

POLICY 5.322

5-E I recommend the Board approve the proposed revised Policy 5.322, entitled "Students with Chronic Illnesses and Infectious Diseases (Including HIV/AIDS)."

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

Development

CONSENT ITEM

- The DOE Educational Equity Opportunity Program Office has requested that this Policy be revised at line 56 to clarify and emphasize that the confidentiality provisions for HIV/AIDS status, which were already stated in Section (4), apply to lines 56-60.

PROPOSED REVISION TO POLICY 5.322

***STUDENTS WITH CHRONIC ILLNESSES AND
INFECTIOUS DISEASES (INCLUDING HIV/AIDS)***

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7 1. *Non-Discrimination and Participation.*-- The School Board of Palm Beach County
8 acknowledges all federal and state laws protecting students with disabilities and
9 acknowledges that those individuals shall not be discriminated against on the basis
10 of their disabilities, including those involving illness.
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12 a. Students shall not be prevented from participating in the continuation of their
13 education solely on the basis of a diagnosis of having a chronic illness or
14 infectious disease; testing positive for Human Immunodeficiency Virus ("HIV")
15 antibodies, antigen, or infection; or having Acquired Immune Deficiency
16 Syndrome ("AIDS"). Further, restrictions will not be placed upon the
17 attendance or participation of a student on the basis of his/her sibling having a
18 chronic illness or infectious disease, testing HIV positive, or having AIDS.
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20 b. To determine the most appropriate educational setting, the District will comply
21 with the established requirements of the Individuals with Disabilities Education
22 Act ("IDEA") and Americans with Disabilities Act ("ADA") and Section 504 of
23 The Rehabilitation Act of 1973 ("Section 504"), for students eligible for
24 services under these Acts. If an individual plan is necessary for a student with
25 a chronic illness or infectious disease, it will be compliant with said Acts.
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27 2. *Medical Coordination.*-- When a student has a chronic illness or infectious disease,
28 the student's personal physician shall be the medical manager providing general
29 guidance and specific recommendations regarding the following:
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31 a. whether the student is medically able to participate in the regular school
32 program, including consideration of risk to the student's own health or the
33 health of others in the school environment; and
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35 b. whether accommodations may be needed for school attendance or
36 participation.
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38 3. *Infection Control.*-- Pursuant to their responsibility for student health and safety
39 under Fla. Stat. § 1006.07 [230.23(6)], schools are to take the following steps:

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- 41 a. *Bloodborne Pathogens.*-- For the protection of student health and safety, the
- 42 District's Bloodborne Pathogens Exposure Control Plan ("the Plan") shall be
- 43 followed in all settings and at all times, including, but not limited to,
- 44 classrooms, locker rooms, athletic settings, and field trips.
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- 46 i. The Plan is updated annually and distributed by the District's Safety
- 47 Manager to all schools.
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- 49 ii. Copies of the Plan shall be available in the school clinic and the school
- 50 administrative office.
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- 52 b. *Communicable Disease of an Individual Student.*-- When a communicable
- 53 disease is known or reasonably believed to affect an individual student, the
- 54 following procedures shall apply:
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- 56 i. Subject to the confidentiality requirements of Section (4) for HIV/AIDS
- 57 and sexually-transmitted disease ("STD"). Any school staff member who
- 58 becomes aware, or reasonably suspects, that a student's health condition
- 59 presents a significant risk of transmitting a communicable disease shall
- 60 report the same by:
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- 62 A. completing the Communicable Diseases/Conditions Report form
- 63 (PBSD 1634);
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- 65 B. reporting the situation by calling the Health Department's telephone
- 66 number listed on the form;
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- 68 C. promptly and discretely alerting the school nurse or building
- 69 administrator; and
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- 71 D. expeditiously providing the form to the District Health Services
- 72 Specialist.
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- 74 ii. The Health Department will determine the appropriate action required for
- 75 follow-up of any confirmed case(s) of communicable diseases and will
- 76 communicate any needed action to the school through the District Health
- 77 Services Specialist.
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- iii. In concurrence with the Health Department, the school nurse or administrator will inform the infected student (and the custodial parent(s)/guardian thereof) of appropriate action. (However, paragraph (3)(b)(iv), below, must be followed in cases of ~~sexually-transmitted disease~~ ("STD") or HIV/AIDS.) Follow-up must maintain the student's privacy as provided by law.
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- iv. Notwithstanding paragraph (3)(b)(iii) above, District employees shall not communicate any information concerning STD or HIV/AIDS to the parent(s)/guardian/custodian of any student, without first verifying in writing *from the student*:
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- A. that the student has provided written consent to communicate, reveal, or disclose such information to the student's custodial parent(s)/guardian/ custodian, provided that no student shall be required or compelled to give such consent; *or*
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- B. that the student's custodial parent(s)/guardian/custodian already knows that the student has tested positive, or claims to have tested positive, for STD or HIV/AIDS.
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- c. *Outbreaks of Communicable Disease*-- In cases of a communicable disease outbreak in any school (other than a disease governed by paragraph (2)(d), below), the following procedures, when applicable) shall apply:
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- i. The school nurse or building administrator and the District Health Services Specialist will coordinate with the Health Department to assess the situation and take appropriate action necessary to prevent the spread of disease within the school.
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- ii. If the Health Department deems such actions necessary, the school principal, in collaboration with the Health Department, will inform the student's parent(s)/guardian of any health threat to a pupil who is exposed to a communicable disease.
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- d. *Authority to Declare an Emergency*-- Pursuant to Fla. Stat. § 1003.22(9) [232.032(7)], the presence of any communicable disease for which immunization is required by the Department of Health shall permit the Health Department to declare a communicable disease emergency.

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- i. Pursuant to F.A.C. Rule 64D-3.011 and Fla. Stat. § 1003.22(3) [232.032(1)], the diseases for which immunization is required include (at the time of adoption of this Policy): diphtheria, pertussis (whooping cough), tetanus, poliomyelitis, rubeola, rubella, mumps, Haemophilus influenzae type b, hepatitis B, and varicella.
 - ii. As required by Fla. Stat. § 1003.22(9) [232.032(7)], the declaration of such emergency shall mandate that all children in attendance in the school who are not in compliance with the immunization requirements must be identified, and their immunization records shall be made available to the Health Department director or administrator.
 - iii. Pursuant to Fla. Stat. § 1003.22(9) [232.032(7)], those children identified as not being immunized against the disease for which the emergency is declared shall be temporarily excluded from school until such time as is specified by the Health Department.
4. *Confidentiality of Student HIV/AIDS or STD Information.* Information relating to a student's HIV/AIDS or STD status shall remain strictly confidential in accordance with law, and shall be exempt from disclosure under the Public Records Act.
- a. Statements, reports, records, or any other materials concerning students' HIV/AIDS or STD status shall not be placed in student files. Any such information existing at a school site shall be maintained in a locked cabinet in a secure location designated by the school principal.
 - b. Where the parent/guardian, or adult student, reveals the HIV/AIDS or STD status of a student, the information must be kept confidential. Such information shall not be disclosed to anyone except pursuant to Fla. Stat. §§ 381.004 or 384.29 or other applicable law, unless the minor student and custodial parent(s)/guardian thereof (or adult student acting alone) have signed a consent to release this information to certain staff. The following restrictions apply concerning such consent:
 - i. Information about the student's HIV/AIDS or STD status must not be divulged to any ~~source~~ person other than staff designated by the parent/guardian or adult student in such written consent; and such staff shall guard the confidentiality of the information against further disclosure.

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158 ii. Because only the Florida Department of Children and Families ("DCF") is
159 authorized to give written consent to disclose HIV-related information
160 concerning a child in foster care (and only with the foster child's consent),
161 foster parents are not able to consent to disclosure of such information,
162 but should be referred to the DCF to obtain such written consent.
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164 5. *Confidentiality of HIV Test Reports from the Department of Health.*-- If the
165 Superintendent/designee receives notice from the Department of Health, pursuant
166 to § 384.25(5), Fla. Stat., that any student has tested positive for HIV infection, the
167 Superintendent shall maintain the confidentiality of the report and shall not release
168 it to anyone, except as authorized or required by law, such as Fla. Stat. § 381.004.
169 These confidential records shall be maintained separate and apart from any files
170 that are subject to public inspection under Fla. Stat. § 119.07 or that are generally
171 accessible by District employees or Board members.
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174 STATUTORY AUTHORITY: §§ 1001.41(2) [230.22(2)]; 1001.42(22)
175 [230.23(22)]; 1001.43(7) [230.23005(7)],
176 1003.22(4) [232.032(2)], Fla. Stat.
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178 LAWS IMPLEMENTED: §§ 1001.41(1) [230.22(1)]; 1006.07 [230.23(6)];
179 1003.22(3), (4), (9), (10) [232.032(1), (2), (7),
180 (8)]; 381.003; 381.004; 381.0056(5)(l), (n), (o);
181 384.29, 392.65, Fla. Stat.
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183 HISTORY: 3/16/88; 8/19/02; / /03

Legal Signoff:

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

Attorney

Date