

STEPHEN F. AUSTIN
STATE UNIVERSITY

Office of the General Counsel

POLICY SUMMARY FORM

Policy Name: AIDS and HIV

Policy Number: 13.1

Is this policy new, being reviewed/revised, or deleted? Review/Revise

Date of last revision, if applicable: 1/28/2020

Unit(s) Responsible for Policy Implementation: Vice President for Finance and Administration and Vice President of Student Affairs

Purpose of Policy (what does it do): Outlines SFA's approach to working with those diagnosed with HIV or AIDS

Reason for the addition, revision, or deletion (check all that apply):

- Scheduled Review Change in law Response to audit finding
 Internal Review Other, please explain:

Please complete the appropriate section:

Specific rationale for new policy:

Specific rationale for each substantive revision: This policy is required by the Texas Education Code. The majority of information covered is already outlined in other policies, such as the Non-Discrimination Policy, therefore the policy was condensed to remove redundancies.

Specific rationale for deletion of policy:

Additional Comments:

Reviewers:

Brandon Frye, Vice President of Student Affairs
Gina Oglesbee, Vice President for Finance and Administration
Damon Derrick, General Counsel
Steve Westbrook, Interim President

AIDS and HIV

Original Implementation: September, 1990

Last Revision: January 28, 2020/30, 2023

Purpose

This policy establishes guidelines for how the university will conform its actions in regard to persons with AIDS and HIV.

Definitions

AIDS means acquired immune deficiency syndrome.

HIV means human immunodeficiency virus.

General

Stephen F. Austin State University recognizes the increasing public awareness ~~and concern over~~ concerning AIDS and HIV. ~~For the purposes of this policy, AIDS means acquired immune deficiency syndrome, and HIV means human immunodeficiency virus. AIDS is a fatal disease that has become a nationwide public health problem.~~ In health-related/health-related matters such as this one, the university shall follow the guidelines of recognized authorities including: the Centers for Disease Control and Prevention, the United States Public Health Service, the Texas Department of State Health Services, and the American College Health Association. Further, the university shall conform its actions to the Texas Communicable Disease Prevention and Control Act, the Texas Human Immunodeficiency Virus Services Act, and other law as applicable.

~~The health status of a person infected with HIV may vary from an apparently healthy, normally functioning individual to a critically ill person. However, there is no current medical evidence that persons infected with HIV present a health risk to others in the normal academic or workplace setting. Routine daily encounters with others pose no risk of transmitting the fragile, blood-borne virus. Accordingly, there is no reason to exclude individuals with AIDS or HIV from campus academic, social, or cultural activities. Therefore, on the basis of current knowledge of the disease, persons sharing common living space, work or study areas, libraries, classrooms, recreational facilities, and theaters do not represent a problem or public threat to the campus community.~~

Students and employees (faculty and staff) of the university who may become infected with HIV will not be excluded from enrollment or employment, or restricted in their access to university services or

facilities, unless medically-based judgments in individual cases establish that exclusion or restriction is necessary to the welfare of the infected person or of the other members of the university community.

Persons with HIV infection are entitled to the same rights and opportunities as persons with other communicable diseases. The university prohibits any discrimination in its programs and activities against a person with HIV infection unless based on accurate scientific information. Any student, faculty member, or employee who violates this rule may be subject to appropriate disciplinary action, up to and including termination of employment if an employee and expulsion if a student.

~~When circumstances arise that require review of any matter regarding HIV/AIDS, the president will seek the advice of the director of the Health Clinic, the attending physician, and other relevant parties. An opportunity will be provided for persons involved in the matter to discuss their circumstances. Members of the Public Health Committee will be available to review the issues and to provide recommendations to the president for appropriate action.~~

~~In the event of public inquiry concerning university policy, programs, problems, or statistics related to AIDS on campus, the director of University Marketing Communications will serve as the official spokesperson for the university and will enlist the cooperation of the director of the Health Clinic and the Public Health Committee as necessary to prepare an appropriate response. All inquiries from the press, elected public officials, or the public in general will be referred to the spokesperson.~~

~~The medical records and test results of any HIV-infected person on the campus shall remain confidential and private information in accordance with law. The breach of that confidentiality may result in litigation and in severe penalties, both civil and criminal. (Some exceptions to confidentiality are permitted by law.)~~

~~The university shall keep the number of people who are aware of the existence and identity of students, faculty, or staff members who have AIDS or HIV to an absolute minimum to protect the confidentiality and privacy of the infected persons and to avoid the generation of unnecessary fear and anxiety on the campus. However, public information shall be disclosed upon request in accordance with the Texas Public Information Act, the Family Educational Rights and Privacy Act, the Texas Communicable Disease Prevention and Control Act, the Texas Human Immunodeficiency Virus Services Act, and other applicable law.~~

~~Persons who know, or have a reasonable basis for believing, that they are infected with the AIDS virus are expected to seek expert advice about their health circumstances and are obligated, ethically and legally, to conduct themselves responsibly in accordance with such knowledge for the protection of other members of the university community. The university encourages regular medical follow-up for such persons.~~

~~The university shall carefully observe the safety guidelines established by the U.S. Public Health Service for the handling of blood and other body fluids and secretions in the Health Clinic and in other institutional contexts in which such fluids or secretions may be encountered (e.g., teaching and experimental laboratories).~~

~~The university shall strictly observe the public health reporting requirements for AIDS and HIV infection as well as other communicable diseases.~~

~~The university shall make this policy available upon request to students, faculty, and staff members and such a statement will be included in the Policy and Procedure Manual on the university's Web page.~~

~~Policy for the Work Environment~~

~~In the work setting, the university's major concern will be whether an HIV-infected employee will be able to satisfactorily perform job duties. The university will make reasonable accommodations to keep an employee with HIV infection employed and productive for as long as the employee is capable of this performance.~~

~~Most HIV-infected employees will be able to perform their job duties for an extended period before their illnesses interfere with job-related performance. During the asymptomatic period, the employee is not obligated to provide information about his/her HIV status to the university. However, an employee may want to share information about his/her HIV-infected status with university officials so that responsible management decisions may be made about:~~

- ~~1. assignments or reassignments of job duties;~~
- ~~2. evaluating leave policies to assure leave time comparable to other medical conditions;~~
- ~~3. determinations of possible qualification for disability entitlements; and~~
- ~~4. monitoring the insurance status of the HIV-infected employee to assure continuation of coverage.~~

~~Once HIV-related symptoms occur, the employee has the responsibility as in the case of other illnesses to provide medically verified information relating to the ability to perform job duties.~~

~~Based on federal and state law, any medical documentation of information provided by an HIV-infected employee to university officials must be considered confidential and private information. As such, university officials are forbidden by law from disclosing this information to others without the employee's knowledge and consent. (Some exceptions to confidentiality are permitted by law.) The university requires that any consent to disclosure by the employee be in writing. Any university~~

~~employee who breaches the confidentiality of this information commits a serious offense that may be cause for litigation, resulting in both civil and criminal penalties.~~

~~University employees who refuse to work with HIV-infected co-workers may be subject to disciplinary action up to and including termination. University departmental unit heads should carefully monitor and document any instances of such refusal in violation of this policy and take appropriate disciplinary action.~~

~~At least once each year, Human Resources shall conduct an HIV/AIDS training program or distribute an educational pamphlet for university employees and include in the program and/or pamphlet:~~

- ~~1. current medical information about HIV transmission and prevention;~~
- ~~2. confidentiality and related laws;~~
- ~~3. personnel management, including relevant policies;~~
- ~~4. development of staff problem-solving skills; and~~
- ~~5. a plan for scheduled periodic training.~~

~~Also, each year Human Resources shall conduct HIV/AIDS employee education programs to:~~

- ~~1. provide basic and accurate information regarding the modes of transmission and prevention of HIV infection;~~
- ~~2. reduce fear and misinformation of HIV/AIDS;~~
- ~~3. help faculty and staff recognize and avoid personal behaviors that might cause them to become infected with HIV;~~
- ~~4. encourage nondiscrimination, which enables the HIV-infected person to remain employed as long as feasible;~~
- ~~5. help maintain productivity and lawful behavior in the workplace;~~
- ~~6. provide continuing information about HIV/AIDS; and~~
- ~~7. distribute to all employees a copy of the Texas Department of State Health Services' educational pamphlet entitled "HIV/AIDS and the Workplace."~~

~~At a minimum, the HIV curriculum will include:~~

- ~~1. modes of transmission;~~
- ~~2. methods of prevention;~~
- ~~3. behaviors related to substance abuse;~~

- ~~4. current laws and regulations concerning the rights of an AIDS/HIV-infected individual; and,~~
- ~~5. behaviors associated with HIV transmissions which are in violation of Texas law.~~

~~On an employee's request, the university shall pay the costs of testing and counseling an employee concerning HIV infection if the employee:~~

- ~~1. provides appropriate documentation that the employee may have been exposed to the HIV virus while performing duties of employment with that agency, and~~
- ~~2. was exposed to HIV in the manner that the U.S. Public Health Service has determined is capable of transmitting HIV.~~

~~However, an employee who may have been exposed to HIV while performing job duties at the university may not be required to be tested for HIV.~~

~~For the purpose of qualifying for worker's compensation or any other similar benefits or compensation, an employee must provide the employer with a written statement of the date and the circumstances of the exposure and document that within 10 days after the exposure the employee had a test result that indicated an absence of HIV infection.~~

~~The cost of an employee's testing and counseling shall be paid from funds appropriated for payment of worker's compensation benefits to state employees. Counseling or a test conducted in accordance with these provisions shall conform to the model protocol on HIV counseling and testing prescribed by the Texas Department of State Health Services.~~

~~In compliance with the Texas Communicable Disease Prevention and Control Act, the University Police Department shall adopt a policy for handling persons with AIDS or HIV infection who are in its custody or under its supervision. The department's policy shall ensure that education programs for employees include information and training relating to infection control procedures and that employees have infection control supplies and equipment readily available.~~

~~The university shall adopt and implement workplace guidelines similar to the workplace guidelines for state agencies listed in the Texas Human Immunodeficiency Virus Services Act for any program involving direct client contact that is funded by one of the listed state agencies.~~

Policy for the Academic Environment

~~The university shall allow, to the extent possible, HIV infected students, whether they are symptomatic or not, to continue regular classroom attendance in an unrestricted manner as long as~~

~~they are physically able to attend class.~~

~~The university recognizes that there is no medical justification for restricting the access of HIV-infected students to the Student Center or to university cafeterias, snack bars, gymnasiums, swimming pools, recreational facilities, or other common areas.~~

~~The university recognizes that the best currently available medical information does not support the existence of a risk to those sharing residence halls with HIV-infected individuals; in some circumstances however there may be reasonable concern for the health of those with AIDS or HIV who might be exposed to certain contagious diseases (e.g., measles or chicken pox) in a close living environment. Thus, decisions about residential housing of students with AIDS or HIV shall be made on a case-by-case basis. The university may decide to assign students with AIDS or HIV to private rooms in the interest of protecting the health of those students. The university shall provide education programs about AIDS and HIV to its residence hall staff (both students and employees).~~

~~Since there is no medical necessity, the university shall not advise others living in a residence hall of the presence of students in the residence hall who have AIDS or HIV. The university believes that the responsibility to provide a safe living environment is best dealt with by educational programming. Similarly, the university shall not make any attempt in any other setting to identify those students or employees who have AIDS or HIV.~~

~~The university shall not routinely ask students about their status regarding AIDS or HIV. However, the university shall encourage new students to inform the medical staff at the Health Clinic if they have AIDS or HIV in order for the Health Clinic to provide proper medical care and education. The Health Clinic staff will handle this information, like all other medical information, in a strictly confidential manner in accordance with university policy and federal and state law.~~

~~The university shall not provide any person, group, agency, insurer, employer, or institution with confidential medical information about students with AIDS or HIV virus without the specific written consent of the student. Given the possibility of unintended or accidental compromise of the confidentiality of information, the Health Clinic staff will carefully weigh the importance of including any specific information regarding the existence of AIDS or HIV in the medical record of a student except in circumstances of medical necessity created by the evaluation of an illness. At a minimum, the inclusion of any such information in the medical record should be discussed with the patient prior to its entry.~~

~~The university shall make available to students, on request, the educational pamphlet on HIV infection developed by the Texas Department of State Health Services and shall include in the university's Web page a statement that the pamphlet is available from the Health Clinic.~~

~~The Health Clinic shall provide accurate, understandable information on how to prevent the transmission of HIV infection in compliance with Section 51.919 of the Texas Education Code.~~

~~In further compliance with Section 51.919 of the Texas Education Code, the curricula of the nursing, counseling, and social work degree programs of the university shall:~~

- ~~1. include information about:
 - ~~a. methods of transmission and methods of prevention of HIV infection; and~~
 - ~~b. federal and state laws, rules, and regulations concerning HIV infection and AIDS; and,~~~~
- ~~2. give special attention to the physical, emotional, and psychological stress associated with the care of patients with terminal diseases.~~

Cross Reference: Texas Human Immunodeficiency Virus Services Act, Tex. Health & Safety Code Ch. 85; Texas Communicable Disease Prevention and Control Act, Tex. Health & Safety Code Ch. 81; Tex. Educ. Code § 51.919

Responsible for Implementation: President

Contact for Revision: ~~General Counsel~~ *Vice President for Finance and Administration; Vice President for Student Affairs*

Forms: None

Board Committee Assignment: Academic and Student Affairs Committee

Revision History: *January 28, 2020*
January 31, 2017
October 21, 2013
July 20, 2010