

Non-Instructional/Business
Operations

MOUNT PLEASANT COTTAGE SCHOOL UNION FREE SCHOOL DISTRICT

**SUBJECT: HUMAN IMMUNODEFICIENCY VIRUS (HIV) RELATED ILLNESSES:
EMPLOYEES**

Confidentiality

Definitions (Public Health Law, Section 2780)

- 1) **"Confidential HIV related information"** means any information, obtained from individuals who provide health or social services or through a written authorization for disclosure of such information, concerning whether an individual has been the subject of an HIV related test, or has HIV infection, HIV related illness or AIDS, or information which identifies or **reasonably could identify** an individual as having one (1) or more of such conditions.
- 2) **"Capacity to consent"** means an individual's ability, determined without regard to such individual's age, to understand and appreciate the nature and consequences of a proposed health care service treatment or procedure, and to make an informed decision concerning such service, treatment or procedure. It is the responsibility of the HIV counselor to determine an individual's capacity to consent to medical care.
- 3) **"Release of confidential HIV related information"** means a written authorization for disclosure of confidential HIV related information which is signed by an individual who is the subject of an HIV related test or who has been diagnosed as having HIV infection, AIDS or an HIV related illness or a person authorized by law to consent to health care for that individual. Disclosure must be on a form approved by the New York State Department of Health.

Release of Information

Pursuant to New York State law, school officials and employees are required to keep HIV-related information confidential. The information cannot be disclosed to any person except under the following circumstances:

- 1) The protected individual or a person with the capacity to consent has completed and signed the New York State Department of Health "HIPAA Compliant Authorization for Release of Medical Information and Confidential HIV Related Information" form;
- 2) A court order has been issued; or
- 3) The person to whom the information has been furnished is authorized under the state law to receive the information without a release form (e.g., physicians providing care to the individual, agencies monitoring care, insurance companies for reimbursement purposes).

(Continued)

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**SUBJECT: HUMAN IMMUNODEFICIENCY VIRUS (HIV) RELATED ILLNESSES:
EMPLOYEES (Cont'd.)**

Employment

No disciplinary action or other adverse personnel action shall be taken against an employee solely because he/she has AIDS or HIV infection. Action may be taken against an employee only if he/she is disabled and the disability interferes with his/her ability to perform in a reasonable manner the activities involved in the job or occupation.

The District shall make such reasonable accommodations to enable the employee to perform employment duties as may be required by federal or state law.

Testing

No HIV-related testing of any employee shall be conducted without the receipt of a written "informed consent" document signed by the subject of the test (if he/she has the capacity to consent) or a person authorized pursuant to law to consent to health care for the individual, unless otherwise authorized or required by a state or federal law.

NOTE: For New York State Department of Health HIPAA Compliant Authorization for Release of Medical Information and Confidential HIV Related Information" form, see website: <http://www.health.state.ny.us/forms/doh-2557.pdf>