

AIDS, HIV, Hepatitis B - Students

1. Introduction

a. Risk of Transmission

According to Oregon Department of Human Services, Health Services Guidelines, (1) available evidence indicates that casual person-to-person contact that occurs among students poses no risk of HIV¹ transmission, and (2) no significant risk of Hepatitis B transmission has been documented in the school setting.

b. Confidentiality

The Oregon Legislature by a 1987 Act (ORS 433.008) has determined that the identity of persons tested for reportable diseases is confidential unless the Oregon Health Services has evidence that the disease is in a contagious state, that the person is violating Health Services rules for control of the disease, and that there is clear and convincing evidence that disclosure is required to avoid clear and immediate danger to others. Disclosure to public health agencies is an exception to the rule. 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 imprisonment of up to one year. The law specifically prohibits disclosure by any person or government agency 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 or rule or is authorized by the tested individual.

2. Policy

a. General Rule

As a general rule, a student with AIDS², HIV or Hepatitis B shall be allowed to attend school in a regular classroom and shall be considered eligible for all programs, services, and privileges provided by state and federal law and board policy. This shall be subject to any order of the Oregon Health Services or the Lane County Health Department.

b. Exceptions to the General Rule

¹HIV - Human Immunodeficiency Virus;

²AIDS - Acquired Immune Deficiency Syndrome;

The Oregon Health Services has determined that if a risk of spread in the school setting exists, it would be limited to situations where open skin lesions or mucous membranes have been exposed to blood from an infected person with the additional risk that Hepatitis B may be transmitted by saliva.

The district may exclude a student who has been identified to the district as having AIDS, HIV, or Hepatitis B in the following exceptional circumstances:

- (1) **Exclusion from the classroom:** When the student scratches or bites, lacks toilet training, or has open sores that cannot be covered, the student may be temporarily removed until such time as the appropriate decision can be made by the team (see Section 5), subject to any order of the Oregon Health Services or local health agency;
- (2) **Exclusion from nonclassroom activities:** The student may be excluded from a specific nonclassroom activity when that activity involves a risk of transmission greater than in the general school setting. For example, he or she may be excluded from participation in a specific athletic or physical education activity or event where blood spills are not uncommon;
- (3) **Exclusion by the Oregon Department of Human Services, Health Services:** In no circumstances will the district admit a student who has been excluded by the Oregon DHS, HS or the local health department.

c. Emergency Conditions That Justify Reporting Personal Information.

Federal law permits disclosure of personally identifiable information to state or local officials when required by state law or to appropriate parties in a health or safety emergency. The school district believes that an emergency exists anytime the presence of an HIV positive or Hepatitis B infected student has been reported to any district employee until the Oregon Health Services or local health agency has advised the district or the district otherwise determines that the child does not pose a risk of transmission. (Also see ORS 433.260.)

d. Preservation of Student's Right of Privacy

- (1) The Legislature has declared that knowledge of the existence of a student or the location of a student with AIDS, HIV or Hepatitis B will interfere with the student's rights of privacy when it has been determined by the Oregon Health Services or the local health agency or the district otherwise determines that the presence of the child in school does not pose a risk of transmission of the disease.
- (2) Such knowledge may also be disruptive to the welfare of that student and to the district's education program.

- (3) Therefore, it is the policy of the district that any identifying information about the existence of an infected student is confidential and will not be released.
- (4) The staff may only respond to questions regarding its policy, procedures and instructional programs regarding AIDS, HIV or Hepatitis B.

e. Screening Tests Not Required

Blood tests to screen for HIV or Hepatitis B will not be required for school entry nor will the sexual orientation of a student constitute reasonable cause to believe a student is an infected individual.

3. Oregon Department of Human Services, Health Services Procedures

If the Oregon Health Services receives a medical report that a student has AIDS or is HIV positive, it will offer the student's parents or guardians the option of (1) exclusion of the student from school because of "communicable disease"; or, (2) with their consent, the school will be notified of the HIV positive diagnosis.

4. District Procedures

a. Responsibility of a Staff Member When Informed of the Identity of an Infected Student

- (1) Any district employee who is informed of the identity of an HIV positive or Hepatitis B infected student shall notify the superintendent or designee or the school principal and no other person. If informed, the school principal shall notify the superintendent or designee and no other person.
- (2) The superintendent or designee shall notify the Oregon Health Services if required by Oregon Administrative Rules.

b. Procedure When There is No Risk of Transmission

When the superintendent or superintendent's designee, after consultation with the Oregon Health Services or local health department, has determined that the presence of the student in the schools does not pose a risk of transmission, the following procedures will be used:

- (1) The superintendent or the superintendent's designee in consultation with the school nurse and building principal will make a determination whether any other employee of the district will be required to know the information;
- (2) In ordinary circumstances, when a student does not bite or engage in other activity that may lead to an exchange of blood or other body fluid, no other staff member shall be considered as having a need to know.

c. Procedure When There may be a Risk of Transmission

When the superintendent or superintendent's designee, after consultation with the Oregon Health Services or local health department, has determined that the presence of the student in the schools may present a risk of transmission, the following procedures will be used:

- (1) The superintendent or designee, in consultation with the Oregon Health Services, the school nurse, the district's consulting physician, the principal, and the chairperson for health services, will determine if the student should be excluded until such time as the team is convened and makes a decision about the educational program for the student;
- (2) Unless the child has already been excluded from school by the Oregon Health Services or Lane County Health Department order, the superintendent or designee will convene the team to make an appropriate decision as to whether a risk of transmission exists in the general school setting or the extracurricular activities of the student, having due regard for the opinion of the Oregon Health Services.

5. The Team

The team shall be composed of the child's parent(s) or guardian(s), the child's physician if requested by the parent, the school nurse, the district's health services chair, the district's consulting physician, a representative of the Oregon Health Services or the local health department, the building administrator, the local school district superintendent or designee, and the student, if appropriate.

The team has the following responsibilities:

- a. To determine from a medical standpoint whether there is a risk of transmission in view of the child's expected behavior;
- b. To determine the educational program and extracurricular activities to be designed for the student if a risk of transmission is found to exist;
- c. To refer the student and his or her parents for any appropriate community services;
- d. To determine if special arrangements or schedules are required;
- e. To determine, in compliance with this policy, what information, if any, should be released concerning the situation and to whom information should be released.

6. When a Risk of Transmission Exists

When the team determines that a risk of transmission exists, the district will follow its established procedures for the provision of special services.

If a home teacher is assigned to work with a student with AIDS, HIV, or Hepatitis B, the home teacher will receive orientation to the disease and training about precautions necessary to reduce the risk of transmission of the disease. This training will be conducted by the district's health services chair.

7. Monthly Review

Each removal of a student with AIDS, HIV or Hepatitis B from normal school attendance shall be reviewed by the health services chair in consultation with the district's consulting physician and the student's personal physician at least once every month to determine whether the condition precipitating the removal has changed. If the condition has changed, the team will review the data and determine whether the student should return to normal school attendance.

8. Evidence of Infection/Medical Evaluation

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

END OF POLICY

Legal Reference(s):

ORS 326.565	OAR 333-012-0265
ORS 326.575	OAR 333-012-0270
ORS 332.061	OAR 333-018-0000
ORS 336.187	OAR 333-018-0005 (1)
ORS 339.030	OAR 333-018-0030
ORS 339.250	(3)(a)(C),(D)
ORS 433.008	OAR 333-019-0031
ORS 433.045	OAR 581-022-0705
ORS 433.260	OAR 581-022-1660
	OAR 581-022-1910

Guidelines for Schools with Children Who Have Hepatitis B Virus or Human Immunodeficiency Virus Infection, Oregon Health Division (1995).