

Acquired Immune Deficiency Syndrome (AIDS) In the Workplace Policy

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§ 1. Purpose

North Carolina State government acknowledges its obligation as an employer to provide a safe and healthful work environment for all of its employees. Furthermore, the State recognizes the employment-related rights and concerns of employees who, as part of their job duties, may be exposed to or who may have HIV infection.

§ 2. Policy

The State shall provide work practices, and procedures to ensure that employees who are exposed to or have HIV infection are provided with confidential, fair and equal treatment. This policy outlines the rights and responsibilities of supervisors and employees regarding HIV infection in a work environment.

§ 3. Anti-Discrimination

It is the State's policy not to discriminate against any applicant or employee who has or is suspected of having AIDS or HIV infection. The State recognizes that an employee with AIDS or HIV infection may wish to continue working. As long as the employee is able to satisfactorily perform the duties of the job [N.C.G.S. § 168A-3(9), § 130A-148C(i)] and there is no medical evidence indicating that the employee's condition is a health threat to other employees, co-workers or the public, an employee shall not be denied continued employment nor shall an applicant be denied employment solely because of a medical condition.

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§ 4. Testing and Examination

Medical tests and examinations to determine the presence of HIV or HIV associated conditions are prohibited except as authorized by State and federal law or required by the rules of the Commission for Health Services. An employee who suspects that they have had a nonsexual blood or body fluid exposure to the HIV virus while on the job may voluntarily elect to be tested for the HIV infection, provided that the suspected exposure poses a significant risk of transmission of HIV as defined in the Rules of the Commission for Health Services. The cost of tests for the exposed employee shall be borne by the employer, if requested by the employee. Some employees may prefer to pay for their own test through a personal or family physician or use the free testing of a Public Health Department.

§ 5. Confidentiality

Confidentiality shall be strictly maintained by the agency for any employee with HIV or HIV associated conditions as required by existing confidentiality rules and laws. Any current confidentiality policies that are in force shall be updated by the agency to include the HIV policy.

§ 6. Prevention of Occupational Exposure

Basic programmatic requirements and guidelines for the control of potential exposure to bloodborne pathogens including HIV virus are delineated in the Employees Workplace Requirements for Safety and Health Policy in the State Human Resources Manual and in the State Safety & Health Handbook

§ 7. Sources of Authority

This policy is issued under any and all of the following sources of law:

- [N.C.G.S. § 126-4\(10\)](#)

It is compliant with the Administrative Code rules at:

- [25 NCAC 01N .0300](#)

The following rules expired November 1, 2016:

- [25 NCAC 01N .0301](#) Education And Training

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- [25 NCAC 01N .0302](#) Basic Education And Training Component
- [25 NCAC 01N .0303](#) Advanced Education And Training Component

The following rules are still in effect:

- [25 NCAC 01N .0304](#) Anti-discrimination
- [25 NCAC 01N .0305](#) Testing And Examination
- [25 NCAC 01N .0306](#) Confidentiality
- [25 NCAC 01N .0307](#) Complaints And Discipline

§ 8. History of This Policy

Date	Version
November 1, 1990	First version.
May 1, 1991	Deleted requirement for a Certificate of Completion to become a part of employee's personnel record. Changed from two to three years for training to be completed. Changed to November 1 (rather than within 6 months) to have advanced training provided.
March 1, 1992	Deleted reference to Wellness Program – make agency responsible for training.
June 1, 1992	Training requirement changed to comply with federal regulations.
December 5, 2019	Deletes obsolete language related to now expired rules and that restates administrative rules that are still in effect listed in Section 7 Sources of Authority. This policy was codified before the ADA was effective so many of the protections are now more fully addressed in the ADA.