

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 09-0851.01 Richard Sweetman

SENATE BILL 09-226

SENATE SPONSORSHIP

Sandoval,

HOUSE SPONSORSHIP

Gagliardi,

Senate Committees

Health and Human Services
Appropriations

House Committees

Education

A BILL FOR AN ACT

101 **CONCERNING POLICIES FOR THE MANAGEMENT OF FOOD ALLERGIES**
102 **AMONG SCHOOL CHILDREN, AND MAKING AN APPROPRIATION IN**
103 **CONNECTION THEREWITH.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires the state board of education (state board) to promulgate rules establishing a policy for the management of food allergies and anaphylaxis among students enrolled in schools of school districts and institute charter schools (statewide policy). Requires the state board to consult with the department of public health and environment (department) in adopting the statewide policy. Specifies mandatory

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unam ended
April 30, 2009

HOUSE
Am ended 2nd Reading
April 29, 2009

SENATE
3rd Reading Unam ended
April 20, 2009

SENATE
Am ended 2nd Reading
April 17, 2009

provisions for the statewide policy.

Requires each school district to adopt a policy for the management of food allergies and anaphylaxis among children in schools of the school district. Requires each school district policy to include provisions that satisfy the requirements of the statewide policy. Requires each school district to ensure that each school of the school district makes available self-injectable epinephrine for the purpose of providing emergency medical treatment in the event that a student or other person suffers anaphylaxis as a result of an allergic reaction to food.

Requires the state charter school institute to adopt a policy for the management of food allergies and anaphylaxis among children in institute charter schools. Requires the institute charter school policy to include provisions that satisfy the requirements of the statewide policy. Requires the state charter school institute to ensure that each institute charter school makes available self-injectable epinephrine for the purpose of providing emergency medical treatment in the event that a student or other person suffers anaphylaxis as a result of an allergic reaction to food.

Requires the department to consult with the state board concerning the adoption of the statewide policy. Requires the department to develop, maintain, and make available to school districts and institute charter schools a standard form to be used by school districts to gather information from physicians and parents and guardians of students concerning students' risk of food allergies and anaphylaxis and the treatment thereof.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Food allergies are a growing public health concern in the
5 United States, especially among children;

6 (b) From 1997 to 2002, the incidence of reported food allergies
7 among children less than eighteen years of age increased eighteen
8 percent, and at least one study has shown that the incidence of peanut
9 allergies among children less than eighteen years of age has doubled in
10 this time;

11 (c) In a recent survey of four hundred elementary school nurses,

1 nearly half of them reported that the number of children with food
2 allergies in their schools had increased during a recent five-year period;

3 (d) Recent studies indicate that hospitalizations resulting in food
4 allergy diagnoses for children have increased, and from 2004 to 2006,
5 there was an average of 9,537 hospital discharges in the United States
6 each year that included a diagnosis of a food allergy for a child less than
7 eighteen years of age;

8 (e) Allergies to milk, eggs, fish, shellfish, tree nuts, peanuts,
9 wheat, and soy account for ninety percent of all allergic reactions to food;
10 and

11 (f) There is no known cure for a food allergy, and strict avoidance
12 of an offending food is the only known way to prevent an allergic
13 reaction.

14 (2) The general assembly further finds and declares that:

15 (a) Anaphylaxis is a systemic allergic reaction that is rapid in
16 onset and can kill a person within minutes;

17 (b) Food allergies are the leading cause of anaphylaxis outside of
18 hospital settings, accounting for approximately one-third of all instances
19 of anaphylaxis;

20 (c) Anaphylaxis attacks resulting from food allergies cause an
21 estimated fifty thousand emergency room visits, two thousand
22 hospitalizations, and between one hundred fifty and two hundred deaths
23 in the United States each year; and

24 (d) Studies clearly show that many fatalities resulting from
25 anaphylaxis are associated with a failure to administer epinephrine, a
26 delay in the administration of epinephrine, or a failure to recognize the
27 symptoms of anaphylaxis.

1 (3) The general assembly further finds and declares that the
2 importance of managing life-threatening food allergies has been
3 recognized by the American medical association; the American academy
4 of pediatrics; the American academy of allergy, asthma, and immunology;
5 the American college of allergy, asthma, and immunology; the national
6 association of elementary school principals; the national school boards
7 association; and the national association of school nurses.

8 (4) Now, therefore, the general assembly hereby declares that each
9 school district of the state and the state charter school institute should
10 develop policies to manage the risks posed by food allergies and
11 anaphylaxis in public schools.

12 **SECTION 2.** Article 32 of title 22, Colorado Revised Statutes, is
13 amended BY THE ADDITION OF A NEW SECTION to read:

14 **22-32-139. Food allergy and anaphylaxis policy required -**
15 **approval of treatment plans - rules.** (1) THIS SECTION SHALL BE
16 KNOWN AND MAY BE CITED AS THE "COLORADO SCHOOL CHILDREN'S
17 FOOD ALLERGY AND ANAPHYLAXIS MANAGEMENT POLICY ACT".

18 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
19 REQUIRES, "APPROPRIATE STAFF" MEANS EMPLOYEES OF A SCHOOL WHOM
20 THE PRINCIPAL OR EQUIVALENT EXECUTIVE IN CONSULTATION WITH THE
21 SCHOOL NURSE OF THE SCHOOL DETERMINES TO BE APPROPRIATE
22 RECIPIENTS OF EMERGENCY ANAPHYLAXIS TREATMENT TRAINING, WHICH
23 EMPLOYEES SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, EMPLOYEES
24 WHO ARE DIRECTLY INVOLVED DURING THE SCHOOL DAY WITH A STUDENT
25 WHO HAS A KNOWN FOOD ALLERGY.

26 (3) (a) ON OR BEFORE JULY 1, 2010, EACH SCHOOL DISTRICT
27 BOARD OF EDUCATION SHALL ADOPT AND IMPLEMENT A POLICY FOR THE

1 MANAGEMENT OF FOOD ALLERGIES AND ANAPHYLAXIS AMONG STUDENTS
2 ENROLLED IN THE SCHOOLS OF THE SCHOOL DISTRICT. THE POLICY SHALL
3 INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING:

4 (I) REASONABLE ACCOMMODATIONS FOR COMMUNICATION
5 BETWEEN EACH SCHOOL OF THE SCHOOL DISTRICT AND EMERGENCY
6 MEDICAL SERVICES, INCLUDING INSTRUCTIONS FOR EMERGENCY MEDICAL
7 RESPONDERS;

8 (II) REASONABLE ACCOMMODATIONS TO REDUCE THE RISK OF
9 STUDENTS' EXPOSURE TO AGENTS THAT MAY CAUSE ANAPHYLAXIS,
10 INCLUDING BUT NOT LIMITED TO EXPOSURE THAT MAY OCCUR IN
11 CLASSROOMS, CAFETERIAS, AND COMMON AREAS AND DURING
12 EXTRACURRICULAR ACTIVITIES, FIELD TRIPS, SCHOOL-SPONSORED
13 PROGRAMS OCCURRING BEFORE AND AFTER REGULAR SCHOOL HOURS, AND
14 OTHER SCHOOL-SPONSORED PROGRAMS;

15 (III) THE PROVISION OF EMERGENCY ANAPHYLAXIS TREATMENT
16 TRAINING FOR APPROPRIATE STAFF TO PREPARE THEM TO RESPOND
17 APPROPRIATELY IN THE EVENT THAT A STUDENT SUFFERS ANAPHYLAXIS AS
18 A RESULT OF AN ALLERGIC REACTION TO FOOD, WHICH TRAINING SHALL
19 INCLUDE BUT NEED NOT BE LIMITED TO TRAINING IN THE ADMINISTRATION
20 OF SELF-INJECTABLE EPINEPHRINE; AND

21 (IV) PROCEDURES TO ENSURE THE AVAILABILITY OF A STUDENT'S
22 SELF-INJECTABLE EPINEPHRINE TO FACULTY AND ADMINISTRATIVE STAFF
23 OF THE SCHOOL IN THE EVENT THAT A STUDENT SUFFERS ANAPHYLAXIS
24 AND REQUIRES EMERGENCY MEDICAL TREATMENT.

25 (b) PRIOR TO THE BEGINNING OF EACH SCHOOL YEAR, EACH
26 SCHOOL DISTRICT SHALL PROVIDE NOTICE TO A PARENT OR LEGAL
27 GUARDIAN OF EACH STUDENT ENROLLED IN A SCHOOL OF THE SCHOOL

1 DISTRICT OF THE POLICY ADOPTED BY THE SCHOOL DISTRICT PURSUANT TO
2 PARAGRAPH (a) OF THIS SUBSECTION (3). THE NOTICE SHALL INCLUDE THE
3 STANDARD FORM DEVELOPED BY THE DEPARTMENT OF PUBLIC HEALTH
4 AND ENVIRONMENT PURSUANT TO SECTION 25-1.5-109, C.R.S., TO ALLOW
5 THE PARENT OR LEGAL GUARDIAN OF A STUDENT WITH A KNOWN FOOD
6 ALLERGY TO PROVIDE THE FOLLOWING INFORMATION TO THE SCHOOL'S
7 ADMINISTRATION:

8 (I) DOCUMENTATION REGARDING THE DIAGNOSIS AND HISTORY OF
9 THE STUDENT'S FOOD ALLERGY;

10 (II) IDENTIFICATION OF ALL FOODS TO WHICH THE STUDENT IS
11 KNOWN TO BE ALLERGIC;

12 (III) IDENTIFICATION OF ANY MEDICATION THAT HAS BEEN
13 PRESCRIBED FOR THE STUDENT FOR THE TREATMENT OF A FOOD ALLERGY
14 OR ANAPHYLAXIS;

15 (IV) ANY SPECIFIC SIGNS OR SYMPTOMS THAT MAY INDICATE THE
16 STUDENT IS HAVING AN ALLERGIC REACTION TO A FOOD;

17 (V) EMERGENCY TREATMENT PROCEDURES TO EMPLOY IN THE
18 EVENT THAT THE STUDENT SUFFERS AN ALLERGIC REACTION TO FOOD;

19 (VI) THE NAMES AND TELEPHONE NUMBERS OF PERSONS WHOM
20 THE ADMINISTRATION OF THE STUDENT'S SCHOOL SHOULD CONTACT IN
21 ADDITION TO EMERGENCY MEDICAL PERSONNEL IN THE EVENT THAT THE
22 STUDENT SUFFERS AN ALLERGIC REACTION TO FOOD; AND

23 (VII) THE NAME, TELEPHONE NUMBER, AND SIGNATURE OF THE
24 STUDENT'S PRIMARY HEALTH CARE PROVIDER.

25 (c) THE NOTICE REQUIRED BY PARAGRAPH (b) OF THIS SUBSECTION
26 (3) SHALL INCLUDE LANGUAGE THAT ENCOURAGES PARENTS AND LEGAL
27 GUARDIANS OF STUDENTS FOR WHOM MEDICATION HAS BEEN PRESCRIBED

1 FOR TREATMENT OF A FOOD ALLERGY OR ANAPHYLAXIS TO GIVE TO THE
2 SCHOOL NURSE OR OTHER ADMINISTRATOR OF THE STUDENT'S SCHOOL A
3 SUPPLY OF THE MEDICATION UNLESS THE STUDENT HAS AN APPROVED
4 TREATMENT PLAN PURSUANT TO SECTION 22-1-119.5 OR SUBSECTION (4)
5 OF THIS SECTION THAT AUTHORIZES THE STUDENT TO SELF-ADMINISTER
6 THE MEDICATION.

7 (4) (a) A STUDENT WITH A KNOWN FOOD ALLERGY MAY POSSESS
8 AND SELF-ADMINISTER MEDICATION TO TREAT THE STUDENT'S FOOD
9 ALLERGY IF THE STUDENT HAS A TREATMENT PLAN APPROVED PURSUANT
10 TO THIS SUBSECTION (4).

11 (b) A PUBLIC SCHOOL SHALL, AND A NONPUBLIC SCHOOL IS
12 ENCOURAGED TO, APPROVE A TREATMENT PLAN FOR A STUDENT ENROLLED
13 IN THE SCHOOL TO POSSESS AND SELF-ADMINISTER MEDICATION FOR A
14 FOOD ALLERGY IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

15 (I) A HEALTH CARE PRACTITIONER HAS PRESCRIBED MEDICATION
16 FOR THE STUDENT TO USE DURING SCHOOL HOURS, AT SCHOOL-SPONSORED
17 ACTIVITIES, AND WHILE IN TRANSIT TO OR FROM SCHOOL OR
18 SCHOOL-SPONSORED ACTIVITIES AND HAS INSTRUCTED THE STUDENT IN
19 THE CORRECT AND RESPONSIBLE USE OF THE MEDICATION;

20 (II) THE STUDENT DEMONSTRATES TO AN APPROPRIATE SCHOOL
21 ADMINISTRATOR, THE HEALTH CARE PRACTITIONER OR THE HEALTH CARE
22 PRACTITIONER'S DESIGNEE, AND THE SCHOOL NURSE THE SKILL LEVEL
23 NECESSARY TO USE THE MEDICATION AND ANY DEVICE THAT IS NECESSARY
24 TO ADMINISTER THE MEDICATION AS PRESCRIBED;

25 (III) THE SCHOOL NURSE, AN APPROPRIATE SCHOOL
26 ADMINISTRATOR, THE STUDENT'S PARENT OR LEGAL GUARDIAN, AND THE
27 HEALTH CARE PRACTITIONER COLLABORATE TO FORMULATE A WRITTEN

1 TREATMENT PLAN FOR MANAGING FOOD ALLERGY EPISODES OF THE
2 STUDENT AND FOR MEDICATION USE BY THE STUDENT DURING SCHOOL
3 HOURS, AT SCHOOL-SPONSORED ACTIVITIES, AND WHILE IN TRANSIT TO OR
4 FROM SCHOOL OR SCHOOL-SPONSORED ACTIVITIES; AND

5 (IV) THE STUDENT'S PARENT OR LEGAL GUARDIAN COMPLETES
6 AND SUBMITS TO THE PUBLIC OR NONPUBLIC SCHOOL THE FOLLOWING
7 DOCUMENTATION:

8 (A) A WRITTEN MEDICAL AUTHORIZATION THAT INCLUDES THE
9 SIGNATURE OF THE HEALTH CARE PRACTITIONER FOR THE MEDICATION
10 PRESCRIBED; THE NAME, PURPOSE, PRESCRIBED DOSAGE, FREQUENCY, AND
11 LENGTH OF TIME BETWEEN DOSAGES OF THE MEDICATIONS TO BE
12 SELF-ADMINISTERED; AND CONFIRMATION FROM THE HEALTH CARE
13 PRACTITIONER THAT THE STUDENT HAS BEEN INSTRUCTED AND IS CAPABLE
14 OF SELF-ADMINISTRATION OF THE PRESCRIBED MEDICATIONS;

15 (B) A WRITTEN STATEMENT FROM THE STUDENT'S PARENT OR
16 LEGAL GUARDIAN RELEASING THE SCHOOL, SCHOOL DISTRICT, ANY
17 ASSOCIATED ENTITY, AND EMPLOYEES AND VOLUNTEERS OF THE SCHOOL,
18 SCHOOL DISTRICT, AND ANY ASSOCIATED ENTITY FROM LIABILITY, EXCEPT
19 IN CASES OF WILLFUL OR WANTON CONDUCT OR DISREGARD OF THE
20 CRITERIA OF THE TREATMENT PLAN; AND

21 (C) A WRITTEN CONTRACT BETWEEN THE SCHOOL NURSE, THE
22 STUDENT, AND THE STUDENT'S PARENT OR LEGAL GUARDIAN ASSIGNING
23 LEVELS OF RESPONSIBILITY TO THE PARENT OR LEGAL GUARDIAN,
24 STUDENT, AND SCHOOL EMPLOYEES.

25 (c) A TREATMENT PLAN SHALL BE EFFECTIVE ONLY FOR THE
26 SCHOOL YEAR IN WHICH IT IS APPROVED. A PUBLIC SCHOOL SHALL
27 APPROVE A NEW TREATMENT PLAN FOR EACH SCHOOL YEAR SO LONG AS

1 THE PLAN MEETS THE CONDITIONS SPECIFIED IN PARAGRAPH (b) OF THIS
2 SUBSECTION (4). A PARENT OR LEGAL GUARDIAN SHALL SUBMIT A NEW
3 TREATMENT PLAN ANNUALLY OR MORE OFTEN IF CHANGES OCCUR IN THE
4 STUDENT'S HEALTH OR PRESCRIBED TREATMENT.

5 (5) IF THE CONDITIONS DESCRIBED IN PARAGRAPH (b) OF
6 SUBSECTION (4) OF THIS SECTION ARE MET, A SCHOOL, SCHOOL DISTRICT,
7 SCHOOL DISTRICT DIRECTOR, OR SCHOOL OR SCHOOL DISTRICT EMPLOYEE
8 OR A VOLUNTEER NOT OTHERWISE PROVIDED FOR UNDER SECTION
9 13-21-108, C.R.S., SHALL NOT BE LIABLE IN A SUIT FOR DAMAGES AS A
10 RESULT OF AN ACT OR OMISSION RELATED TO A STUDENT'S OWN USE OF
11 THE STUDENT'S EPINEPHRINE AUTO-INJECTOR OR ANY OTHER MEDICATION
12 CONTAINED IN AN APPROVED TREATMENT PLAN UNLESS THE DAMAGES
13 WERE CAUSED BY WILLFUL OR WANTON CONDUCT OR DISREGARD OF THE
14 CRITERIA OF THE TREATMENT PLAN.

15 (6) NOTHING IN THIS SECTION SHALL BE INTERPRETED TO CREATE
16 A CAUSE OF ACTION OR INCREASE OR DECREASE THE LIABILITY OF ANY
17 PERSON.

18 (7) THE STATE BOARD OF EDUCATION, WITH ASSISTANCE FROM THE
19 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, MAY PROMULGATE
20 RULES FOR TREATMENT PLANS FOR THE SELF-ADMINISTRATION OF
21 MEDICATIONS PURSUANT TO THIS SECTION.

22 **SECTION 3.** 22-30.5-505, Colorado Revised Statutes, is
23 amended BY THE ADDITION OF A NEW SUBSECTION to read:

24 **22-30.5-505. State charter school institute - institute board -**
25 **appointment - powers and duties - rules.** (14) PURSUANT TO SECTION
26 22-30.5-518, THE INSTITUTE SHALL ADOPT AND IMPLEMENT A POLICY FOR
27 THE MANAGEMENT OF FOOD ALLERGIES AND ANAPHYLAXIS AMONG

1 STUDENTS ENROLLED IN INSTITUTE CHARTER SCHOOLS.

2 **SECTION 4.** Part 5 of article 30.5 of title 22, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **22-30.5-518. Institute charter school food allergy and**
6 **anaphylaxis management policy required - approval of treatment**

7 **plans.** (1) ON OR BEFORE JULY 1, 2010, THE STATE CHARTER SCHOOL
8 INSTITUTE SHALL ADOPT AND IMPLEMENT A POLICY FOR THE MANAGEMENT
9 OF FOOD ALLERGIES AND ANAPHYLAXIS AMONG STUDENTS ENROLLED IN
10 INSTITUTE CHARTER SCHOOLS. THE POLICY SHALL INCLUDE, BUT NEED
11 NOT BE LIMITED TO, THE MEASURES DESCRIBED IN SECTION 22-32-139 (3)
12 (a) FOR SCHOOL DISTRICT FOOD ALLERGY AND ANAPHYLAXIS
13 MANAGEMENT POLICIES.

14 (2) (a) THE POLICY ADOPTED BY THE STATE CHARTER SCHOOL
15 INSTITUTE PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL ENSURE
16 THAT, PRIOR TO THE BEGINNING OF EACH SCHOOL YEAR, EACH INSTITUTE
17 CHARTER SCHOOL PROVIDE NOTICE TO A PARENT OR LEGAL GUARDIAN OF
18 EACH STUDENT ENROLLED IN THE INSTITUTE CHARTER SCHOOL OF THE
19 POLICY. THE NOTICE SHALL INCLUDE THE STANDARD FORM DEVELOPED BY
20 THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO
21 SECTION 25-1.5-109, C.R.S., TO ALLOW THE PARENT OR LEGAL GUARDIAN
22 OF A STUDENT WITH A KNOWN FOOD ALLERGY TO PROVIDE TO THE
23 INSTITUTE CHARTER SCHOOL'S ADMINISTRATION THE INFORMATION THAT
24 IS DESCRIBED IN SECTION 22-32-139 (3) (b).

25 (b) THE NOTICE REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION
26 (2) SHALL INCLUDE LANGUAGE THAT ENCOURAGES PARENTS AND LEGAL
27 GUARDIANS OF STUDENTS FOR WHOM MEDICATION HAS BEEN PRESCRIBED

1 FOR TREATMENT OF A FOOD ALLERGY OR ANAPHYLAXIS TO GIVE TO THE
2 SCHOOL NURSE OR OTHER ADMINISTRATOR OF THE STUDENT'S SCHOOL A
3 SUPPLY OF THE MEDICATION UNLESS THE STUDENT HAS AN APPROVED
4 TREATMENT PLAN PURSUANT TO SECTION 22-1-119.5 OR SUBSECTION (3)
5 OF THIS SECTION THAT AUTHORIZES THE STUDENT TO SELF-ADMINISTER
6 THE MEDICATION.

7 (3) (a) A STUDENT WITH A KNOWN FOOD ALLERGY MAY POSSESS
8 AND SELF-ADMINISTER MEDICATION TO TREAT THE STUDENT'S FOOD
9 ALLERGY IF THE STUDENT HAS A TREATMENT PLAN APPROVED PURSUANT
10 TO THIS SUBSECTION (3).

11 (b) AN INSTITUTE CHARTER SCHOOL SHALL APPROVE A TREATMENT
12 PLAN FOR A STUDENT ENROLLED IN THE SCHOOL TO POSSESS AND
13 SELF-ADMINISTER MEDICATION FOR A FOOD ALLERGY IF ALL OF THE
14 FOLLOWING CONDITIONS ARE MET:

15 (I) A HEALTH CARE PRACTITIONER HAS PRESCRIBED MEDICATION
16 FOR THE STUDENT TO USE DURING SCHOOL HOURS, AT SCHOOL-SPONSORED
17 ACTIVITIES, AND WHILE IN TRANSIT TO OR FROM SCHOOL OR
18 SCHOOL-SPONSORED ACTIVITIES AND HAS INSTRUCTED THE STUDENT IN
19 THE CORRECT AND RESPONSIBLE USE OF THE MEDICATION;

20 (II) THE STUDENT DEMONSTRATES TO AN APPROPRIATE SCHOOL
21 ADMINISTRATOR, THE HEALTH CARE PRACTITIONER OR THE HEALTH CARE
22 PRACTITIONER'S DESIGNEE, AND THE SCHOOL NURSE THE SKILL LEVEL
23 NECESSARY TO USE THE MEDICATION AND ANY DEVICE THAT IS NECESSARY
24 TO ADMINISTER THE MEDICATION AS PRESCRIBED;

25 (III) THE SCHOOL NURSE, AN APPROPRIATE SCHOOL
26 ADMINISTRATOR, THE STUDENT'S PARENT OR LEGAL GUARDIAN, AND THE
27 HEALTH CARE PRACTITIONER COLLABORATE TO FORMULATE A WRITTEN

1 TREATMENT PLAN FOR MANAGING FOOD ALLERGY EPISODES OF THE
2 STUDENT AND FOR MEDICATION USE BY THE STUDENT DURING SCHOOL
3 HOURS, AT SCHOOL-SPONSORED ACTIVITIES, AND WHILE IN TRANSIT TO OR
4 FROM SCHOOL OR SCHOOL-SPONSORED ACTIVITIES; AND

5 (IV) THE STUDENT'S PARENT OR LEGAL GUARDIAN COMPLETES
6 AND SUBMITS TO THE INSTITUTE CHARTER SCHOOL THE FOLLOWING
7 DOCUMENTATION:

8 (A) A WRITTEN MEDICAL AUTHORIZATION THAT INCLUDES THE
9 SIGNATURE OF THE HEALTH CARE PRACTITIONER FOR THE MEDICATION
10 PRESCRIBED; THE NAME, PURPOSE, PRESCRIBED DOSAGE, FREQUENCY, AND
11 LENGTH OF TIME BETWEEN DOSAGES OF THE MEDICATIONS TO BE
12 SELF-ADMINISTERED; AND CONFIRMATION FROM THE HEALTH CARE
13 PRACTITIONER THAT THE STUDENT HAS BEEN INSTRUCTED AND IS CAPABLE
14 OF SELF-ADMINISTRATION OF THE PRESCRIBED MEDICATIONS;

15 (B) A WRITTEN STATEMENT FROM THE STUDENT'S PARENT OR
16 LEGAL GUARDIAN RELEASING THE SCHOOL, ANY ASSOCIATED ENTITY, AND
17 EMPLOYEES AND VOLUNTEERS OF THE SCHOOL, AND ANY ASSOCIATED
18 ENTITY FROM LIABILITY, EXCEPT IN CASES OF WILLFUL OR WANTON
19 CONDUCT OR DISREGARD OF THE CRITERIA OF THE TREATMENT PLAN; AND

20 (C) A WRITTEN CONTRACT BETWEEN THE SCHOOL NURSE, THE
21 STUDENT, AND THE STUDENT'S PARENT OR LEGAL GUARDIAN ASSIGNING
22 LEVELS OF RESPONSIBILITY TO THE PARENT OR LEGAL GUARDIAN,
23 STUDENT, AND SCHOOL EMPLOYEES.

24 (c) A TREATMENT PLAN SHALL BE EFFECTIVE ONLY FOR THE
25 SCHOOL YEAR IN WHICH IT IS APPROVED. AN INSTITUTE CHARTER SCHOOL
26 SHALL APPROVE A NEW TREATMENT PLAN FOR EACH SCHOOL YEAR SO
27 LONG AS THE PLAN MEETS THE CONDITIONS SPECIFIED IN PARAGRAPH (b)

1 OF THIS SUBSECTION (3). A PARENT OR LEGAL GUARDIAN SHALL SUBMIT
2 A NEW TREATMENT PLAN ANNUALLY OR MORE OFTEN IF CHANGES OCCUR
3 IN THE STUDENT'S HEALTH OR PRESCRIBED TREATMENT.

4 (4) IF THE CONDITIONS DESCRIBED IN PARAGRAPH (b) OF
5 SUBSECTION (3) OF THIS SECTION ARE MET, AN INSTITUTE CHARTER
6 SCHOOL, INSTITUTE CHARTER SCHOOL EMPLOYEE, OR A VOLUNTEER NOT
7 OTHERWISE PROVIDED FOR UNDER SECTION 13-21-108, C.R.S., SHALL NOT
8 BE LIABLE IN A SUIT FOR DAMAGES AS A RESULT OF AN ACT OR OMISSION
9 RELATED TO A STUDENT'S OWN USE OF THE STUDENT'S EPINEPHRINE
10 AUTO-INJECTOR OR ANY OTHER MEDICATION CONTAINED IN AN APPROVED
11 TREATMENT PLAN UNLESS THE DAMAGES WERE CAUSED BY WILLFUL OR
12 WANTON CONDUCT OR DISREGARD OF THE CRITERIA OF THE TREATMENT
13 PLAN.

14 (5) NOTHING IN THIS SECTION SHALL BE INTERPRETED TO CREATE
15 A CAUSE OF ACTION OR INCREASE OR DECREASE THE LIABILITY OF ANY
16 PERSON.

17

18 **SECTION 5.** Part 1 of article 1.5 of title 25, Colorado Revised
19 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
20 read:

21 **25-1.5-109. Food allergies and anaphylaxis policy for schools**
22 **- powers and duties of department.** (1) THE DEPARTMENT HAS, IN
23 ADDITION TO ALL OTHER POWERS AND DUTIES IMPOSED UPON IT BY LAW,
24 THE DUTY TO DEVELOP, MAINTAIN, AND MAKE AVAILABLE TO SCHOOL
25 DISTRICTS AND INSTITUTE CHARTER SCHOOLS A STANDARD FORM TO BE
26 USED BY SCHOOL DISTRICTS AND INSTITUTE CHARTER SCHOOLS TO GATHER
27 INFORMATION FROM PHYSICIANS AND PARENTS AND GUARDIANS OF

1 STUDENTS CONCERNING STUDENTS' RISKS OF FOOD ALLERGIES AND
2 ANAPHYLAXIS AND THE TREATMENT THEREOF. THE STANDARD FORM
3 SHALL INCLUDE, AT A MINIMUM, FIELDS FOR GATHERING THE INFORMATION
4 DESCRIBED IN SECTION 22-2-135 (3) (b), C.R.S. [REDACTED]

5 **SECTION 6. Appropriation.** In addition to any other
6 appropriation, there is hereby appropriated, out of any moneys in the
7 general fund not otherwise appropriated, to the department of education,
8 assistance to public schools, grant programs, distributions, and other
9 assistance, health and nutrition, federal nutrition programs, for the fiscal
10 year beginning July 1, 2009, the sum of one thousand nine hundred
11 fifty-one dollars (\$1,951), or so much thereof as may be necessary, for the
12 implementation of this act.

13 **SECTION 7. Act subject to petition - effective date.** This act
14 shall take effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly that is
16 allowed for submitting a referendum petition pursuant to article V,
17 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
18 sine die is on May 6, 2009); except that, if a referendum petition is filed
19 against this act or an item, section, or part of this act within such period,
20 then the act, item, section, or part, if approved by the people, shall take
21 effect on the date of the official declaration of the vote thereon by
22 proclamation of the governor.