

RESOLUTION NO. 1989-122

APPROVING AN INFECTIOUS DISEASE POLICY FOR THE
GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY

WHEREAS, there is an increasing pervasiveness of Acquired Immune Deficiency Syndrome (AIDS), tuberculosis, hepatitis and other diseases; and

WHEREAS, an AIDS Policy Task Force was created to address these concerns and develop a policy and plan for minimizing the impact of AIDS and other infectious diseases on RTA and its employees; and

WHEREAS, the creation of an infectious disease policy will ensure the fair and safe treatment of all RTA employees in the workplace;

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Greater Cleveland Regional Transit Authority, Cuyahoga County, Ohio:

Section 1. That the Infectious Disease Policy shown in Attachment A hereto is hereby adopted as official policy of the Authority.

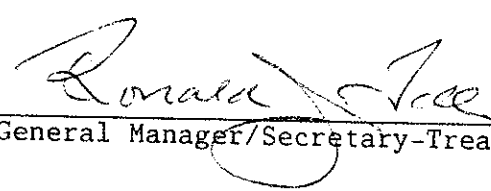
Section 2. That the General Manager/Secretary-Treasurer of the Authority is hereby authorized to undertake the necessary actions to implement this Infectious Disease Policy.

Section 3. That this Resolution shall become effective immediately upon its adoption.

Adopted: October 17, 1989



President

Attest: 

General Manager/Secretary-Treasurer

GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY

INFECTIOUS DISEASE POLICY

1.0 PURPOSE/SCOPE

The Greater Cleveland Regional Transit Authority ("RTA") recognizes that infectious diseases, including but not limited to, Acquired Immune Deficiency Syndrome (AIDS), tuberculosis, and hepatitis pose significant legal, medical and social concerns. In response to these growing concerns and consistent with state and federal laws and requirements, the RTA has adopted this comprehensive policy.

2.0 POLICY

RTA prohibits employment discrimination against any employee afflicted with an infectious disease.

3.0 OBJECTIVES

- 3.1 To provide Authority-wide guidelines and procedures for handling infectious disease issues.
- 3.2 To re-assert and clarify RTA's procedures and employees rights with respect to prevention of employment discrimination due to infectious disease.
- 3.3 To reduce unwarranted fear and misunderstanding about infectious diseases through an educational program.

4.0 REFERENCES - See Attachment 8.1

5.0 DEFINITIONS - See Attachment 8.2

6.0 PROCEDURES

6.1 Medical Determination

- 6.1.1 The determination of whether an employee diagnosed as having an infectious disease is to be permitted to continue his or her employment in a capacity that involves contact with the public or other employees shall be made by RTA's Medical Department on a case-by-case basis in consultation with the employee's treating physician, the employee and/or his/her representative and designated health official(s).

6.1.2 In making such a determination, RTA's medical staff shall consider:

- (a) the recommendation of the individuals identified in 6.1.1;
- (b) the physical condition of the employee;
- (c) whether the nature and extent of the disease precludes or impairs satisfactory job performance;
- (d) the probabilities that the disease will be transmitted to others in the normal work setting;
- (e) the potential health risk to the afflicted employee. Pending such a determination, the employee will be permitted to continue working in his/her current position unless it is determined by RTA's Medical Director that the employee poses an immediate threat of danger to others.
- (f) Where a determination has been made by R.T.A.'s Medical Director to permit an afflicted individual to remain in the workplace, no employee may refuse to work with this employee.

6.2 Fitness For Duty

6.2.1 Where fitness-for-duty concerns arise, the recommendations of qualified medical authorities will be considered in the management of each situation on a case-by-case basis.

Any of the following actions may be taken by RTA:

- (a) assign the employee to return to his/her regular place of employment;
- (b) assign the employee to a modified work assignment, where such accommodation is reasonable;
- (c) place the employee on a leave of absence, or sick leave with pay or recommend disability leave.

6.2.2 To determine whether an accommodation would impose an undue hardship on RTA the following factors will be considered:

- (a) the type of operation involved, including the composition and structure of the work force;
- (b) the nature and cost of the accommodation needed;
- (c) the effect it has on program accomplishments, including safety.

6.2.3 The employee will receive written notice of RTA's determination. The employee may, at any time, request a reconsideration of RTA's determination, provided that such a request is accompanied by medical evidence of an improvement in the employee's physical condition.

6.2.4 RTA will make every effort to accommodate an employee afflicted with an infectious disease. If no accommodation can be made, the employee will be considered ineligible for work and may be separated from RTA. The employee's file will be documented to show what efforts were made to accommodate the employee.

6.3 Employee Education/Assistance

6.3.1 An educational program on this Policy shall be provided by RTA.

6.3.2 Employee participation will be required.

6.3.3 RTA's Employee Assistance Program (IMPACT) provides consultants and resource referral services to employees and their families on concerns regarding infectious diseases.

7.0 RIGHTS OF EMPLOYEES

7.1 The medical records of all employees shall remain confidential, except where disclosure is mandated by law.

7.2 The identity of any infected employee shall not be revealed to the general public unless otherwise required by law.

8.0 ATTACHMENTS

8.1 References

8.2 Definitions

8.3 Summary of Personnel Services

8.4 Safety Department Guidelines for Handling Body Fluid Spills

9.0 PERIODIC REVIEW AND AMENDMENT

9.1 This policy and attachments shall be reviewed bi-annually by the Board of Trustees to determine that adequate procedures exist which do not conflict with existing personnel procedures and relevant laws and regulations.

9.2 Amendments or revisions to these guidelines may be initiated by the General Manager, or by any member of the Board of Trustees.

October 1989

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INFECTIOUS DISEASE POLICY
REFERENCES

1. Safety Department Guidelines for Handling Body Fluid Spills (October 1989)
2. GCRTA Guidelines for Handling AIDS-Related Issues (October 1989)
3. RTA Bulletin No. 82-11 G.I. 3 (Accommodation for the Handicapped) (February 8, 1982)
4. Ohio Civil Rights Commission Policy Statement on the Treatment of Charges Alleging Discrimination based upon Acquired Immune Deficiency Syndrome (AIDS) (1987)
5. Ohio Revised Code, Section 4112.02
6. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794)
7. Title 49 Code of Federal Regulations Part 27
8. Merit System Rules for Greater Cleveland Regional Transit Authority (Revised), November 25, 1975
9. Conditions of Employment GCRTA, effective August 1, 1988
10. Collective Bargaining Agreement GCRTA and Fraternal Order of Police Ohio Labor Council, expiring January 31, 1992

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INFECTIOUS DISEASE POLICY
DEFINITIONS

1. AIDS - Acquired Immune Deficiency Syndrome:

A deadly affliction in which a virus, Human Immunodeficiency Virus (HIV), attacks the body's immune system, leaving victims susceptible to a wide variety of infections and cancers.

2. ARC - Aids Related Complex:

A condition caused by HIV in which an individual tests positive for this virus and has a specific set of clinical symptoms which are often less severe than those with classic AIDS. Signs and symptoms of ARC are similar to AIDS. The condition may be mild, or severely debilitating. It may continue for several years.

3. Handicapped Person:

Any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. "Major life activities" includes such functions as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. With respect to employment, a handicapped person who, with reasonable accommodation and within normal safety requirements, can perform the essential functions of the job in question is considered a qualified handicapped person.

4. Hepatitis:

Inflammation of the liver caused by various viruses, including those causing infectious mononucleosis or yellow fever and by alcohol or other drugs. The illness can progress to death, but is usually self-limited and resolves under medical care.

5. HIV - Human Immunodeficiency Virus:

A virus which attacks the immune system. HIV is not transmitted by casual contact nor even by the close non-sexual contact that normally occurs at work, in school or at home. Transmission to another person must require transmission of body substances containing infected cells. HIV has been found in blood, tears, saliva, vaginal secretions and semen. However, transmission by tears, saliva, clothing or other personal objects used by an infected person or by air have not been reported.

6. Infectious Diseases:

Diseases caused by or capable of being communicated by the invasion and multiplication of microorganisms such as bacteria, viruses or parasites in the body tissue.

7. Tuberculosis:

An infectious disease caused by bacteria most commonly growing in the lung from which source the disease can be communicated to others by coughing and inhalation of the bacteria.

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SUMMARY OF PERSONNEL SERVICES

This attachment to the Authority's Infectious Disease Policy outlines existing personnel services and provides supplemental information relevant to infectious diseases which include, but are not limited to Acquired Immune Deficiency Syndrome (AIDS), hepatitis, and tuberculosis.

1. Employee Education/Assistance

The Office of Equal Opportunity (formerly the Affirmative Action Office) in conjunction with other departments including Training, Medical, Safety, Legal and Personnel, will provide information and training for dealing with infectious diseases in the workplace.

GCRTA's Employee Assistance Program (IMPACT) provides consultation and resource referral services to employees and their families. Employees with infectious diseases or other life-threatening illnesses as well as employees who have concerns about such illnesses are encouraged to take advantage of the IMPACT program.

In responding to employee concerns regarding infectious diseases, IMPACT's staff consults with and makes referrals to other appropriate treatment facilities including those with which IMPACT is affiliated.

2. Fitness-for-Duty/Accommodation

Employees with handicaps must meet performance standards to maintain their job duties and responsibilities. Available reasonable accommodation will be provided to a handicapped employee if needed. Handicapped employees may continue to work in their current positions as long as they remain able and qualified to safely and regularly perform their job duties.

Section 504 of the Rehabilitation Act of 1973 requires reasonable accommodation to the known handicaps of an employee or of an otherwise qualified applicant for employment. Reasonable accommodation must be made unless RTA can demonstrate that the accommodation would impose an undue hardship on its operations. If no undue hardship would result, RTA must assign an employee who becomes handicapped and unable to safely perform his/her original

duties to an alternative position with comparable pay if a position for which the employee qualifies is available. (Comparable pay does not necessarily mean the same pay received prior to becoming handicapped. It does mean pay comparable to the wages or salary being paid to other employees of similar experience and expertise performing the duties of the new job classification for which the handicapped employee qualifies.)

Each type of handicap or temporary incapacity to perform one's normal duties will require an individual assessment of the person's abilities and the matching of these abilities with available jobs.

To facilitate the RTA's efforts to accommodate the needs of employees who become handicapped (especially if the handicap is of short duration), the department where the employee normally works will seek to utilize him/her in some capacity which is not injurious to the employee, given his/her medical restrictions. This process will include working with RTA's Personnel Department to determine if the employee's regular job can be modified to accommodate the medical restrictions. If a job cannot be modified and an employee is no longer able to regularly perform his/her normal duties, the employee may be separated from that position.

If the employee's condition does not render him/her totally disabled from all employment, the employee is to be referred to the Personnel Department for placement. The employee will be placed on Job Search Assistance status for six months and provided with assistance in locating another RTA position.

If no accommodation can be made, the employee will be considered ineligible for work and may be separated from RTA. The employee's file will be documented to show what efforts were made to accommodate the employee's handicap.

3. Employment/Labor Relations/EEO

In accordance with federal and state statutes, RTA does not discriminate on the basis of infectious diseases or other illnesses or conditions considered to be handicaps. Acquired Immune Deficiency Syndrome (AIDS) is among those illnesses regarded as a handicap by the Ohio Civil Rights Commission. Any RTA employee who commits or participates in any action toward other employees or the public that may be construed as a violation of RTA's non-discrimination policy will be subject to disciplinary action. Any supervisor who actively or knowingly condones such discriminatory action will also be subject to disciplinary action. Employees

involved in a work action or stoppage related to a protected illness will be subject to disciplinary action.

Disciplinary action resulting from violations of RTA's non-discrimination policy may include suspension, demotion and/or discharge depending on the nature, extent and severity of the infraction.

RTA maintains an Equal Employment Opportunity staff to investigate charges of discrimination.

4. Benefits

Hourly employees, in the bargaining unit, are eligible for short term disability benefits, for a maximum of 26 weeks, before applying for an unpaid leave of absence.

Salaried employees can use salary continuation days based on the Authority's schedule of permissible salary continuation before applying for an unpaid leave of absence.

If the employee has used up his/her permissible number of salary continuation days, he/she is eligible for short term disability benefits.

YEARS OF SERVICE	SALARY CONTINUATION
0 thru 1 year 11 months	One day for each two months of service to maximum of 11 days
2 thru 4 years	11 days
5 thru 9 years	22 days
10 thru 14 years	44 days
15 thru 19 years	66 days
20 thru 24 years	99 days
25 years and over	132 days

An unpaid leave of absence may be granted by the General Manager in accordance with Board approved policies.

While on an unpaid leave of absence, the employee retains all medical and other group insurance coverages until he/she is separated from RTA.

Upon separation from RTA, an employee is eligible to pay for continuation of medical, dental and vision coverages, at group premium rates, in accordance with the provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA). COBRA rights are not affected by an employee's separation due to a medically verified inability to work.

5. Pension Benefits

If the employee meets service retirement requirements with the Public Employees Retirement System, he/she may retire at age 60 with five years of service credit, or on a reduced basis with 25 years at age 55. With 30 years of service credit, an employee may retire at any age, without reductions.

If vested, but ineligible for service retirement, an employee who becomes permanently disabled for the performance of duty before age 60 and has completed 60 months of contributing service is eligible for disability retirement with PERS.

An employee separated from RTA may choose to withdraw his/her accumulated contributions if not eligible or not desirous of obtaining service or disability retirement benefits.

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