

# COMPREHENSIVE HIV POLICY

## I. POLICY STATEMENT:

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.

The St. Johnsbury School 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.

## II. RIGHTS OF FACULTY/STAFF:

### Equal Employment

The St. Johnsbury School 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.<sup>1</sup> 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.<sup>2</sup>

## III. RIGHTS OF STUDENTS:

### 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.<sup>3&4</sup>

<sup>1</sup> 21 V.S.A. § 495(a) (6) and (7)

<sup>2</sup> 42 U.S.C. § 12101 et seq., American with Disabilities Act

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

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

- B. The Principal, Director of Student Support Services, 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.<sup>5</sup> 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.

#### **IV. RIGHTS FOR STUDENTS AND STAFF:**

##### Nondiscrimination

- A. The St. Johnsbury School 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.<sup>6</sup> 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 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.<sup>7</sup>

##### Confidentiality of HIV-related Information and Testing

- A. The St. Johnsbury School will protect the student's and family's privacy rights consistent with state and federal law pursuant to its 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.<sup>8</sup>
- C. Students, students' parents/guardians, or applicants/employees are not required to disclose HIV status to any school personnel.<sup>9</sup>
- 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.<sup>10</sup> The Superintendent shall develop a written consent form (see Appendix A) 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

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

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

<sup>7</sup> 18 V.S.A. § 112 7

<sup>8</sup> 18 V.S.A. § 112 7(a)

<sup>9</sup> 18 V.S.A. § 112 7(b)

<sup>10</sup> 1 V.S.A. § 317(b)(7) and (11)

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.<sup>11</sup> Access to these confidential records is limited to those named in written permission from the person or parent/guardian and to emergency medical personnel.

## V. HEALTH PROTECTIONS AND UNIVERSAL PRECAUTIONS:

### Infection Control

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

- A. The St. Johnsbury School 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 bloodborne pathogens as part of their regular job duties.<sup>12</sup>
- 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.<sup>13</sup>
- C. A written Exposure Control Plan concerning bloodborne pathogens, which includes the use of universal precautions, shall be developed, maintained, and followed.<sup>14</sup>

## VI. CURRICULUM, INSTRUCTION, AND EXTRA-CURRICULAR ACTIVITIES:

### HIV/AIDS Prevention Education

The 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.<sup>15</sup>

### 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.<sup>16</sup>

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

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

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

<sup>14</sup> 29 C.F.R. § 1910.1030 Occupational Exposure to Bloodborne Pathogens Standard

<sup>15</sup> 16 V.S.A. § 131 et seq., § 906

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

Cross References: See 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 Health Insurance Portability and Accountability Act (HIPAA) Compliance
- F. Bloodborne Pathogens Exposure Control Plan
- G. See Applicable Collective Bargaining Agreements

**DATE WARNED:**                **JULY 10, 2008**  
**DATE ADOPTED:**            **JULY 21, 2008**

## 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 shall ensure that school health personnel 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 shall ensure that school health personnel provide information on the recommended operating procedures of universal precautions to teaching substitutes and school volunteers (i.e. JUMP and Everybody Wins Vermont mentors) through the Substitute Handbook).

### 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 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 school health personnel to oversee the District's HIV education plans and programs.
3. The School Board may 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 shall designate school health personnel to 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. Upon request, the St. Johnsbury School 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 through the Student Handbook, 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