

WESTMORLAND UNION ELEMENTARY SCHOOL DISTRICT

**Board Policy No. 5003:      ADMISSION/EXCLUSION OF PUPILS INCLUDING  
THOSE DIAGNOSED AS HAVING ACQUIRED IMMUNE  
DEFICIENCY SYNDROME (AIDS)**

- A.     The Board fully recognizes that education is a fundamental right guaranteed and protected by various constitutional and statutory provisions. The Board also fully recognizes that it may take reasonable action to protect the safety and welfare of students, and to protect the safety and welfare of employees and visitors to the District.
- B.     Pursuant to Education Code section 48211, the Board may exclude children suffering from contagious or infectious diseases. Pursuant to Education Code section 49451, school authorities may send home a child suffering from a recognized contagious or infectious disease and not permit his or her return until school authorities are satisfied that any contagious or infectious disease does not exist.
- C.     The Governing Board is aware that the disease of AIDS is transmissible through blood transfusions, intimate sexual contact, shared use of contaminated hypodermic needles, and rarely through infected blood coming into contact with skin or mucous membranes. A child may have AIDS at birth if the mother is infected or a child may contract AIDS if an infected mother nurses a child. The Board is also aware that the disease AIDS is probably not transmissible by casual contact or saliva. Federal guidelines issued by the Centers for Disease Control also imply that AIDS may be transmissible through the improper handling of body secretions, biting and open lesions.
- D.     No child may be excluded from attendance at regular school classes unless a notice is first sent to the parent or legal guardian of the child pursuant to Education Code section 48213. The notice shall contain each of the following:
1.     A statement of the facts leading to a decision to propose exclusion of the child;
  2.     A statement that the parent or legal guardian of the child has a right to meet with the Board to discuss the proposed exclusion;
  3.     A statement that at any meeting with the Board held to discuss such proposed exclusion, the parent or guardian shall have an opportunity to inspect all documents which the Board relied on in its decision to propose exclusion of the child; to challenge any evidence and to confront and question any witness presented by the Board; and to present oral and documentary evidence on the child's behalf, including witnesses. The statement shall also include notice that the parent or guardian may designate one or more representatives to be present with the parent or guardian at the meeting.

4. A statement that the decision to exclude the child is subject to periodic review and a statement of the procedures set by the Board for such periodic review. The specific review procedures will be determined on a case-by-case basis, but in all cases the review shall occur monthly and shall include a reasonable opportunity for a conference with the Superintendent or designee.
- E. If a child is sent home by school authorities pursuant to Education Code section 49451, or when the Superintendent or designee determines that the continued presence of the child would constitute a clear and present danger to the life, safety, or health of the child or other children or school personnel, the Board is not required to send prior notice of the exclusion to the parent or legal guardian of the child, but shall send the notice as soon as is reasonably possible after the exclusion.
- F. It is the policy of the Board to require an individual review and evaluation of each child who is diagnosed as a carrier of dangerous or potentially dangerous disease or condition. The individual review and evaluation will consider: the health and safety of other children and school personnel; the health and safety of the child; the past behavior and predictable behavior of the child; the neurological development of the child; the physical condition of the child; any possibilities of the uncontrollable or unsafe release of body secretions; biting or open lesions; the desires of the parents of the child; and the potential environment in which the child will be educated. The individual review and evaluation shall at least include participation by the following: a District designated medical doctor; a state or county health officer; the Superintendent or designee.
- G. It is the policy of the Board not to exclude any child from attendance at regular school classes who is diagnosed as a carrier of the AIDS virus or as having the disease AIDS unless the results of the individual review and evaluation show that the presence of the child will be inimical to the welfare of other students, or there is/are compelling reason(s) to exclude the child.
- H. A decision to exclude a child from attendance at regular school classes under this Board Policy will be reviewed periodically. Any child excluded from attendance at regular school classes pursuant to this Board Policy shall, to the extent feasible, be placed in an educational program, which may be home tutoring, which will serve the best interests of the child.
- I. If any employee learns that a child currently enrolled in the District or a child being newly enrolled in the District has been diagnosed as a carrier of the AIDS virus or as having the disease AIDS, the employee shall notify the Superintendent's Office immediately while maintaining the child's right to privacy.
- J. All medical records of any child currently enrolled in the District or a child being newly enrolled in the District shall be treated as confidential pursuant to Education Code section

49076. The District shall not release or permit access to any such medical records unless authorized by Education Code section 49076, written parental or legal guardian consent, judicial order, or compliance with a lawfully issued subpoena which does not violate state or federal law.

- K. Children who are not citizens of the United States, aliens lawfully admitted as a permanent resident, or a person otherwise authorized under federal law to be present in the United States shall not be admitted or permitted to attend school in the District. The Superintendent shall notify the Superintendent of Public Instruction, the Attorney General of California, and the United States Immigration and Naturalization Service regarding any enrollee or pupil (or their parent or guardian) attending a public elementary school determined or reasonably suspected to be in violation of federal immigration laws within forty-five (45) days after becoming aware of an apparent violation. The notice shall also be provided to the parent or legal guardian of the enrollee or pupil, and shall state that an existing pupil may not continue to attend the school after ninety calendar days from the date of the notice, unless legal status is established. For each child who cannot establish legal status, the District shall continue to provide education for a period of ninety (90) days from the date of the notice in order to accomplish an orderly transition to a school in the child's country of origin. The District shall fully cooperate in this transition effort to ensure that the educational needs of the child are best served during the ninety (90) day period.
- L. The District shall exclude any pupil who has not been immunized properly. The Superintendent shall notify the parent or guardian of the pupil that they have two weeks to supply evidence either that the pupil has been properly immunized, or that the pupil is exempted from the immunization requirements. The Superintendent shall include in the notice referral to the child's medical doctor for immunization, the County Health Department, or the District if immunizations will be administered at the District.

Legal Reference:

Section 504 of the federal Vocational Rehabilitation Act

Education Code sections 48211, 48213, 48214, 48215, 48216, 49076, 49451

Date Policy Adopted By The Board: August 22, 1989

Date Policy Revised By The Board: May 20, 1997

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