

# Staff and Students with Infectious Diseases

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Last Update: 6 November 2009

Owner: Manager OHS

## Discrimination

- 1 Specific legislation at both the Commonwealth and the State/Territory level prohibits discrimination on a number of grounds, including impairment (including physiological, psychological and intellectual disabilities). Precedents have been established which identify infectious diseases as a physiological disability. In particular it is unlawful to discriminate against a person being or imputed to be HIV+, or having or imputed to have AIDS or hepatitis during all phases of employment (such as recruitment, promotion, training and retrenchment) and in the provision of education. Members of the University community are encouraged to contact the Equal Opportunity Office for further information as required.
- 2 Although differential treatment of people with infectious disease or with particular susceptibility to infectious disease constitutes discrimination, the law recognises that discrimination may be necessary in some circumstances. This is because, at some point, the individual's right not to be discriminated against (because of their infectious status) must be overridden by the public health responsibility to prevent transmission to other parties.
- 3 Any staff member, or student, who believes they have been harassed or discriminated against for reason or suspicion of being infected with hepatitis, HIV related illnesses or other infectious conditions should seek advice from the University's Equal Opportunity Office. All enquiries will remain confidential.

## Screening

- 4 The University will not require screening for infectious diseases as part of any assessment of fitness to be a student or staff member of the University, unless necessary to meet regulatory requirements.

## Duty of Care

- 5 Staff and students with infectious conditions are expected to exercise their duty of care to other members of the University community and general public. If this duty of care is breached, the individual and the University may be subject to legal action under statutory provisions such as the Occupational Health and Safety Act and Health Act, or under common law.
- 6 Students and staff with infectious diseases are expected to take all reasonable precautions to protect members of the University community and the general public from infection. Health care workers and emergency service providers who are or who become infected with hepatitis, HIV related illnesses or other infectious conditions have special responsibilities as professionals in relation to possible risks to others and may require specific advice on their obligations in the workplace. This advice should be obtained from the person's medical practitioner.
- 7 Students and staff who carry out clinical activities or undertake exposure-prone procedures are professionally and ethically obliged to know their infectious status and should seek voluntary testing where appropriate. In particular they must comply with the [Australian Government Infection Control Guidelines](#) and any additional requirements from the Victorian Government [Department of Human Services](#).
- 8 Students and staff must not perform exposure-prone procedures if they are:
  - human immunodeficiency virus (HIV) antibody positive;
  - hepatitis B e antigen (HBeAg) positive and/or HBV DNA positive at high titres; or
  - hepatitis C virus (HCV) antibody positive and HCV RNA positive (by polymerase chain reaction or similar test).

## Disclosure of Infectious State

- 9 Staff and students with infectious diseases are not obliged to inform the University or others of their status unless the infectious disease poses a risk to the health and safety of other staff, students or the public. Staff working in occupations in which they could potentially infect others (e.g. health care procedures where their blood could come in contact with a patient's blood or body tissues) may have an obligation to disclose their status to the University through their dean, head of school or director. This can apply to health care workers and health care workers in

- training such as nurses, paramedics, dentists and medical practitioners who perform procedures where their blood could come in contact with a patient's blood or body tissues.
- 10 Deans, heads of school and directors will take all reasonable and practicable steps to ensure that students and staff with infectious diseases do not pose a risk to the health and safety of themselves, others at the University or employees and patients of health care agencies with whom the University has a clinical affiliation.
  - 11 Unless there is a real risk to the health and safety of students and staff (including the person themselves) or the public, students and staff with infectious diseases will not be excluded from study, work or other activities.
  - 12 Where an infectious or potentially infectious condition is known, Deans, heads of school and directors may require or seek medical evidence to ensure the safety of fellow staff and students and the public and to ascertain the feasibility of work/study and safety requirements for the staff member or student.
  - 13 Deans, heads of school and directors may require the student or staff member with an infectious condition to take reasonable precautions to ensure their safety and that of other staff and students and the public.
  - 14 Where practicable within the limitations of the inherent requirements of the position or course, a staff member or student with an infectious disease will not be required to carry out activities in which there is risk of transmission of other diseases that may increase or aggravate that person's ill-health.
  - 15 If Deans, heads of school and directors is informed by a prospective or existing staff member or student that they have an infectious disease, the Deans, heads of school and directors will make any reasonable adjustment, if required, to ensure the staff member or student can continue to carry out the inherent requirements of their position or course, so long as the adjustment does not cause unjustifiable hardship in terms of cost, dislocation to work practices, etc.
  - 16 Where a staff member or student is unable to carry out the inherent requirements of their position or course due to an infectious disease, and reasonable steps to implement alternative arrangements have been unsuccessful or are impracticable, the University may seek to terminate the person's employment or study.

### Workers Compensation

- 17 If hepatitis, HIV related illness or other infectious condition is occupationally acquired, an employee is entitled to workers compensation benefits.

### Superannuation

- 18 From the 1st July 1994, the Trustee of UniSuper Ltd no longer requires new members to be medically examined or to provide a personal health statement. All new members from the 1st July 1994 have restricted death and disablement benefits if they die or become disabled from a pre-existing condition within 3 years of joining the scheme. Under the UniSuper Award Plus Plan, staff who seek additional death and disablement cover at a time after their initial appointment date, are required to make a declaration in connection with AIDS to UniSuper Ltd.

### LEGISLATION

- [Health \(infectious diseases\) Regulations](#)

### STANDARDS

- Victorian Government, Department of Human Services: [Blue book - Guidelines for the control of infectious diseases](#)  
Revised edition 2005

[Appendix 3: Standard and additional precautions](#)

[Appendix 4: Procedure for managing an exposure to blood/body fluids/substances](#)

[Appendix 5: Procedure for managing spills of blood and body fluids/substances](#)

[Appendix 6: Cleaning and waste disposal procedures](#)

[Tetanus](#); [Influenza](#), [Hepatitis A](#); [Hepatitis B](#); [Hepatitis C](#); [Hepatitis D](#); [Hepatitis E](#); [HIV/AIDS: Your questions answered](#); [Tuberculosis](#)

- Victorian Government, Department of Human Services: [Notifying cases of infectious diseases within Victoria](#)
- Safe Work Australia [National Code of Practice for the Control of Work Related Exposure to Hepatitis and HIV \(blood-borne\) Viruses](#) [NOHSC: 2010 (2003)]