

District Protocol

A. General Procedure

1. Persons with a communicable disease or infection that is known not to be spread by casual contact will remain in the school setting 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 diseases 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 school attendance that cannot be informally resolved or if an identified compelling reason exists that requires further consideration.
2. Written permission of the parent/guardian, eligible student or 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 the "health or safety of the student or other individuals" (FERPA Regulations, Sections 99.31 & 99.36). Any other disclosure is forbidden without the 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 parent/guardian, eligible student or staff member 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 school days from the date of the request.
4. If the student or staff member 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. Case Review Process

1. Disclosure

- a. 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 pupils in the school district, cannot be re-disclosed by that school employee to anyone without the written consent of the parent/guardian, eligible student, or

employee. (Subject in the event of re-disclosure to criminal penalties. Section 5131 of the Public Health Code.)

1. The health department official is requested to inform the superintendent if ever such disclosure is deemed necessary.
2. If the disclosure by the health official occurs because of a foreseeable risk of transmission the student/staff member will be excluded from the school setting until the review panel meets and decisions are made in accordance with the protocol in this appendix.
3. When the superintendent is informed by a health official he/she will:
 - * Obtain the written permission of the parent/guardian, eligible student or staff member for approval to re-disclose to the review panel if a review is necessary; or
 - * The health official will be requested to disclose the information to the review panel members if a review is necessary.

b. Information received from other sources:

School employees who, while on school business, receive information from a reliable and qualified source (parent/guardian or student) indicating that a student 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 re-disclosure.

2. Upon learning of a student/staff member within the C.O.O.R. Intermediate 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 shall:
 - a. Immediately consult with the physician of the student/staff member and/or the health official from the 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 infections that could pose an immediate health threat through casual contact.
 1. If the student/staff member's physician or the health department physician indicates the student/staff member is well enough to remain in the school setting and poses no immediate health threat through casual contact to the school population because of their illness, the student/staff member shall be allowed to remain in the school setting.
 2. If the student/staff member's physician or the health department health official indicates the student/staff member 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

disease or infections that could pose an immediate health threat through casual contact, the student/staff member shall be excluded from the school setting and the superintendent, representative of the infected student/staff member, or health department health official may request the review panel to be convened to discuss the conditions under which the individual may return to school.

- b. Consult with the parent/guardian, eligible student or staff member on the issues of the situation and determine if the review panel should be involved to address issues or decisions that may arise or if an identified compelling reason exists that requires further consideration. The superintendent, parent/guardian, or eligible student or staff member may request the review panel process.
- c. Submit to the parent/guardian, eligible student or staff member in writing a notice of their rights and the method of appeal for any decisions.

C. The Review Panel

1. Review Panel Membership

- a. A physician knowledgeable about the individual's medical condition.
 - b. A health official from the appropriate County Health Department who is familiar with the disease.
 - c. A student/employee advocate (e.g., counselor, child advocate, social worker, employee/union representative, etc. from in or outside the school) approved by the eligible student, staff member or parent/guardian.
 - d. A school representative familiar with the student's behavior in the school or the employee's work situation (in most cases the building principal or school nurse) as identified by the superintendent.
 - e. Either the parents/guardians of the student, the eligible student, employee, or their representative.
 - f. A district administrator other than the superintendent or assistant superintendent.
2. The superintendent will assign a stenographer to record proceedings.
 3. The superintendent will designate the chair of the panel. The chair is responsible for assuring a due process hearing that is fair and just. The chair shall ensure an impartial hearing for all interests concerned.
 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.
 5. The chair of the review panel will designate the panel member who will write the "Proposal for Decision."

D. The 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 not later than five school days from the date of the decision or request to meet. The following aspects should be considered in that review:
 - a. 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 school buses.
 - b. The infections or illnesses the student/staff member could have as a result of this disease that may be contagious through casual contact in the school setting.
 - c. The behavior, and neurologic development of the student and any potential impact on communicability.
 - d. The expected type of interaction with others in the school setting and the implications to the health and safety of those involved.
 - e. The psychological impact on the infected individual concerning remaining in the school setting.
 - f. The impact of contagious diseases occurring within the school population while the infected person in the attendance.
 - g. The potential request by the person with the disease to be excused from attendance in school or on the job.
 - h. The method of protecting the student/staff member's right to privacy, including maintaining confidential records.
 - i. The recommendation of whom, if anyone, should be informed and under what legal conditions would anyone be informed without written permission.
 - j. The recommendation as to whether the student/staff member 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 he/she may return.
 - k. The recommendations as to whether any type of restrictions or alternative delivery of school programs is advisable.
 - l. The determination of whether an employee would be at risk of infection through casual contact when delivering an alternative educational program.
 - m. The determination of when the case should be reviewed again by the panel.
 - n. Any other relevant information.

2. Proposal for Decision
 - a. Within three (3) business 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 the rationale for the recommendations. If there is a minority viewpoint by panel members following the review process, that should also be included in the report.
 - b. If the Proposal for Decision is to exclude the affected person from the school setting because documented risks 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.

- c. The parent/guardian or affected person 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.

3. The Superintendent's Decision

- a. The superintendent shall affirm, modify, or take exception to the Proposal for Decision within three (3) business days after receipt of the Proposal for Decision unless a rehearing request on that Proposal has been made. (See Appeal Process, Rehearing Request.)
- b. 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.
- c. The parent/guardian or affected person and the Health Department health official will be given a copy of the Superintendent's Decision. The other review panel members will be given the opportunity to review the content of the Superintendent's Decision.

E. Appeal Process

1. Rehearing Request

- a. The parent, guardian or affected person who considers the Proposal for Decision unjust may request a rehearing, in writing, directed 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 for 1) new evidence or information that is important to the decision; or 2) substantial error of fact.
- b. The chair, within three (3) business days from the date of receipt of the request for rehearing shall either grant or deny the request for rehearing. If the request for rehearing is denied, the chair shall immediately submit the Proposal for Decision to the superintendent. If the request for rehearing 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.
- c. Within three (3) business days after the rehearing the chair shall submit the Proposal for Decision to the superintendent. The parent/guardian or affected person 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 Superintendent's Decision

- a. The parent, guardian or affected person may request a reconsideration 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 the evidence as set forth in the Proposal for Decision.
- b. An oral presentation by the parent/guardian, affected person or their representative may be granted by the superintendent.
- c. The superintendent shall grant or deny the request for reconsideration 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 parent/guardian, affected person or their 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. The Board shall meet within three (3) business days and hear the student/staff member's appeal along with the Proposal for Decision and Superintendent's Decision. Within two (2) business days of the hearing, the Board shall render its decision in writing with copies sent to the superintendent, health department health official, and parent/guardian or affected person.

4. Review Panel Request for Appeal

If the Proposal for Decision or the Superintendent's Decision is contrary to the majority opinion of the review panel, a majority of the panel has the right to appeal either decision in the same manner stated in the "Appeal Process".

F. General

1. If the student with the disease is not attending school, the district will provide an alternative delivery of school programs.
 - a. If the review panel determines there is a risk of infection through casual contact to the employee while delivering this program the employee may be allowed the option not to serve in the situation.
 - b. If the panel determines there is no risk of infection to the employee the employee will be expected to participate in the delivery of the alternative program. (This may be subject to the collective bargaining agreement for employees.)
2. 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 parent/guardian, or the infected person) will serve as the liaison between the student/staff member, family and attending physician as it relates to the school setting.
3. The rights of an infected staff member or the district administration shall fall under the same guidelines concerning any medical illness, or condition, that are outlined in the collective bargaining agreement for employees.

4. Employees of the district shall be expected to teach and provide other normal personal contract services in school to a student or to work with a school 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.

G. Confidentiality

1. 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 parent/guardian or infected person as provided by the Employee Right to Know Act, and the Family Education Rights and Privacy Act.
2. No confidential medical information concerning communicable diseases known not to be spread by casual contact will be recorded in the CA 60 or other student record that is easily accessible.