

U.S. DEPARTMENT OF EDUCATION
PERSONNEL MANUAL INSTRUCTION

PMB 792-1

DATE: AUGUST 1, 1989

APPROVED :

VERONICA D. TRIETCH
DIRECTOR OF PERSONNEL

05/17/02

SUBJECT: Acquired Immune Deficiency Syndrome (AIDS) in the Workplace Policy Statement

I. **AUTHORITY:** Federal Personnel Manual (FPM) Bulletin 792-42, issued March 24, 1988.

II. **EXPLANATION OF TERMINOLOGY USED IN THE POLICY STATEMENT:**
In response to a recommendation made by the Presidential Commission on the Human Immunodeficiency Virus (HIV) Epidemic, the White House Counsel requested an opinion from the Department of Justice on the application of the Rehabilitation Act of 1973 to HIV-infected individuals. The Justice Department's office of Legal Counsel rendered such an opinion September 27, 1988, which states simply that any HIV infected individual, whether exhibiting symptoms or not, is covered by the provisions of that Act. That opinion states, in part:

“In this opinion, individuals who are infected with the AIDS virus and have developed the clinical symptoms known as Acquired Immune Deficiency Syndrome ('AIDS') or AIDS-Related Complex ('ARC') will sometimes be referred to as 'symptomatic HIV-infected individuals.' Individuals who are infected with the AIDS virus but do not have AIDS or ARC will sometimes be referred to as 'asymptomatic HIV-infected individuals.'”

Throughout the following Policy Statement, references to AIDS or ARC are to be read within the terms of the above opinion and are intended to include any HIV-infected individual, whether symptomatic or asymptomatic.

III. **BACKGROUND:** The Department recognizes that AIDS and ARC present a number of economic, health, employment and legal issues for employees in the workplace. Because of these potential impacts, we have established the following policy for handling employee issues which may arise because of HIV-infection. AIDS is a virus that attacks an individual's immune system and damages his/her ability to fight other diseases. ARC

- IV. is a term for a set of specific clinical symptoms manifested by an individual who is seropositive for the loss of appetite, weight loss, fever, tiredness and skin rashes.

Guidelines issued by the U.S. Public Health Service's Centers for Disease Control (PHS/CDC), and other available medical and scientific data, state that AIDS is an infectious disease that is transmitted by either intimate sexual contact or intravenously through the use of contaminated needles or by receipt of transfusions of contaminated needles or by receipt of transfusions of contaminated blood. CDC guidelines further state: "The kind of non-sexual person-to-person contact that generally occurs among workers and clients or consumers in the workplace does not pose a risk for transmission of [AIDS]..." Nor is there significant medical evidence that AIDS may be contracted through any of the following:

- ◆ Being around someone infected with AIDS on a daily basis over a long period of time.
- ◆ Working in an office with an HIV-infected individual.
- ◆ Being a blood donor.
- ◆ Exposure to sneezing, coughing or spitting.
- ◆ Handshakes or non-sexual physical contact.
- ◆ Toilet seats, bathtubs or showers.
- ◆ Utensils, dishes or linens used by HIV-infected individuals.
- ◆ Articles handled (e.g., telephones) or worn by HIV-infected individuals.
- ◆ Riding in the same transportation with an HIV-infected individual.
- ◆ Eating in the same places as or with an HIV-infected individual.

V. **POLICY:**

- A. The Department is committed to maintaining a safe and healthy environment for all employees, while continuing to maintain our commitment of providing service to the public.
- B. Subject to information changes from recognized medical authorities and directives, it is the Department's policy that employees with AIDS or its related conditions will be permitted to work as long as they are able to maintain at least a minimally satisfactory level of work performance and do not impose a health or safety risk to other employees. Under normal conditions, co-workers will not have basis upon which to refuse to work or to withhold their services out of fear of contracting AIDS through working with an HIV-infected individual. Employees who refuse to work or are found to have withheld their services, harassed, intimidated, or in any other manner discriminated against HIV-infected individuals may be subject to discipline.
- C. The Department will treat employees with AIDS the same as employees with any other serious illness. Employees with AIDS will be appropriately informed of their rights to such benefits as group life insurance, medical insurance, disability leaves of absence and any other disability benefits to which they are entitled. Employees with

AIDS shall be allowed to maintain at least a minimally satisfactory performance level, and do not impose a health or safety risk to other employees.

In some circumstances, accurate and complete medical documentation may be required to make competent decisions about an individual's ability to work in a safe and reliable manner. Under OPM regulations contained at 5 CFR, Part 339, Medical Determination Related to Employability, it is the employee's responsibility to produce medical documentation regarding the extent to which a medical condition is affecting job performance. For those instances in which an employee with AIDS fails to submit sufficient documentation regarding the extent to which a medical condition is affecting availability for duty or job performance, the agency may require the employee to take a physical examination. This will allow the agency to consider alternatives to keeping the employee in the position of record if there are serious questions about reliable performance, and will help the agency determine whether the HIV-infected employee's medical condition is sufficiently disabling to entitle the employee to be considered for reasonable accommodation under the Rehabilitation Act of 1973 (29 U.S.C. §794). Reasonable accommodations will be made as long as the affected employee is able to perform the essential functions of the position of record with such accommodations. Job restructuring or other changes in assignment of duties for employees diagnosed as having AIDS will be made in the same manner as they would for any other employee whose medical condition(s) impact on job performance. Established personnel practices and policies will be observed. Because HIV-infected employees will have understandable concerns over confidentiality and privacy in connection with medical documentation and other information relating to their condition, any medical documentation submitted for the purpose of making an employability decision will become a part of the file pertaining to that decision, and will thus become a "record" covered by the Privacy Act. Generally, the Privacy Act forbids the disclosure of records which it covers, without the consent of the subject of the record. However, access to medical documentation may be granted to agency officials with the need to make appropriate managerial decisions or to advise on those decisions. Officials who have access to such information are required to maintain the confidentiality of that information.

Management officials responsible for developing and implementing managerial decisions involving employees with AIDS should contact the Labor and Employee Relations Branch before engaging in any such action.

- D. Recognizing the need for employees to be accurately informed about AIDS, the Department is committed to educating its employees. Current information will be provided to all employees on how the disease is and is not transmitted, since consistent and accurate information facilitates a better understanding of the nature of the disease. More importantly, education is the most effective method of prevention.
- E. Any employee with personal concerns about AIDS and its related conditions is encouraged to contact the agency Employee Assistance Program (EAP). The EAP is a valuable resource in understanding the ramifications of AIDS in the workplace.

Moreover, the EAP will be able to assist with referrals to other community resources, as well as provide information about AIDS as it pertains to understanding the needs of all who are affected: employees with AIDS, employees without AIDS, and co-workers who will be working alongside an HIV-infected employee. Employees with AIDS or any of its related conditions may contact the EAP to discuss their concerns or to seek referral to professionally trained counselors.

- F. With respect to leave administration, any employee with AIDS or any of its related conditions may request sick or annual leave or leave without pay to pursue medical care and/or to recuperate from the effects of the medical condition. Available medical documentation will be reviewed and any such determination to grant or deny leave will be made in the same manner as it would for employees with other medical conditions. Leave policies and procedures will be followed as set forth in the Department's Personnel Manual Instructions (PMI 630-1 through 630-9), and Articles 34 and 35 of the Collective Bargaining Agreement.
- G. With respect to insurance and disability retirement benefits, employees with AIDS may continue insurance coverage under the Federal employee's Health Benefits (FEHB) and/or the Federal Employees' Group Life Insurance (FEGLI) programs. Continued participation in either or both of these programs cannot be jeopardized solely because of one's health condition. Under FEGLI, death benefits are payable and cannot be subject to cancellation solely due to health status.

Any employee who is in non-pay status for 12 continuous months will face statutory loss of FEHB and FEGLI coverage, but does have the right to convert to a private policy without having to undergo a physical examination. HIV-infected employees may be eligible for disability retirement if their medical condition warrants and if they have the required number of years of Federal service to qualify.

- H. The attachment to this Bulletin contains the addresses and telephone numbers of Federal, State, and local resources throughout the country that may be contacted for further information.

AIDS INFORMATION SOURCES

A. <u>Federal Government Resources</u> <u>Source</u>	<u>Description</u>
1. <u>Department of Health and Human Services</u> U.S. Public Health Services Hubert H. Humphrey Building 200 Independence Avenue, S.W. Washington, D.C. 20201	<p>Lead agency in the distribution of AIDS information, both general and technical in nature. The following materials have been prepared by the Public Health Service and are available to the public free of charge through the National AIDS clearing house (address listed below).</p> <p>Surgeon General's Report on Acquired Immune Deficiency Syndrome (English and Spanish)</p> <p>What You Should Know About AIDS</p> <p>Facts About AIDS</p> <p>Coping with AIDS</p> <p>Joint Advisory Notice: Department of Labor/Department of Health and Human Services – Protection Against Occupational Exposure to Hepatitis B Virus (HBV) And Human Immunodeficiency Virus (HIV) (for healthcare workers and their employers)</p> <p>Pamphlet series published in cooperation with The American Red Cross:</p> <ul style="list-style-type: none">◆ AIDS, Sex, and You◆ If Your Test for Antibody to the AIDS Virus is Positive◆ Facts About AIDS and Drug Abuse◆ Gay and Bisexual Men and AIDS◆ AIDS and the Safety of the Nation's Blood Supply◆ Caring for the AIDS Patient at Home◆ AIDS and Your Job—Are There Risks?◆ AIDS and Children: Information for Teachers and School Officials◆ AIDS and Children: Information for Parents of School-Aged Children <p>AIDS Update (a periodic news bulletin – see Next page for ordering information)</p>

A. Federal Government Resources
Source (con't)

1. Department of Health and
Human Services (con't)

Morbidity and Mortality Weekly Report
(available on a subscription basis
from the Superintendent of
Documents)

How to order publications.

All the publications listed above except
the "AIDS Update" and the Morbidity
and Mortality Weekly Report can be
ordered by calling the Public Health
Service's National AIDS Hotline (1-800-
342-AIDS) or by writing to:

National Aids Clearinghouse
P.O. Box 6003
Rockville, MD 20850

A. Federal Government Sources
(con't.)

Description

Source

1. Department of Health and
Human Services (con't)

The "AIDS Update" can be ordered by calling (202) 245-6867 or by writing to the address below.

Office of Public Affairs
Public Health Service
Room 725-H
200 Independence Avenue S.W.
Washington, D.C. 20201

The Morbidity and Mortality Weekly Report is prepared by the Centers for Disease Control, Atlanta, Georgia, and is available on a paid subscription basis from the Superintendent of Documents by calling (202) 783-3238 or by writing to the address below.

Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

Public Health Service
AIDS Hotline (Toll Free)
(800) 342 AIDS

A recorded message that provides general information to callers concerning AIDS. Also provides a toll free number for answers to specific questions about AIDS and information about nationwide AIDS antibody testing sites.

On the following page is a listing of the addresses and telephone numbers of the Public Health Service Regional Health Administrators.

- A. Federal Government Resources (con't.)
1. Department of Health and Human Services (con't.)

Public Health Service
Regional Health Administrators

Region I

Connecticut, Main, Massachusetts,
New Hampshire, Rhode Island, Vermont

John F. Kennedy Federal Building
Room 1400
Boston, Massachusetts 02203
(617) 565-1426 (FTS) 835-1426

Region II

New Jersey, New York, Puerto Rico,
Virgin Islands

26 Federal Plaza, Room 3337
New York, New York 10278
(212/FTS) 264-2560

Region III

Delaware, District of Columbia, Maryland,
Pennsylvania, Virginia, West Virginia

Gateway Building #1
3535 Market Street
Mailing Address: P.O. Box 13716
Philadelphia, Pennsylvania 19101
(215/FTS) 596-6637

Region IV

Alabama, Florida, Georgia, Kentucky,
Mississippi, North Carolina, South
Carolina, Tennessee

101 Marietta Tower, Suite 1106
Atlanta, Georgia 30323
(404) 331-2316 (FTS) 242-2316

Region V

Illinois, Indiana, Michigan,
Minnesota, Ohio, Wisconsin

300 South Wacker Drive, 34th Floor
Chicago, Illinois 60606
(312/FTS) 353-1385

Region VI

Arkansas, Louisiana, New Mexico,
Oklahoma, Texas

1200 Main Tower Building
Room 1800
Dallas, Texas 75202
(214) 767-3879 (FTS) 729-3879

Region VII

Iowa, Kansas, Missouri, Nebraska

601 East 12th Street, 5th Floor
Kansas City, Missouri 64106
(816) 426-3291 (FTS) 867-3291

A. Federal Government Resources (Con't)

1. Department of Health and Human Services (Con't.)

Region VIII

Colorado, Montana, North Dakota,
South Dakota, Utah, Wyoming

1961 Stout Street
Denver, Colorado 80294
(303) 844-6163 (FTS) 564-6163

Region IX

American Samoa, Arizona, California,
Guam, Hawaii, Nevada, Trust Territory
of the Pacific Islands, Commonwealth
of Northern Mariana Islands

50 United Nations Plaza, Room 327
San Francisco, California 94102
(415/FTS) 556-5810

Region X

Alaska, Idaho, Oregon, Washington

2901 Third Avenue, M.S. 402
Seattle, Washington 98121
(206) 442-0430 (FTS) 399-0430

A. Federal Government Sources (con't.)

	<u>Source</u>	<u>Description</u>
2.	<u>Department of Labor</u> Occupational Safety and Health Administration Room South 2316 200 Constitution Avenue, N.W. Washington, D.C. 20210	Establishes and enforces health and safety standards in the health care workplace. Trains health and safety inspectors in applying OSHA guidelines.
3.	<u>U.S. Office of Personnel Management</u> Personnel Systems and Oversight Group Office of Employee and Labor Relations Office of Personnel management 1900 E Street, NW Room 7635 Washington, D.C. 20415 (202) 653-8551	Establishes personnel management policies for the federal sector. Administers the Federal employee pay, retirement, and benefits programs. Provides technical assistance and support to agencies in administering their personnel programs.

B. AIDS Prevention Program Project Directors and Coordinators

The U.S. Public Health Service recommends the use of state and local health agencies for additional information. Area testing sites and information concerning state health policies and service available to individuals with AIDS can be obtained from local health offices. For convenience, below is a list of AIDS Prevention Program Project Directors and Coordinators compiled by the Centers for Disease Control in Atlanta.

ALASKA

State Epidemiologist
Division of Public Health
P.O. box 240249
Anchorage, AK 99524-0249
(907) 561-4406

ALABAMA

Department of Public Health
State Office Building, Room 252
501 Dexter Avenue
Montgomery, AL 36130
(205) 261-5017

ARKANSAS

Department of Health
AIDS Prevention Program
4815 West Markham, Room 455
Little Rock, AR 72205-3867
(501) 661-2440

ARIZONA

Division of Disease Prevention
Office of Infectious Disease
3008 N. Third Street, Room 103
Phoenix, AZ 85012
(602) 230-5819

CALIFORNIA

Office of AIDS
California Department of Health
1812 14th Street, Room 200
Sacramento, CA 95814
(916) 445-0553

COLORADO

Department of Health
STD Control Program
4210 East 11th Avenue
Denver, Co 80220
(303) 398-0855
(FTS) 564-0855

CONNECTICUT

AIDS Program Coordinator
Department of Health Services
150 Washington Street
Hartford, CT 06106
(203) 566-1157

DISTRICT OF COLUMBIA

Chief
Office of AIDS Activity
1875 Connecticut Ave, N.W.
Washington, DC 20009
(202) 673-7700

DELAWARE

Health and Social Services
Division of Public Health
802 Silver Lake Boulevard
Dover, DE 19901
(302) 736-5617

FLORIDA

Health and Rehabilitation Services
1317 Winewood Boulevard
Tallahassee, FL 32303
(904) 487-2478

C. AIDS Prevention Program Project
Directors and Coordinators (con't)

CALIFORNIA (con't)

AIDS Activity Office
Department of Public Health
101 Grove Street, Room 323
San Francisco, CA 94102
(415) 864-5571

Department of Health Services
AIDS Program Office
313 N. Figueroa Street, Room 1014
Los Angeles, CA 90012
(213) 974-7803

Department of Health Services
313 N. Figueroa Street, Room 930
Los Angeles, CA 90012
(213) 974-7803

HAWAII

Department of Health
STD Control Program
1250 Punchbowl Street
Honolulu, HI 96813
(808) 548-4580

IOWA

Department of Health
Division of Disease Prevention
Lucas State Office Building
Des Moines, IA 50319
(515) 281-6438

IDAHO

Department of Health and Welfare
Bureau of Preventive Medicine
450 West State Street
Boise, ID 83720
(208) 334-4305

ILLINOIS

Director, AIDS Section
Department of Public Health
100 West Randolph, Suite 6-600
Chicago, IL 60602
(312) 917-4846

GEORGIA

Department of Human Services
Community Health Section
878 Peachtree Street, N.E., Room 102
Atlanta, GA 30309
(404) 894-6428

GUAM

Department of Public Health
P.O. Box 2816
Agana, Guam 96910
(671) 734-2964

LOUISIANA

Health and Human Resources
VD Control Section
P.O. Box 60630
New Orleans, LA 70160
(504) 568-5275
(FTS) 682-3948

MASSACHUSETTS

State Laboratory Institute
Department of Public Health
305 South Street
Jamaica Plains, MA 02130
(617) 522-3700

MARYLAND

AIDS Administration
Health and Mental Hygiene
201 West Preston Street
Baltimore, MD 21201
(301) 225-6707

MAINE

Department of Human Services
State House Station
Augusta, ME 04330
(207) 289-3747

ILLINOIS (con't)

AIDS Project Director
Chicago Board of Health
50 West Washington, Room 233
Chicago, IL 60602
(312) 744-4358

INDIANA

State Board of Health
1330 West Michigan Street
Indianapolis, IN 46206-1964
(317) 633-8520

KANSAS

Kansas Department of Health
Department of Health and Environment
Forbes Field
Topeka, KS 66620
(913) 296-5595

KENTUCKY

Kentucky AIDS Project
Department of Health Services
275 East Main Street
Frankfort, KY 40621
(502) 564-4804

MONTANA

Department of Health
Health Education
Cogswell Building
Helena, MT 59620
(406) 444-4740

NORTH CAROLINA

Communicable Disease Control
State of North Carolina
P.O. Box 2091
Raleigh, NC 27702
(919) 733-3419

NORTH DAKOTA

Department of Health
State Capitol Building
Bismarck, ND 58505
(701) 224-2378

MICHIGAN

Special Office on AIDS
Center for Health Promotion
P.O. Box 30035
Lansing, MI 48906
(517) 335-8399

MINNESOTA

Acute Disease Epi Section
Department of Health
717 S.E. Delaware Street
Minneapolis, MN 55440
(616) 632-5414

MISSOURI

Division of Health
AIDS Program
P.O. Box 570
Jefferson City, MD 65702-0570
(314) 751-6141

MISSISSIPPI

Department of Health
AIDS Program
P.O. Box 1700
Jackson, MS 39215-1700
(601) 960-7726
(FTS) 490-4491

NEW YORK

Department of Health
AIDS Program
125 Worth Street
New York, NY 10013
(212) 566-7103

Department of Health
1315 Empire State Plaza
Albany, NY 12237
(518) 474-1689

OHIO

Department of Health
Epidemiology Division
246 N. High Street, 8th floor
Columbus, OH 43266-0588
(614) 466-0265

NEBRASKA

Department of Health
AIDS Program
301 Centennial Mall South
Lincoln, NE 68509
(402) 471-2937
(FTS) 541-2937

NEW HAMPSHIRE

Division of Public Health Services
Bureau of Disease Control
6 Hazen Drive
Concord, NH 03301
(603) 271-4477

NEW JERSEY

Department of Health
AIDS Program
CN 369, John Fetch Plaza
Trenton, NJ 08625
(609) 588-3520

NEW MEXICO

Health and Environment
AIDS Prevention Program
P.O. Box 968
Santa Fe, NM 87504-0968
(505) 827-0006

NEVADA

Division of Health
STD Control
505 E. King Street, Room 200
Carson City, NV 89710
(702) 885-4800

SOUTH CAROLINA

Health and Environmental Control
2600 Bull Street
Columbia, SC 29201
(803) 734-5482

SOUTH DAKOTA

Department of Health
Communicable Disease
523 East Capitol
Pierre, SD 57501
(605) 773-3357

OKLAHOMA

Department of Health
AIDS Division
P.O. Box 53551
Oklahoma City, OK 73152
(405) 271-4636

OREGON

AIDS Coordinator
Department of Human Resources
1400 S.W. Fifth Avenue
Portland, OR 97201
(503) 229-5792

PENNSYLVANIA

AIDS Education Manager
Division of Health Promotion
P.O. Box 90
Harrisburg, PA 17108
(717) 787-5900

PUERTO RICO

STD Control Program
Call Box STD
Caparra Heights Station
San Juan, PR 00922
(809) 754-8118

RHODE ISLAND

Department of Health
Disease Control
75 Davis Street
Providence, RI 02908
(401) 277-2362

WASHINGTON

Division of Health
Communicable Disease Section
Mail Stop LP-13
Olympia, WA 98504
(206) 753-5810
(FTS) 434-9559

TENNESSEE

AIDS Education Coordinator
Department of Health
100 9th Avenue, North
Nashville, TN 37219-5405
(615) 741-7387
(FTS) 852-5638

TEXAS

Texas Department of Health
Director, AIDS Division
1100 West 49th Street
Austin, TX 78756
(512) 458-7207

UTAH

Bureau of Epidemiology
Utah Department of Health
P.O. Box 16660
Salt Lake City, UT 84116-0660
(801) 538-6191

VIRGINIA

VD Control Section
109 Governor Street, Room 722
Richmond, VA 23219
(804) 786-6267
(FTS) 936-6267

VIRGIN ISLANDS

Department of Health
Charles Harwood Complex
Christiansted
St. Croix, Virgin Islands 00820
(809) 773-1059

VERMONT

Department of Health
STD Control Section
P.O. Box 70
Burlington, VT 05401
(802) 863-7245

WISCONSIN

Wisconsin Department of Health
1 West Wilson Street
Madison, WI 53701-0309
(608) 267-9007

WEST VIRGINIA

Director
AIDS Program
1800 Washington Street, East
Charleston, WV 25305
(304) 348-5358

WYOMING

AIDS HE/RR Program
Preventive Medicine
Hathaway Building, 4th Floor
Cheyenne, WY 82002
(307) 777-7953

C. American Red Cross

American Red Cross
National Headquarters Program
AIDS Public Education Program
1730 D Street, N.W.
Washington, D.C. 20006
(202) 639-3223
or call local chapter

A great deal of educational information is available through the American Red Cross and can be obtained from local chapters or the address listed here.

Posters

“Don’t listen to rumors about AIDS. Get the Facts!” Four-color, 11x17 poster features pop singer Patti Labelle and provides PHS toll-free AIDS hotline number, 1 (800) 342-2437.

“You Can’t Get AIDS” Two-color, 16x11 poster showing ways you can’t get AIDS. Poster has blank spaces allowing for date and time of scheduled viewing of the film “Beyond Fear.”

Printed Materials

AIDS and the Safety of the Nation’s Blood Supply
You Can’t Get AIDS from Giving Blood,
But Fear Can Run Us Dry
What You Must Know Before Giving Blood
AIDS, Sex and You
AIDS: The Facts (English and Spanish)
Facts About AIDS and Drug Abuse
Gay and Bisexual Men and AIDS
If Your Test for the Antibody to AIDS Virus
is Positive...
AIDS—Beyond Fear
Surgeon General’s Report: AIDS
AIDS & Children (Information for parents
of school age children)

AIDS and Children (Information for
Teachers and School Officials)
AIDS Prevention program for Youth – What
Every Parent Should know About AIDS
AIDS Prevention Program for Youth—For
Students
AIDS Prevention Program for Youth—For
Teachers/Leaders
Answers About AIDS
AIDS and Your Job—Are There Risks?
Caring for the AIDS Patient At Home
Working Beyond Fear

Audio Visual Materials

AIDS: Spread Facts, Not Fear
Beyond Fear: The Virus (English and Spanish)
Beyond Fear: The Individual (English and
Spanish)
Beyond Fear: The Community (English and
Spanish)
A Letter from Brian
Answers About AIDS
Working Beyond Fear

D. Other Sources

The Surgeon General's Report on AIDS list several non-governmental organizations that provide information about AIDS or provide support for individuals with AIDS or those who come into frequent contact with individuals with AIDS. Agencies may want to consider making these sources available to employees who seek information and counseling through agency employee assistance programs and other means.

MEMORANDUM OF UNDERSTANDING

Between

The U.S. Department of Education
and
The American Federation of Government Employees, Council of Education

Local No. 252

In as much as the Department has decided to issue an AIDS in the workplace Policy, the Parties agree that the following provisions and the Collective Bargaining Agreement shall apply to the implementation of the Department's AIDS in Workplace Policy.

Explanation of terminology used in this Agreement:

In response to a recommendation made by the Presidential Commission on the Human Immunodeficiency Virus (HIV) Epidemic, the White House application for the Rehabilitation Act of 1973 to HIV—infected individuals. The Justice Department's Office of Legal Counsel rendered such a decision September 27, 1988, which states simply that any HIV-infected individual, whether exhibiting symptoms or not, is covered by the provision of the Act. That decision states in part:

“In this opinion, individuals who are infected with the AIDS virus and have developed the clinical symptoms known as Acquired Immune Deficiency Syndrome ('AIDS') or AIDS—Related Complex ('ARC') will sometimes be referred to as 'symptomatic HIV-infected individuals.' Individuals who are infected with the AIDS virus but do not have AIDS or ARC will sometimes be referred to as 'asymptomatic HIV—infected individuals.'”

Throughout the following Agreement, references to AIDS or ARC are to be read within the terms of the above opinion and are intended to include any HIV—infected individual, whether symptomatic or asymptomatic.

A. Bargaining Unit Employees' Ability to work—

1. Bargaining unit employees with AIDS or AIDS Related Complex ('ARC') shall be allowed to work free from any type of discrimination on the basis of their medical condition.
2. Bargaining unit employee with AIDS or ARC shall be entitled to any/all benefits afforded to other bargaining unit employees.

3. The medical condition of a bargaining unit employee with AIDS or ARC may be sufficiently disabling to entitle the employee to be considered for reasonable accommodation under the Rehabilitation Act of 1973 (29 U.S.C. ss701 et seq.).

B. Privacy and Confidentiality—

Because of the nature of AIDS and/or ARC, bargaining unit employees with AIDS or ARC will have understandable concerns over privacy and confidentiality in connection with medical documentation and other information relating to their conditions. Officials who have access to such information are required to maintain the confidentiality of that under the Privacy Act.

C. Leave Administration—

Bargaining unit employees with AIDS or ARC shall be granted appropriate leave in the same manner as the other bargaining unit employee with medical conditions.

D. Education—

As part of the Department's ongoing education about HIV infection, ED Headquarters will make available to Department employees in both Headquarters and Regional offices educational materials such as, medical information, films, pamphlets and other health resource information. Seminars or audiovisual presentations about HIV infection will be made available within 90 days of the effective date of the agreement in both Headquarters and each Regional office. Employees will be released to attend such presentations, unless workload considerations prevent such attendance. If employees can not be released, they will be given an opportunity to attend future scheduled sessions. The Union will also be provided a copy of the schedule of presentations/seminars as soon as it is completed.

- E. A copy of this MOU and the Department's policy will be provided to each bargaining unit employee.

- F. If the Department should propose separate administrative procedures for unit employees affected by AIDS or ARC, the Union reserves the right to negotiate on such procedures consistent with the procedures in Article 8.

Marvin Farmer
For the Union

Michael Herlihy 7/7/89
For Management