

National Association of State Boards of Education

## ➔ Coordinating an Improved Response to Allergic Reactions in School

By Erima Fobbs

Allergic reactions in school settings still threaten the lives of students with alarming frequency and remain an important policy focus for state boards of education (SBEs). Because almost all states now have laws that require or enable schools to preemptively stock medication for students experiencing life-threatening reactions at school, state boards have an opening to influence school allergy preparedness and response.

While many students have known allergies, others experience anaphylaxis—life-threatening reactions to allergens—for the first time during school. Epinephrine is the only treatment for anaphylaxis. According to Food Allergy Research and Action (FARE), “Approximately 20-25 percent of epinephrine administrations in the school setting involve

students or staffers whose allergy was unknown at the time of the event.”

Allergic reactions may occur anywhere in a school, calling for staffwide preparation and response strategies. As a result of mandated reporting of epinephrine administration in its schools, Massachusetts has data that demonstrates that while food causes 43 percent of these reactions, symptoms developed far less frequently in the cafeteria (14 percent) than in the classroom (45 percent).<sup>1</sup> Other locations included the health office, playground/outside/recess, and the gymnasium (9, 7, and 3 percent, respectively). In 92 percent of their cases, epinephrine was administered in the health office.

Having an available stock supply of undesignated epinephrine auto-injectors—devices that are not prescribed to a particular student and that may be used in anaphylactic emergencies—is critical during emergencies

because many students may have no known history of allergy to food, bee stings, latex, and other allergens. They therefore would not have their own prescriptions.

### STATE LEGISLATION

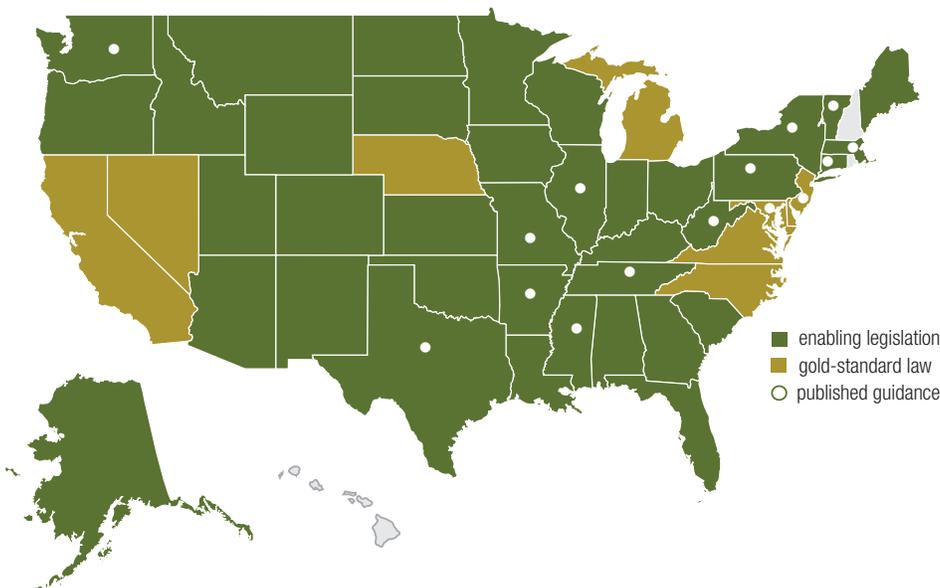
FARE’s Advocacy Action Center reports that all states except Hawaii, New Hampshire, and Rhode Island have school epinephrine laws and regulations in place. Fifteen states have published statewide guidelines for school food allergy management. Nine have gold standard laws requiring schools in their state to stock epinephrine, and 38 have enacted enabling legislation that allows schools to stock it (see map). This represents a 70 percent increase over July 2013, when NASBE published *Anaphylaxis and Schools: Developing Policies for Treating Students with Severe Allergic Reactions*, a guide that identified only 28 states that at the time had authorized schools to maintain a general supply of epinephrine on site.

### FEDERAL REQUIREMENTS

The School Access to Emergency Epinephrine Act, which President Obama signed into law on November 13, 2013, provided an incentive for states to pass legislation allowing schools to keep stocks of epinephrine on hand for use of students or staff who show symptoms of severe allergic reactions. The act also encouraged states to adopt Good Samaritan laws that shield trained school personnel who administer epinephrine from civil liability. Under the act, states that have such laws are given an additional preference when they apply for federal asthma-related grants for child health services.

Other federal laws help protect children at risk of anaphylaxis, such as Section 504 of the Rehabilitation Act of 1973, Individuals with Disabilities Education Act (IDEA), Americans with Disabilities Act (ADA), and US Department of Agriculture (USDA) regulations (7 CFR Part 15b). When a physician diagnoses a child with a food allergy that is potentially life threatening, the condition can be classified as a hidden disability under Section 504.

Most States Require or Enable Schools to Stock Epinephrine



Such a classification may trigger protections under IDEA, which requires school districts to provide a free and appropriate public education to students that have disabilities affecting their ability to learn.<sup>2</sup>

ADA extends Section 504 coverage beyond the public school setting to include private, parochial, religious schools, and day care centers. The USDA regulation requires substitutions or modifications in school meals for students whose disabilities restrict their diet. When considering what regulations and laws apply to a given circumstance, SBEs should turn to their state education attorney for clarity.

### STATE BOARD LEADERSHIP

SBEs can work with state education agencies, departments and boards of health, and boards of pharmacy to accomplish the following:

- comprehensive and coordinated implementation policies and approaches to prevent, manage, and treat allergic reactions in school-based settings;
- school acquisition of stock epinephrine (including reducing barriers preventing clinicians from writing prescriptions for schools and not named individuals; processes and rules for acquisition, storage, and use; and exploration of payment options);
- provision of school health services for students with allergies and asthma; and
- widespread training for staff on how to use epinephrine auto-injectors.

SBEs can also support new legislation to protect individuals administering the epinephrine auto-injector under the Good Samaritan Act, as long as these individuals follow standing orders and protocols and administer the epinephrine in good faith in accordance with state and school district policy.

### NEW JERSEY'S GUIDANCE

New Jersey is an example of a state that requires its schools to stock epinephrine and has given its staff guidance on good-faith administration of it. A March 2015 memo from New Jersey's Department of Education to school administrators detailed provisions

of epinephrine legislation enacted in New Jersey on February 5, 2015, for the 2015-16 school year:

In addition to the current requirements for public school districts and nonpublic schools on the development of policies for emergency administration of epinephrine to students at N.J.S.A. 18A:40-12.5, under P.L.2015, c.13 the policy developed by the district board of education or chief school administrator of a nonpublic school shall:

Require each public and nonpublic school to maintain in a secure but unlocked and easily accessible location a supply of epinephrine auto-injectors that is prescribed under a standing protocol by a licensed physician or an advanced practice nurse and is accessible to the school nurse and trained designees for administration to a student having an anaphylactic reaction; and

Permit the school nurse or trained designee to administer epinephrine via a pre-filled auto-injector mechanism to any student without a known history of anaphylaxis when the nurse or trained designee in good faith believes the student is having an anaphylactic reaction or any student whose parent has not:

- a) provided written authorization for the administration of epinephrine (N.J.S.A. 18A:40-12.5a); b) provided written orders from the physician or advanced practice nurse that the student requires epinephrine for anaphylaxis (N.J.S.A. 18A:40-12.5b); c) received written notice from the board of education (BOE) or nonpublic school chief school administrator that the agencies and their employees or agents have no liability as a result of an injury arising from the administration of epinephrine (N.J.S.A. 18A:40-12.5c); and d) signed a statement releasing the BOE or nonpublic school of liability (N.J.S.A. 18A:40-12.5d).

Finally, N.J.S.A. 18A:40-12.6 is amended to include language that protects licensed athletic trainers who volunteer to administer epinephrine by specifying that in doing so, this does not constitute a violation of the "Athletic Training Licensure Act."

### RESOURCES

Asthma and Allergy Foundation of America, <http://www.aafa.org>.

Kids With Food Allergies—A Division of the Allergy and Asthma Foundation of America, <http://www.kidswithfoodallergies.org>.

CDC Voluntary Guidelines for Managing Allergies in Schools and Early Care and Education Programs, [http://www.cdc.gov/healthyyouth/foodallergies/pdf/13\\_243135\\_A\\_Food\\_Allergy\\_Web\\_508.pdf](http://www.cdc.gov/healthyyouth/foodallergies/pdf/13_243135_A_Food_Allergy_Web_508.pdf).

Food Allergy Research and Education, <http://www.foodallergy.org/advocacy/school-access-to-epinephrine>.

Mylan Specialty Epi-Pen for School Program, <https://www.epipen4schools.com>.

National Association of State Boards of Education. *Anaphylaxis and Schools: Developing Policies for Treating Students with Severe Allergic Reactions* (Alexandria, VA: NASBE, November 2013).

National Association of State Boards of Education Epinephrine Project, <http://www.nasbe.org/project/epinephrine/>.

National Association of School Nurses—Food Allergy and Anaphylaxis Resources <http://www.nasn.org/toolsresources/foodallergyandanaphylaxis>.

National School Boards Association. *Safe at School and Ready to Learn: A Comprehensive Policy Guide for Protecting Students with Life-Threatening Food Allergies* (Alexandria, VA: NSBA, 2012), <https://www.nsba.org/safe-school-and-ready-learn-comprehensive-policy-guide-protecting-students-life-threatening-food>.

Colorado Department of Education. "Stocking Non-Specific Epinephrine Auto-injectors in Colorado Schools" (2014), <http://www.cde.state.co.us/healthandwellness/stockepipenguidelines2014>.

*Erima Fobbs, MPH, CPH, is NASBE's consultant for school health and nutrition. She can be reached at [erima.fobbs@nasbe.org](mailto:erima.fobbs@nasbe.org). NASBE thanks Mylan Specialty, which generously enables NASBE to promote school policy leadership on anaphylaxis and epinephrine to protect students.*

### NOTES

1. Massachusetts Department of Public Health, "Data Health Brief: Epinephrine Administration in Schools, 2009-2010 School Year" (N.d.), <http://www.mass.gov/eohhs/docs/dph/com-health/school/epi-data-health-brief-10.pdf>.

2. The US Department of Education has information about the rights of students with hidden disabilities at [www2.ed.gov/about/offices/list/ocr/docs/hq5269.html](http://www2.ed.gov/about/offices/list/ocr/docs/hq5269.html).