	<b>OCCUPATIONAL HEALTH AND SAFETY</b>	<b>Human Resource Manual</b>
	<b>HIV/Aids in the Workplace</b>	<b>Section 1007</b>

## HIV/AIDS IN THE WORKPLACE


### PURPOSE

1. It is essential to protect the human rights and dignity of persons infected with Human Immunodeficiency Virus (HIV) and those infected persons who have developed Acquired Immunodeficiency Syndrome (AIDS). HIV/AIDS infected persons have the right to services and fair treatment from the Government of Nunavut.
2. HIV/AIDS infected people have the same right to be hired and remain employed in the Government as any other person, unless a medical health officer decides that the physical condition or behaviour of the person infected with HIV/AIDS poses a health risk to the public or to other employees.
3. Employees have the right to be protected from possible infection by the public they serve and from other workers who may be infected by HIV/AIDS. In addition, members of the public have the right to be protected from becoming infected by the employees who serve them.

### Objectives

The public service of Nunavut will:

- (1) act with understanding and compassion towards HIV/AIDS infected persons and avoid discriminatory action and stigmatization in the provision of programs, services and employment
- (2) protect the human rights and dignity of HIV/AIDS infected employees and clients; this includes the right to confidentiality
- (3) make all reasonable provisions for the occupational safety and health of its employees as required under the *Safety Act* and the collective agreements
- (4) support and promote the availability of confidential counselling and other support services, where appropriate

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- (5) educate employees regarding how HIV/AIDS is acquired or transmitted, ways to prevent its transmission and ways to modify risk behaviour

## APPLICATION

4. These guidelines and procedures apply to all employees of the Government in all departments, boards, and agencies.

## DEFINITIONS


5. **AIDS** is the abbreviation for Acquired Immunodeficiency Syndrome. The medical condition AIDS is the terminal phase of infection with HIV. This virus progressively destroys the body's natural immunity. When an infected person's immunity finally fails, a wide variety of infections and cancers may develop. Only then does a person actually have full-blown AIDS. The majority of AIDS patients die within one to two years of diagnosis.
6. **Body Fluids** refer to those body fluids that contain HIV and are capable of infecting another person. These fluids are blood, semen, vaginal secretions, body fluid that contains visible blood and several other fluids with which health care workers may come in contact.
7. **Chief Medical Health Officer** is the official appointed under subsection 2(1) of the *Nunavut Public Health Act* to whom all medical practitioners must report cases regarding communicable diseases or unusual manifestations of disease, including HIV infection.
8. **Employees at Risk** are those Government workers who regularly come into contact with blood and infectious body fluids; for example, health care workers and corrections officers.
9. **HIV** is the abbreviation for Human Immunodeficiency Virus, the virus that causes AIDS. It is also called the "AIDS virus".
10. **HIV Carrier** refers to someone who is infected with the AIDS virus (as evidenced by a positive blood test for HIV or its antibodies) but does not have all the signs or symptoms of AIDS. This carrier state is also called the "incubation period" and may last a few weeks to ten or more years. The carrier can infect others via the usual routes of transmission.

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11. **HIV Positive** refers to a positive blood test for the AIDS virus or its antibodies. All persons with a positive test can transmit the infection. This includes asymptomatic carriers, Aids Related Complex patients and AIDS patients.

**PROVISIONS**

12. Employees who suspect that they may be HIV-infected are encouraged to obtain a medical opinion to verify their state of health. If HIV positive, he/she should seek confidential advice from a personal physician or other health care professional regarding precautions which may be necessary in the workplace.
13. Employees are expected to take action to protect their own and the health of others. The *Safety Act* requires that workers take reasonable precautions to ensure their own safety and that of others in the workplace.
14. Employees are not required to divulge their medical diagnoses to any representative of the Government, other than as required under the *Public Health Act* and the Communicable Diseases Regulations.
15. If employees divulge their medical information or diagnosis, including HIV status, to a supervisor, that information shall remain strictly confidential.
16. Any breach of an employee's or client's confidentiality by another employee is grounds for discipline.
17. HIV infection and AIDS are not causes for termination of employment. Persons with HIV-related illnesses may be allowed to work as long as they are certified medically fit by a qualified medical practitioner.
18. Any restrictions imposed on the infected employee will be in compliance with the law and in accordance with accepted human resource management principles. Restrictions are confined to the extent required to minimize the risk of transmission of infectious diseases in the workplace, and on the advice of the Chief Medical Health Officer, after a medical review of the work situation.
19. If fitness to work is impaired by the HIV-related illness, reasonable alternative working arrangements may be made, where feasible.

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20. Since employers are liable for the discriminatory acts of their employees, the discrimination/stigmatization of employees in the workplace affected by, or perceived to be affected by, HIV/AIDS by co-workers, unions, managers or clients will not be tolerated.
21. The Employee Relations Division will educate and provide employees with information on HIV infection and AIDS.

### **Eligibility for Benefits**


22. Employees are eligible to receive disability benefits if they are diagnosed as having HIV/AIDS. The employee must apply for the benefit in the same manner as any other disability. Benefits are payable upon completion of the eligibility period and approval of the claim by the underwriters. The amount payable is offset by any money received for the same condition from the Workers' Compensation Board or Canada Pension Plan.
23. The Workers' Compensation Board may compensate an employee infected with HIV/AIDS if it is may be clearly demonstrated that the HIV/AIDS infection is work-related.

### **Recruiting Future Employees for the GN**

24. Pre-employment screening for HIV as a part of the assessment for fitness to work is unnecessary and will not be required, unless it is a statutory requirement.

### **Additional Provisions**


25. As required under the *Safety Act*, the Government conducts regular inspections of workplaces for risks, including those associated with HIV or AIDS, so that the employment environment remains safe and healthy. Therefore, all employees can expect that their employer will implement guidelines and procedures for the safe handling of blood and body fluids, based on the most current medical knowledge available. This includes providing employees with personal protective equipment and instructions for its use. This action is taken whether or not HIV positive persons or AIDS patients are known to be employed or served.

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26. When informed of an infection, the Chief Medical Health Officer determines the need to notify the appropriate authority, or authorities, based on the risk presented to the employee's workplace. This decision is made after consideration of scientific data and case-specific information.
27. In circumstances where informing departmental senior management is deemed necessary, the Chief Medical Health Officer gives the patient the opportunity to do so, personally, before the Chief Medical Health Officer does.
28. If the employee infected with HIV reveals the condition to the supervisor, the information will remain confidential.
29. Where workplace safety is a concern, the supervisor notifies the Chief Medical Health Officer in the Department of Health and Social Services.
30. The Chief Medical Health Officer assesses the work situation, determines the risk and consults with legal counsel.
31. The Chief Medical Health Officer advises the employee and supervisor, in writing, precautions to be taken.
32. If the Chief Medical Health Officer decides that the employee should not be working in that position, the supervisor consults with managers to arrange a lateral transfer for the employee into a more appropriate position.

#### **AUTHORITIES AND REFERENCES**

33. Canadian Charter of Rights and Freedoms  
Section 15(1), Equality Rights
34. Communicable Diseases Regulations  
Section 10, Investigation by the Chief Medical Officer  
Section 11, Special Powers of the Chief Medical Officer
35. Nunavut Public Health Act  
Section 2(1), Chief Medical Health Officer
36. Nunavut Public Service Act  
Section 19(2), Discrimination

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- 37. Safety Act  
Section 4, Duty of Employer  
Section 5, Duty of Worker
- 38. NEU Collective Agreement  
Article 38, Safety and Health
- 39. Workers' Compensation Act  
Section 14, Eligibility for Compensation

**CONTACTS**

- 40. For clarification or further information, please contact:

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