONMENTAL SURFACES:

- Whenever cleaning and disinfecting environmental surfaces in which blood and body fluids are present, a barrier (rubber utility gloves durable enough to withstand environmental cleaning and disinfecting, thick layer of paper towels, or cloth) should be placed between the blood and attending person.
- Use disposable paper towels or other disposable materials to remove blood and body fluids.
- Disinfect the affected area(s) and cleaning tools with a commercial tuberculocidal disinfectant (mixed according to manufacturer's specifications) or bleach solution (approximately 1/4 cup common household bleach per gallon of tap water, mixed fresh daily).² The affected surface being disinfected should remain wet for several minutes.
- Secure all waste in plastic bag for disposal.

CLEAN UP FOR ATTENDING PERSON:

- Remove gloves and dispose and secure in a plastic bag.
- Immediately apply soap. Thoroughly wash hands with soap by rubbing hands together (avoiding scrubbing hands). Pay particular attention to finger tips, nails and jewelry. Rinse with fingers pointing downward.
- If running water and soap are not immediately available, a waterless antiseptic cleaner or moist towelette may be used until hands can be thoroughly washed (use of antiseptic cleaner or towelette is NOT a substitute for hand washing.) **WASH HANDS AS SOON AS POSSIBLE.**

* **Body fluids that contain blood.**

** **Non-latex gloves should be available for any staff member who has a known latex allergy.**

² Centers for Disease Control and Prevention Guideline for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-care and Public Safety Workers. MMWR Vol. 38/No. S-6:1-37, 1989.

Annotated Legal References

1. 1 V.S.A. §317 (7) and (11) - Subsections (7) and (11) are two exceptions to the Vermont law requiring disclosure of public records. Subsection (7) deals with medical records of employees and subsection (11) deals with student records at public schools.
2. Section 504 of the Rehabilitation Act (29 U.S.C. §794) - This federal law (popularly known as "Section 504") prohibits discrimination against persons with disabilities by entities receiving federal funds.
3. 18 V.S.A. §112 (7) - This Vermont public health law prohibits school districts from requiring HIV testing of any applicant, or prospective or current students and prohibits discrimination against an applicant, or prospective or current student on the ground that the person has tested HIV positive.
4. 21 V.S.A. §495(a)(6) and (7) - These provisions prohibit employers, employment agencies, labor organizations and persons seeking employees from discriminating against persons who have a positive test result on an HIV-related blood test and from requiring employees or prospective employees to take an HIV-related blood test as a condition of employment, membership, classification, placement or referral.
5. Individuals with Disabilities Education Act (20 U.S.C. §1400, et seq.) - This federal law (popularly known as "IDEA" or "P.L. 94-142") requires states and school districts to provide special education and related services to eligible students with disabilities.
6. Title VI, Civil Rights Act of 1964 as amended by the Equal Employment Act of 1972 (42 U.S.C. §§2000d and 2000e) - These federal provisions authorize enforcement of Section 504 through the federal courts by clarifying that 11th Amendment immunity is unavailable in such cases and makes available administrative remedies to aggrieved parties. Further, these provisions provide the enforcement mechanisms for violations of the Americans with Disabilities Act.
7. Americans with Disabilities Act (42 U.S.C. §12101, et seq.) - This federal law (popularly known as the "ADA") prohibits discrimination in, among other areas, employment and education on the basis of a disability.
8. 16 V.S.A. §131, et seq. and 16 V.S.A. §906 - These Vermont laws require each public and independent school to provide students with a minimum course of study in "comprehensive health education," including education on "HIV infection, other sexually transmitted diseases, as well as other communicable diseases, and the prevention of disease." Additionally, these laws permit the appointment of a community advisory council to assist school boards in developing and implementing comprehensive health education programs.
9. Occupational Safety and Health Act of 1970 - This federal law (popularly known nationally as "OSHA" and in Vermont as "VOSHA") requires safe working conditions in places of employment. In particular, 29 U.S.C. §§653, 655, and 657 form the basis for the issuance of OSHA regulations on dealing with bloodborne pathogens in the workplace.
10. Occupational Exposure to Bloodborne Pathogens Standard (29 C.F.R. §1910.1030) - This federal regulation requires employers to develop and maintain a written Exposure Control Plan concerning bloodborne pathogens and requires the taking of "universal precautions."
11. 21 V.S.A. §§201 and 224 - These state statutes make Vermont law on Occupational Safety and Health consistent with the federal Occupational Safety and Health Act of 1970 (see paragraph #9 above).
12. 20 U.S.C. §1232(g) The Family Education Rights and Privacy Act, 1974 (FERPA) protects the privacy of students and parents.

Resources for HIV/AIDS Assistance and Information

State Resources

Vermont Department of Education
(802) 828-5151

For local assistance, contact the Health
Education Resource Center nearest you:

Brattleboro - **(802) 254-4511**

South Burlington - **(802) 864-4789**

St. Johnsbury - **(802) 748-8912**

Rutland - **(802) 775-4314**

Vermont Department of Health (Hotline)
800-882-AIDS

The Hotline provides information and
referral about all HIV-related issues.

Vermont Occupational Safety and Health
Administration (VOSHA)
800-640-0601

A division of the Vermont Department of
Health that supports and regulates
workplace safety.

American Red Cross Vermont Chapters

Serves all groups with a wide variety of informational resources available at low or no cost, including videos, curricula, and public health materials. Speakers and trainings on the following subjects are also available. Subjects covered include: HIV transmission and prevention, AIDS in the workplace, confidentiality, universal precautions, bloodborne pathogens and exposure control planning, and first aid.

- Green Mountain – **800-288-3554** (serving Southern Vermont)
- Northern Vermont - **800-660-9130**
- Central Vermont - **(802) 773-9159**

AIDS Service Organizations

These organizations may provide some of the following services: educational programs and training, speaker's bureaus, support and services for people affected by HIV/AIDS; and/or community advocacy. Contact the organization closest to you.

A Community Resource Network (ACORN)
serving Windsor and Orange Counties
(603) 448-8887 or 800-816-2220

Comprehensive Care Clinic
Northeast Vermont Regional Medical Center
serving Caledonia, Essex and Orleans
Counties
(802) 751-7603 (St. Johnsbury)

Bennington Area AIDS Project
serving Bennington County
800-845-AIDS (2437)

AIDS Project of Southern Vermont
serving Windham and Southern Counties
(802) 254-4444

Vermont C.A.R.E.S.
serving Chittenden, Addison, Rutland,
Lamoille,
Washington, Franklin, and Grand Isle
Counties
(802) 863-AIDS (2437) (office and general
hotline)

Vermont People With AIDS (PWA)
Coalition
800-698-8792 or (802) 229-5754
The Coalition is a statewide organization of
and for people living with HIV. The
Coalition frequently provides HIV+
speakers for schools.