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Prior Written Notice
A SPECIAL EDUCATION NEWSLETTER

COUNSEL TO BOARDS OF EDUCATION THROUGHOUT OHIO

AUGUST 18, 2014

Recent Updates Regarding Epi-Pens and Diabetes Care

Recent legislation has modified the distribution of medications to students with severe allergies and students with diabetes. H.B. 296 creates new provisions related to schools districts maintaining epinephrine auto-injectors ("Epi-Pens") at school. H.B. 264 creates a wide range of new requirements related to diabetes care and management of students while at school.

H.B. 296 (Epi-Pens): Boards of education may procure Epi-Pens to have on the school premises for use in emergency allergy situations, including anaphylaxis.

If a school district elects to procure Epi-Pens, the superintendent must adopt a policy governing the maintenance and use of the Epi-Pens after consultation with a licensed health professional who is authorized to prescribe medications. The policy must:

- Include protocols from the prescriber specifying the administration and dosage of the Epi-Pens;
- Identify one or more locations in each school in which the Epi-Pens are stored (statute encourages districts to maintain two Epi-Pens at each school; please note there are two different dosage sizes for Epi-Pens depending upon the size of the person to whom it is going to be administered);
- Specify the conditions under which an Epi-Pens must be stored, replaced, and disposed;
- Specify which district employees, in addition to the school nurse or athletic trainer, who may access and use the Epi-Pens in an emergency situation, and what training such employees must complete;
- Identify the emergency situations, including an individual exhibiting signs of anaphylaxis, in which a school nurse, athletic trainer, or authorized district employee may access and use an Epi-Pen;
- Specify that assistance from an emergency medical services provider must be requested immediately after an Epi-Pen is used;
- Specify the individuals, in addition to students, school employees, or school visitors, to whom an Epi-Pen may be administered in an emergency.

The district may accept donations of Epi-Pens from wholesale distributors or manufacturers, and may accept donations of money from any person to purchase Epi-Pens. If the district elects to procure Epi-Pens, the district must report to ODE each procurement and occurrence in which an Epi-Pens is used from a school's supply.

Are You Back? IDEA Did Not Take A Break While You Were Gone

- If you have been out, review all emails to identify pressing issues
- Make sure no evaluation timelines were triggered while you were out, or are about to be triggered in August
- Ensure that all IEPs and 504 Plans are distributed to students' new teachers – particularly for students who changed buildings this year

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Epi-Pens and Diabetes *continued*

H.B. 264 (Diabetes Care): Boards of education must ensuring that each student enrolled in the district who has diabetes receives appropriate and needed diabetes care in accordance with an order signed by the student's treating physician. Within 14 days after a district receives an order signed by the student's treating physician, the district must inform the student's parent or guardian that the student may be entitled to a Section 504 plan regarding the student's diabetes. Student's diabetes medications must be kept in an easily accessible location.

A student with diabetes must be permitted to attend to his or her own diabetes care and management, in accordance with the student's doctor's order, during regular school hours and school sponsored activities, but only if the student's parent or guardian provides a written request that the student be permitted to do so and the student's doctor has authorized self-care.

A student with diabetes must be permitted to perform diabetes tasks in the classroom or any other area of the school, and is permitted to possess the necessary supplies and equipment to perform diabetes care tasks on the student's person. The district must provide the student with access to a private area to perform diabetes care tasks if the student or the student's parent or guardian makes such a request.

The Board may elect to allow only the school nurse to administer diabetes medications. Please note that if districts do not opt to train staff to administer medications, as described below, districts will need to ensure that a school nurse is available at all times, and plan accordingly for any absences or vacations.

The Board may also choose to train district employees to administer diabetes medication. The training must meet the following requirements:

- The training must be coordinated by a school nurse or a doctor, registered nurse, or licensed practical nurse with expertise in diabetes;
- The training must take place prior to the beginning of each school year, or not later than 14 days after the district receives a doctor's order related to a student with diabetes;
- The school nurse or doctor, registered nurse, or licensed practical nurse who provided the training must provide follow up training and supervision to any employee who receives training.

If a district elects to train staff, each principal must send a written notice to employees that it is seeking employees willing to be trained to provide diabetes care. The notice must describe the task to be performed, state who is providing the training, provide the name of who to contact to get trained, explain that participation in the training is voluntary, and state that if an employee is trained, he or she cannot be penalized by the Board and will not be subject to liability for providing diabetes care.

The Board may also elect to provide training to district employees who supervise a student with diabetes or a bus driver who transports a student with diabetes in the recognition of hypoglycemia and hyperglycemia, and what actions to take in response to such emergencies. Upon completion of the training, the Board then determines whether each trained employee is competent to provide diabetes care.

The Board also has new yearly ODE reporting requirements about the number of diabetic students enrolled in the district and the number of errors associated with the administration of diabetes medications.

Calculating Related Services Minutes:

When preparing Section 7 of a student's IEP, staff should include only the minutes that are actually necessary for implementing the student's IEP. Staff should not write in more or less minutes than necessary to provide a cushion of time.

If service minutes are missed based upon the student's absence for a few days, such minutes do not ordinarily need to be made up, except in the case of a student with an extended absence, in which case the IEP team may need to convene to determine how to deliver services and/or if missed service time needs to be made up. If service minutes are missed based upon staff absence or school closures (such as based upon weather, holidays, or assemblies), such minutes must be made up.

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