



Section: 62-00, MISCELLANEOUS PERSONNEL POLICIES

PURPOSE AND SCOPE

The purpose of this policy is to establish procedures for handling personnel management issues which arise when it is discovered that an applicant or an employee has a communicable disease. In addition to this policy, the City provides education and training programs to all City employees with up-to-date and accurate information about HIV, including AIDS.

POLICY

City of Memphis Government is an equal opportunity employer and does not discriminate against any individual based upon race, creed, age, sex, religion, disability, genetic information or national origin. This policy of non-discrimination also applies to individuals infected with HIV or any other communicable disease which has not been shown to be transmitted by casual, non-sexual contact which generally occurs among workers and the public in the workplace.

Within the guidelines provided by federal law and established City of Memphis policies, the City will provide reasonable accommodation to an employee with HIV or other communicable diseases in an effort to retain the employee in the workforce, as long as the employee is physically capable of doing so, and as long as the employee can perform the essential job functions for the position the employee occupies, and does not pose a risk to others.

The communicable diseases covered by this policy include, but are not limited to:

1. Hepatitis,
2. Tuberculosis,
3. HIV, and
4. AIDS-related complex (ARC).

NON-DISCRIMINATION IN HIRING AND EMPLOYMENT

HIV and certain other communicable diseases are disabilities protected under the Americans with Disabilities Act of 1990, and the Rehabilitation Act of 1973, Section 504. Accordingly, no employee or applicant for City employment will be the subject of discrimination solely because they test positive for HIV and/or other communicable diseases.

JOB MODIFICATION, LEAVE, TRANSFER, AND TERMINATION

If appropriate, the City will make reasonable accommodations in the workplace to serve the legitimate needs of any employee infected with HIV or other



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communicable diseases covered by this policy, which may affect the employee's ability to perform the assigned job duties. Such accommodations will be accomplished within applicable law and the guidelines of established personnel policies. Any final decisions regarding accommodations shall be made by the Human Resources Director or designee.

In accordance with City policy and/or the applicable Memorandum of Understanding, employees infected with HIV or other communicable diseases covered by this policy may request a leave of absence with or without pay. The decision to grant leave shall be based upon established personnel policies or the applicable Memorandum of Understanding. The City reserves the right to terminate employees who cannot satisfactorily and safely perform the essential functions of their job.

PRIVACY AND CONFIDENTIALITY

The personal medical information of any job applicant or any employee is considered strictly confidential to the extent permitted by law. Release of information to outside sources is strictly prohibited without proper legal documents and/or the signed, written consent of the employee or job applicant. Employees who fail in this responsibility are subject to disciplinary action up to and including termination. All City employees, regardless of their job status, with knowledge of the medical condition of a job applicant or other City employees are expected to strictly observe privacy and confidentiality requirements.

AIDS TESTING

The City does not routinely test for the presence of HIV at any stage during the screening of job applicants. The City also does not engage in the random or generalized testing of City employees for HIV. City employees, who have possibly been exposed to HIV or other communicable diseases while in the course of performing their job duties, will be offered counseling and appropriate medical services through the On-the-Job Injury Program.

For reasons other than an on-the-job injury claim, concerned employees who wish to do so may contact the AIDS Unit at the Shelby County Health Department for assistance.



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EDUCATION AND TRAINING

Educational training relevant to communicable diseases will be provided for all City employees by the Human Resources Division through its Training Section and its Employee Assistance Program. Employees in Divisions which have established protocols for dealing with blood, other bodily fluids, and contaminated supplies and equipment are expected to comply fully with the established protocols, which will by necessity be more detailed than the procedures to be followed by workers not employed in those settings.

BENEFITS AND OTHER ASSISTANCE

Insurance coverage for communicable diseases will be governed by the employee's appropriate insurance plan. All matters of pension will be governed by the rules and regulations of the City of Memphis Retirement System.

If contracting a communicable disease or exposure thereto is determined to be an on-the-job injury, medical and lost-time benefits (if any) shall be paid in accordance with the established OJI Program and subject to the conditions and limitations thereof.

When required by law or regulatory officials, on-the-job injury cases of communicable disease shall be reported to the Shelby County Health Department or other appropriate governmental agencies.

An employee infected with HIV or other communicable diseases may contact the City's Employee Assistance Program staff for counseling or other referral services.

EMPLOYEE RESPONSIBILITIES

The preponderance of evidence indicates that HIV cannot be transmitted by casual, non-sexual employee-to-public or employee-to-employee contact which generally occurs in the workplace. Accordingly, employees are required to conduct themselves in a professional manner at all times. Refusing to work with another employee, or with the public who has or is suspected of having AIDS or who is "at risk" of acquiring the Disease is not permitted. The same applies to any other communicable disease which cannot be transmitted by casual, non-sexual contact in an office or workplace. If such a situation arises, the City will attempt to deal with it through education and counseling. If such measures fail, and refusal to work is disrupting the workplace, the employee who refuses to



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perform their assigned job will be subject to disciplinary action up to and including termination. For disciplinary purposes, refusal to work under these circumstances will be considered a major infraction, including but not limited to: (a) failure to follow a lawful order; (b) misconduct; and (c) gross insubordination.

DEFINITIONS

- HEPATITIS – A disease or condition marked by inflammation of the liver
- TUBERCULOSIS – An infectious disease caused by the tubercle bacillus that most commonly affects the respiratory system
- AIDS – Acquired immune deficiency syndrome; used to describe the general AIDS phenomenon, or an illness characterized by one or more opportunistic diseases and absence of all other causes or reduced resistance, except HIV.
- ARC – AIDS-related complex; the presence of a combination of conditions, often quite mild, that together give evidence of infection with HIV
- HIV – Human immunodeficiency virus; the laboratory name of the virus which causes AIDS.
- EMPLOYEE – any employee of City Government
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