

## **Students**

### **Communicable and Chronic Infectious Disease**<sup>1</sup>

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.<sup>2</sup> The Superintendent will develop procedures to safeguard these rights while managing health and safety concerns.

LEGAL REF.: 105 ILCS 5/10-21.11.  
23 Ill.Admin.Code §§1.610 and 226.300.  
77 Ill.Admin.Code Part 690, **Control of Notifiable Diseases and Conditions Code**.  
20 U.S.C. §1400 et seq., Individuals With Disabilities Education Improvement Act of 2004.  
29 U.S.C. §794(a), Rehabilitation Act of 1973, Section 504.

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<sup>1</sup> 105 ILCS 5/10-21.11 requires all boards to adopt 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 (balancing the protection of the afflicted student's rights against the protection of the health and safety of the student body) have not been completely resolved.

<sup>2</sup> A student with a contagious disease is probably an **handicapped individual with a disability** under Section 504 of the Rehabilitation Act of 1973. 29 U.S.C. §794(a). See Sch. Bd. of Nassau Co. v. Arline, 480 U.S. 273 (1987) (teacher with tuberculosis was **covered** under Section 504); Thomas v. Atascadero Unified Sch. Dist., 662 F.Supp. 376 (C.D. Ca. 1986) (a child with AIDS was **covered** under Section 504); Dist. 27 Cmty. Sch. Bd. v. Bd. of Educ. 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 Improvement Act of 2004. 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 from ages 3 through 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. Cmty. High Sch. Dist. 155 v. Denz, 124 Ill.App.3d 129 (2nd Dist. 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.