

Monroe 2-Orleans BOCES Policy
Series 5000 – Personnel
Policy #5141 – HUMAN IMMUNODEFICIENCY VIRUS (HIV) AND ACQUIRED
IMMUNE DEFICIENCY SYNDROME (AIDS)

The Board recognizes the public concern over the spread of acquired immune deficiency syndrome (AIDS) and the admission of students and employment of staff who suffer from this disease or who have Human Immunodeficiency Virus (HIV) infection. The Board also recognizes the rights of those individuals so afflicted, be they students or staff, to continue education or employment where possible, their right to privacy, their right to a Free and Appropriate Public Education (FAPE), their right to be afforded the same rights and privileges offered other staff and students, and the rights of those non-affected to a safe environment.

The Board recognizes current medical advice which indicates that most individuals infected with AIDS or who have HIV infection pose no risk of transmission of the virus to others in the school setting. BOCES further recognizes current medical advice which indicates that the virus associated with AIDS is not easily transmitted and there is no evidence that AIDS can be transmitted by casual contact.

No individual shall be denied access to any program or activity on the basis of HIV/AIDS status. When restrictions are required, the BOCES will use only those restrictions deemed necessary to protect the safety or health of students and employees, including the infected individual and the BOCES shall assist the individual by making reasonable accommodations. To the extent permitted by law, any restrictions shall be discussed with the students or employees' physician and with the BOCES' legal counsel.

No employee shall be discriminated against or subject to disciplinary action based solely on their HIV/AIDS status. If the BOCES determines that an employee is no longer able to perform job-related duties, the BOCES shall assist the employee in procuring applicable work-related benefits. The BOCES will evaluate the relevant circumstances and determine whether modification of the employee's job duties/employment is necessary. To the extent permitted by law, the evaluation of relevant circumstances will include a medical examination to determine the employee's fitness to perform job duties. (BOCES may require a medical examination provided an HIV/AIDS test is not performed without informed consent.)

If the individual is a student, such evaluation will involve, to the extent permitted by law, consultation with the student's home school district, parents, and the appropriate medical authorities. If the student's medical condition interferes with his/her ability to benefit from instruction, the evaluation will involve a referral to the Committee on Special Education if the student is classified as disabled or to the multi-disciplinary team (required by Section 504 of the Rehabilitation Act) if the student is not classified as disabled.

Any information obtained pursuant to a release form or by court order is confidential and shall not be released to a third party, except to:

- a. The protected individual or a person with the capacity to consent has completed and signed a Health Department Authorization for Release form;
- b. A court order has been issued; or

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- c. The person to whom the information has been furnished is authorized under the state law to receive the information without a release form (e.g., physicians providing care to the individual, agencies monitoring care, insurance companies for reimbursement purposes).

To assure confidentiality, any documents identifying the HIV status of a protected individual shall be maintained in a locked file, separate from the individual's regular file. Access to this file will only be granted to those persons named on the release form or court order.

Any staff member who receives HIV-related information, pursuant to a release form or court order, shall be bound by the confidentiality provisions in Public Health Law Article 27-F. Any breach of such confidentiality shall be subject to conditions contained therein and which may include criminal penalties of a misdemeanor or a \$5,000 penalty or both, in addition to disciplinary procedures as established by BOCES.

Any staff member who acquires HIV/AIDS information through means other than an authorized release form or a court order is not legally bound by the confidentiality requirements in Article 27-F. However, such information should be treated as confidential.

If the disclosure is made by the HIV infected individual or his/her parent or guardian, the staff person may encourage (but not require) that a consent form be completed. Such action should be based on the health and/or educational needs of the infected individual only.

The Board is also committed to an educational program designed to inform students, parents and personnel regarding health generally, which will include AIDS, its communicability and the limited danger it poses to the general public and those who have only casual contact with AIDS victims.

Staff members will be informed of and have access to the Exposure Control Plan and receive training in infection control procedures. (See Policy #4560).

Confidentiality: Public Health Law, Article 27-F

Policy References:

This Policy is also found at #6451.

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