



Delaware State University

University Area(s) Responsible: Student Affairs and Enrollment; Human Resources, Risk and Safety Management

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Related Policies & Procedures: 4-01 Nondiscrimination, Affirmative Action, Equal Opportunity Policy, 7-17 Blood Borne Pathogens Exposure, 4-05 Misuse of Confidential information Policy

Purpose

The purpose of this policy is to provide guidance for Delaware State University in complying with statutes concerning the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (HIV/AIDS). HIV/AIDS is one of the world's most serious health challenges that spread rapidly throughout the world and has finally stabilized. It is appropriate to formulate HIV/AIDS guidelines for Delaware State University (DSU). These guidelines have been developed from recommendations of the American College Health Associate (ACHA) and are based on the latest and most widely accepted medical knowledge of HIV. In addition to the medical, educational, legal, administrative and ethical issues related to specific situations involving persons with HIV infections, the following areas are address within this policy: administrative policies, Residence Life, Health Education, testing for HIV infections, confidentiality of information related to persons with AIDS or HIV and patient care. This policy is consistent with existing DSU policies that prohibit discrimination and is meant to promote the safety and well-being of infected individuals as well as the entire DSU community.

Scope and Applicability

This policy applies to students, faculty and employees of Delaware State University.

Definitions

Health Care Worker's personal physician(s); An Infectious disease specialist with expertise in the epidemiology of HIV; A health professional with expertise in the procedures performed by the affected Health Care Worker; A member of the University's College of Health Services infection-control committee, preferably a hospital epidemiologist; and An occupational specialist.

Disability. A physical or mental impairment which substantially limits one or more major life activities.

Disability with respect to an individual:

- i. A physical or mental impairment that substantially limits 1 or more major life activities of such individual;
- ii. A record of such an impairment; or
- iii. Being regarded as having such an impairment, as defined in the Americans with Disabilities Act of 1990, as amended [42 U.S.C. § 12101 et seq.].

Exposure-prone procedure: Procedures which could potentially expose health care workers or other University personnel (e.g., athletics trainers and public safety officers) to the risk of contact with blood or other bodily fluids such as administering injections and vaccinations, collecting or handling specimens, tending to ill or injured persons and cleaning contaminated surfaces.

Invasive procedure: A procedure in which the body is penetrated or entered (e.g., by the use of a tube, needle, device or ionizing radiation.)

Health Care Professional A person whose activities involve contact with patients or with blood or other body fluids or who provides direct patient health care services pursuant to authorization of a license, certificate, or registration or in the course of training or education program. A person who provides direct patient health care services to patients in a health-care, laboratory, or public safety setting.

Major life activities - functions such as, but not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

Qualified person with a disability means a person with a disability who, with or without reasonable accommodation, can satisfactorily perform the essential functions of the job in question:

- i. Provided that the person with a disability shall not be held to standards of performance of essential job functions different from other employees similarly employed; and
- ii. Further provided that the disability does not create an unreasonable and demonstrable risk to the safety or health of the person with a disability, other employees, the employer's customers or the public.

Substantially limits - an impairment that affects a person as to create a likelihood that such person will experience difficulty in securing, retaining or advancing in employment because of a disability.

Policy

Confidentiality regarding HIV or AIDS, as well as all other health concerns, is protected by state and federal law. Information in an individual's University medical record will not be shared without that individual's written consent. HIV and AIDS are considered disabling conditions. DSU will therefore make reasonable accommodations for students and employees known to be disabled by HIV infection as required by law. Behavior by students and employees known to have HIV infection that intentionally places other members of the community at risk of contracting HIV is considered endangering behavior. Such behavior is unacceptable and a violation of DSU policies and regulations. Violators are subject to disciplinary action in accordance with established DSU procedures.

Admissions – The existence of HIV infection will not be considered in admissions decisions unless current scientific information indicates required academic activities will likely expose others to risk of transmission.

Residential Housing – DSU will not exclude HIV infected students from living in University housing as long as they remain in compliance with applicable policies and regulations. Further, residential life staff will not inform other students that a person with HIV infection lives in University housing. Under some circumstances, there may be a reasonable concern for the health of anyone with a weakened immune system (of any origin) when those individuals might be exposed to certain contagious diseases (e.g. measles or chicken pox) in a high-density residential environment. These situations will be reviewed on a case-by-case basis by Student Health Services. After consulting with affected students and their health care provider(s), they will be given consideration for a request for special housing arrangements.

Employment – the existence of HIV infection will not be used to determine suitability for employment by DSU so long as an individual is capable, with reasonable accommodations, of performing his or her job duties or responsibilities without posing a health risk to themselves or others. (Unless the position requires performance of exposure-prone procedures as identified in the Health Care Workers section.)

Class Attendance and College Life – A student with HIV infection will be allowed to attend all classes and participate in any aspect of College life without restrictions, as long as the student is physically and mentally able to participate, perform assigned work and poses no health risk to themselves or others.

Health Care Workers and Students Assigned to Work Within Clinical Settings (Health Care Workers) – All Health Care Workers must adhere to universal infection control precautions, including the appropriate use of hand washing, protective barriers and care in the use and disposal of needles and other sharp instruments.

Health Care Workers will also comply with current guidelines for disinfection and sterilization of reusable devices used in the invasive procedures.

All departments that provide health care shall establish procedures for monitoring compliance with universal precautions.

Health Care Workers who perform exposure-prone procedures should know their HIV status. A Health Care Worker infected with HIV who performs invasive but not exposure-prone procedures as identified shall not have his or her practice restricted solely on the basis of HIV infection provided he or she adheres to the universal precautions for infection control.

A Health Care Worker who is infected with HIV may not perform or engaged in activities that might require him or her to perform exposure –prone procedures unless the Health Care Worker’s supervisor has counseled the Health Care Worker and has prescribed the circumstances under which such procedures may be performed.

To permit the continued use of the talents, knowledge and skills of a Health Care Worker whose practice is modified due to infection with HIV the worker should:

1. Be offered opportunities to continue appropriate patient care activities if practicable;
2. Receive career counseling and job retaining; or
3. To the extent reasonable and practicable, be counseled to enter an alternative curriculum, if the Health Care Worker is a student.

All Health Care Workers should be advised that failure to comply will subject them to disciplinary procedures by their licensing entities, as well as by the institution.

Access to Facilities – A person with HIV will not be denied access to any facility because of HIV infection.

Testing for HIV Infection – No programs for mandatory HIV testing of employees or students will be undertaken without their consent unless authorized or required by law, court order or as specified for potential exposures to HIV. Please understand that independent insurance carriers may require HIV antibody testing. Individuals desiring HIV antibody testing are referred by Student Health Services to anonymous and confidential testing and counseling services in the area.

Voluntary Testing for HIV and Counseling - The University Student Health Services may offer or refer students, faculty and staff members for confidential HIV counseling and testing services. All testing conducted will include counseling before and after the test. Unless required by law, test results should be revealed to the person tested only when the opportunity is provided for immediate, individual, face-to fact counseling about:

1. The meaning of the test results;
2. The possible need for additional testing
3. Measures to prevent the transmission of HIV
4. The availability of appropriate healthcare services, including mental healthcare and appropriate social and support services in the geographic area of the person's residence;
5. The benefits of partner notification; and
6. The availability of partner notification programs. If a person with a positive HIV test result requests that his or her partner(s) be made aware of the possibility of exposure through a partner notification program, the post-test counselor will have the HIV-infected person sign a statement requesting assistance of a partner notification program. This statement will be made a permanent part of the person's medical record. A representative of the health institution or student health center will then request that the local health department to contact the partner(S) identified by the HIV-infected person.

Partner Notification – A Health care professional who knows a patient is HIV positive and who has actual knowledge of possible transmission of the virus to a third party will notify a partner notification program established by the Delaware Department of Health and Social Services.

Informed Consent for HIV testing

1. Unless otherwise authorized or required by law, no HIV test should be performed without informed consent of the person to be tested.
2. Consent will be written on a form or the medical record will document that the test has been explained and consent has been obtained. The consent form will state that post-test counseling will be offered or the medical record will note that the patient has been informed that post-test counseling will not be offered.

Reporting of Test Results – HIV test results will be reported in compliance with all applicable statutory requirements.

Conditions of HIV Testing of Employees at Institution's Expense- Employees will be informed that they may request HIV testing and counseling at the institution's expense if:

1. The employee documents possible exposure to HIV while performing duties of employment and
2. The employee was exposed to HIV in a manner that is capable of transmitting the infection as determined by guidelines developed in accordance with statement of the Delaware Department of Health and Social Services (DDHSS) and the Centers for Disease Control (CDC).

Qualifying for Worker's Compensation Benefits – State Law requires that an employee who bases a workers' compensation claim on a work related exposure to HIV must provide a written statement of the date and circumstances of the exposure and document that within ten (10) days

after the exposure, the employee had a test result that indicated absence of HIV infection. An employee who may have been exposed to HIV while performing duties of employment may not be required to be tested, but refusal to be tested may jeopardize Worker's Compensation benefits.

Test Following Potential Exposure to HIV – The University should follow guidelines and protocols for employees and students who have been exposed to material that has a potential for transmitting HIV as a result of employment or educational assignments. Testing of employees or students exposed to such material should be done within ten (10) days after exposure and should be repeated after one (1) month. Testing for HIV should also be done after three (3) or six (6) months. These guidelines should follow DHSS and CDC guidelines.

In cases of exposure of an employee or student to another individual's blood or body fluid, the University, at the institution's expense may test that individual for HIV with or without the Individual's consent, provided that the test is performed under approved institutional guidelines and procedures included in the institutional Policies and Procedures that provide criteria for testing and that respect the rights of the person being tested. This includes post-test counseling as specified in the section on voluntary testing for HIV and Counseling. If an HIV test is done without the individual's consent, the guidelines must ensure that any identifying information concerning the Individual's test will be destroyed as soon as the testing is complete and the person who may have been exposed is notified of the result. Test results will be reported in compliance with all applicable statutory requirements as specified in section on Informed Consent of HIV testing.

A University Law enforcement officer may request DDHSS or a health authority duly authorized pursuant to the Delaware Law to order testing of another person who may have exposed the law enforcement officer to a reportable disease, including HIV infection. The request for such testing may be made only if the law enforcement officer experienced the exposure in the course of employment, if the law enforcement officer believes the exposure places the law enforcement officer at risk of the reportable disease and the law enforcement officer presents to DDHSS to the health authority a sworn affidavit that delineates the reasons for the request.

Confidentiality of Records – Except where release is required or authorized by law, information concerning the HIV status of students, employees or patients and any portion of a medical record will be kept confidential and will not be released without written consent of the student, employee or patient in each case. This is supported by the Family Education Rights and Privacy Act (FERPA) as well as the Health Information Portability and Accountability Act (HIPAA). The personnel records required for employment at DSU do not include questions concerning the existence of HIV infection. If HIV status is retained in personnel files and or Workers' Compensation files the information will remain confidential and have the confidentiality status of medical records. Students infected with HIV or AIDS are encouraged to inform their health care provider(s), including the Student Health Services staff, so that appropriate medical care, support, counseling and education may be provided.

Immunizations - Students known to have HIV infection are not automatically exempted from institutional requirements for vaccinations. Request for exemptions from these requirements are handled on a case-by case basis by Student Health Services.

Need to Know – The number of individuals at the University who are aware of the existence and or identity of students or employees who have HIV infection will be kept to minimum or on a “need-to-know” basis.

Education - DSU recognizes that the primary institutional response to the epidemic of HIV/AIDS must be education. DSU should routinely provide a regular program of HIV/AIDS education and prevention for all members of the community through events and activities sponsored by the Office of Student Life, the Office of Human Resources and Student Health Services. In addition, members of the faculty and staff are encouraged to incorporate information about HIV and AIDS-related issues into appropriate courses and programming.

Education and Safety Precautions for Health Care Workers – The University should follow guidelines for health care workers and student in the health professions concerning prevention of transmission of HIV and concerning Health Care Workers who have HIV infection. All Health Care Workers shall be provided instruction on universal infection control precautions. Each Health Care Worker who is involved in direct patient care should complete an educational course about HIV infection based on the model education program and workplace guidelines developed by the DHSS and the guidelines of this policy.

General Employee Education Pamphlet – The University should provide each employee an educational pamphlet about methods of transmission and prevention of HIV infection. The pamphlet will be the DDHS educational pamphlet based on the model developed by the DHHS or the American College Health Association. The pamphlet should be provided to new employees on the first day of employment and to all employees annually.

Information on Prevention Provided to Students-

The University Student Health Services should provide information that is tailored to the students’ cultural, educational, language and developmental needs on prevention of HIV infection including:

- The value of abstinence and long-term mutual monogamy.

- Information on the efficacy and use of condoms, and

- State laws relating to the transmission of HIV and to conduct that may result in such transmission.

The Employee educational pamphlet will be available to students on request.

Guidelines for Laboratory Courses – All University laboratory courses requiring exposure to material that has potential for transmitting HIV should adopt safety guidelines for handling hazardous materials and distribute these guidelines to students and staff prior to coming in contact with such material(s).

Education of Students Entering Health Professions – the university nursing, health science, counseling and social work degree programs should include within the program curricula information about;

Methods of transmission and methods of prevention of HIV infection, including universal infection control precautions;

Federal and state laws and any rules and regulations concerning HIV infection and AIDS; and

The physical, emotional and psychological stress associated with the care of patients with terminal illnesses.

Procedure

When faced with a bona fide occupational disqualification or when an accommodation would cause the University an undue hardship, DSU will attempt to find a solution within the law that is fair to both the individual involved and the University.

Responsibility

This policy shall be review every five years (or as University or State policies change) by the Vice President of Student Affairs in conjunction with the Dean of the College of Education, Health and Public Science, the Associate Vice President of Human Resources and the University General Counsel.

It shall be the shared responsibility of all DSU students and DSU employees to comply with the provision of this policy.

The Office of Human Resources in conjunction with the Title IX and Affirmative Action Officer as well as the Office of Disability Services shall notify all employees, and students of this policy and work to resolve compliance issues while preserving confidentiality.