

1-1 By: Zaffirini, et al. S.B. No. 27
1-2 (In the Senate - Filed November 8, 2010; January 31, 2011,
1-3 read first time and referred to Committee on Education;
1-4 March 31, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 0; March 31, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 27 By: Patrick

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to policies of school districts and open-enrollment
1-11 charter schools for the care of certain students at risk for
1-12 anaphylaxis.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subchapter A, Chapter 38, Education Code, is
1-15 amended by adding Section 38.0151 to read as follows:

1-16 Sec. 38.0151. POLICIES FOR CARE OF CERTAIN STUDENTS AT
1-17 RISK FOR ANAPHYLAXIS. (a) The board of trustees of each school
1-18 district and the governing body or an appropriate officer of each
1-19 open-enrollment charter school shall adopt and administer a policy
1-20 for the care of students with a diagnosed food allergy at risk for
1-21 anaphylaxis based on guidelines developed by the commissioner of
1-22 state health services in consultation with an ad hoc committee
1-23 appointed by the commissioner of state health services.

1-24 (b) A school district or open-enrollment charter school
1-25 that implemented a policy for the care of students with a diagnosed
1-26 food allergy at risk for anaphylaxis before the development of the
1-27 guidelines described by Subsection (a) shall review the policy and
1-28 revise the policy as necessary to ensure the policy is consistent
1-29 with the guidelines.

1-30 (b-1) Not later than December 1, 2011, the commissioner of
1-31 state health services shall appoint members to an ad hoc committee
1-32 to consult with the commissioner of state health services on
1-33 developing guidelines for the care of students with a diagnosed
1-34 food allergy at risk for anaphylaxis. The committee shall be
1-35 composed as follows:

1-36 (1) not more than one representative from each of the
1-37 following entities:

1-38 (A) the Department of State Health Services;

1-39 (B) the Food Allergy Initiative;

1-40 (C) the Food Allergy & Anaphylaxis Network; and

1-41 (D) the Texas School Nurses Organization;

1-42 (2) one principal of a public elementary school campus
1-43 at which one or more students with a diagnosed food allergy at risk
1-44 for anaphylaxis are enrolled;

1-45 (3) one classroom teacher employed at a public
1-46 elementary school campus at which one or more students with a
1-47 diagnosed food allergy at risk for anaphylaxis are enrolled;

1-48 (4) one member each of the governing body of a school
1-49 district and open-enrollment charter school;

1-50 (5) one superintendent of an independent school
1-51 district;

1-52 (6) not more than one physician member of the Texas
1-53 chapter of the American Academy of Allergy, Asthma & Immunology;
1-54 and

1-55 (7) at least two parents of public school students
1-56 with a diagnosed food allergy at risk for anaphylaxis.

1-57 (b-2) Not later than May 1, 2012, the commissioner of state
1-58 health services shall, in consultation with the ad hoc committee
1-59 established under this section, develop guidelines for the care of
1-60 students with a diagnosed food allergy at risk for anaphylaxis.

1-61 (b-3) Section 2110.005, Government Code, does not apply to
1-62 the ad hoc committee appointed under Subsection (b-1).

1-63 (b-4) Subsections (b-1), (b-2), and (b-3) and this

2-1 subsection expire June 1, 2012.
2-2 (c) The guidelines described by Subsection (a) may not:
2-3 (1) require a school district or open-enrollment
2-4 charter school to purchase prescription anaphylaxis medication,
2-5 such as epinephrine, or require any other expenditure that would
2-6 result in a negative fiscal impact on the district or charter
2-7 school; or
2-8 (2) require the personnel of a district or charter
2-9 school to administer anaphylaxis medication, such as epinephrine,
2-10 to a student unless the anaphylaxis medication is prescribed for
2-11 that student.
2-12 (d) This section does not:
2-13 (1) waive any liability or immunity of a governmental
2-14 entity or its officers or employees; or
2-15 (2) create any liability for or a cause of action
2-16 against a governmental entity or its officers or employees.
2-17 (e) The agency shall post the guidelines developed by the
2-18 commissioner of state health services under this section on the
2-19 agency's website with any other information relating to students
2-20 with special health needs.
2-21 SECTION 2. Not later than August 1, 2012, the board of
2-22 trustees of each school district and the governing body or an
2-23 appropriate officer of each open-enrollment charter school shall
2-24 implement the policy for the care of students with a diagnosed food
2-25 allergy at risk for anaphylaxis as required by Section 38.0151,
2-26 Education Code, as added by this Act.
2-27 SECTION 3. This Act takes effect immediately if it receives
2-28 a vote of two-thirds of all the members elected to each house, as
2-29 provided by Section 39, Article III, Texas Constitution. If this
2-30 Act does not receive the vote necessary for immediate effect, this
2-31 Act takes effect September 1, 2011.

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