

Section 7 - Students

Welfare Services

Policy 7:280

Communicable and Chronic Infectious Disease

A student with or carrying a communicable and/or chronic infectious disease has all rights, privileges, and services provided by law and the District's policies. The Superintendent will develop procedures for communicable and chronic infectious diseases for the Board's consideration.

LEGAL REF.:

105 ILCS 5/10-21.11.

410 ILCS 315/2a.

77 Ill. Admin Code 690.100 et seq.

Individuals With Disabilities Education Act, 20 U.S.C. § 1400 et seq.

Rehabilitation Act, Section 504, 29 U.S.C. § 794(a).

ADOPTED:

May 20, 2002

Students

Communicable and Chronic Infectious Disease ¹

A student with or carrying a communicable and/or chronic infectious disease has all rights, privileges, and services provided by law and the School Board's policies.² The Superintendent will develop procedures to safeguard these rights while managing health and safety concerns.

LEGAL REF.: 105 ILCS 5/10-21.11.
 410 ILCS 315/2a.
 23 Ill.Admin.Code §§ 1.610 and 226.300.
 77 Ill.Admin.Code Part 690.
 Individuals With Disabilities Education Act, 20 U.S.C. §1400 et seq.
 Rehabilitation Act, Section 504, 29 U.S.C. §794(a).

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

¹ 105 ILCS 5/10-21.11 requires all districts to have a policy on the appropriate manner of managing children with chronic infectious diseases. State or federal law controls this policy's content. This policy concerns an area in which the law is unsettled in that competing interests (protecting the afflicted student's rights while protecting the health and safety of the student body) have not been completely resolved.

² A student with a contagious disease is probably a *handicapped individual* under Section 504 of the Rehabilitation Act (29 U.S.C. §794(a)). See School Board of Nassau Co. v. Arline, 107 S.Ct. 1123 (1987) (teacher with tuberculosis was handicapped under section 504); Thomas v. Atascadero Unified School District, 662 F.Supp. 376 (C.D. Cal., 1986) (a child with AIDS was a *handicapped person* under Section 504); District 27 Community School Board v. Board of Education of the City of New York, 502 N.Y.S.2d 325 (1986).

Students with contagious diseases may also qualify for special education under the Individuals With Disabilities Education Act (20 U.S.C. §1400 et seq.) Each school district, independently or in cooperation with other districts, must provide a comprehensive program of special education that meets the needs of children ages 3 to 21 with exceptional characteristics as identified in State law, specifically including physical or health impairments (105 ILCS 5/14).

Decisions to place a student in a class outside regular classes due to infectious disease must be based on medical evaluations indicating a need to protect the health and safety of others. Community High School District 155 v. Denz, 463 N.E.2d 998 (Ill.App.2, 1984).

Cases involving contagious diseases are highly fact-specific. Generally, the appropriate treatment of a student depends on the severity of the disease and the risk of infecting others, but in all cases, the board attorney should be consulted.