



# OREGON YOUTH AUTHORITY

## Policy Statement

### Part II – Youth Services (Facilities)



*Subject:*

#### HIV Testing of Youth in OYA Facilities

*Section – Policy Number:*

**D: Health and Mental Health – 2.0**

*Supersedes:*

II-D-2.0 (04/18)  
II-D-2.0 (09/13)  
II-D-2.0 (01/11)  
II-D-2.0 (01/06)  
II-D-2.0 (11/96)

*Effective Date:*

**10/29/2024**

*Date of Last*

*Review/Revision:*  
**None**

#### **Related Standards and References:**

- [ORS 135.139](#) (Notice of availability of testing for HIV and other communicable diseases to person charged with crime; when court may order test; victim's rights)
- [ORS 109.640](#) (Right to reproductive health care, medical treatment or dental treatment without parental consent)
- [ORS 431A.570](#) (Significant exposure to bodily fluids; petition to compel testing; confidentiality of results)
- [ORS 433.045 through 433.082](#) (HIV Testing)
- [OAR 333-022-0200 through 333-022-0210](#) (HIV Testing and Confidentiality, Notification, Right to Decline)
- [Oregon Health Authority Public Health Division](#): HIV Testing Policy and Procedures, December 2023
- National Commission on Correctional Health Care, *Standards for Health Services in Juvenile Detention and Confinement Facilities*, 2022, Y-B-03, Y-E-02, Y-G-05 and various other references throughout the Standards about HIV testing and surveillance of the juvenile;  
Position Statement: "Administrative Management of HIV in Corrections"
- [OYA policy](#): I-A-8.0 (Exercise and Delegation of Legal Custodian and Guardianship Authority)  
I-E-2.3 (Requests for Youth Information and Records)  
I-E-3.2 (Information Asset Classification and Protection)


#### **Related Procedures:**

- None

#### **Policy Owner:**

Health Services Director

#### **Approved:**

  
Joseph O'Leary, Director

## **I. PURPOSE:**

This policy outlines the process under which youth HIV testing is performed in OYA facilities.

## II. POLICY DEFINITIONS:

**HIV:** The acronym for Human Immunodeficiency Virus, a virus that causes immune system failure and is spread through direct contact with body fluids.

**Qualified health professional:** Includes physicians, physician assistants, nurse practitioners, nurses, dentists, qualified mental health practitioners, and others who are permitted by law within the scope of their professional practice acts to evaluate and care for patients.

## III. POLICY:

Youth entering OYA close-custody facilities have a higher incidence of risk of exposure to HIV and may not have had access to testing. To ensure equity in access to testing, Health Services makes testing available to all youth in close-custody facilities.

Allowing all youth access to HIV testing serves two primary purposes:

- 1) Allows for those who are seropositive to be identified early leading to initiation of treatment and delay in disease progression; and
- 2) Reduces the public health risk of HIV. Early diagnosis of HIV helps to decrease disease transmission.

HIV testing is an intrusive medical procedure that can have serious social consequences. Before a youth in OYA custody is tested for HIV, the youth must be notified that HIV testing is intended and given the opportunity to decline testing. This notification and opportunity to decline testing may be verbal or in writing and may be contained in a general medical consent. If the youth declines to be tested this must be documented in the medical file. If the HIV test is requested by anyone other than a health care provider, health care provider's designee, or court-ordered testing, then the written consent of the youth must be obtained. The results of the HIV test must be kept confidential.

## IV. GENERAL STANDARDS:

### A. HIV Antibody Testing

For youth in OYA close-custody facilities, HIV testing will be offered upon request, as a result of court order, as part of communicable disease panel, as part of standard prenatal testing for pregnant youth, and as indicated medically.

A youth must be notified that HIV testing is intended and given the opportunity to decline. If the youth declines to be tested, this must be documented in the medical file. A youth will undergo mandatory testing if a court order is issued requiring testing.

1. If a youth refuses a court-ordered HIV test, the youth must be referred back to the court of original jurisdiction to resolve the matter.
2. A youth who requests an HIV test may withdraw the youth's own request at any time prior to being tested.

### B. Counseling and Education

1. Staff must provide pre-test HIV counseling and education consisting of the following:
  - a) Explain the risks that can lead to contracting HIV;
  - b) Explain the process of HIV testing and the meaning of positive or negative results;
  - c) Describe Oregon laws pertaining to confidentiality of information regarding HIV testing and test results;
  - d) Describe circumstances where disclosure might be permitted or required without the youth's consent;
  - e) Notify of the potential impact on insurability, employment and social discrimination if the results of a positive HIV test become known to others; and
  - f) Discuss risk reduction.
2. Post-test HIV counseling and education will consist of the following:
  - a) If positive results:
    - (1) Results and meaning;
    - (2) Medical follow-up/plan of care including confirmatory testing;
    - (3) Plan for partner notification;
    - (4) Notification per Oregon Public Health Division requirements; and
    - (5) With the youth's consent, referral to a mental health provider for individual counseling and support.
  - b) If negative results:
    - (1) Test results and meaning; and
    - (2) Risk reduction methods.
3. Pre- and post-test HIV counseling and education must be provided in a culturally appropriate and sexual orientation affirming manner.

C. HIV Antibody Testing

Testing will ideally occur approximately three months after most recent probable exposure unless required by court order, medical indication or part of a communicable-disease screening panel. Testing should be repeated at least annually or as indicated.

D. Confidentiality

All medical records are privileged information and are classified as “Restricted Information” under OYA policy I-E-3.2 (Information Asset Classification and Protection).

Youth HIV test records are classified as “Critical Information” and must be handled according to OYA policy I-E-3.2.

1. HIV test results are specifically designated highly confidential by law and must be held in the strictest confidence to avoid consequences of casual or inappropriate disclosure of information.
2. All HIV test information released with the authorization of the tested youth must be labeled with a statement which substantially states that information may not be disclosed to anyone without the specific authorization of the youth.
3. All staff, regardless of the manner of receipt or the source of HIV test information about a youth, are prohibited from further disclosure without written authorization from the youth with the following exception:

Qualified health professionals employed by OYA may disclose HIV test information if it is considered necessary for public health or health care purposes as required by federal or state law, including any Oregon Health Authority administrative rule.

4. Youth HIV test results are retained in youth electronic health records.

Health Services staff must scan any results received on paper into the youth’s electronic health record and shred the paper copy.

**V. PROCEDURE: The following procedures are for Health Services staff only.**

- A. Notify the youth that HIV testing is intended and ask if the youth agrees to be tested. If the youth declines to be tested, document this in the youth's medical file.

Note: When a court orders HIV testing, the youth cannot decline to be tested. The court must be notified if the youth refuses a court-ordered HIV test.

- B. Provide the youth HIV pre-test counseling/education in all circumstances in which HIV testing is being performed, including court-ordered testing.
- C. Specify whether the test information will be disclosed to others, who those others may be, and for what purpose.
- D. Ask the youth if the youth has any questions, and if so, provide a full and complete opportunity to ask those questions and receive answers from a person who is knowledgeable about HIV and HIV testing.
- E. Complete the appropriate laboratory paperwork.
- F. Observe blood precautions when collecting blood specimens. Draw the required amount of blood into the appropriate vacutainer tube as directed in the laboratory manual.

- G. Label the tube containing the specimen as directed by the laboratory. All specimens must be appropriately labeled prior to being sent to the laboratory for testing.
- H. If submitting a sample for other communicable disease testing or routine lab work, in addition to the HIV screen, use the appropriate laboratory form.
- I. Package and send the specimen as directed to the laboratory in the approved container.
- J. Once the HIV test result is received from the lab, notify the youth of the result, and complete post-test HIV counseling and education.

**VI. LOCAL OPERATING PROTOCOL REQUIRED: NO**