

AIDS, HIV and Hepatitis B - Employees

1. INTRODUCTION

a. Risk of Transmission

According to Oregon Department of Human Services, Health Services Guidelines, (1) HIV¹ and Hepatitis B are spread from one person to person to another primarily by sexual contact and, in certain circumstances, by blood contact. The risk of spread of either disease in the school setting is extremely low. Hepatitis B may be spread by saliva from an infected person. (2) As a general rule, employees with HIV or Hepatitis B do not pose a health risk to other employees, or to community members.

b. Confidentiality

The Oregon Legislature in 1987 (ORS 433.008) determined that the identity and address of persons tested for reportable diseases are confidential unless the Oregon Health Services has evidence that the disease is in a contagious stage, the person is violating the Health Division rules for control of the disease, and there is clear and convincing evidence that disclosure is required to avoid clear and immediate danger to others. According to the Oregon Attorney General, for the purpose of reportable disease laws and rules, a school district is a public health agency.

A violation of this law is a misdemeanor, punishable by the imprisonment of up to one year. The law specifically prohibits disclosure by any person of the identity of a person upon whom HIV-related tests are performed, or the results of the test, except as required by state law, rule or is authorized by the tested individual.

2. POLICY

a. Continuation of Employment

As a general rule, employees with HIV or Hepatitis B shall be allowed to continue employment.

¹HIV - Human Immunodeficiency Virus

b. Right of Privacy

The Legislature has mandated the right of privacy of the individual who has contacted AIDS², HIV or Hepatitis B. If the district is informed of this condition, the superintendent will make a determination whether any other employee of the district shall be required to know the information. In ordinary circumstances, no other staff member shall be considered as having a need to know. Some circumstances, such as risk of personal injury, may require that others be informed.

- (1) Any district employee who is informed of the identity of an HIV positive person or Hepatitis B infected person shall notify the superintendent and no other person.
- (2) The superintendent shall notify the Oregon Department of Human Services, Health Services or the local public health agency if required by Oregon Administrative Rules.

c. Team Evaluation of Risk of Transmission

When the district administration, after consultation with the Oregon Health Services or local health department, has determined that the presence of the employee in the workplace may present a risk of transmission, the following procedures will be used.

d. Unless the employee has already been excluded from the workplace by an Oregon Health Services or Lane County Health Department order, the district will convene a team to make an appropriate decision as to whether a risk of transmission exists, having due regard for the opinion of the Oregon Health Services. After consultation with the employee and a representative of the employee's choice, the superintendent will determine who shall be on the team.

- (1) The team may include the employee's physician, employee's supervisor, medically trained professional, representative(s) of the district, and a representative of the Oregon Health Services or the local health department.
- (2) The employee and a representative of the employee's choice (if desired by the employee) shall be on the team.

Factors that the team should review, but not be limited to, are assignments that include application of first aid, assignments that include personal hygiene care, or any other factors that could transmit blood or body fluids from one person to another. Periodic review of the employee's medical condition should be scheduled.

²AIDS - Acquired Immune Deficiency Syndrome

e. Reassignment Policy

If reassignment of the employee is believed to be advisable by the district, the action taken will follow review and consideration of policies, regulations, and practices that govern such reassignments for medical reasons, including the use of appropriate sick leave and disability leave.

f. Testing Prohibitions

Blood tests to screen for AIDS, HIV, and Hepatitis B will not be required for employment nor will the sexual orientation of an employee constitute reasonable cause to believe an employee is an infected person.

g. Evidence of Infection/Medical Evaluation

If the district has a reasonable cause to believe an employee is infected with HIV or Hepatitis B and the employee might pose a risk of transmission, it may require the employee to present a written opinion from a health care worker that the employee poses no risk of transmission in the work place.

END OF POLICY

Legal Reference(s):

[ORS 243.650](#)
[ORS 342.850 \(7\)](#)
[ORS 433.008](#)
[ORS 433.045](#)
[ORS 433.260](#)

[OAR 333-012-0270](#)
[OAR 333-017-0000 \(40\)](#)
[OAR 333-018-0000](#)
[OAR 333-018-0005](#)
[OAR 333-019-0015](#)
[OAR 581-022-0705](#)