

POLICY 5.322

4-D I recommend the Board adopt the proposed revised Policy 5.322, to be renamed "Students with Chronic Illnesses and Infectious Diseases (Including HIV/AIDS)."

[Contacts: Lashandra Span, 434-8791; or Danette Fitzgerald, 357-7570.]

◆ **Adoption**

- Among other changes, this proposed revision incorporates a suggestion from the DOE Education Equity Act Monitoring Work Plan, to remove the outdated reference to AIDS-Related Complex ("ARC").
- A draft of this Policy was submitted for review by the Medical Director for School Health and the Health Department attorney.
- On July 8, the Board approved the proposed Policy for final reading and recommendation for adoption on August 19.

CONSENT ITEM

PROPOSED REVISIONS TO POLICY 5.322

**HUMAN IMMUNODEFICIENCY VIRUS DISEASE (HIV) -- STUDENT
STUDENTS WITH CHRONIC ILLNESSES AND
INFECTIOUS DISEASES (INCLUDING HIV/AIDS)**

- 1 **1. Non-Discrimination and Participation.--** The School Board of Palm Beach
2 County acknowledges all federal and state laws protecting students with disabilities
3 and acknowledges that those individuals shall not be discriminated against on the
4 basis of their disabilities, including those involving illness.
5
6 a. Students shall not be prevented from participating in the continuation of their
7 education solely on the basis of a diagnosis of having a chronic illness or
8 infectious disease; testing positive for Human Immunodeficiency Virus ("HIV")
9 antibodies, antigen, or infection; or having Acquired Immune Deficiency
10 Syndrome ("AIDS"). Further, restrictions will not be placed upon the
11 attendance or participation of a student on the basis of his/her sibling having a
12 chronic illness or infectious disease, testing HIV positive, or having AIDS.
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14 b. To determine the most appropriate educational setting, the District will comply
15 with the established requirements of the Individuals with Disabilities Education
16 Act ("IDEA") and Americans with Disabilities Act ("ADA") and Section 504 of
17 The Rehabilitation Act of 1973 ("Section 504"), for students eligible for
18 services under these Acts. If an individual plan is necessary for a student with
19 a chronic illness or infectious disease, it will be compliant with said Acts.
20
21 **2. Medical Coordination.--** When a student has a chronic illness or infectious
22 disease, the student's personal physician shall be the medical manager providing
23 general guidance and specific recommendations regarding the following:
24
25 a. whether the student is medically able to participate in the regular school
26 program, including consideration of risk to the student's own health or the
27 health of others in the school environment; and
28
29 b. whether accommodations may be needed for school attendance or
30 participation.
31
32 **3. Infection Control.--** Pursuant to their responsibility for student health and safety

33 under § 230.23(6), schools are to take the following steps:

34
35 a. **Bloodborne Pathogens.**-- For the protection of student health and safety,
36 the District's Bloodborne Pathogens Exposure Control Plan ("the Plan") shall
37 be followed in all settings and at all times, including, but not limited to,
38 classrooms, locker rooms, athletic settings, and field trips.

39
40 i. The Plan is updated annually and distributed by the District's Safety
41 Manager to all schools.

42
43 ii. Copies of the Plan shall be available in the school clinic and the school
44 administrative office.

45
46 b. **Communicable Disease of an Individual Student**-- When a communicable
47 disease is known or reasonably believed to affect an individual student, the
48 following procedures shall apply:

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50 i. Any school staff member who becomes aware, or reasonably suspects,
51 that a student's health condition presents a significant risk of transmitting
52 a communicable disease shall report the same by:

53
54 A. completing the Communicable Diseases/Conditions Report form
55 (PBSD 1634);

56
57 B. reporting the situation by calling the Health Department's telephone
58 number listed on the form;

59
60 C. promptly and discretely alerting the school nurse or building
61 administrator; and

62
63 D. expeditiously providing the form to the District Health Services
64 Specialist.

65
66 ii. The Health Department will determine the appropriate action required for
67 follow-up of any confirmed case(s) of communicable diseases and will
68 communicate any needed action to the school through the District Health
69 Services Specialist.

70
71 iii. In concurrence with the Health Department, the school nurse or

72 administrator will inform the infected student (and the custodial
73 parent(s)/guardian thereof) of appropriate action. (However, paragraph
74 (3)(b)(iv), below, must be followed in cases of sexually-transmitted
75 disease ("STD") or HIV/AIDS.) Follow-up must maintain the student's
76 privacy as provided by law.

77
78 iv. Notwithstanding paragraph (3)(b)(iii) above, District employees shall not
79 communicate any information concerning STD or HIV/AIDS to the
80 parent(s)/guardian/custodian of any student, without first verifying in
81 writing from the student:

82
83 A. that the student has provided written consent to communicate,
84 reveal, or disclose such information to the student's custodial
85 parent(s)/guardian/ custodian, provided that no student shall be
86 required or compelled to give such consent; or

87
88 B. that the student's custodial parent(s)/guardian/custodian already
89 knows that the student has tested positive, or claims to have tested
90 positive, for STD or HIV/AIDS.

91
92 c. **Outbreaks of Communicable Disease.**-- In cases of a communicable
93 disease outbreak in any school (other than a disease governed by paragraph
94 (2)(d), below), the following procedures, when applicable) shall apply:

95
96 i. The school nurse or building administrator and the District Health
97 Services Specialist will coordinate with the Health Department to assess
98 the situation and take appropriate action necessary to prevent the spread
99 of disease within the school.

100
101 ii. If the Health Department deems such actions necessary, the school
102 principal, in collaboration with the Health Department, will inform the
103 student's parent(s)/guardian of any health threat to a pupil who is
104 exposed to a communicable disease.

105
106 d. **Authority to Declare an Emergency.**-- Pursuant to § 232.032(7), Fla. Stat.,
107 the presence of any communicable disease for which immunization is required
108 by the Department of Health shall permit the Health Department to declare a
109 communicable disease emergency.

110

111 i. Pursuant to Rule 64D-3.011, F.A.C. and § 232.032(1), Fla. Stat., the
112 diseases for which immunization is required include (at the time of
113 adoption of this Policy): diphtheria, pertussis (whooping cough), tetanus,
114 poliomyelitis, rubeola, rubella, mumps, Haemophilus influenzae type b,
115 hepatitis B, and varicella.

116
117 ii. As required by § 232.032(7), Fla. Stat., the declaration of such
118 emergency shall mandate that all children in attendance in the school
119 who are not in compliance with the immunization requirements must be
120 identified, and their immunization records shall be made available to the
121 Health Department director or administrator.

122
123 iii. Pursuant to § 232.032(7), those children identified as not being
124 immunized against the disease for which the emergency is declared shall
125 be temporarily excluded from school until such time as is specified by the
126 Health Department.

127
128 **4. Confidentiality of Student HIV/AIDS or STD Information.** Information relating to
129 a student's HIV/AIDS or STD status shall remain strictly confidential in accordance
130 with law, and shall be exempt from disclosure under the Public Records Act.

131
132 a. Statements, reports, records, or any other materials concerning students'
133 HIV/AIDS or STD status shall not be placed in student files. Any such
134 information existing at a school site shall be maintained in a locked cabinet in
135 a secure location designated by the school principal.

136
137 b. Where the parent/guardian, or adult student, reveals the HIV/AIDS or STD
138 status of a student, the information must be kept confidential. Such
139 information shall not be disclosed to anyone except pursuant to §§ 381.004 or
140 384.29, Fla. Stat., or other applicable law, unless the minor student and
141 custodial parent(s)/guardian thereof (or adult student acting alone) have
142 signed a consent to release this information to certain staff. The following
143 restrictions apply concerning such consent:

144
145 i. Information about the student's HIV/AIDS or STD status must not be
146 divulged to any source other than staff designated in such written
147 consent; and such staff shall guard the confidentiality of the information
148 against further disclosure.

149

- 150 ii. Because only the Florida Department of Children and Families ("DCF") is
151 authorized to give written consent to disclose HIV-related information
152 concerning a child in foster care (and only with the foster child's consent),
153 foster parents are not able to consent to disclosure of such information,
154 but should be referred to the DCF to obtain such written consent.
155

156 **5. Confidentiality of HIV Test Reports from the Department of Health.--** If the
157 Superintendent/designee receives notice from the Department of Health, pursuant
158 to § 384.25(5), Fla. Stat., that any student has tested positive for HIV infection, the
159 Superintendent shall maintain the confidentiality of the report and shall not release
160 it to anyone, except as authorized or required by law, such as § 381.004, Fla. Stat.
161 These confidential records shall be maintained separate and apart from any files
162 that are subject to public inspection under § 119.07, Fla. Stat., or that are generally
163 accessible by District employees or Board members.
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165
166 ~~The Superintendent is authorized to develop and implement the necessary~~
167 ~~administrative procedures to alleviate and control emotionalism and resulting irrational~~
168 ~~behavior in relation to HIV infection and protect the health and rights of both the HIV~~
169 ~~infected student~~
170 ~~and the uninfected student in the school setting. These procedures shall include~~
171 ~~teaching about HIV in the curricula frameworks and parent-awareness programs in the~~
172 ~~schools.~~

- 173 ~~—— (1) Students diagnosed as HIV positive, having ARC or AIDS, shall be~~
174 ~~permitted to attend regular classes.~~
175 ~~—— (2) A committee known as the Special Study Team shall convene to review all~~
176 ~~available information and make a recommendation to the Superintendent~~
177 ~~on the appropriate placement of the student who evidences any of the~~
178 ~~following behaviors or states:~~
179 ~~—— (a) Acts that are risky or harmful to self or others;~~
180 ~~—— (b) Unstable or decompensated neuropsychological functioning;~~
181 ~~—— (c) Open wounds, cuts, lacerations, abrasions, or sores on exposed~~
182 ~~body surfaces where occlusion cannot be maintained;~~
183 ~~—— (d) Impairment of gastrointestinal, genitourinary, and/or other functions~~
184 ~~resulting in loss of control of urine, feces and other body secretions.~~
185 ~~—— (3) Students with HIV infection who present above signs shall be excluded,~~
186 ~~temporarily, pending the outcome of the Special Study Team. These~~
187 ~~absences (5-20 days) shall be treated as excused. If there is a need on~~
188 ~~behalf of the team for the student to remain absent in excess of five days~~
189 ~~while the Study Committee completes its recommendation, homebound~~
190 ~~instruction will be available to the student.~~

191 ~~The diagnosis of HIV infection is confidential and shall not be disclosed, except to the~~

192 ~~extent required by law.~~

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194

195 STATUTORY AUTHORITY: CS/HV 1519, 1988 §§ 230.22(2); 230.23(22);
196 230.23005(7), 232.032(1), Fla. Stat.

197

198 LAWS IMPLEMENTED: CS/HV 1519, 1988 §§ 230.22(1); 230.23(6);
199 232.032(1), (7), (8); 381.003; 381.004;
200 381.0056(5)(l), (n), (o); 384.29, 392.65, Fla.
201 Stat.

202

203 HISTORY: 3/16/88; / /2002

Legal Signoff:

The Legal Department has reviewed proposed Policy 5.322 and finds it legally sufficient for development by the Board.

Attorney

Date