

EMPLOYEES WITH CHRONIC INFECTIOUS DISEASES

The Tyler County Board of Education recognizes that employees with life-threatening illnesses, including, but not limited to, cancer, heart disease, and HIV virus may wish to continue to work. As long as employees are able to meet acceptable performance standards, and medical evidence indicates that their condition is not a threat to themselves or others, employees shall be assured of continued employment. Federal and State laws also mandate, pursuant to the laws protecting disabled individuals that those individuals not be discriminated against on the basis of their handicaps, and that if it becomes necessary, some reasonable accommodations be made to enable qualified individuals to continue to work.

The determination of whether an infected school employee should be permitted to remain employed in a capacity that involves contact with students or other school employees shall be made on a case-by-case basis, to ensure due process. If an employee evidences any of the following conditions, the Superintendent may convene the Advisory Panel for the purpose of making a recommendation of the most appropriate work assignment of the employee:

- 1) Manifestation of clinical signs and/or symptoms that include progression of the illness that is interfering with job performance;
- 2) Demonstration of risky or harmful behavior to self and others;
- 3) Unstable or decompensated neuropsychological behavior;
- 4) Presence of open wounds, cuts, lacerations, abrasions, or sores on exposed body surfaces when occlusion cannot be maintained;
- 5) Impairment of gastro-intestinal and/or genitourinary function such that control of internal body fluids cannot be maintained;

The Advisory Panel, under the direction of the Superintendent, shall consist of the following persons:

- 1) Superintendent or Designee
- 2) County Health Officer or designee who is familiar with the disease
- 3) Attending Physician of the employee
- 4) School Nurse(s)
- 5) Legal counsel for the School Board
- 6) Other school personnel, as appropriate
- 7) The employee
- 8) Legal counsel or other advisor of the employee

Persons listed in numbers 1-4 shall constitute the Advisory Panel. Persons listed in numbers 5-8 (and others when requested) may participate at the invitation of the superintendent or at their request, when appropriate.

The general intent of the Advisory Panel is to serve as an expert professional resource to advise the Superintendent in special situations in which information about appropriate environment may not be available, clear, or readily amenable to lay interpretation. It is expected that recommendations of the Advisory Panel shall be based solely upon current medical and employment information consistent with established ethical guidelines and considerations in accordance with Guidelines of the Centers for Disease Control and other scientific and relevant professional bodies.

PANEL PROTOCOL:

- 1) If the superintendent determines that any one of the conditions listed exists, the employee in question may be placed on sick leave status for no longer than five (5) work days.
- 2) Within the five (5) work day period (equivalent to one calendar week), consent for release of medical information will be obtained and past medical history, laboratory tests, and other relevant records will be provided to and reviewed by the County Health Officer and other physicians as appropriate. Critical medical tests and other procedures will be conducted during this period by the County Health Officer or other medical practitioners as warranted.
- 3) Based on results and medical interpretation of the employee's current status, the County Health Officer (and other consultants as appropriate) will advise the superintendent within five days if continued sick leave is or is not warranted.
- 4) If medical review indicates that continuation of special status is not indicated, the employee will return to regular status at the end of the five (5) school day initial review period or upon the determination of the superintendent, whichever is sooner.
- 5) If medical review indicates that continuation of special status is indicated, the employee will remain on sick leave or special assignment for a period not to exceed fifteen additional work days (or three more calendar weeks).

In trying to determine whether a person handicapped with a contagious disease may be "qualified" to teach, Tyler County Schools will follow the position adopted by the Supreme Court on March 3, 1987. It is the same position urged by the American Medical Association to make employment decisions on individualized findings based on reasonable medical judgments. This involves an assessment of (1) the nature of the risk of transmission, (2) the duration of the risk of infecting others, (3) the severity of the risk to others, and (4) the resulting probabilities of harm. The medical judgment will then be applied to the employment situation to see if the employer could "reasonably accommodate" the employee's handicap.

REFERENCE: Supreme Court Decision, March 3, 1987

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