

HIV/AIDS POLICY

1. INTRODUCTION

- 1.1 The Human Immune Deficiency Virus (HIV) and the Acquires Immune Deficiency Syndrome (AIDS) are serious public health problems that have socio economic, employment and human rights implications.
- 1.2 The HIV/Aids epidemic will affect every workplace, with prolonged staff illness, absenteeism, and death impacting on productivity, employee benefits, occupational health and safety, production costs and workplace morale.
- 1.3 HIV knows no social, gender or racial boundaries, but it is accepted that socio-economic circumstances do influence disease patterns. HIV thrives in an environment of poverty, rapid urbanization, violence and destabilization. Transmission is exacerbated by disparities in resources and patterns of migration from rural to urban areas. Women particularly are vulnerable to infection in cultures and economic circumstances where they have little control over their lives.
- 1.4 Furthermore, HIV/ AIDS is still a disease surrounded by ignorance, prejudice, discrimination and stigma. In the workplace unfair discrimination against people “living” with HIV and AIDS has been perpetuated through widespread practices such as pre-employment HIV testing, dismissals for being HIV positive and the denial of employee benefits.
- 1.5 One of the most effective ways of reducing and managing the impact of HIV/ AIDS in the workplace is through the implementation of a HIV/Aids policy and programme. In the light of this, this Code has been developed as a guide to the School’s management and employees.
- 1.6 Furthermore, the Code seeks to assist with the attainment of the broader goals of:
 - 1.6.1 Eliminating unfair discrimination in the workplace based on HIV status.
 - 1.6.2 Promoting a non-discriminatory working environment in which people “living” with HIV or AIDS can be open about their HIV status without fear of stigma or rejection.
 - 1.6.3 Promoting appropriate and effective ways of managing HIV in the workplace.
 - 1.6.4 Creating a balance between the rights and responsibilities of all parties.
 - 1.6.5 Giving effect to the regional obligations of the Republic as member of the Southern African Development Community.



2. OBJECTIVE

2.1 The policy's primary objective is to set out the guidelines for the School's management and employees to implement to ensure individuals with HIV infection are not unfairly discriminated against in the workplace. This includes provisions regarding:

- 2.1.1 Creating a non-discriminatory work environment.
- 2.1.2 Dealing with HIV testing, confidentiality and disclosure.
- 2.1.3 Providing equitable employee benefits.
- 2.1.4 Dealing with dismissal.
- 2.1.5 Managing grievance procedures.

2.2 The policy's secondary objective is to provide guidelines for the School's management and employees on how to manage HIV/AIDS within the workplace. Since the HIV/AIDS epidemic impacts upon the workplace and individuals at several different levels, it requires a holistic response, which takes all these factors into account. The Code therefore includes guidelines on:

- 2.2.1 Creating a safe working environment for all employees.
- 2.2.2 Developing procedures to manage occupational incidents and claims for compensation.
- 2.2.3 Introducing measures to prevent the spread of HIV.
- 2.2.4 Developing strategies to reduce the impact of the epidemic upon the workplace.
- 2.2.5 Supporting those individuals who are infected by HIV/AIDS so that they may continue to work productively for as long as possible.

3. PROMOTING A NON-DISCRIMINATORY WORK ENVIRONMENT:

3.1 No person employed by the School may unfairly discriminate against an employee, or an applicant for employment, based on his or her HIV status. This means that no person with HIV or AIDS shall be treated unfairly within the employment relationship or within any of the School's employment policies or practices, including with and regarding:

- 3.1.1 Recruitment procedures, advertising and selection criteria.
- 3.1.2 Appointment and the appointment process.
- 3.1.3 Job classification or grading.
- 3.1.4 Remuneration, employment benefits and terms and conditions of employment.
- 3.1.5 Job assignments.
- 3.1.6 The working environment and facilities.
- 3.1.7 Training and development.
- 3.1.8 Performance evaluation systems.
- 3.1.9 Promotion, transfer and demotion.
- 3.1.10 Disciplinary measures short of dismissal.
- 3.1.11 Termination of services.



- 3.2 The school will adopt appropriate measures to ensure that employees with HIV and AIDS are not unfairly discriminated against and are protected from victimization through positive measures such as:
 - 3.2.1 Awareness, education and training on the rights of all persons about HIV and AIDS.
 - 3.2.2 Mechanisms to promote acceptance and openness around HIV/AIDS in the workplace.
 - 3.2.3 Support for all employees infected or affected by HIV and AIDS.
 - 3.2.4 Grievance procedures and disciplinary measures to deal with HIV-related complaints in the workplace.

4. HIV TESTING:

- 4.1 No person employed by the School may require an employee, or an applicant for employment, to undertake an HIV test to ascertain that employee's HIV status, unless the employee voluntarily agrees to HIV testing or authorization has been obtained from the Labour Court. This includes HIV testing:
 - 4.1.1 During an application for employment.
 - 4.1.2 As a condition of employment.
 - 4.1.3 During procedures related to termination of employment.
 - 4.1.4 As an eligibility requirement for training or staff development programmes.
 - 4.1.5 As an access requirement to obtain employee benefits.
- 4.2 Where HIV testing has been voluntarily agreed to or has been authorized by the Labour Court it should be carried out in terms of the conditions prescribed by the Court regarding:
 - 4.2.1 The provision of counselling.
 - 4.2.2 The maintenance of confidentiality.
 - 4.2.3 The period during which the authorization for HIV testing applies.
 - 4.2.4 The category or categories of jobs or employees in respect of which the authorization for HIV testing applies.



5. CONFIDENTIALITY AND DISCLOSURE:

- 5.1 All persons with HIV or AIDS have the legal right to privacy. An employee is therefore not legally required to disclose his or her HIV status to the School.
- 5.2 Where an employee chooses to voluntarily disclose his or her HIV status to the School, this information may not be disclosed to others without the employee's express consent, in line with the POPI (Protection of Personal Information) Act, No 4 of 2013.
- 5.3 The School will create mechanisms to encourage openness, acceptance and support for those employees who voluntarily disclose their HIV status within the workplace, including:
 - 5.3.1 The use of persons openly living with HIV or AIDS in education, prevention and awareness programmes.
 - 5.3.2 Encouraging the development of support groups for employees living with HIV or AIDS.
 - 5.3.3 Ensuring that persons who are open about their HIV or AIDS status are not unfairly discriminated against or stigmatised.

6. PROMOTING A SAFE WORKING ENVIRONMENT:

- 6.1 The School is obliged to provide and maintain, as far as reasonably practicable, a working environment that is safe and without risk to the health of its employees.
- 6.2 The risk of HIV transmission within most workplaces is minimal. However, occupational accidents involving bodily fluids may occur. The School ensures that its policy deals with:
 - 6.2.1 The risk, if any, of the occupational transmission of HIV within that workplace.
 - 6.2.2 Appropriate training, awareness, and education on the use of universal injection control procedures to identify, deal with and reduce the risk of HIV transmission at work.
 - 6.2.3 Providing appropriate equipment and materials to protect employees from the risk of exposure to HIV.
 - 6.2.4 The steps that must be taken following an occupational accident including the appropriate management of occupational exposure to HIV and other blood borne pathogens, including access to post exposure prophylaxis.
 - 6.2.5 The procedures to be followed in applying for compensation for occupational infection.
 - 6.2.6 The reporting of all occupational accidents.
 - 6.2.7 Adequate monitoring of occupational exposure to HIV to ensure that the requirements of possible compensation claims is being met.



7. DISMISSAL:

- 7.1 Being HIV positive or having AIDS is not enough reason to dismiss a person. Employees with HIV/AIDS may not be dismissed solely based on their HIV status.
- 7.2 Where an employee has become too ill to work, the School is obliged to follow accepted guidelines regarding dismissal for incapacity before terminating an employee's services.
These include attempts to adapt the employee's duties, to accommodate the employee's disability and to find alternative employment for the employee.
- 7.3 This should ensure that as far as possible, the employee's rights to confidentiality regarding his or her HIV status is maintained during any incapacity proceedings. An employee cannot be compelled to undergo an HIV test or to disclose his or her HIV status as part of such proceedings unless the Labour Court authorized such a test.

OWNER'S SIGNATURE

I, _____, ID number _____ hereby agree that I have read and understood the contents of this policy and agree to comply with the provisions of this policy.

Employee

Date



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