

# SCHOOL LETTER

Protecting Children in Daycare and Schools

Updated 2006

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*A couple, whose daughter has chronic viral hepatitis, hired an attorney to write a letter to a preschool that their daughter was about to attend. The family chose to inform the school about the child's infectious disease, but they also wanted to make sure she was protected against discrimination.*

*The family's name has been changed. This letter is only an example of what one family did to protect their daughter's civil rights. To protect your family's rights, we recommend you consult an attorney.*

Dear School:

Please be advised that this firm has been retained by Mr. and Mrs. Smith, who are the parents of Jane Smith, a [number] year-old girl who was recently enrolled in your school.

The purpose of this correspondence is to address a situation that is of great concern to Mr. and Mrs. Smith, that is, the health and well-being of their daughter and those who care for her. The Smith's daughter is a carrier of the hepatitis [B or C] virus.

Although there is no legal or ethical duty for my clients to inform you or the school of the specific health status of their daughter, the Smiths, in their personal discretion and out of an abundance of caution, have chosen to share this very private and confidential fact with you. In fact, the National Centers for Disease Control and Prevention do not advocate that parents of children with hepatitis [B or C] routinely inform daycare providers of the hepatitis [B or C] status of their children.

Under normal conditions, a child with hepatitis [B or C] poses no threat to other children or to daycare staff. Please bear in mind that the hepatitis [B or C] virus (hereinafter ["HBV" or "HCV"]) is not transmitted casually: it can be, for example, transmitted through contaminated blood, sexual relations with an infected person, contaminated needles and mothers who transmit [HBV or HCV] to their newborn child.

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There are no data that demonstrate that hepatitis [B or C] is transmitted through feces or urine, nor is it transmitted by stool contamination of food or beverages, or casual contact. Changing diapers or helping children with "accidents" associated with potty-training generally do not place one at risk of contracting [HBV or HCV].

*(This next two paragraphs are only for children infected with HBV in states that require hepatitis B immunizations.)* In addition, because the State of [\_\_\_\_] requires children to have a series of immunizations against the hepatitis B virus, it is highly likely that Jane's classmates are already protected from any potential transmission of HBV.

The medical information record required of children admitted to the [ABC] School indicates that such inoculations are mandatory for enrollees. I assume your daycare staff have all had such vaccinations and are similarly protected.

Regardless of any minimal risk a carrier of [HBV or HCV] poses to others, my clients and I assume that proper, standard (universal) precautions are taken when dealing with the bodily fluids of any child in the [ABC] school. You have been made aware of Jane's condition, but you may not be aware of other children who may carry bloodborne infections, not just hepatitis [B or C].

Mr. and Mrs. Smith wish to convey to you their desire to keep the lines of communication open and fully cooperate with the [ABC] School and its staff regarding this situation. Mrs. Smith has provided me with written materials that she has collected about [HBV or HCV]. If you would like copies of this literature to help educate staff members about [HBV or HCV], please contact me and I will provide you copies of this material.

If you have further concerns, my clients are also willing to participate in any meetings you may wish to have with them, or you may discuss this situation with a health care professional of your choice.

Although Mr. and Mrs. Smith have chosen to disclose private, confidential information about their daughter to your organization, it is of the utmost importance that no one other than officials at the [ABC] School are to be informed about Jane's health status. In fact, my clients would prefer that you limit disclosure of Jane's [HBV or HCV] status to your staff members on a "need to know" basis and that as few people as possible be told this information. Please notify my clients if Jane's health status is disclosed to anyone.

Additionally, anyone so informed should be cautioned that this information is highly confidential and extremely private; it is not to be disclosed to other persons, particularly parents of other children in Jane's class.

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As you may imagine, my clients are very concerned that, should information be leaked to other parents, Jane may suffer retaliation, discrimination or be socially ostracized by other children or their parents.

There are a number of laws and statutes that protect the confidentiality of private information, including both health and educational records. For example, the Family Educational Rights and Privacy Act of 1974, 20 U.S.C.123g (the Buckley Amendment) mandates that any institution that receives federal funds is prohibited from releasing a student's records to anyone other than school officials who have been determined to have a legitimate interest in the child. There are also protections for privacy of a student's medical records under the Americans with Disabilities Act, 42 U. S. C. 12101, et seq.

Mr. and Mrs. Smith have only sought my assistance because this subject is of such personal importance to them; they felt that a disinterested, objective person might be able to more effectively convey their concerns.

My clients and I trust that all of the parties involved in this situation will cooperate and work toward a positive solution to the concerns of my clients, as well as those of the school. Mr. and Mrs. Smith also hope that this fall is the first of many happy semesters Jane will spend at the [ABC] School.

If you have any comments or concerns, please feel free to contact me by 4 p.m. on (day/month/year), as Jane is scheduled to begin school the following day. If I do not hear from you, I will assume that there will be no problem with her attending this school and/or you have encountered this situation before and are familiar with these issues. Thank you for your attention to this important matter.