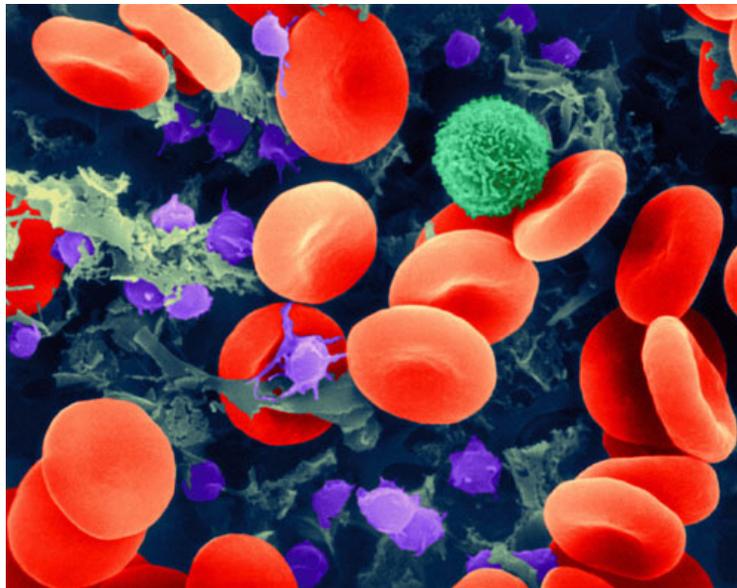


## Unit 5: Civil Rights and Infectious Diseases

### Instructional Activities for Teens



### **PKIDs' Infectious Disease Workshop**

Made possible by grants from the Northwest Health Foundation,  
the Children's Vaccine Program at PATH and PKIDs.

# PKIDs' Infectious Disease Workshop

©PKIDs 2004

## Acknowledgements

Producing this workshop has been a dream of ours since PKIDs' inception in 1996. It has been more than two years since we began work on this project, and many people helped us reach our goal. It's not done, because it is by nature a living document that will evolve as science makes strides in the research of infectious diseases, but it's a great beginning.

There are people who've helped us whose names are not on this printed list. That omission is not deliberate, but rather from our own clumsiness in losing important pieces of paper, and we apologize.

Without the funding and support of the Northwest Health Foundation and the Children's Vaccine Program at PATH (Program for Appropriate Technology in Health), this would have been an impossible task. Dr. Katherine Vaughn, PKIDs' Medical Director and Dr. Karen Steingart, scientific advisor to PKIDs, provided excellent guidance through their editorial oversight and knowledgeable contributions to the Infectious Disease Workshop.

On PKIDs' staff are three individuals without whom this publication would never have been finished—Franji Mayes, Mylei Basich and Christine Kukka, all of whom gave their very best to ensure this workshop is accurate and user-friendly.

We are indebted to the following individuals who cheerfully gave us hours of their time and access to their resources: the American Society for Microbiology; Kathy A. Bobula, Ph.D., Coordinator, Early Childhood Education, Clark College, Vancouver, Wash.; Claudia Bratt, elementary school teacher, Truman Elementary, Vancouver, Wash.; Sue Campbell, Early Childhood Educator, Kindercare; many wonderful and helpful people at the Centers for Disease Control and Prevention, Atlanta, Georgia; Rachel Coyle, Case Aide and Residential Care Staff Lead, Jonathan's Place; Tammy Dunn, Early Childhood Director, Portland Christian Schools, Portland, Oregon; Bruce Gellin, M.D., Director of the National Vaccine Program Office in the Office of the Assistant Secretary for Health, Department of Health and Human Services; Shannon Harrison, M.D., Internal Medicine and Infectious Diseases, Teton Hospital, Jackson, Wyoming; the Immunization Action Coalition; Brad Jensen, M.D., Southwest Washington Medical Center Pathology Department; Edgar Marcuse, M.D., Professor of Pediatrics, University of Washington and Director of Medical Services, Seattle Children's Hospital and Regional Medical Center; Zack Mittge, law student, University of Oregon; the National Network for Immunization Information; Paul Offit, M.D., Chief, Section of Infectious Diseases and the Henle Professor of Immunologic and Infectious Diseases at The Children's Hospital of Philadelphia; Carol Porter, Red Cross health room volunteer, Garland Independent School District, Garland, Texas; Sarah Theberge, Curriculum Instructor, Early Childhood Education, Clark College, Vancouver, Wash.; James Whorton, Ph.D., Professor, Department of Medical History and Ethics, University of Washington School of Medicine.

We thank the following for providing nonprofit rates for their microscopic images: Dennis Kunkel Microscopy, Inc., and Science Photo Library/Photo Researchers, Inc.  
(Cover photo: *Dennis Kunkel Microscopy, Inc./www.denniskunkel.com.*)

Additional funding for this project provided by PKIDs (Parents of Kids with Infectious Diseases).

# Table of Contents

<b>Introduction .....</b>	<b>5</b>
<b>Letter from Teachers to Parents.....</b>	<b>6</b>
<b>1. Civil Rights and Disability: A Timeline of Events .....</b>	<b>7</b>
Handout .....	8
<b>2. Infectious Diseases and Civil Rights: Court Cases for Discussion.....</b>	<b>10</b>
CASE #1: Chevron U.S.A. Inc. v. Echazabal .....	11
CASE #2: Bragdon v. Abbott et al.....	13
CASE #3: Onishea v. Hopper .....	14
CASE #4: Doe v. Dekalb County School District .....	16
CASE #5: School Board of Nassau Co. v. Arline.....	18
<b>3. Word Search: Civil Rights Terminology .....</b>	<b>20</b>
Handout .....	21
<b>4. Just v. Unjust .....</b>	<b>22</b>
<b>Bibliography .....</b>	<b>23</b>
<b>Additional Activities and Resources .....</b>	<b>25</b>

*To navigate this document, use the bookmarks to the left or select an item on this page.*

*Click here to go back to the PKIDs' IDW website.*

This publication contains the opinions and ideas of its authors. It is intended to provide helpful and informative material on the subject matter covered. Any information obtained from this workshop is not to be construed as medical or legal advice. If the reader requires personal assistance or advice, a competent professional should be consulted.

The authors specifically disclaim any responsibility for any liability, loss, or risk, personal or otherwise, which is incurred as a consequence, directly or indirectly, of the use and application of any of the contents of this workshop.

# Introduction

PKIDs (Parents of Kids with Infectious Diseases) is a national nonprofit agency whose mission is to educate the public about infectious diseases, the methods of prevention and transmission, and the latest advances in medicine; to eliminate the social stigma borne by the infected; and to assist the families of the children living with hepatitis, HIV/AIDS, or other chronic, viral infectious diseases with emotional, financial and informational support.

Remaining true to our mission, we have designed the *Infectious Disease Workshop (IDW)*, an educational tool for people of all ages and with all levels of understanding about infectious diseases. In this workshop, you will learn about bacteria and viruses, how to prevent infections, and how to eliminate the social stigma that too often accompanies diseases such as HIV or hepatitis C.

We hope that both instructors and participants come away from this workshop feeling comfortable with their new level of education on infectious diseases.

The IDW is designed to “train-the-trainer,” providing instructors not only with background materials but also with age-appropriate activities for the participants. Instructors do not need to be professional educators to use these materials. They were designed with both educators and laypersons in mind.

The IDW is comprised of a master Instructor’s Background Text, which is divided into six units: Introduction to Infectious Diseases, Disease Prevention, Sports and Infectious Disease, Stigma and Infectious Disease, Civil Rights and Infectious Disease, and Bioterrorism and Infectious Disease.

For each unit, instructors will find fun and helpful activities for participants in five age groups: 2 to 6 years of age, 6 to 9 years of age, 9 to 12 years of age, 13 to 18 years of age and adults.

We welcome any questions, comments, or feedback you may have about the IDW or any other issue relating to infectious diseases in children.

**PKIDs**  
**P.O. Box 5666**  
**Vancouver, WA 98668**  
**VOICE: (360) 695-0293 or toll-free 877-557-5437**  
**FAX: (360) 695-6941**  
**EMAIL: [pkids@pkids.org](mailto:pkids@pkids.org)**  
**WEBSITE: [www.pkids.org](http://www.pkids.org)**

Dear Parents,

Our class will soon be studying infectious diseases. We will learn about what germs are and ways we can keep from spreading germs. We will also learn that people who have infectious diseases don't have to be treated differently or singled out just because they have a disease.

The workshop we will use has been created by PKIDs (Parents of Kids with Infectious Diseases), a national nonprofit organization dedicated to supporting families touched by infectious diseases.

Your child may have questions about germs or may come home with new ideas about preventing the spread of germs. Here are a few ways you can stay informed:

***View PKIDs' website.*** PKIDs' website can be found at [www.pkids.org](http://www.pkids.org). You may also request information by calling PKIDs at 1-877-55-PKIDS.

***View the instructor's background text for the Infectious Disease Workshop (IDW).*** The primary purpose of this text is to provide teachers with background information on infectious diseases. It is a good text for anyone seeking general information on infectious diseases. The text provides information about specific diseases, methods of disease prevention, and civil rights for those affected by infectious disease. Visit [www.pkids.org](http://www.pkids.org) for a link to the IDW background texts in PDF format.

***View descriptions of the activities we will be doing in class.*** Visit [www.pkids.org](http://www.pkids.org) for a link to the activities and handouts in PDF format.

The world becomes smaller every day and germs from near and far continue to threaten our health. It is extremely important to educate our young people, equipping them with prevention methods to protect their health and stop the spread of disease.

As always, please feel free to contact me with any questions!

Sincerely,

# CIVIL RIGHTS AND DISABILITY

## A Timeline of Events

### LEVEL

Teens

### OBJECTIVE

- Students will integrate historical facts about the disability civil rights movement into their civil rights studies.
- Students will consider the impact of the disability civil rights movement on society when analyzing and discussing civil rights topics.

### MATERIALS

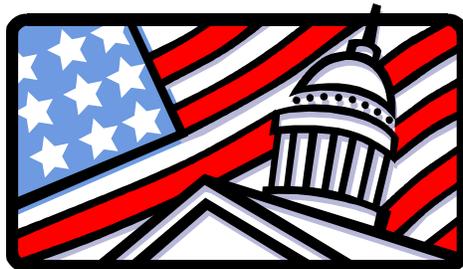
1 copy of the Disability Civil Rights Timeline handout per student, or 1 overhead of the timeline for classroom use.

### PREP

None

### INSTRUCTIONAL COMPONENTS

1. This timeline is intended for use as a supplement to civil rights studies.
2. When discussing discrimination and other civil rights issues, students should integrate consideration of a wide variety of groups, including people with infectious diseases.
3. Students should analyze the impact of various civil rights movements on each other, as well as the impact of these movements on law and society in general.



## DISABILITY CIVIL RIGHTS

Often, the term *disability* brings to mind visible disabilities, such as loss of limb or paralysis requiring the use of a wheelchair. However, mental and emotional illnesses, certain learning disabilities, and various infectious diseases—sometimes referred to as “hidden” disabilities—are included in the federal government’s legal definition of potential or perceived disability.

While much disability legislation aims to ensure access to services and buildings, it also speaks to discrimination based on disability. People with infectious diseases may not have trouble climbing stairs or need special accommodations in order to carry out the functions of their occupations, but they do suffer the same discriminations people with visible disabilities encounter when applying for jobs, attending schools, or even seeking housing. Therefore, people with infectious diseases are covered under disability rights laws in certain circumstances.

### TIMELINE OF EVENTS

Late 1700s—1800s: Some people with sensory and mental disabilities and physical illnesses are segregated from the general population and shipped off to remotely-located institutions. Others with physical disabilities remain at home, unable to participate in daily living due to architectural barriers.

Late 1950s—mid-1960s: Civil Rights movement based on racial equality takes place.

1960s: Students with disabilities at the University of Illinois and the University of California at Berkeley begin working toward the elimination of architectural and transportation barriers on their campuses. Parents of children with disabilities work for equal educational opportunities in the schools.

1963: The March on Washington takes place; Dr. Martin Luther King, Jr., gives his famous “I Have A Dream” speech.

1964: The first of several major civil rights statutes, the Civil Rights Act of 1964, is passed, prohibiting discrimination on the basis of race, national origin, or religion. Disabilities are not addressed by this act.

1968: Dr. Martin Luther King, Jr., is assassinated. The Civil Rights Act of 1968 is passed. Title VIII of this act, the Fair Housing Act, prohibits discrimination on the basis of sex, race, national origin, and religion in the sale or rental of housing.

1968: The Architectural Barriers Act is passed requiring that buildings constructed/remodeled with federal funds be made accessible to people with disabilities. Although it is a weak law, it provides a basis for later legislation of similar nature.

1970s: Veterans of the Vietnam war return home with disabilities acquired during the war.

They join with other groups to form the American Coalition of Citizens with Disabilities (ACCD), the first “umbrella” organization for disability advocacy.

1972: The *PARC v. Pennsylvania* district court case decision helps make way for the Individuals with Disabilities Education Act (IDEA).

1972—1973: The Berkeley Center for Independent Living is established.

1973: The Rehabilitation Act is passed into law. Section 504 of this act is instrumental in creating architectural access for people with disabilities; however, it applies only to public entities receiving federal funding.

1975: The Education for All Handicapped Children Act is passed into law; in 1990 it is renamed the Individuals with Disabilities Education Act (IDEA). It states that handicapped children are to receive an appropriate education in the least restrictive environment and allows funding to be provided to schools to assist them in adapting to the Act’s requirements.

1975—1981: The ACCD spearheads the movement for expanded rights for disabled citizens in areas of daily living, such as education and transportation.

1977—late 1980s: Much of the architectural reconstruction done under Section 504 of the Rehabilitation Act occurs.

1981: This year is designated the “International Year of Disabled Persons.”

Early 1980s: Most centers for independent living (CILs) are set up during this time.

1985: The AIDS Medical Foundation and the National AIDS Research Foundation join to become amfAR, the American Foundation for AIDS Research.

1986: ACT UP (AIDS Coalition to Unleash Power) is founded in New York.

1986: People with disabilities are assured access to air travel by the Air Carriers Access Act.

1988: The Fair Housing Amendments Act is passed to amend the Fair Housing Act to include people with disabilities and families with children.

1990: The Americans with Disabilities Act (ADA) is passed into law.

1996: The Telecommunications Act is passed, which requires telecommunications manufacturers and service providers to ensure accessibility for disabled persons. This act amended relevant sections of the Communications Act of 1934.

# INFECTIOUS DISEASES AND CIVIL RIGHTS

## Court Cases for Student Analysis and Discussion

### LEVEL

Teens

### OBJECTIVE

- Students will discuss issues surrounding actual court cases involving infectious diseases and civil rights.
- Students will analyze court decisions.
- Students will form their own opinions regarding the issues presented in the selected court cases.

### MATERIALS

1 copy of each court case (and the accompanying assessment questions) per student, or per discussion group.

### PREP

- Determine whether students will work individually or in groups.
- Determine whether students will answer assessment questions in written or oral format.

### INSTRUCTIONAL COMPONENTS

1. Place students into groups, if desired.
2. Pass out to each group/student a copy of one of the five selected court cases.
3. Allow class time for students to read their cases, ask questions, and/or work in groups.
4. Set due date for presentation/discussion of answers to assessment questions.

### ASSESSMENT

Students will answer the assessment questions pertaining to their particular case.



## CASE #1: Chevron U.S.A. Inc. v. Echazabal

United States Court of Appeals for the Ninth Circuit  
No. 00-1406. Decided June 10, 2002

View the full text online at:  
[www.supremecourtus.gov/opinions/01pdf/00-1406.pdf](http://www.supremecourtus.gov/opinions/01pdf/00-1406.pdf)

### The Case

Echazabal was employed by an independent contractor in charge of running one of Chevron's oil refineries. He wanted to work directly for Chevron. In order to do so, he had to take a physical. The physical revealed his hepatitis C status, and Chevron's doctors said exposure to toxic chemicals at the refineries would aggravate his hepatitis. (Hepatitis weakens the liver, therefore making exposure to chemicals at the refinery a health risk.) Chevron asked the contractor to either reassign Echazabal or remove him from the refinery. The contractor laid him off, and Echazabal claimed that Chevron's actions violated the Americans with Disabilities Act of 1990 (ADA).

Chevron based its argument on a regulation by the Equal Employment Opportunities Commission (EEOC), which states that a business can refuse to hire an individual on the grounds that performance of his job may endanger his own health. Chevron argued that they could refuse to hire Echazabal based on this regulation and medical opinion. It appeared that the EEOC regulation was in conflict with the ADA.

### The Decision

The courts ultimately ruled that the EEOC regulation was not in conflict with the ADA. The EEOC regulation was deemed a valid and legitimate interpretation of the ADA, because the EEOC is the federal agency entrusted with enforcing the ADA and its regulations. Its regulations can only be overturned for one of three reasons: 1) if the language of the EEOC regulation was in conflict with the language of the ADA statute, 2) the agency was not empowered to regulate in that area, or 3) if the regulation was not properly put into effect or was purposefully left to the discretion of the courts. Echazabal argued that the language was in conflict with the ADA. The courts ruled that Congress, in the ADA, had clearly anticipated companies limiting the hiring of disabled persons based on qualifications that are job-related and deemed a business necessity. These qualifications would also be established by the additional liability the company would incur under OSHA for allowing a person to work in an unsafe environment, resulting in the deterioration of his health, or death. For these reasons, the courts deemed the EEOC regulation valid and ruled against Echazabal.

### Questions

1. Do you agree with the courts' decision? Why or why not?
2. Should companies require physical examinations? Why or why not?

3. Do you think it is appropriate that Chevron did not hire Echazabal because of the health risks he would encounter as a result of working in the refinery? Do you think it is appropriate that the contractor laid Echazabal off because of the health risks he would encounter as a result of working in the refinery?
4. How would you have handled the situation if you had authority at Chevron? What if you were the contractor?



## CASE #2: Bragdon v. Abbott et al.

United States Court of Appeals for the First Circuit  
No. 97-156. Decided June 25, 1998



View the full text online at:  
[www.supremecourtus.gov/opinions/boundvolumes/524bv.pdf](http://www.supremecourtus.gov/opinions/boundvolumes/524bv.pdf)  
(p. 669 of the .pdf document)

### The Case

Abbott was infected with human immunodeficiency virus (HIV), but had not manifested serious symptoms at the time the events in question occurred. Abbott went to a dentist's office for an examination and disclosed her HIV status. The dentist found a cavity and informed Abbott of his policy not to fill cavities of HIV-positive patients in his office. He offered to fill her cavity at the local hospital; however, Abbott would be responsible for paying to use the hospital's facilities. At that time, she filed suit under the Americans with Disabilities Act of 1990 (ADA), which prohibits discrimination "on the basis of disability in the...enjoyment of the...services... of any place of public accommodation by any person who...operates [such] a place," 42 U.S.C.12182(a).

### The Decision

The courts found HIV to be a disability under the ADA. They ruled that according to the 1993 Dentistry Guidelines of the Centers for Disease Control and Prevention (CDC) and the 1991 American Dental Association Policy on HIV, use of universal precautions removes the risk of HIV transmission in the dental environment. The courts were influenced by the American Dental Association's policy and the CDC, because they determined the policies to be based on years of medical experience sufficient to decrease the risk below the "direct threat" threshold. Therefore, the courts ruled in favor of Abbott.

### Questions

1. Do you agree with the courts' decision? Why or why not?
2. If you were a member of a dental staff, would you feel more comfortable filling the cavity of an HIV-positive patient in the office or a hospital? Why or why not?
3. Would it be appropriate if the dentist filled Abbott's cavity at the hospital but did *not* make her responsible for the additional costs? Why or why not?
4. Would it have been appropriate for Abbott not to disclose her HIV status? Why or why not?

## CASE #3: Onishea v. Hopper

United States Court of Appeals, Eleventh Circuit  
No. 96-6213. Decided April 7, 1999



View the full text online at:  
[www.law.emory.edu/11circuit/apr99/96-6213.ma2.html](http://www.law.emory.edu/11circuit/apr99/96-6213.ma2.html)

### The Case

The plaintiffs, prison inmates testing positive for the Human Immunodeficiency Virus (HIV), sued the Alabama Department of Corrections under Section 504 of the Rehabilitation Act to force integration in prison recreational, religious, and educational programs. Within Alabama's prison system, inmates are tested for HIV. HIV-positive inmates are segregated and unable to participate in many programs and activities. At the male facility, activities unavailable to HIV-positive inmates included jobs in various areas, such as the barbershop, prison farm, bus squad, facility maintenance, trash detail, kitchen, runner, and squad jobs maintaining the prison grounds. Unavailable classes included upholstery, electrical technology, auto mechanics, construction trade, automotive repair, horticulture, and welding. Other unavailable activities included the "Free by Choice" program (in which prisoners go to schools to talk to pupils about substance abuse and criminality), basketball and baseball tournaments, and "Alabama Volunteers in Corrections" meetings (to prepare prisoners for release). Some programs were available separately to HIV-positive inmates, such as paralegal training classes (HIV-positive inmates see videotapes of live instruction), adult basic education, GED testing, Narcotics and Alcoholics Anonymous meetings, graduation ceremonies, drafting classes, haircuts, visitation, medical treatment, gymnasium and library time, chapel services, dining, and prisoner transportation.

A similar range of programs is unavailable to HIV-positive inmates at the female prison facility: classes in data processing, clerical skills, cosmetology, sewing, building trades, automotive repair, welding, floral design, small business machine repair, foodservice, nutrition. Other unavailable activities include concerts and talent shows, softball and volleyball games, the "Free by Choice" program, college classes, and literacy training. In addition, jobs are unavailable in areas such as the sewing factory, data processing, "downtown" jobs for government agencies, community projects, road squad, kitchen, yard, maintenance, housekeeping, laundry, trash, runner, and haircutting. Similarly, female HIV-positive prisoners have access to many programs separately from the general population: chapel services, some rehabilitation programs such as substance abuse and stress management counseling, visitation, organized recreational activities such as May Day and Oktoberfest, dining, medical care, adult basic education, GED testing, library use, and prisoner transportation.

The defense claimed that due to risky behaviors often engaged in by inmates (resulting in blood-to-blood/body fluid contact), the risk of spreading HIV would be too great if HIV-positive prisoners were included in these activities.

## **The Decision**

The courts affirmed judgment against the plaintiffs on constitutional claims. However, the law requires a program-by-program analysis to determine if the plaintiffs merit relief. The prisoners did not specify which programs could be made safe through accommodations, but instead argued that because the prison received federal funding, they were entitled to participate in all programs. The Department of Corrections cited numerous incidents in which prisoners engaged in risky behavior. Based upon the Department of Corrections' detailed examples and the prisoners' unwillingness to specify which could be integrated, the courts ruled against full integration of HIV-positive prisoners into prison programs.

## **Questions**

1. Do you agree with the courts' decision? Why or why not?
2. Do you think the prison staff treats the HIV-positive prisoners differently from the HIV-negative prisoners?
3. Is it possible that some prisoners have diseases other than HIV, like hepatitis? Do you think prisoners should be tested for these diseases as well? If they test positive for these diseases, should they be segregated?
4. How are the prisons' segregatory policies different from the "separate but equal" policies that were eventually abolished by the Civil Rights Movement? How are they similar?
5. Do you think that blood-to-blood contact is a risk in the mentioned prison activities? Do some activities pose a higher risk than others?
6. Compare and contrast the risk factors for the following activities: GED completion courses and metal shop. Do you think they are equally risky? Why might the prison officials choose to see them as equally risky?
7. In what ways, if any, do the rights of prisoners differ from the rights of civilians? How might this affect the decision of the prison administration regarding the segregation of HIV-positive inmates?

## CASE #4: Doe v. Dekalb County School District

United States Court of Appeals, Eleventh Circuit  
No. 97-8915. Decided July 17, 1998



View the full text online at:  
[www.law.emory.edu/11circuit/july98/97-8915.man.html](http://www.law.emory.edu/11circuit/july98/97-8915.man.html)

### The Case

John Doe, a teacher in the Dekalb County School District, was infected with HIV. Doe disclosed his HIV-positive status to the school district in February of 1995. Two months later, in April of 1995, the district transferred him from a classroom of children with severe behavioral disorders. These students are sometimes violent, and the school district feared that Doe might have blood-to-blood contact with a student and transmit HIV.

The school district has three different programs for children with behavioral disorders. "Interrelated" classrooms are for students with mild disorders; "self-contained" classrooms serve children who cannot participate in the interrelated program; and "psychoeducation" classrooms are for students with the most severe behavioral problems. Doe was transferred from a "psychoeducation" classroom to an "interrelated" classroom at a different school. As a result of his transfer, Doe was required to become certified to teach an interrelated classroom within three years.

Although Doe preferred to teach a psychoeducational rather than an interrelated class, his transfer did not appear to represent a demotion. His salary, benefits, and seniority all remained the same. Doe also agreed with the District that he would be more marketable as an interrelated teacher (once he obtained a certificate), with more long-term career opportunities, than he was before his transfer.

On August 1, 1995, the district's Executive Director of Personnel told Doe that he could not return to a psychoeducational classroom because of his HIV status. On August 3, 1995, Doe filed a discrimination charge with the federal Equal Employment Opportunity Commission (EEOC), alleging that the district discriminated against him on the basis of his HIV disability. The EEOC issued Doe a right-to-sue letter, and he filed in the district court under the Americans with Disabilities Act (ADA) and the Vocational Rehabilitation Act (VRA).

### The Decision

In order for an individual to invoke the ADA, the individual must have a disability, be qualified despite the disability, and have suffered an adverse employment action because of the disability. The courts explored whether Doe had suffered adverse employment action. They sympathized with his admirable goal of working with severely disabled children, but ruled that the standard determining adverse employment action should be objective. Because Doe was afforded three

years to obtain an interrelated certificate, the hardship was not deemed “material.”

### **Questions**

1. Do you agree with the courts’ decision? Why or why not?
2. Why do you think the fictitious name, “John Doe,” was used instead of the plaintiff’s actual name?
3. Do you think it is appropriate that the school district transferred Doe?
4. If the school district viewed Doe’s position as being risky enough to warrant transferring him, then do you think the district should test all teachers in such positions for bloodborne diseases such as HIV? Could the school district legally do this?
5. Do you agree with the courts’ policy on evaluating whether an individual’s illness significantly impacts his ability to perform his job functions and poses health and safety risks to others?
6. Do you think the health and safety risks are greater for HIV than other infectious diseases? Consider how HIV is transmitted and compare this to transmission methods of other diseases.
7. Reverse roles. What if one of Doe’s potentially violent students had disclosed his/her own HIV status. Should Doe be allowed to request that this student be transferred from his classroom?
8. Do you think Doe or any other teacher should be required to reveal his/her infectious disease status to school officials?

## CASE #5: School Board of Nassau Co. v. Arline

The United States Supreme Court  
No. 85-1277. Decided March 3, 1987



To view the full text, visit your local law library. 480 U.S. 273 (1987).

### The Case

Arline, an elementary school teacher, was discharged after three relapses of tuberculosis in two years. After her second relapse in the spring of 1978 and her third relapse in the winter of 1978, the school board suspended her with pay for the remainder of the school year. At the end of the school year, the school board held a hearing and discharged Arline, “not because she had done anything wrong,’ but because of the ‘continued reoccurrence of tuberculosis.’”

Because she was dismissed solely on the basis of her illness, Arline sued the school district under the Rehabilitation Act, claiming that her illness qualified as a disability protected under Section 504. The school district argued that Arline was not a "handicapped person" within the meaning of the Rehabilitation Act.

The district court in Florida ruled that Congress did not intend the Rehabilitation Act to extend to persons with contagious diseases, and, therefore, Arline's discharge was not precluded by it. The Court of Appeals for the Eleventh Circuit disagreed, and reversed the trial court ruling. The school district appealed this ruling to the Supreme Court, and the Supreme Court agreed to hear the case on the issue of whether a person with a contagious disease fell within the meaning of a "handicapped person" under the Rehabilitation Act.

### The Decision

The courts stated that according to the Rehabilitation Act, persons with contagious diseases (or known to have a disease that is thought to be contagious) are handicapped provided that “one or more major life activities [are] limited by [the] impairment.” Since Arline had been hospitalized for respiratory problems related to her tuberculosis, one major life activity was clearly limited. They further determined that if an individual could be discriminated against based on unwarranted accusations of risk, then individuals (including those with non-infectious diseases such as cancer or cerebral palsy) could be discriminated against because of fear that they might “infect” others. Therefore, the individuals with contagious diseases do not pose too great of a risk to be protected by the Rehabilitation Act.

Legitimate concerns regarding contagion can be determined by first asking whether the individual’s disease limits his/her qualifications for the job. This means determining the nature, duration, and severity of the risk to others. It also means determining the probabilities of transmission and harm—according to expert medical testimony, with all inferences to be drawn in favor of public health. Additionally, addressing concerns meant determining whether proper accommodations could be made to eliminate the limiting effects of his/her disease, again according to

expert medical testimony.

After addressing each of these issues, the courts ultimately found that, since Arline no longer had tuberculosis as of the time of the trial, she was entitled to reinstatement with full seniority, or damages totaling \$768,000. It was also determined that, due to wrongful discharge, she was entitled to any additional damages determined by the parties involved.

### Questions

1. Do you agree with the courts' decision? Why or why not?
2. What is the difference between *latent tuberculosis infection* and *tuberculosis disease*?
3. What is the difference between the transmission methods of tuberculosis disease and the transmission methods of HIV or hepatitis B/C?
4. Do you think the school district was concerned about the potential for transmission of tuberculosis? Do you think there were any other factors affecting the district's decision to discharge Arline? How could they have dealt with the situation differently?

# CIVIL RIGHTS VOCABULARY WORD SEARCH

**LEVEL**

Teens

**OBJECTIVE**

Students will identify civil rights vocabulary words.

**MATERIALS**

One copy of the word search handout (included with lesson) per student.

**PREP**

None

**INSTRUCTIONAL COMPONENTS**

None



**ASSESSMENT**

- Students should be challenged to use vocabulary words in sentences.
- Word search answer key:

	P	R	O	T	E	C	T	E	D							
	T				I		N	O	I	T	A	C	U	D	E	
	N				N											Y
	E				F				S	T	U	D	E	N	T	S
	M				E									I		
	N				C							L				
	R				T						N	I				
	E			D	I	S	E	A	S	E	B					
	V				O				D	A				A		
E	O				U			D	S					D		
Q	G				S		I	I						A		
U					S	H	D					A				
A		E	M	P	L	O	Y	M	E	N	T	S	P	G		
L					X							W		R		
					D							A			E	
			S	T	H	G	I	R				L				F
R	E	H	A	B	I	L	I	T	A	T	I	O	N	A	C	T

## VOCABULARY WORD SEARCH: Civil Rights and Infectious Diseases

S	P	R	O	T	E	C	T	E	D	F	T	E	S	A	P	V
U	T	Y	T	F	I	R	N	O	I	T	A	C	U	D	E	I
W	N	R	X	G	N	D	T	G	R	V	X	S	R	O	Z	Y
Z	E	E	Z	T	F	E	L	Y	S	T	U	D	E	N	T	S
L	M	L	C	G	E	S	K	H	C	T	C	G	H	I	Q	P
H	N	K	V	Y	C	W	M	J	D	G	B	M	L	U	M	K
O	R	G	B	H	T	A	J	U	E	B	N	I	E	Q	N	R
P	E	D	N	D	I	S	E	A	S	E	B	J	R	P	W	J
R	V	F	M	U	O	Q	N	I	D	A	O	D	T	A	S	I
E	O	S	G	J	U	Z	H	D	S	Y	P	B	Y	D	D	O
Q	G	L	F	L	S	V	I	I	W	H	I	N	N	A	G	U
U	C	N	D	O	S	H	D	O	S	N	L	A	M	L	J	S
A	M	E	M	P	L	O	Y	M	E	N	T	S	P	G	R	A
L	D	B	S	K	X	F	B	L	Z	U	O	W	C	R	T	S
J	D	Q	A	P	D	C	G	P	A	J	K	A	R	N	E	H
I	K	I	S	T	H	G	I	R	Q	M	I	L	T	I	Y	F
R	E	H	A	B	I	L	I	T	A	T	I	O	N	A	C	T

Words may be written in any direction!

### HIDDEN WORDS:

INFECTIOUS	EQUAL	ADA (Americans with Disabilities Act)
DISEASE	LAWS	GOVERNMENT
HIDDEN	STUDENTS	REHABILITATION ACT
DISABILITY	EMPLOYMENT	EDUCATION
PROTECTED	RIGHTS	FERPA (Family Educational Rights and Privacy Act)



# JUST v. UNJUST

## Creative Writing Project

### LEVEL

Teens

### OBJECTIVE

- Students will select and evaluate short scenarios for justice.
- Students will defend their responses.

### MATERIALS

Newspaper/magazine articles to be provided by students.  
Bulletin board area in/outside room devoted to student writings.

### PREP

Determine a length for student writing (e.g., 3 paragraphs).



### INSTRUCTIONAL COMPONENTS

1. Write the words “JUST v. UNJUST” at the top of the bulletin board area.
2. Ask students for recent examples of just or unjust events. Ask them to explain why the event was just or unjust. Ask them to explain how an unjust situation could have been made right.
3. Instruct students to select from a newspaper or magazine an article that illustrates justice being done or neglected.
4. Ask students to read the article and defend their position in writing.
5. Ask the student to post the scenario under the appropriate heading.

### ASSESSMENT

- Questions to be answered in the writing:
  1. Briefly describe the just or unjust scenario.
  2. Why did you feel the outcome of the situation was just or unjust?
- Students will place the scenario under the JUST or UNJUST heading.
- Discuss with students how civil rights laws help protect people from discrimination.
- Allow students to continue adding scenarios to the bulletin board area. Have them share any new scenarios with the class.

# Bibliography

ADA Technical Assistance Centers: *What is the ADA? Definition of Disability; Historical Context of the Americans with Disabilities Act*

[www.adata.org](http://www.adata.org)

Aegis

[www.aegis.com](http://www.aegis.com)

AIDS Action

[www.aidsaction.org](http://www.aidsaction.org)

The Body

[www.thebody.com](http://www.thebody.com)

Bowe, Frank. *Equal Rights for Americans with Disabilities*. New York: Franklin Watts, 1992.

Emory University School of Law: *Onishea v. Hopper*. 11<sup>th</sup> Circuit Opinion.

[www.law.emory.edu](http://www.law.emory.edu)

Equal Employment Opportunity Commission

[www.eeoc.gov](http://www.eeoc.gov)

Harrison, Maureen, and Gilbert, Steve eds. *The Americans with Disabilities Act Handbook*. Beverly Hills, CA: Excellent Books, 1992.

Margolis, Dr. Harold, Director of the Division of Viral Hepatitis at the Centers for Disease Control and Prevention (CDC). Interview July 2001.

National Parent-Teacher Association: *Background information on the Individuals with Disabilities Education Act*

[www.pta.org](http://www.pta.org)

Seattle-King County Department of Public Health FLASH Curriculum: *Teaching About Values*

Shapiro, Joseph P. *No Pity: People with Disabilities Forging a New Civil Rights Movement*. New York: Random House, Inc., 1993.

U.S. Department of Education. Office for Civil Rights: *Questions and Answers on Disability Discrimination under Section 504 and Title II. Family Policy Compliance Office: Family Educational Rights and Privacy Act*

[www.ed.gov](http://www.ed.gov)

U.S. Department of Justice: *The Americans with Disabilities Act*  
[www.usdoj.gov](http://www.usdoj.gov)

U.S. Department of Health and Human Services, Office of Civil Rights: *Your Rights Under the Americans with Disabilities Act; Your Rights as a Person with HIV Infection, AIDS, or Related Condition*  
[www.dhhs.gov](http://www.dhhs.gov), [www.hhs.gov](http://www.hhs.gov)

U.S. Supreme Court: *Bragdon v. Abbott*. Reports, bound volume 524, October Term, 1997.  
*Chevron USA Inc. v. Echazabal*. October Term, 2001.  
[www.supremecourtus.gov](http://www.supremecourtus.gov)

VSA Arts: Hidden Disabilities  
[www.vsarts.org](http://www.vsarts.org)

## Additional Activities and Resources for Teachers, Students and Parents

Dickson, Donald T. *HIV, AIDS, and the Law: Legal Issues for Social Work Practice and Policy*. New York: Aldine de Gruyter, 2001.

Discusses the complex and changing field for social work students, practitioners, and educators who will be working with an increasing population of clients infected or at risk of becoming infected with HIV and who therefore must be knowledgeable about its legal aspects.

Dorsen, Norman, ed. *The Rights of People Who Are HIV Positive: The Authoritative ACLU Guide to the Rights of People Living With HIV Disease and AIDS*. Carbondale: Southern Illinois Univ Press, 1996.

An invaluable tool for people living with HIV, their friends, families, partners, and advocates, and lawyers discussing the health policies, practices, and programs generated in response to HIV and challenging legal questions.

Gostin, Larry, Lazzarini, Zita, and Gostin, Lawrence O. *Human Rights and Public Health in the AIDS Pandemic*. New York: Oxford University Press, 1997.

Analyzes the close relationship between public health and human rights using the AIDS pandemic as a lens.

Hunter, Nan D., and Rubenstein, William B., eds. *AIDS Agenda: Emerging Issues in Civil Rights*. New York: New Press, 1992.

Nine important essays analyze the legal and social policy failures that have led to widespread discrimination against persons with HIV disease and present concrete recommendations for a more just and effective AIDS policy.