
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair

2015 - 2016 Regular

Bill No: SB 1258
Author: Huff
Version: March 29, 2016
Urgency: No
Consultant: Lynn Lorber
Hearing Date: April 13, 2016
Fiscal: Yes

Subject: Pupil health: food allergies: local educational agency policy

SUMMARY

This bill requires each school district, county office of education, and charter school to develop a comprehensive policy to protect students with food allergies.

BACKGROUND

Existing law:

- 1) Requires local educational agencies (LEAs) to provide emergency epinephrine auto-injectors to school nurses or trained personnel who have volunteered, and authorizes school nurses or trained personnel to use the epinephrine auto-injectors to provide emergency medical aid to a person suffering from an anaphylactic reaction. (Education Code § 49414)
- 2) Authorizes students to carry and self-administer prescribed inhaled asthma or auto-injectable epinephrine medication while at school. (EC § 49423 and § 49423.1)
- 3) Authorizes, in the absence of a credentialed school nurse or other licensed nurse onsite at the school, non-medical school personnel to administer medication to a pupil in an emergency, after receiving specified training:
 - a) Glucagon may be administered to students with diabetes suffering from severe hypoglycemia. (EC § 49414.5)
 - b) Emergency anti-seizure medication may be administered to students with epilepsy suffering from seizures. (EC § 49414.7)

ANALYSIS

This bill requires each school district, county office of education, and charter school to develop a comprehensive policy to protect students with food allergies. Specifically, this bill:

- 1) Requires each school district, county office of education, and charter school to develop a comprehensive policy to protect students with food allergies.

- 2) Requires the policy to include, at a minimum, protocols for students with food allergies that pertain to all of the following:
 - a) School stocking of medication, including storage of medication in classrooms.
 - b) School parties.
 - c) Lunch time, including seating arrangements.
 - d) Food served by the local educational agency.
 - e) After school events.
 - f) Field trips.
 - g) Bullying.
 - h) Recess.
 - i) Teacher and employee training.
- 3) Requires a local educational agency (LEA) to create the policy in coordination with, at a minimum, all of the following individuals:
 - a) A LEA or schoolsite nurse, or if there is no LEA or schoolsite nurse, the LEA or schoolsite's designated health personnel.
 - b) A parent of a student with a food allergy.
 - c) An ad hoc parent.
 - d) A director of food services.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "The prevalence of life threatening allergies today is growing and at an alarming rate. The Centers for Disease Control reports an increase of 50 percent from 1997-2011. In 2014, recognizing the importance of this new and emerging life threatening health issue, the Legislature acted in a bi-partisan manner passing SB 1266 requiring extra epinephrine injectors be on hand in public schools in case of emergencies. After my work on SB 1266, it became apparent that schools are lacking in policies and direction on how to accommodate children with this condition. Whether it be lunch hour seating, field trips, school parties, storage of medication, or bullying, there seems to be no comprehensive approach. Many schools have no policies at all leaving parents and teachers in a predicament on how to ensure children are safe during school hours. The lack of consistency on this issue also leaves schools open for liability concerns."

2) **Existing policies.** According to the California School Boards Association (CSBA), approximately 1/3 of school districts currently have a food allergy policy in place. It is unclear how many county offices of education and charter schools have adopted a food allergy policy. The CSBA provides a sample policy related to food allergies; it does not appear that the sample policy includes every component that is required by this bill, such as the stocking or storage of medication, or information specifically addressing recess, field trips or after school events.

3) **Are schools required to accommodate students with food allergies?** Federal law *requires* schools to provide substitutions or modifications in the National School Lunch Program and School Breakfast Program for students whose disabilities restrict their diets (e.g. the food allergy or food intolerance substantially limits one or more major life activities). Schools are *authorized* to provide special meals and/or accommodations for students who do not have a disability that requires a restricted diet but who do have a food intolerance or other medication condition.

The CDE has issued guidelines for accommodating students, with and without disabilities, with special dietary needs:

<http://www.cde.ca.gov/ls/nu/sn/mbcnp102015.asp>

4) **Technical amendments.** This bill applies to each school district, county office of education, and charter school. **Staff recommends an amendment** to define “local educational agency” as a school district, county office of education, and charter school, and consistently use the term “local educational agency” throughout the bill.

This bill requires each school district, county office of education, and charter school to develop a policy but does not specify a date by which the policies are to be in place. **Staff recommends an amendment** to specify that local educational agencies are to have a food allergy policy developed and in place beginning with the 2017-18 school year.

5) **Heard in the Senate Health Committee.** This bill was heard in the Senate Health Committee on April 6, where it was passed on consent, with a vote of 9-0.

6) **Prior legislation.** AB 2287 (Pan, 2014) authorized, but did not require, a school district or county superintendent of schools to include information on the availability of gluten-free meals in the free or reduced price meal application packet or notification of eligibility for the free and reduced price meal program. AB 2287 was held in the Senate Rules Committee because of its permissive nature, and was eventually referred to this Committee, two days before the last hearing of the 2013-14 Legislative Session. Therefore, AB 2287 was never heard by this Committee.

SUPPORT

California State PTA
Food Allergy Research & Education
Murrieta Valley Unified School District, Student Support Services

OPPOSITION

None received.

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