

R 11-41-5 Protocol for Communicable Diseases - Case Review

The Review Panel

- ❖ Communicable diseases that are known not to spread by causal contact, e.g., AIDS, Hepatitis B, and other diseases will be addressed on a case-by-case basis by a review panel.
- ❖ Panel membership include:
 - The physician treating the individual;
 - A health official from the County Health Department who is familiar with the disease;
 - A child/employee advocate (e.g., Director of Student Services, employee representative, etc., from in or outside the school setting);
 - A school representative familiar with the child's behavior in the school setting or the employee's work situation (the building principal, or in the case of a special education student, a special education representative may be used);
 - Either the parent or guardian of the child, student if over 18 years of age, employee, or their representative; and
 - The County Superintendent or his/her designee.
- ❖ The Superintendent or his/her designee will assign a panel member to record the proceedings.
- ❖ The Superintendent or his/her designee 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 serve as a neutral hearing officer to ensure an impartial hearing for all interests concerned.
- ❖ The chair of the review panel will designate the panel member who will write the "Proposal for the Decision".

Case Review Process

- ❖ Upon learning of a student/staff member within the Preston County School System who has been identified by a qualified source as having a communicable disease that is known not to be spread by casual contact, the Superintendent shall:
 - Immediately consult with the physician of the student/staff member and/or health official from the County Health Department to obtain information as to whether the student/staff member is generally well enough to remain in school during the review process. The Superintendent will confirm whether the student/staff member has evidence of an existing condition that could be transmitted by casual contact in the school setting.
 - 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 while the review panel meets.
 - If the student/staff member's physician or the Health Department Official indicates the student/staff member is not well enough to remain in the school setting and/or that the affected individual currently has evidence of an illness or infection that poses a potential health threat through casual contact to the school's population, the student/staff member shall be excluded from the school setting while the review panel meets. If the Health

Department Official recommends exclusion because a public health threat exists, the review panel will discuss the conditions under which the individual may return to school.

- ❖ The Superintendent shall immediately contact the review panel members to convene a meeting to explore aspects of the individual's case.
- ❖ The Superintendent shall submit to the parent/guardian or infected person, in writing, a notice of their rights as a review panel member and the method of appeal.

The Review Panel Process

- ❖ The Review Panel shall meet within 24-48 hours (excluding weekends or holidays) to review the case. The following aspects should be considered in that review:
 - The circumstances in which the disease is contagious to others.
 - Any infections or illnesses the student/staff member could have as a result of the disease that would be contagious through casual contact in the school situation.
 - The age, behavior and neurological development of the student.
 - The expected type of interaction with others in the school setting and the implications to the health and safety of those involved.
 - The psychological aspects for both the infected individual and others concerning the infected person remaining in the school setting.
 - Consideration of the existence of contagious diseases occurring within the school population while the infected person is in attendance.
 - Consideration of a potential request by the person with the disease to be excused from attendance in school or on the job.
 - The method of protecting the student/staff member's right to privacy, including maintaining confidential records.
 - Recommendations as to whether the student/staff member should continue in the school setting, or if currently not attending, under what circumstances he may return.
 - Recommendations as to whether a restrictive setting or alternative delivery of school programs is advisable.
 - Determination of whether an employee would be at risk of infection through casual contact when delivering an alternative educational program.
 - Determination of when the case should be reviewed again by the panel.
 - Any other relevant information.
 - If the affected person is a special education student, the Superintendent shall convene an Individualized Education Planning (IEP) Committee meeting to determine the appropriate program and services for the student based on the panel's recommendations and the Superintendent's decision. Placement of the student in the interim shall be based upon the recommendation of the Superintendent and the attending physician.

Proposal for Decision

- ❖ Within three school 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 recommendation concerning school attendance for the student, or of continuation of employment for the staff member. Minority viewpoints expressed by the panel members following the review process, should also be included in the report.

- ❖ If the Proposal for Decision is to exclude the affected person from the school setting because of an existing condition that is known to be spread by casual contact and is considered a health threat to the school community, the Proposal for Decision shall include the conditions under which the exclusion will be reconsidered.
- ❖ 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.

The Superintendent's Decision

- ❖ The Superintendent may affirm, modify, or take exception to the Proposal for Decision within three school days after receipt of the Proposal for Decision unless a rehearing request on that Proposal has been made. (See Appeal Process, Rehearing Request.)
- ❖ In the event the Superintendent takes exception to the Proposal for Decision, s/he shall prepare a written statement that sets forth the reasons for the exceptions and the basis for that decision.
- ❖ The parent/guardian or affected person and the Health Department 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.

The Appeals Process

❖ Rehearing Request

- The parent/guardian or affected person who considers the Proposal for Decision unjust may submit a written request for a rehearing to the chair of the review panel within three school days of the date of the submission of the Proposal. Grounds for requesting a rehearing are limited to:
 - New evidence or information that is important to the decision; or
 - Substantial error of fact.
- Within three school days of receiving the request for a rehearing, the chair must either grant or deny it. If the request for rehearing is denied, the chair must immediately submit the Proposal for Decision to the Superintendent. If the request for rehearing is granted, the chair must reconvene the same panel that originally heard the matter within five school days of the date the rehearing is granted.
- Within three school days after the rehearing the chair must 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.

❖ Request for Reconsideration of Superintendent's Decision

- The parent/guardian or affected person may request a reconsideration of the Superintendent's decision with three school days of the date the decision was issued. The

request must be in writing and must allege that it contains a substantial error of fact or that it is against the great weight of the evidence as set forth in the Proposal for Decision.

- The Superintendent may grant the parent/guardian, affected person or his/her representative the opportunity to make an oral presentation.'
- The Superintendent shall grant or deny the request for reconsideration within three school days after receipt of the request or within three school days following the oral presentation, whichever is applicable.

❖ **Request for a Board Decision**

The parent/guardian, affected person or his/her representative may make a final written appeal to the president of the Board of Education within five school days after the Superintendent's decision. The Board must meet within three school days and hear the appeal along with a review of the Proposal for Decision and the Superintendent's Decision. Within two school days of the hearing, the Board shall render its decision in writing with copies sent to the Superintendent, health department officials, and the parent/guardian or the affected person.

❖ **Extenuating Circumstances**

Circumstances may warrant extended timelines if complete medical information is not available.

❖ **General Considerations**

- If the student with the disease is not attending school, the District will provide an alternative delivery of school programs.
 - If the review 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.
 - 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. The IEP team should explore alternative methods for delivery of school programs for special needs students.
- The review panel member who is serving as the advocate for the infected individual (or another person designated by the panel) will serve as the liaison between the student/staff member, family and attending physician as it relates to the school setting.
- Employees of the district shall be expected to teach and provide other normal personal contact 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 the review panel has medical evidence that such contact should not be made.

WVC 18A-5-1, 18-5-15d, 18-5-22, 18-2-9, 16-3c-1 through 16-3c-9)

❖ **Confidentiality**

All persons involved in these procedures shall be required to treat all proceedings, deliberations, and documents as confidential information. The Superintendent in a sealed envelope will keep records of the proceedings and the decisions with access limited to only those persons receiving the consent of the parent/guardian or the affected person as provided by the Employee Right to Know Act, and the Family Education Rights and Privacy Act.