

AN ACT

relating to policies of school districts and open-enrollment charter schools for the care of certain students at risk for anaphylaxis.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 38, Education Code, is amended by adding Section 38.0151 to read as follows:

Sec. 38.0151. POLICIES FOR CARE OF CERTAIN STUDENTS AT RISK FOR ANAPHYLAXIS. (a) The board of trustees of each school district and the governing body or an appropriate officer of each open-enrollment charter school shall adopt and administer a policy for the care of students with a diagnosed food allergy at risk for anaphylaxis based on guidelines developed by the commissioner of state health services in consultation with an ad hoc committee appointed by the commissioner of state health services.

(b) A school district or open-enrollment charter school that implemented a policy for the care of students with a diagnosed food allergy at risk for anaphylaxis before the development of the guidelines described by Subsection (a) shall review the policy and revise the policy as necessary to ensure the policy is consistent with the guidelines.

(b-1) Not later than December 1, 2011, the commissioner of state health services shall appoint members to an ad hoc committee to consult with the commissioner of state health services on

1 developing guidelines for the care of students with a diagnosed
2 food allergy at risk for anaphylaxis. The committee shall be
3 composed as follows:

4 (1) not more than one representative from each of the
5 following entities:

6 (A) the Department of State Health Services;

7 (B) the Food Allergy Initiative;

8 (C) the Food Allergy & Anaphylaxis Network; and

9 (D) the Texas School Nurses Organization;

10 (2) one principal of a public elementary school campus
11 at which one or more students with a diagnosed food allergy at risk
12 for anaphylaxis are enrolled;

13 (3) one classroom teacher employed at a public
14 elementary school campus at which one or more students with a
15 diagnosed food allergy at risk for anaphylaxis are enrolled;

16 (4) one member each of the governing body of a school
17 district and open-enrollment charter school;

18 (5) one superintendent of an independent school
19 district;

20 (6) not more than one physician member of the Texas
21 chapter of the American Academy of Allergy, Asthma & Immunology;
22 and

23 (7) at least two parents of public school students
24 with a diagnosed food allergy at risk for anaphylaxis.

25 (b-2) Not later than May 1, 2012, the commissioner of state
26 health services shall, in consultation with the ad hoc committee
27 established under this section, develop guidelines for the care of

1 students with a diagnosed food allergy at risk for anaphylaxis.

2 (b-3) Section 2110.005, Government Code, does not apply to
3 the ad hoc committee appointed under Subsection (b-1).

4 (b-4) Subsections (b-1), (b-2), and (b-3) and this
5 subsection expire June 1, 2012.

6 (c) The guidelines described by Subsection (a) may not:

7 (1) require a school district or open-enrollment
8 charter school to purchase prescription anaphylaxis medication,
9 such as epinephrine, or require any other expenditure that would
10 result in a negative fiscal impact on the district or charter
11 school; or

12 (2) require the personnel of a district or charter
13 school to administer anaphylaxis medication, such as epinephrine,
14 to a student unless the anaphylaxis medication is prescribed for
15 that student.

16 (d) This section does not:

17 (1) waive any liability or immunity of a governmental
18 entity or its officers or employees; or

19 (2) create any liability for or a cause of action
20 against a governmental entity or its officers or employees.

21 (e) The agency shall post the guidelines developed by the
22 commissioner of state health services under this section on the
23 agency's website with any other information relating to students
24 with special health needs.

25 SECTION 2. Not later than August 1, 2012, the board of
26 trustees of each school district and the governing body or an
27 appropriate officer of each open-enrollment charter school shall

1 implement the policy for the care of students with a diagnosed food
2 allergy at risk for anaphylaxis as required by Section 38.0151,
3 Education Code, as added by this Act.

4 SECTION 3. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 27 passed the Senate on
April 5, 2011, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

I hereby certify that S.B. No. 27 passed the House on
May 19, 2011, by the following vote: Yeas 146, Nays 2, one
present not voting.

Chief Clerk of the House

Approved:

Date

Governor