



COALITION DES ORGANISMES COMMUNAUTAIRES QUÉBÉCOIS DE LUTTE CONTRE LE SIDA

[Quebec's coalition of community-based groups fighting AIDS]

MODEL POLICY HIV/AIDS IN THE WORKPLACE

OBJECTIVE:

AIDS and HIV infection are serious public health problems with many social, cultural, legal, and economic repercussions. Unfortunately, in spite of efforts to inform the public on the modes of transmission of HIV/AIDS, unjustified fears based on ignorance and pre-conceived notions still exist and can result in discrimination against people living with HIV/AIDS (henceforth referred to as "PHAs").

In an attempt to protect the rights of PHAs and to calm the fears of other employees, this policy has been drawn up to tackle HIV/AIDS-related situations. The policy is designed to preserve and promote the health and dignity of employees at work, to respect and defend employee rights and to provide quality services to clients.

AIDS and HIV INFECTION:

The word "AIDS" refers to acquired immunodeficiency syndrome. AIDS is the late outcome of an HIV infection (human immunodeficiency virus) that attacks and significantly weakens the immune system. An HIV infection evolves in stages. AIDS denotes the stage where the immune system is greatly deteriorated and where certain serious, even deadly, infectious diseases and tumours may develop. An HIV infection is incurable. However, as a result of improved medical treatments, an already-acquired immune deficiency is highly likely to be improved or, if the treatment is started in time, that its appearance be delayed by several years.

A person living with HIV/AIDS may stay healthy for several years, and many PHAs can keep working and continue with their regular activities.

HIV is one of various pathogenic agents that are not easily transmissible. The virus is highly sensitive and non-viable outside of the human body in current daily conditions. Regular hygienic procedures, including the use of basic disinfectants such as bleach and alcohol, are capable of neutralizing the virus.



HIV is able to travel from an infected person to the human organism through sperm, vaginal secretions, breast milk or blood. HIV can be transmitted through:

- unprotected sex with a person infected with HIV;
- using used and dirty needles and syringes, and any activity that involves skin perforations, where the needle, syringe or piercing implement is contaminated;
- a mother with HIV to her foetus, in the uterus or to the newborn at the time of delivery, or when breastfeeding; and
- blood transfusions, organ transplants and insemination when blood, blood products, organs or sperm are contaminated.

There is no risk of contracting HIV/AIDS during day-to-day contact or normal activities in the workplace: for example, when shaking hands, hugging, drinking out of the same cup, speaking into the mouthpiece of a telephone, or sitting on a toilet seat.

Given the modes of HIV transmission and the means to prevent them, there is no reason to fear anyone with HIV/AIDS. It is up to each and every one to ensure that people living with HIV/AIDS retain their dignity and are not subjected to any kind of discrimination.

PRINCIPLES AND COMMITMENTS:

ARTICLE 1 POLICY STATEMENT

1.1 *[name of your organization]*'s policy. *[name of your organization]* acknowledges that HIV/AIDS is a serious disease, and that employees living with HIV/AIDS will be treated the same as any other employee with a serious illness.

ARTICLE 2 HUMAN RIGHTS

2.1 Non-limitative enumeration of rights. *[name of your organization]* recognizes that employees living with HIV/AIDS, as all employees, are entitled to:

- 2.1.1** employment, as long as their state of health so permits;
- 2.1.2** equal treatment, free of harassment or discrimination based on real or presumed HIV status;
- 2.1.3** health, security, and dignity;
- 2.1.4** integrity;
- 2.1.5** respect for their privacy, respect for the confidential nature of their health status, and of their medical records;
- 2.1.6** the same benefits as other employees;
- 2.1.7** reasonable measures of accommodation, without imposing an excessive burden on the employer; and
- 2.1.8** resume their employment as soon as they are physically able to do so.

2.2 Prohibition of harassment. Pursuant to the provisions of subparagraph 2.1.2, *[name of your organization]* recognizes that harassment based on real or presumed HIV status is strictly prohibited, and undertakes to:

- 2.2.1 not exercise, not tolerate, and prohibit any kind of harassment against employees or clients living with or presumed to have HIV/AIDS;
- 2.2.2 take disciplinary action extending even to dismissal of any person guilty of harassment.

2.3 Prohibition of discrimination. Pursuant to the provisions of subparagraph 2.1.2, *[name of your organization]* recognizes that discrimination based on real or presumed HIV status is strictly prohibited, and undertakes to:

2.3.1 not exercise, not tolerate and prohibit any kind of harassment during the following activities, among others:

- a) Hiring;
- b) Apprenticeship;
- c) Determining the duration of the probation period;
- d) Professional development;
- e) Promotion;
- f) Transfer;
- g) Travel;
- h) Layoff;
- i) Suspension;
- j) Dismissal;
- k) Working conditions;
- l) Establishing employment categories or classifications

with regard to candidates for employment, employees and clients living with, or presumed to have HIV/AIDS.

2.3.2 take disciplinary action extending even to dismissal of any person guilty of discrimination.

2.4 Right to respect for private life. Pursuant to the provisions of subparagraph 2.1.5:

2.4.1 *[name of your organization]* recognizes that:

- a) the candidate or employee is not obliged to reveal his or her HIV status to the employer, whether it be during the interview, on a job application form or during the period of employment;
- b) the employer encourages any employee living with HIV/AIDS to reveal his or her status, if and only if the employee so desires;
- c) every employee, manager, executive, administrator and shareholder is bound not to divulge information on the HIV status of an employee with AIDS to anyone, including a superior, without having first obtained the free and informed consent of the person in question; and

d) in case of absenteeism due to illness, only information relative to the ability to work will be requested by *[name of your organization]* on the medical certificate.

2.4.2 *[name of the organization]* uses all available means of security to preserve the confidentiality of employee files, including locking file cabinets, the use of passwords to access some computer files and the limitation of access to some files to designated persons.

ARTICLE 3 MEDICAL AND DIAGNOSTIC TESTS

3.1 Medical tests. *[name of your organization]* recognizes that:

3.1.1 the medical test required by *[name of your organization]* is designed for the sole purpose of ensuring that the candidate or the employee possesses all the physical and mental aptitudes for the position in question and that only information related to the skills required for the job will be forwarded by the doctor to the employer;

3.1.2 the requirement to undergo a medical examination will apply to a candidate or employee only once the position, transfer or promotion, has been formally offered.

3.2 Diagnostic tests. *[name of your organization]* undertakes not to request any HIV/AIDS screening tests to determine whether a person is HIV-positive at the time of recruitment or on the job, especially for transfer or promotion purposes.

ARTICLE 4 GROUP INSURANCE and BENEFITS

4.1 Availability. Pursuant to the provisions of paragraph 2.1.6, *[name of your organization]* undertakes to provide to employees living with HIV/AIDS the group insurance and other social benefits provided to all employees.

4.2 Confidentiality. Pursuant to the provision of paragraph 2.4, *[name of your organization]* acknowledges that any information on the state of health of an employee disclosed by the employee so as to be eligible for group insurance or other benefits will remain confidential and that only the person in charge of group insurance or benefits will have access to this information.

ARTICLE 5 SAFETY

5.1 Safety. *[name of your organization]* acknowledges that:

- 5.1.1** there is no risk of HIV/AIDS transmission in the course of normal activities and daily contact in the work environment; *[N.B.: However, given the risk involved in the case of employment or work environments where there may be a risk of coming into contact with blood (e.g. in hospitals and other health care institutions, law enforcement community or police services, emergency services), a suitable infection control procedure should be adopted. In most cases, the risk is not caused by exposure to infection with co-workers, but rather with clients. These work environments should already be aware of the risks and have standardized protocols established throughout all activity sectors.];*
- 5.1.2** all employees are entitled to work in a safe and secure environment. Without limiting the generality of the foregoing, this may in no case be interpreted so as to justify the exclusion or withdrawal of a PHA; and
- 5.1.3** the importance of universal precautions as the best method of HIV prevention in case of accidents involving blood or body secretions and undertakes to provide the necessary materials, implement, abide by, enforce and require observance of the procedures necessary for the implementation of universal precautions.

5.2 Refusal to work with a PHA. Without limiting the scope of the preceding information, and pursuant to subparagraph 5.1.2, *[name of your organization]* will not tolerate the refusal of an employee to work with an employee living with HIV/AIDS or perceived as such, or the request that the latter be either laid off or transferred. Disciplinary measures will be taken against this type of behaviour and against any other breach of *[name of your organisation]*'s policy.

ARTICLE 6 REASONABLE ACCOMMODATION

6.1 Reasonable measures of accommodation. *[name of your organization]* acknowledges that it is bound to deploy all reasonable efforts, in collaboration with the union, if applicable, in an effort to adjust the schedule, tasks or any other working condition[s] of the employee living with HIV/AIDS when the state of the employee's health so requires it, providing that this does not impose an excessive burden on the employer.

**ARTICLE 7
EXPECTATIONS OF EMPLOYEES**

7.1 Expectations of employees. *[name of your organization]* expects all of its employees to maintain respectful, compassionate and cooperative working relations with employees living with HIV/AIDS.

**ARTICLE 8
EDUCATION, INFORMATION, COUNSELLING**

8.1 Education in terms of HIV. *[name of your organization]* recognizes the need for all of its employees to be informed on workplace-related health and safety issues.

8.2 Education program. *[name of your organization]* undertakes to implement, *[in collaboration with [name of your organization]'s occupational health and safety committee and/or union, if applicable]* a continuing education program for executives, managers and all employees, covering, among others, the implementation of an AIDS in the workplace policy, on modes of HIV transmission, universal precautions and on any other topic that may address the needs of the staff.

8.3 Counselling services. *[name of your organization]* undertakes to provide its employees living with HIV/AIDS with information on counselling, support and referral services available to them in a completely confidential manner.

8.4 "Open Doors." *[name of your organization]* undertakes to adopt an "open-door" policy with regard to any concerns employees may have. *[name of your organization]* encourages employees living with HIV/AIDS, employees who may be apprehensive about working with them or who have other fears, to contact their supervisor, director or any other person in authority to discuss their concerns. This person will then take reasonable measures to respond to the issues raised, particularly those mentioned in paragraph 8.3.

8.5 Employee assistance program. *[If your organization has an employee assistance program, it would be advisable to refer to it and provide a brief description of the services offered and the names of the contact persons].*

**ARTICLE 9
PROCEDURES**

9.1 Policy-implementation procedures. All of the implementation procedures for this policy are listed as Appendices.