

**MOUNT PLEASANT COTTAGE SCHOOL UNION FREE SCHOOL DISTRICT****SUBJECT: HUMAN IMMUNODEFICIENCY VIRUS (HIV) RELATED ILLNESSES:  
STUDENTS****Admission and Enrollment**

Every effort shall be made not to exclude Human Immunodeficiency Virus (HIV) infected students, or place such students in a restricted environment. On occasion, where the unique circumstances of the student's condition, apart from the mere existence of HIV infection or AIDS virus, warrant programmatic modifications for the benefit of the student, a referral will be made to the Committee on Special Education (CSE) for evaluation and recommendation. The CSE will then determine whether the student should be classified pursuant to the Commissioner's Regulations on students with disabilities and, if determined to be "educationally disabled," will recommend an appropriate educational placement.

If the parent/guardian disagrees with the CSE recommendation, he/she is entitled to due process under appeal procedures set forth in state and federal law. If a hearing is requested by the parent/guardian, the student will remain in his/her current placement pending all proceedings unless a court order is obtained.

**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 for 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 a student who has been determined as having the capacity to consent 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.

(Continued)

Non-Instructional/Business  
Operations**SUBJECT: HUMAN IMMUNODEFICIENCY VIRUS (HIV) RELATED ILLNESSES:  
STUDENTS (Cont'd.)**Release of Information

Under New York State Law, except for certain people, school officials and employees are required by law to maintain strict confidentiality of HIV related information concerning a student in the District and such information may not be disclosed to anyone unless the protected student, or the parent or guardian if student lacks capacity to consent, completes and signs a written authorization form. The form must be dated and specify to whom disclosure is authorized, the purpose for such disclosure and the time period during which the release is to be effective.

The New York State Department of Health has provided an authorization form for the release of medical information including HIV-related information. Medical and HIV-related information may be protected from disclosure or re-disclosure by federal privacy law and state law. Release of medical or HIV-related information may be granted to the School District using the "HIPAA Compliant Authorization for Release of Medical Information and Confidential HIV Related Information" form. This form is available on the New York State Department of Health website: <http://www.health.state.ny.us/forms/doh-2557.pdf>

**Testing**

No HIV related testing will be performed without first receiving the written informed consent of the student who has the capacity to consent or of a person authorized pursuant to law to consent to health care for such student.

**Penalties**

Any school official or employee who discloses confidential HIV related information to unauthorized persons may be subject to a civil penalty up to five thousand dollars (\$5000) and a criminal misdemeanor charge.