

SUBJECT: AIDS IN THE WORKPLACE

Definition: For purposes of this Administrative Procedure Memorandum:

1. “A person with AIDS/ARC” means a person who has HIV infection and an opportunistic infection which is a result of the immunosuppressants caused by HIV infection.
2. “HIV infection” means a person whose blood, when tested, yields a result positive for the presence of HIV or an antibody to HIV, the human immunodeficiency virus which causes acquired immunodeficiency syndrome (AIDS).

Purpose: The purpose of this procedure is to provide direction to all City of Madison managers and supervisors in dealing with issues that may arise when an employee has AIDS/ARC or HIV infection. This procedure is intended to carry out the requirements of Sec. 3.35(18) of Madison General Ordinances. Employees who desire individual assistance are encouraged to contact EAP, the Health Department or their supervisor.

Scope: This procedure is applicable to all City departments and divisions and all classes of employees.

Policy: Persons with AIDS/ARC or HIV infection are “handicapped persons” within the meaning of applicable laws. The City of Madison recognizes that employees with AIDS/ARC or HIV infection may wish to continue to participate in their normal activities, including work, as long as their condition will allow. Managers and supervisors will be sensitive to their condition and will make reasonable accommodations to permit them to continue working as long as they are able to do so, subject to the provisions of Sec. 3.35(18), M.G.O. and of this Administrative Procedure Memorandum. Employees are prohibited from harassing co-workers with AIDS/ARC or HIV infection.

Procedure: All managers and supervisors should study this Administrative Procedure Memorandum and Sec. 3.35(18), M.G.O. They should have copies available to use in discussion with their employees. The Director of Human Resources is charged with the responsibility for administering this Administrative Procedure Memorandum.

Work Accommodation: Reasonable work accommodations will be determined on an individual case by case basis. The City will make every effort to accommodate the affected employee pursuant to the provisions of Sec. 3.35(18), M.G.O. In determining what work accommodation is reasonable and necessary, managers and supervisors shall consult the Human Resources Department. The safety concerns of fellow employees and the public shall also be considered.

Confidentiality: Under state law, the results of laboratory tests for HIV may not be disclosed without the written consent of the test subject. In the workplace, information about an employee with AIDS/ARC or HIV infection may come from various sources, including the affected employee, and such information is not covered by the confidentiality statute. However, it is City policy to be sensitive to such information and to disclose it only to those with a need to know.

Evaluation: There is hereby established an AIDS/ARC support group that shall consist of representatives from the following areas:

1. Human Resources (Chair)
2. City Attorney's Office
3. Affirmative Action Office
4. Health Department
5. Affected Department Head

Upon knowledge that an employee has AIDS/ARC or HIV infection, the supervisor or manager shall immediately contact the Chair of the AIDS/ARC support group. The support group shall assist the supervisor in evaluating the workplace and potential impact on risk, safety, effect on other employees, contact with the public and other considerations. If the support group believes it necessary, they may consult other City officials or employees as needed. All individuals so involved shall keep their discussions confidential.

Training: The Human Resources Department will provide training, education, counseling and/or referral as follows:

1. All employees will be provided with the most up-to-date information on AIDS (i.e., how it is transmitted, how to prevent infection, who is at risk, resources to contact).
2. Employees whose employment activities provide potential for increased risk of exposure will receive specialized training and/or consultation.
3. Managers and supervisors will receive information and/or training on AIDS, including the potential impact of AIDS on a worksite.
4. Employees requesting more specific and/or intense training, education or counseling will receive assistance or be referred to appropriate resources for assistance.
5. A specific education, training, counseling and/or referral work plan will be completed in order to implement the above policy statements.

M.G.O. Sec. 3.35(18) Efficient and Effective Performance:


- (a) Policy. It is the policy of the City of Madison to maintain efficient and effective performance by all employees, to make reasonable accommodations for employees with handicapping conditions and disabilities due to age, and to do everything possible to bring injured or disabled employees back to work as soon as their physician permits.

- (b) Temporary Disabilities. Where a physician certifies that an employee is unable to perform his/her regular duties because of a temporary disability, but certifies that he/she would be able to work part-time or to perform less arduous duties, the appointing authority shall assign the employee to perform light duty work according to procedures which the Mayor shall establish. These procedures may include temporary transfer to another work unit when that is feasible. For the purpose of this ordinance, and of these procedures, any temporary disability related to pregnancy shall be treated the same as other temporary disabilities.

- (c) Handicapped Employees. For the purpose of this subsection, the term "handicap" has the same meaning as "handicap" in Section 3.58 of these ordinances. The Mayor shall establish procedures for the provision of reasonable accommodations for qualified applicants with employees with handicaps. Such reasonable accommodation shall, at a minimum, provide for feasible adjustments in testing, and in equipment, schedule, accessibility of work areas and facilities, and for feasible task modifications. For employees who acquire a handicap after employment with the City, these procedures shall include the options of transfer to other City jobs which the employee is able and qualified to perform, in accordance with Section 3.35(15) of these ordinances, and of demotion, in accordance with Sections 3.35(15) and (16) of these ordinances.

- (d) Termination. If the employee's physical or mental disability results in his/her being unable to perform his/her duties efficiently and effectively, with reasonable accommodation, he/she may be terminated, in accordance with the provisions set forth in Section 3.35(16) of these ordinances. If an employee who is terminated due to physical or mental disability under this section is eligible for retirement benefits, he/she shall be deemed to have retired. Notwithstanding any other provision to the contrary, he/she is eligible for payment of accumulated unused sick leave credits, unused vacation credits and all other retirement-related benefits. Compulsory retirement is abolished.

General: The guidelines established herein balance the rights of individuals affected with AIDS/ARC or HIV infection with the concerns that may arise because of contact with the public and fellow employees. This procedure will remain in force until amended or suspended.


Paul R. Soglin
Mayor

APM No. 2-17
June 2, 1989