

Article VIII.A.25. HIV Positive Student or School Employee Procedures

A. Statement of Policy

This policy is enacted pursuant to the Utah Department of Health Rule 388-802 and establishes standards relating to HIV infection in order to reduce the risk to susceptible individuals and protect infected individuals against both unreasonable health risks and unnecessary restrictions.

B. Definitions

1. “Employee” means anyone employed by the district or serving as a volunteer.
2. “Executive director” means the executive director of the Utah Department of Health.
3. “Review committee” or “committee” means a group consisting of a school administrator, a representative from the county health department, the subject’s physician, the subject, or, in the case of a student, the subject’s parents or guardian. The committee is appointed and chaired by the school administrator.
4. “School administrator” means the Director of Health Related Services or the director’s designee.
5. “Student” means anyone enrolled in a school.
6. “Subject” means a person who is the focus of deliberations by a review committee.

C. Confidentiality

1. The identities or other case details of HIV-infected subjects discovered as part of the review committee process shall not be disclosed to any person other than the members of the review committee and the superintendent.
2. Nothing in this policy limits the right of the subject, or, in the case of a student, the subject’s parents or guardian to disclose information.

D. Determining if a Student or Employee Infected with HIV Should Remain in the Regular Classroom or Job Assignment

1. Upon notification that a student or employee has been diagnosed with HIV infection, the school administrator shall convene a review committee.
2. A student or employee infected with HIV shall continue in the regular classroom or job assignment until a review committee can meet and formulate recommendations.

3. The committee shall review all pertinent information, including current medical guidance; apply that information to the subject and the nature of activities in which the subject is involved; and establish written findings of fact and recommendations based upon reasonable medical judgments and other information concerning:
    - a. the nature of the risk of transmission of HIV relevant to the activities of the subject in the school setting;
    - b. the probability of the risk, particularly the reasonable likelihood that HIV could be transmitted to other persons by the subject in the school setting;
    - c. the nature and probability of any health related risks to the subject;
    - d. what accommodations could be made to avoid excessive limitations on the activities of the subject if restrictions are determined to be necessary; and
    - e. which individuals, if any, have a need to know of the situation.
  4. The review committee shall forward its findings and recommendations to the superintendent or the superintendent's designee.
  5. The school administrator shall implement the recommendations without delay.
  6. The school administrator shall immediately advise the subject or, in the case of a student, the subject's parents or legal guardian, in writing, of the decision of the review committee and that continued participation in the school setting may result in exposure to other communicable diseases.
  7. The school administrator shall review the committee's decision on a regular basis and may reconvene the committee if, in the administrator's opinion, the facts of the case have changed.
- E. Responsibility for continued participation in the classroom or job assignment, despite potential personal risk, shall be left to the discretion of the subject or, in the case of a student, the subject's parents or legal guardian.
- F. Appeal Procedures
1. The superintendent or any member of the review committee may appeal the recommendation of the committee by submitting a written appeal within ten school days for students or ten working days for employees, after receiving notice of the committee's recommendations. If the appellant's concerns relate to medical issues, the appeal shall be submitted to the executive director who may order restrictions on the school-related activities of the subject or may stay implementation of the committee's recommendations. If the concerns relate to the school's ability to provide an accommodation, the appeal shall be directed to the school board.

2. The appellant shall submit copies of the appeal to the executive director, the superintendent, and all members of the review committee.
3. The executive director or the school board shall review the findings and recommendations of the committee and any additional information that the executive director or board finds to be pertinent to the question raised in the appeal, and shall render a final decision in writing within ten school days for students or ten working days for employees.
4. Copies of the decision shall be sent to the appellant, members of the review committee, and the superintendent.
5. The superintendent shall implement the decision without delay.