

PERSONNEL

COMMUNICABLE DISEASE

The Okemos Board of Education is committed to providing a safe environment for parents, students, and staff as well as working cooperatively with the Ingham County Health Department to enforce and adhere to the Michigan Public Health Code for prevention, control, and containment of communicable disease in school.

School Volunteers: When it has been confirmed that a school volunteer has a communicable disease or infection that is not known to be spread by casual contact, the superintendent or designee has the authority to exclude the volunteer from school. The school volunteer does not have the opportunity to have his/her individual situation reviewed by a panel.

School Employees

- A. Employees are expected to be in compliance with the immunization schedule as specified in the Public Health Code. Employees not meeting the immunization requirements may be excluded from work attendance unless a request for extension for a reasonable length of time is certified and filed. The procedure concerning a request for exemption from immunization will be in compliance with this code and rules.
- B. The superintendent or designee has the authority to exclude an employee from the school setting when reliable evidence or information from a qualified source (e.g., medical professional, employee) confirms him/her of having a communicable disease or infection that is known to be spread by any form of casual contact* and is considered a health threat to the school population. Such an employee** shall be excluded unless his/her physician approves school attendance or the condition is no longer considered contagious. All reportable communicable diseases will be referred to the Ingham County Health Department.
- C. When reliable evidence or information from a qualified source (e.g., medical professional, employee) confirms that an employee is known to have a communicable disease or infection that is known not to be spread by casual contact, (e.g., AIDS/HIV, Hepatitis B and other like diseases), the infected employee will have the right to remain in the work setting.

COMMUNICABLE DISEASE

Page 2

1. If issues or decisions regarding work attendance arise that cannot be informally resolved or if an identified compelling reason exists, the district will follow the protocol for a case by case review as outlined in Appendix A. Unless C.2. below applies, the employee will remain in the work setting during this review.
 2. An exception exists if the superintendent, after consulting with the appropriate medical professional(s), learns there are clearly documented risks to the infected individual or others in the school/work setting resulting from other conditions, communicable disease or infections that could pose an immediate health threat. If a communicable disease or infection that is known to be spread by casual contact is present, the provisions of Part B will apply.
- D. Mandatory screening for communicable diseases that are known not to be spread by casual contact is not warranted as a condition for employment or continued employment.
- E. Regardless whether disease is present, routine procedures shall be posted and used, and adequate sanitation facilities and supplies will be available for handling blood or body fluids within the school/work setting or on school buses. All school personnel will be trained in the proper procedures for handling blood and body fluids and these procedures will be strictly followed.
- F. **CONFIDENTIALITY OF MEDICAL INFORMATION**
Release of medical information is protected by the Family Educational Rights and Privacy Act (FERPA) of 1974.
1. Written consent of the employee will be obtained before releasing personally identifiable medical information.
 2. Written consent will include: a) the information on the disease, infection or condition that may be disclosed; b) the reason for disclosure; and c) the person(s) to whom the disclosure may be made.
 3. If the presence of a communicable disease that can be spread by casual contact must be disclosed to persons in the school community for protection of others, the district will release only general information about the existence of a specific communicable disease.
 4. All personally identifiable medical information of a sensitive nature will be kept in a separate file than the employee's official records.

COMMUNICABLE DISEASE

Page 3

- G. Training about dangerous communicable diseases, confidentiality, school policy and the proper handling of blood and other body fluids will be provided to all staff.
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* “casual contact is used herein to refer to any contact that does not permit the direct exchange of blood into the bloodstream, semen, or vaginal secretions from one person to another; e.g., shaking hands, sneezing, coughing, sharing eating utensils, sharing food or beverages, toilet seats, furniture, telephones, office equipment, insect bites.” (Responding to HIV and AIDS, a special publication for NEA members from the Health Information network, 1989, pp. 8-9)

** “employee” is used herein to refer to the infected employee.

Reference: Michigan Public Health Code
Act 368 of 1978, Parts 51 and 92

Policy

Adopted: 05-01-89

Amended: 10-18-99

Reviewed: (*Under Review*)

COMMUNICABLE DISEASE - Regulation**PROTOCOL FOR COMMUNICABLE DISEASES KNOWN NOT TO BE SPREAD BY CASUAL CONTACT****I: Rationale for Protocol Concerning Employees Who Have Contracted AIDS/HIV Disease**

In adults and adolescents, the Human Immunodeficiency Virus (HIV) which may eventually cause AIDS is transmitted primarily through sexual contact and direct blood-to-blood exposure to infected blood or blood products.

All known cases of children who have acquired the AIDS/HIV virus have become infected:

- 1) prenatally from infected mothers;
- 2) from receiving a trans-fusion of blood or blood products that contained the virus;
- 3) in older children who have acquired the disease, sexually or from contaminated needles during intravenous drug abuse.

None of the identified cases of AIDS/HIV infection in the United States are known to have been transmitted in the school, day-care, or foster-care settings or through other casual person-to-person contact. Based on current evidence, casual person-to-person contact as would occur in the school environment is not considered as unusual risk. The following is an excellent description published in *“Responding to HIV and AIDS,”* a special publication for NEA members, by the Health Information Network, 1989:

“HIV cannot be transmitted through such casual contact as shaking hands, hugging, kissing, crying, coughing, or sneezing. One cannot contract the virus from water in pools or baths, from food or beverages, from bed linens, towels, cups, dishes, straws, or other eating utensils, or from toilets, doorknobs, telephones, office equipment, or furniture. HIV is not transmitted through vomit, sweat, stool, or nasal secretions. Although the virus has been isolated in very small concentrations in tear, urine, and saliva of some HIV-Positive persons, nobody has been infected through casual contact with these fluids. In addition, one cannot get HIV from mosquito or other bites.”

The Center for Disease Control (CDC), the Michigan Department of Public Health, the Michigan Department of Civil Rights, the Michigan Department of Education and the Governor's Expert Committee on AIDS recommend that: *Generally, school employees, including personal service and food service staff, do not need to be restricted from work if HIV infected unless there is evidence that other infection or illness exists that may be spread by casual contact in the school setting or the illness precludes them from performing the functions for which they were employed. Both Federal and State law require reasonable accommodations.*

COMMUNICABLE DISEASE - Regulation

Page 2

In August, 1986, the Michigan Civil Rights Commission issued the following policy statement on Acquired Immune Deficiency Syndrome (AIDS):

"The Michigan Civil Rights Commission has approved the Michigan Department of Civil Rights' (MDCR) determination that Acquired Immune Deficiency Syndrome (AIDS) falls within the statutory definition of a handicap in the Michigan Handicappers' Civil Rights (P.A. 200 for 1976). The Michigan Department of Public Health Advisory Council, the policy making body for the Department of Public Health, has concluded that there is no need for specific precaution against AIDS in the work place. The MDCR will accept and process complaints from persons who believe they have been discriminated against in employment, housing, public accommodations, public service, and education because of AIDS or a related condition or the perception of AIDS."

If an employee has been determined to be handicapped pursuant to the Vocational Rehabilitation Act of 1973, as amended (Section 504) and its regulations, or is suspected of being so handicapped and requests that the district make certain adaptations or accommodations, the district must consider the request. Clearly, services, benefits, or employment cannot be denied to a person with AIDS and Asymptomatic HIV infection solely because of fear or concerns about possible transmission of HIV. The burden of proof for any decision contrary to allowing the employee to remain in the regular work setting is ultimately placed on the district.

II: DISTRICT PROTOCOL**A. General Procedures**

1. Employees with a communicable disease or infection that is known not to be spread by casual contact will remain in the school system unless an appropriate medical professional confirms that there are clearly documented risks to the infected individual or others in the school setting resulting from other conditions, communicable disease or infections that could pose an immediate health threat. The district will follow the case-by-case review process if it is needed for issues or decisions that may arise regarding employment that cannot be informally resolved or if an identified compelling reason exists that requires further consideration.

COMMUNICABLE DISEASE - Regulation

Page 3

2. Written permission of the infected employee to release information will be sought before the review panel is convened and before personally identifiable information is shared with the panel. If written permission cannot be obtained and the superintendent determines the information to be necessary, he/ she will have the authority under FERPA and district policy to disclose personally identifiable information only to the review panel for reasons of a “legitimate educational interest” and “health or safety of the employee or other individuals.” Any other disclosure is forbidden without written permission or majority agreement of the review panel and superintendent approval.
3. If the superintendent determines that the review panel process is not necessary and the infected employee requests the panel to meet, the superintendent or the local public health officer shall convene the panel as soon as the required panel members can be convened, but in any event no later than five (5) school days from the date of the request.
4. If the employee has been determined to be handicapped pursuant to the Vocational Rehabilitation act of 1973, as amended (Section 504), and its regulations, or is suspected of being so handicapped and requests that the district make certain adaptations or accommodations, the review panel shall consider and determine any such requests on behalf of the district.

B. Confidentiality

All persons involved in these procedures shall be required to treat all proceedings, deliberations, and documents as confidential information. Records of the proceedings and the decisions will be kept by the superintendent in a sealed envelope with access limited to only those persons receiving the consent of the infected employee as provided by the Employee Right to Know Act, and the Family Education Rights and Privacy Act. No confidential medical information concerning communicable diseases known not to be spread by casual contact will be recorded in the employee personnel record that is easily accessible.

C. Case Review Process

1. Disclosure of HIV Information Received from a Public Health Official: Any information disclosed to any school employee by an authorized representative of the health department that pertains to an individual who is HIV infected, or any information shared because the health official determines there to be a foreseeable risk of transmission of HIV to students in the school district, cannot be re-disclosed by that school employee to anyone without the written consent of the infected employee. (In the event of re-disclosure, subject to criminal penalties. Section 5131 of the Public Health Code.)

COMMUNICABLE DISEASE - Regulation

Page 4

- 1.1. The health department official is requested to inform the superintendent if ever such disclosure is deemed necessary.
 - 1.2. If the disclosure by the health official occurs because of a foreseeable risk of transmission, the infected employee will be excluded from the school setting until the review panel meets and decisions are made in accordance with the protocol in this appendix.
 - 1.3. When the superintendent is informed by a health official, he/she will: a) obtain the written permission of the infected employee for approval to disclose to the review panel if a review panel is necessary; or b) request the health official disclose the information to the review panel members if a review is necessary.
2. Disclosure of Information Received from Other Sources: School employees who, while on school business, receive information from a reliable and qualified source (infected employee) indicating that an employee has a communicable disease known not to be spread by casual contact, are requested to inform the superintendent in order to permit school policy to be enforced in a consistent manner. The school employee shall be informed of the confidentiality regulations of the district as well as the statutory provisions of the Family Educational Rights and Privacy Act (FERPA) regarding disclosure.
 3. Upon learning of an employee within the Okemos school district who has been identified by a qualified source (other than a public health official) as having a communicable disease that is known not to be spread by casual contact, the superintendent or designee shall:
 - 3.1. Immediately consult with the physician of the employee and/or health official from the Ingham Health Department to obtain information as to whether a documented risk exists to the infected individual or others in the school setting resulting from other conditions, communicable diseases or infection that could pose an immediate health threat through casual contact.
 - 3.1.1. If the employee's physician or the Ingham Health Department official indicates the employee is well enough to remain in the school setting and poses no immediate health threat through casual contact to the school population because of the employee's illness, the employee shall be allowed to remain in the school setting.

COMMUNICABLE DISEASE - Regulation

Page 5

- 3.1.2 If the employee's physician or the Ingham Health Department official indicates the employee is currently not well enough to remain in the school setting and/or that a documented risk exists to the infected individual or others in the school setting resulting from other conditions, communicable diseases or infections that could pose an immediate health threat through casual contact, the employee shall be excluded from the setting and the superintendent, representative of the infected employee, or health department official may request a review panel to be convened to discuss the conditions under which the employee may return to the school setting.
- 3.2 Consult with the infected employee on the situation and determine if a review panel should be involved to address issues or decisions that may arise or if an identified compelling reason exists that requires review panel consideration. The superintendent or infected employee may request the review panel process.
- 3.3. Submit to the infected employee, in writing, a notice of his or her rights and the method of appeal for any decisions.

D. Review Panel

1. Panel Membership shall be comprised of the following individuals:
 - a. A physician knowledgeable about the individual's medical condition.
 - b. A health official from the Ingham County Health Department who is familiar with the disease.
 - c. An advocate (e.g., counselor, employee advocate or social worker from in or outside the school setting) approved by the infected employee.
 - d. A school representative familiar with the behavior of the infected employee in the school setting (in most cases the employee's supervisor) as identified by the superintendent.
 - e. Either the infected employee or his/her representative.
 - f. A district administrator other than the superintendent or deputy superintendent.
2. The superintendent will assign a stenographer to record the proceedings.
3. The superintendent will designate the chair of the panel. The chair shall ensure an impartial hearing for all.

COMMUNICABLE DISEASE - Regulation

Page 6

4. The superintendent may be present during the information gathering process but will be excused when the panel is deliberating towards the Proposal for Decision recommendations to the superintendent. The chair of the review panel will designate the panel member who will write the Proposal for Decision.

E. Review Panel Process

1. If it is determined the Review Panel shall meet, it shall be as soon as the required panel members can be convened, but in any event no later than five (5) school days from the date of the decision or request to meet. The following aspects should be considered in that review:
 - 1.1 The circumstances in which the disease is contagious to others and the current status of implementing correct procedures for handling blood or body fluids within the school setting or on school buses.
 - 1.2 The infections or illnesses the employee could have as a result of the disease that may be contagious through casual contact in the school setting.
 - 1.3 The behavior and neurological development of the employee and any potential impact on communicability.
 - 1.4 The expected type of interaction with others in the school setting and the implications to the health and safety of those involved.
 - 1.5 The psychological impact on the infected individual remaining in the school setting.
 - 1.6 The impact of contagious diseases occurring within the school population while the employee is in attendance.
 - 1.7 The potential request by the employee with the disease to be excused from attendance on the job.
 - 1.8 The method of protecting the employee's right to privacy, including maintaining confidential records.
 - 1.9 The recommendation of who, if anyone, should be informed and under what legal conditions would anyone be informed without written permission.

COMMUNICABLE DISEASE - Regulation

Page 7

- 1.10 The recommendation as to whether the employee should continue in the school setting; the reason necessitating the panel's needing to consider the question; and, if currently not attending, under what circumstances the employee may return.
 - 1.11 The recommendation as to whether any type of restriction is advisable.
 - 1.12 The determination of when the case should be reviewed again by the panel.
 - 1.14 Any other relevant information.
2. Within three (3) days after convening the panel, the superintendent shall be provided with a written record of the proceedings and the Proposal for Decision. The proposal serves as a recommendation to the superintendent. It is based on the information brought out in the review panel process and will include rationale for the recommendations.
 - 2.1 If there is a minority viewpoint by panel members following the review process that should also be included in the report.
 - 2.2 If the Proposal for Decision is to exclude the infected employee from the school setting because of documented risk to the infected individual or others in the school setting resulting from other conditions, communicable diseases or infections that could pose an immediate health threat, the Proposal for Decision shall include the conditions under which the exclusion will be reconsidered.
 - 2.3 The infected employee will be given a copy of the proposal.
 - 2.4 The review panel members will be given the opportunity to review the content of the Proposal for Decision before it is submitted to the superintendent.
 3. The superintendent shall affirm, modify, or take exception to the Proposal for Decision within three (3) school days after receipt. (See Appeal Process, Re-Hearing Request.)
 - 3.1 In the event the superintendent takes exception to the Proposal for Decision, he/she shall prepare a written statement that sets forth the reasons for the exceptions and the basis for that decision.

COMMUNICABLE DISEASE - Regulation

Page 8

- 3.2 The infected employee and the Ingham Health Department official will be given a copy of the superintendent's decision.
- 3.3 The other review panel members will be given the opportunity to review the content of the superintendent's decision.

F. Appeal Process

1. Request for reconsideration of the review panel's Proposal for Decision: In the event the infected employee or any other person considers the Proposal for Decision unjust, they may submit a request for rehearing. Such request shall be in writing to the chair of the review panel within three (3) days of the date of the Proposal for Decision. Grounds for requesting a rehearing are limited to: a) new evidence or information that is important to the decision; or b) substantial error of fact.
 - 1.1 The Review Panel chair, within three (3) school days from the date of receipt of the request for re-hearing shall either grant or deny the request for re-hearing.
 - 1.1.1 If the request for re-hearing is denied, the chair shall immediately submit the Proposal for Decision to the superintendent.
 - 1.1.2 If the request for re-hearing is granted, the chair shall reconvene the same panel that originally heard the matter within five (5) business days of the date the hearing is granted.
 - 1.2 Within three (3) business days after the re-hearing, the chair shall submit the Proposal for Decision to the superintendent. The infected employee will be given a copy of the proposal. The review panel members will be given the opportunity to review the content of the Proposal for Decision.
2. Request for reconsideration of the superintendent's decision: The infected employee may request a re-consideration of the superintendent's decision within three (3) business days of the date the superintendent's decision was issued. The request shall be in writing and shall allege that the decision contains a substantial error of fact or that the decision is against the great weight of evidence as set forth in the Proposal for Decision.

COMMUNICABLE DISEASE - Regulation

Page 9

- 2.1 An oral presentation by the infected employee or his/her representative may be granted by the superintendent.
- 2.2 The superintendent shall grant or deny the request for re-consideration within three (3) days after receipt of the request or within three (3) business days following the oral presentation, whichever is applicable.
3. **Request for a Board Decision:** The infected employee or his/her representative may make a final written appeal to the president of the Board of Education within five (5) school days after the superintendent's decision.
 - 3.1 The Board of Education shall meet within three (3) business days and hear the employee's appeal along with the Proposal for Decision and superintendent's decision.
 - 3.2 The Board of Education will render its decision in writing within two (2) school days of the hearing.
 - 3.3 Copies of the board decision shall be given to the superintendent, Ingham Health Department official, and the infected employee.

G. General Provisions

1. The review panel member who is serving as the advocate for the infected individual (or another person designated by the panel and approved by the infected employee) will serve as the liaison between the employee, family, and attending physician as it relates to the school setting.
2. The rights of an employee shall fall under the same guidelines concerning any medical illness or condition that are outlined in the collective bargaining agreement for employees.
3. Employees of the district shall be expected to teach and provide other normal personal contact services in the school setting with an employee determined to have a disease known not to be communicable by casual contact unless a determination to the contrary has been made by the review panel.

Regulations: October 1999