

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 27, 2009
Date

Committee on Education.

After consideration on the merits, the Committee recommends the following:

SB09-226 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend reengrossed bill, page 4, line 16, strike "**rules.**" and substitute
2 "**rules - approval of treatment plans.**";

3 strike lines 24 through 27 and substitute the following:

4 "EMPLOYEES SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, EMPLOYEES
5 WHO ARE DIRECTLY INVOLVED DURING THE SCHOOL DAY WITH A STUDENT
6 WHO HAS A KNOWN FOOD ALLERGY."

7 Page 5, strike lines 1 through 5;

8 line 19, after "22-32-139;", add "AND".

9 Strike page 6 and substitute the following:

10 "(b) A REQUIREMENT THAT THE NOTIFICATION REQUIRED BY
11 PARAGRAPH (a) OF THIS SUBSECTION (3) INCLUDE THE STANDARD FORM
12 DEVELOPED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
13 PURSUANT TO SECTION 25-1.5-109, C.R.S., TO ALLOW EACH PARENT OR
14 LEGAL GUARDIAN OF A STUDENT WITH A KNOWN FOOD ALLERGY TO
15 PROVIDE THE FOLLOWING INFORMATION TO THE SCHOOL'S
16 ADMINISTRATION:

17 (I) DOCUMENTATION REGARDING THE DIAGNOSIS AND HISTORY OF

1 THE STUDENT'S FOOD ALLERGY;

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

4 (III) IDENTIFICATION OF ANY MEDICATION THAT HAS BEEN
5 PRESCRIBED FOR THE STUDENT FOR THE TREATMENT OF A FOOD ALLERGY
6 OR ANAPHYLAXIS;

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

9 (V) EMERGENCY TREATMENT PROCEDURES TO EMPLOY IN THE
10 EVENT THAT THE STUDENT SUFFERS AN ALLERGIC REACTION TO FOOD; AND

11 (VI) THE NAME, PHONE NUMBER, AND SIGNATURE OF THE
12 STUDENT'S PRIMARY HEALTH CARE PROVIDER.

13 (c) A REQUIREMENT THAT THE NOTIFICATION REQUIRED BY
14 PARAGRAPH (a) OF THIS SUBSECTION (3) SHALL ENCOURAGE EACH PARENT
15 OR LEGAL GUARDIAN OF A STUDENT WITH A KNOWN FOOD ALLERGY TO
16 PROVIDE THE NAMES AND TELEPHONE NUMBERS OF PERSONS WHOM THE
17 SCHOOL SHOULD CONTACT IN ADDITION TO EMERGENCY MEDICAL
18 PERSONNEL IN THE EVENT THAT THE STUDENT SUFFERS AN ALLERGIC
19 REACTION TO FOOD;"

20 Page 7, strike lines 1 through 5 and substitute the following:

21 "(d) A REQUIREMENT THAT THE NOTIFICATION REQUIRED BY
22 PARAGRAPH (a) OF THIS SUBSECTION (3) SHALL".

23 Reletter succeeding paragraphs accordingly.

24 Page 7, line 11, after "SECTION 22-1-119.5", insert "OR SUBSECTION (4) OF
25 THIS SECTION";

26 line 13, strike "STRATEGIES" and substitute "REASONABLE
27 ACCOMMODATIONS";

28 line 19, after "TRIPS,", insert "SCHOOL-SPONSORED".

1 Page 8, strike line 1 and substitute the following:

2 "(h) PROCEDURES TO ENSURE THE AVAILABILITY OF A STUDENT'S
3 SELF-INJECTABLE";

4 after line 4, insert the following:

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

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

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

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

23 (III) THE SCHOOL NURSE, AN APPROPRIATE SCHOOL
24 ADMINISTRATOR, THE STUDENT'S PARENT OR LEGAL GUARDIAN, AND THE
25 HEALTH CARE PRACTITIONER COLLABORATE TO FORMULATE A WRITTEN
26 TREATMENT PLAN FOR MANAGING FOOD ALLERGY EPISODES OF THE
27 STUDENT AND FOR MEDICATION USE BY THE STUDENT DURING SCHOOL
28 HOURS, AT SCHOOL-SPONSORED ACTIVITIES, AND WHILE IN TRANSIT TO OR
29 FROM SCHOOL OR SCHOOL-SPONSORED ACTIVITIES;

30 (IV) THE STUDENT'S PARENT OR LEGAL GUARDIAN COMPLETES
31 AND SUBMITS TO THE PUBLIC OR NONPUBLIC SCHOOL THE
32 DOCUMENTATION REQUIRED BY RULE OF THE STATE BOARD OF EDUCATION
33 PURSUANT TO SUBSECTION (3) OF THIS SECTION, INCLUDING BUT NOT

1 LIMITED TO:

2 (A) A WRITTEN MEDICAL AUTHORIZATION THAT INCLUDES THE
3 SIGNATURE OF THE HEALTH CARE PRACTITIONER FOR THE MEDICATION
4 PRESCRIBED; THE NAME, PURPOSE, PRESCRIBED DOSAGE, FREQUENCY, AND
5 LENGTH OF TIME BETWEEN DOSAGES OF THE MEDICATIONS TO BE
6 SELF-ADMINISTERED; AND CONFIRMATION FROM THE HEALTH CARE
7 PRACTITIONER THAT THE STUDENT HAS BEEN INSTRUCTED AND IS CAPABLE
8 OF SELF-ADMINISTRATION OF THE PRESCRIBED MEDICATIONS;

9 (B) A WRITTEN STATEMENT FROM THE STUDENT'S PARENT OR
10 LEGAL GUARDIAN RELEASING THE SCHOOL, SCHOOL DISTRICT, ANY
11 ASSOCIATED ENTITY, AND EMPLOYEES AND VOLUNTEERS OF THE SCHOOL,
12 SCHOOL DISTRICT, AND ANY ASSOCIATED ENTITY FROM LIABILITY, EXCEPT
13 IN CASES OF WILLFUL OR WANTON CONDUCT OR DISREGARD OF THE
14 CRITERIA OF THE TREATMENT PLAN; AND

15 (C) A WRITTEN CONTRACT BETWEEN THE SCHOOL NURSE, THE
16 STUDENT, AND THE STUDENT'S PARENT OR LEGAL GUARDIAN ASSIGNING
17 LEVELS OF RESPONSIBILITY TO THE PARENT OR LEGAL GUARDIAN,
18 STUDENT, AND SCHOOL EMPLOYEES.

19 (c) A TREATMENT PLAN SHALL BE EFFECTIVE ONLY FOR THE
20 SCHOOL YEAR IN WHICH IT IS APPROVED. THE PUBLIC SCHOOL SHALL
21 APPROVE A NEW TREATMENT PLAN FOR EACH SCHOOL YEAR SO LONG AS
22 THE PLAN MEETS THE CONDITIONS SPECIFIED IN PARAGRAPH (b) OF THIS
23 SUBSECTION (4). THE PARENT OR LEGAL GUARDIAN SHALL SUBMIT A NEW
24 TREATMENT PLAN ANNUALLY OR MORE OFTEN IF CHANGES OCCUR IN THE
25 STUDENT'S HEALTH OR PRESCRIBED TREATMENT.

26 (5) IF THE PROVISIONS OF THIS SECTION ARE MET, A SCHOOL,
27 SCHOOL DISTRICT, SCHOOL DISTRICT DIRECTOR, OR SCHOOL OR SCHOOL
28 DISTRICT EMPLOYEE OR A VOLUNTEER NOT OTHERWISE PROVIDED FOR
29 UNDER SECTION 13-21-108, C.R.S., SHALL NOT BE LIABLE IN A SUIT FOR
30 DAMAGES AS A RESULT OF AN ACT OR OMISSION RELATED TO A STUDENT'S
31 OWN USE OF THE STUDENT'S EPINEPHRINE AUTO-INJECTOR OR ANY OTHER
32 MEDICATION CONTAINED IN AN APPROVED TREATMENT PLAN UNLESS THE
33 DAMAGES WERE CAUSED BY WILLFUL OR WANTON CONDUCT OR
34 DISREGARD OF THE CRITERIA OF THE TREATMENT PLAN.

35 (6) THE STATE BOARD OF EDUCATION, WITH ASSISTANCE FROM THE

1 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, MAY PROMULGATE
2 RULES FOR TREATMENT PLANS FOR THE SELF-ADMINISTRATION OF
3 MEDICATIONS PURSUANT TO THIS SECTION."

4 Page 9, line 3, strike "**required -**" and substitute "**required.**";

5 line 4, strike "**epipens required.**".

6 Page 10, line 6, strike "SECTION 22-2-135 (3) (a)" and substitute "SECTION
7 22-2-135 (3) (b), C.R.S.";

8 strike line 7.

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