

POLICY RELATING TO HIV/AIDS AND EMPLOYMENT

Introduction

Although KHANIMAMABE TRAINING AND RESOURCE CENTRE is a relatively small business enterprise we have decided to adapt these and other policies , not only for internal purpose, but even more importantly to improve guidance to our customer appropriate.

BACKGROUND AND PURPOSE

The impact of the spread of the Human Immunodeficiency Virus (HIV) and the Acquired Immune deficiency Syndrome (AIDS) poses a serious health treat globally and particularly in Sub Saharan Africa where the incidents is higher than else where in the world. KTRC recognizes that issues of unfair discrimination, prejudice, ignorance and victimization still surround HIV infection and Aids. These arise from misconceptions regarding the origins of the virus, misinformation about promiscuity and sexuality, and inaccurate information on the infectiousness of the virus.

All people are potentially susceptible to HIV infection

These policies also seek to assist with the attainment of the broader goals or:

- Eliminating unfair discrimination in the workplace based on HIV status
- Promoting a non-discriminatory workplace in which people leaving with HIV or Aids are able to be open about their HIV status without fear if stigma or rejection
- Promoting appropriate and effective ways of managing HIV in the workplace
- Creating a balance between the rights and responsibilities of all parties
- Giving effect to the regional obligations of the Republic as a member of the Southern African Development Community.

Objectives

1. This policy primary objective is to set out guidelines to implement so as to prevent unfair discrimination against individuals with HIV in the workplace. This include provision regarding:
 - I. Creating a non-discriminatory work environment
 - II. Dealing with HIV testing, confidentiality and disclosure
 - III. Providing equitable employees benefits
 - IV. Dealing with dismissals
 - V. Managing grievance procedures



2. The policy secondary objective is to provide guidelines on how to manage HIV/AIDs within the workplace .Since the HIV /AIDS epidemic impacts upon the workplace and individuals at a number of different levels; it requires a holistic response that takes all of these factors into accounts. This policy, therefore, includes principles of the following:
 - I. Creating a safe working environment for all employers and employees
 - II. Developing procedures to managing occupational incidents and claims for compensations
 - III. Introducing measure to prevent the spread of HIV
 - IV. Developing strategies to assess and reduce the impact of the epidemic upon the workplace
 - V. Supporting those individuals who are infected by HIV/AIDs so that they continue to work productively for as long as possible.

THE PROMOTION OF A NON-DISCRIMINATORY TRAINING ENVIRONMENT

Seeks to promote a training environment where people living with HIV/AIDs are free to be open about their HIV status without fear of rejection, stigma or unfair treatment. No learner will be unfairly discriminated against of their HIV status with regard to selection to a learning program or completion of a program

HIV TESTING AND RESPECT FOR CONFIDENTIALITY

- KTRC will not require learners to be tested for HIV/AIDs. However we encourage them to be tested so that they are aware of their HIV-AIDS status and can thus act responsibly
- KTRC recognizes that person with HIV/AIDs have a right to privacy concerning their HIV/AIDs status
- Learners do not have a legal duty to disclose their HIV-AIDS status
- Where learners are aware of the HIV positive status of another learner or anyone else connected with the business of KTRC, they are required to keep the matter confidential unless the person has given his/her written consent for his/her HIV-Positive status to be disclosed.

PROMOTION OF A SAFE TRAINING ENVIRONMENT

In terms of section 8 (1) of the Occupational Health and Safety Act, No.85 of 1993, KHANIMAMBA TRAINING AND RESOURCE CENTRE is obliged to provide, as far as reasonably practicable, a safe training environment.

However; KTRC will promote safe practices such as the use of gloves when dealing with first aid emergencies

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MANAGEMENT OF LEARNERS WHO ARE HIV POSITIVE

- ❖ KTRC will not dismiss learners solely on the basis of their HIV- AIDS status.
- ❖ KTRC will create a supportive environment so that HIV infected learners are able to continue to attend classes under normal conditions for as they are medically fit to do so

EDUCATION

KTRC is opposed to any form of discrimination against HIV positive people or those with AIDs and their partners, family friends on the basis of their HIV and infections or AIDS

With no cure in sight, prevention through education is the only means available to us. KTRC therefore commit itself to including HIV/AIDS awareness in its learning programmes through

The Human Immune-Deficiency Virus (HIV) and the Acquired Immune Deficiency Syndrome (AIDS) are serious public health problems which have socio-economic, employment and human rights implication. IT is recognized that the HIV/AIDS epidemic will affect every workplace, with prolonged staff illness, absenteeism, and death impacting of productivity, employee benefits, occupational health and safety, production costs and workplace morale.

One of the most effective ways of reducing and managing the impact of HIV/ AIDs in the workplace is through the implementation of an HIV/AIDS policy and program addressing of HIV/AIDS in a workplace will enable us, to actively contribute towards local, national and international effort to prevent and control HIV/AIDS. In light of this, this policy has been developed as a guide to management as well as, our employees.

POLICY PRINCIPLES

- 1) The promotion of quality and non-discrimination between individuals with HIV infection and those without, and between HIV/AIDS and other comparable health/medical conditions.
- 2) The creation of a supportive environment so that HIV infected employees are able to continue working under normal conditions in he current employment for as long as they are medically fit to do so.
- 3) The protection of human rights and dignity of people leaving with HIV/AIDs is essential to the prevention and control of HIV/AIDs
- 4) An HIV/AIDS impact disproportionately on women and this has been taken into account in the development of this policy.
- 5) Consultation, inclusively and encouraging full participation of all stakeholders are key principles, which under pin this HIV/AIDs policy.

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APPLICATION AND SCOPE

All employees and management alike are encouraged to use this policy to develop, implement and refine the HIV/AIDS programme to suit the needs of the workplaces for the purpose of this policy the term 'workplace' should be interpreted in its widest sense, to also include the working environment, amongst others, person with whom we have regular contacts in the course of our business operations.

The policy, however, does not impose any legal obligation on our organization in addition to those in the Employment Equity Act and Labor Relations Act, or in any other legislation that may be referred to herein

The contents of this Policy should be taken into account when developing, implementation reviewing any other workplace policies or programs in terms of the current Labor Statutes.

LEGISLATIVE GUIDELINES

The following are selected, are selected, relevant sections contained of the above – mentioned legislation. These should be read in conjunction with other legislative provisions.

- 1) This policy is issued in terms of the relevant section of the Employment Equity Act, and is based on the principle that no person may be unfairly discriminated against on the basis of his or her HIV status.
- 2) The Employment Equity Act also provides that no person may unfairly discriminate against an employee, or an applicant for employment, in any employment policy or practice, on the basis of his or her HIV status. In any legal proceeding in which is alleged that any employer has must prove that any discrimination or differentiation was fair.
- 3) No employee, or applicant for employment, may be required by their employer to undergo an HIV test in order to ascertain their HIV status. HIV testing by or on behalf of an employer may only take place where the Labor Court had declared such testing to be justifiable in accordance with Section 7 (2) of the Employment Equity Act.
- 4) In accordance with Section 187(1) (f) of the Labor Relations Act an employee with HIV/AIDS may not be dismissed simply because he or she is HIV positive or has AIDS. However, where there are valid reasons related to their capacity to continue working and fair procedures have been followed, their services may be terminated in accordance with section 188(1) (a) (1)
- 5) In terms of Section 8 (1) of the Occupational Health and Safety Act, No. 85 of 1993; an employer is obliged to provide, as far is reasonably practicable, a safe workplace. This may include ensuring that the risk of occupational exposure to HIV is minimized.

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- 6) An employee, who is infected with HIV as a result of an occupational exposure to infected or bodily fluids, may apply for benefits in terms of Section 22 (1) of the Compensation for Occupational Injuries and Diseases Act, No. 130 of 1993.
- 7) In accordance with the Basic Conditions of Employment Act, No 75 of 1997, every employer is obliged to ensure that all employees receive certain basic standards of employment, including a minimum number of day's sick leave.
- 8) In accordance with section 24(2) (e) of the Medical Schemes Act, no 131 of 1998, a registered medical aid scheme that all schemes must not unfairly discriminate directly against its members on their on their basis of their 'state of health". Further in terms of s 67 (1) (9) regulations may be drafted stipulating that all schemes must offer a minimum level of benefits to their members.
- 9) In accordance with both the common law section 14 of the Constitution of South Africa Act. No. 108 of 1996, all persons with HIV or AIDS have a right to privacy, including privacy concerning their HIV or AIDS have a right to privacy concerning their HIV or AIDS status. Accordingly there is no general legal duty on an employee to disclose his/ her HIV status to their employer or to other employees.

PROMOTING A NON-DISCRIMANATORY WORK ENVIRONMENT

- 1) No person with HIV or AIDS shall be unfairly discriminated against within the employment relationship policies or practice; including with regard to:
 - a) Recruitment procedures; advertising and selection criteria
 - b) Appointments ; and the appointment process; including job placement , job classification or grading
 - c) Remuneration; employment benefits and term and conditions of employment
 - d) Employee assignments
 - e) Training and development
 - f) Performance evaluation systems
 - g) Promotion; transfer and demotion
 - h) Termination of services
 - i) Job assignments
- 2) To promote a non-discriminatory work environment based on the principle of equality ; our company will adopt appropriate measure to ensure that employees with HIV and AIDS are not unfairly discriminated against and are protected from victimization through positive measures such as:
 - a) Preventing unfair discrimination and stigmatization of people living with HIV/AIDS through the implementation of our HIV/AIDS policy for programs for the workplace

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- b) Awareness ; education and training on the right of all person with regard to HIV/AIDS in the workplace
- c) Mechanisms to promote acceptance and openness around HIV/AIDS in the workplace
- d) Providing support for all employees infected or affected by HIV/AIDS
- e) Grieving procedure and disciplinary measures to deal with HIV-related complaints in the workplace

HIV TESTING; CONFIDENTIALITY AND DISCLOSURE HIV TESTING

- a. Management may not require an employee; or an application for employment; to undertake an HIV test in order to ascertain that employee's HIV status. Instate; management may approach the Labor Court to obtain authorization for testing; as provided for in the Employment Equity Act.
- b. Management must approach the Labor Court for authorization to do HIV-testing in; amongst other; the following circumstances during an application as a condition of employment during procedures related to termination of employment as an eligibility requirement for training or staff.
- c. Permissible testing may be done to an employee who has request it in the following circumstances, as part of a health care services provided in the workplace in the event of an occupational accident carrying a risk of exposure to blood or other fluids for the purpose of applying for compensational accident involving a risk of exposure to blood or other fluids further more, such testing may only take place within the following defined conditions at the initiative of an employee within a health care worker and employee-patient relationship with informed consent and pre-test counseling, as defined by the department of health's National policy on testing for HIV. With strict procedure relating to confidentiality of an employee's HIV status as described in this policy.
- d. All testing; including both authorized and permissible testing; should be conducted in accordance with the Department of Health's National policy on Testing for HIV issued in terms of the National Policy for Health Act, No 116 of 1990.
- e. Informed consent means that the individual has been provided with information, understand it and based on this as agreed to undertake the HIV test. It implies that the individual understands what the test is, why it is necessary, the benefits, risks, alternative and any possible social implications of the outcome.
- f. Ammoniums, unlinked surveillance or epidemiological HIV testing in the workplace may occur provided it is undertaken in accordance with ethical and legal principles regarding such research. Where such research is done the information obtained may not be used to unfairly discriminate against individual or group of persons. Testing will not be considered ammoniums if the are a reasonable possibility that a persons HIV status can be deduced from the results from the results.

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CONFIDENTIALITY AND DISCLOSURE

- a. All persons with HIV/AIDS have the legal right to privacy. An employee is therefore not legally required to disclose his/her status to their employer or to other employees.
- b. Where an employee chooses to voluntarily disclose his/her HIV status to the company management or to other employees; this information may not be disclosed to others without the employees' express written consent. Written consent is not possible the steps must be taken to confirm that the employee wishes to disclose his or her status.
- c. Mechanisms should be created to encourage openness, acceptance and support those employees who are voluntarily disclose their HIV/AIDS status within the workplace including:
 - I. Encouraging persons openly living with HIV or AIDS to conduct or participate in education, prevention and awareness programs
 - II. Encouraging the development of support groups for employees living with HIV or AIDS.
 - III. Ensuring that persons who are open about their HIV or AIDS status are not unfairly discriminated against or stigmatized.

PROMOTING A SAFE WORKPLACE

- a) Our company will provide and maintain, as far as is reasonably practicable, a workplace that safe and without risk to the health of its employees.
- b) The risk of HIV transmission in the workplace is minimal, however occupational accidents involving bodily fluids may occur, particularly when it may become necessary to apply first aid to an employee. Our company will ensure that our workplace complies with the provisions of the Occupational Health and Safety Act, including the regulations of hazardous biological Agents and that our Policy deals with, amongst others.
- c) The risk, if any, of occupational transmission within our workplace appropriate training, awareness, education on the use of universal infection control measures so as to identify, deal with and reduce the risk of HIV transmission in the workplace, providing appropriate equipment and materials to protect employees from the risk of exposure to HIV the steps that must be taken following an occupational accident including the appropriate management of occupational exposure to HIV and other blood born pathogen, including access to:
 - Exposure prophylaxis
 - The procedures to be followed in applying for compensation for occupational infection
 - The reporting of all occupational accidents
 - Adequate monitoring of occupational exposure to HIV to ensure that the requirements of possible compensation claims are being met.

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COMPANSATION FOR OCCUPATIONALLY ACQUIRED HIV

- a) An employee may be compensated if he or she becomes infected with HIV as a result of an occupational accident, in terms of the Compensation for Occupational Injuries and Diseases Act.
- b) Our company will take reasonable steps to assist employees with the application for benefits including:
 - Providing information to affected employees on the procedures that will need to be followed in order to qualify for a compensation claim
 - Assisting with the collection of information which will assist with providing that the employees were occupationally exposed to HIV infected blood
- c) Occupational exposure should be dealt with in terms of the Compensation for Occupational Injuries and Diseases Act. Our company will ensure that we comply with the provisions of this Act and procedure or guidelines issued in terms thereof.

EMPLOYEE BENEFITS

- 1) Our company will not discriminate unfairly against employees with HIV or AIDS in the allocation of employee benefits.
- 2) Employees who become ill with AIDs will be treated like any other employee with a comparable life threatening illness with regard to employee benefits.
- 3) Information from benefits schemes on the medical status of an employee will be kept confidential and will not be used to discriminate unfairly.
- 4) Our company will ensure that our Medical Aid Scheme does not discriminate unfairly, directly or indirectly, against any person on the basis of his or her HIV status.

DISMISSAL

- 1) Employees with HIV/AIDS may not be dismissed solely on the basis of their HIV/AIDS status.
- 2) Where an employee has become too ill to perform current work, our Company will be obliged to follow accepted guidelines regarding dismissal for incapacity before terminating an employees services, as set out in Disciplinary Procedures Policy.
- 3) Our company will ensure that as possible, the employee's right to confidentially regarding his or her HIV status is maintained during 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 Labor Court authorized such a test.

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GRIEVANCE PROCEDURES

- 1) Our company will ensure that the rights of employees with regard to HIV/AIDS, and the remedies available to them in the event of a breach of such rights, become integrated into existing grievance procedures.
- 2) Our company will create awareness and the understanding of the Grievance Procedures and how employees can utilize them
- 3) Our company will develop special measure the confidentiality of the compliant during such proceedings, including such that such proceeding s are held in private.

MANAGEMENT OF HIV IN THE WORKPLACE

The effective management of HIV/AIDS in the workplace requires an integrated strategy that includes, amongst others, the following elements:

- a) An understanding and assessment of the impact of HIV/AIDS on the workplace
- b) Long and short term measures to deal with and reduce this impact, including:
 - HIV/AIDS Policy, such as this one, for the workplace.
- c) Ongoing sustained prevention of the spread of HIV among employees and their communities
- d) Management of employees with HIV so that they are to work productively for as long as possible.
- e) Strategies to deal with the direct and indirect costs of HIV/AIDS in the workplace.

ASSESSING THE IMPACT OF HIV/AIDS ON THE WORKPLACE

- 1) Our company will develop appropriate strategies to understand, assess and respond to the impact of HIV/AIDS in out particular workplace and sector. This will be done in co-operation with sect oral, local, provincial and national initiatives by government, civil society and non-governmental organizations. Broadly speaking, impact assessment may include:
 - a) Risk profiles
 - b) Assessment of the direct and indirect cost of HIV? AIDS
- 2) Risk profiles may include an assessment of the following:
 - a) The vulnerability of individual employees or categories of employees to HIV protection.
 - b) The nature and operations of the operation of the organization and how this may increase susceptibility to HIV infection , for instance migration or hostel dwellings
 - c) A profile of the communities from which our organization place of operation.

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- d) A profile of the communities surrounding the organizations place of organization
 - e) An assessment of the impact of HIV/AIDS upon our target markets and client base.
- 3) The assessment may also consider the impact that HIV/AIDS epidemic may have on:
- a) Direct costs such as costs to employee benefits, medical costs and increased costs related to staff turnover such as training and recruitment costs and the costs of implementing an HIV/AIDS programs
 - b) Indirect costs such as costs incurred as a result of increased absenteeism, employee morbidity, loss of productivity, a general decline in workplace morale and possible workplace disruption
- 4) The cost effectiveness of any HIV/AIDS interventions may be measured as part of an impact assessment.

MEASURES TO DEAL WITH HIV/AIDS THE WORKPLACE

- 1) Our company undertake to align our position and policy approach to HIV/AIDS with prevailing legislative as well as the principle of fairness
- 2) We also undertake to consult with all key stakeholders within the workplace including the Employee Equity Committee and all members of management concerning the further development and implementation of this policy
- 3) This policy will be explained , as well as:
 - a) Communicated to all concerned
 - b) Routinely reviewed in light of epidemiological and scientific information
 - c) Monitored for its successful implementation and evaluated for its effectiveness

DEVELOPING WORKPLACE HIV/AIDS PROGRAMS

- 1) Our company will work towards developing and implementing a workplace HIV/AIDS programs aimed at preventing new infections, providing care and support for employees who are infected or affected , and managing the impact of the epidemic in the organization.
- 2) This workplace programs will be founded and guided by prevailing needs and our capacity, however, we will attempt to address the following aspects in co-operation with the set oral, local, provincial and national initiatives:
 - a) Conducting regular HIV/AIDS awareness programs
 - b) Encouraging voluntary testing
 - c) Conducting education and training on HIV/AIDS

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- d) Promoting condom distribution and use
 - e) Encouraging health seeking behavior for Sexually Transmitted Diseases
 - f) Enforcing the use of universal infection control measures
 - g) Creating an environment that is conducive to openness, disclosure and acceptance amongst all staff.
 - h) Endeavoring to establish wellness programs for employees affected by HIV/AIDS
 - i) Providing access to counseling and other forms of social support for people affected by HIV/AIDS
 - j) Maximizing the performance of affected employees through reasonable accommodation, such as investigations into alternative sick leave allocation
 - k) Developing strategies to address direct and indirect costs associated with HIV/AIDS in the workplace as outlined under point 4 above.
 - l) Monitoring, evaluating and reviewing the program regularly
- 3) Our company will take all reasonable steps to assist employees with referrals to appropriate health, welfare and psycho-social facilities within the community, if such services are not provided at the workplace.

INFORMATION AND EDUCATION

Our company will include this policy in our orientation, education and training programs of employees

GLOSARY OF TERMS

1. Affected employee- an employee who is affected in way by HIV/AIDS, for instance if they have a partner or family member who is HIV positive.
2. AIDS- the acronym for 'acquired immune deficiency'. AIDS is the clinical definition given to the onset of certain life-threatening infection in persons whose immune systems have ceased to function properly as a result of infection with HIV
3. Epidemiological- the study of disease patterns, causes, distribution and mechanisms of control in society.
4. HIV positive – tested positive for HIV infection.
5. Informed consent- a process of obtaining consent from a patient which that the persons who fully understands the nature and implication of the test before giving his or her agreement to it.
6. Pre and Post test counseling – a process of counseling which facilitates an understanding of the nature and purpose of HIV test. It examines what advantages and disadvantages the test holds for the person and the influence the result, positive or negative, will have on them.
7. Reasonable Accommodation – any modification or adjustment to a job or to the workplace that is reasonably practicable and will enable a persons living with HIV or AIDS to have access to or participate or advance in employment.

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8. STD- acronym for 'sexual transmitted disease'. Such diseases are infections passed from one person to another during sexual intercourse, including syphilis, gonorrhea and HIV.
9. Surveillance Testing- this is anonymous, unlinked testing which is done in order to determine the incidence and prevalence of disease within a particular community or group to provide information to control prevent and manage the disease

Signed at: _____ on this _____ day of _____ 2025

Management signature

Board of director's Representative Signature

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