

# HOUSE BILL 78

F1  
SB 95/22 – EHE

(PRE-FILED)

3lr0354  
CF SB 120

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By: **Delegate Palakovich Carr**

Requested: September 1, 2022

Introduced and read first time: January 11, 2023

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Schools – Anaphylactic Food Allergies – Guidelines**

3 FOR the purpose of requiring each county board of education to adopt, implement, and  
4 publish certain guidelines for reducing the risk to students with anaphylactic food  
5 allergies; requiring each public school to develop a system to disclose the major food  
6 allergens contained in the foods served in the school; requiring the principal of a  
7 certain public school to implement certain strategies and monitor and implement the  
8 guidelines established by the county board; and generally relating to anaphylactic  
9 food allergies and public schools.

10 BY repealing and reenacting, with amendments,  
11 Article – Education  
12 Section 7–426.1  
13 Annotated Code of Maryland  
14 (2022 Replacement Volume)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
16 That the Laws of Maryland read as follows:

17 **Article – Education**

18 7–426.1.

19 (a) (1) In this section the following words have the meanings indicated.

20 (2) “Anaphylactic allergy” means a food allergy that causes a severe,  
21 systematic reaction resulting in circulatory collapse or shock that may be fatal.

22 (3) “Employee” means an individual who is employed by a local board of  
23 education, including part–time employees, certified and noncertified substitute teachers

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 employed by the local board of education for at least 7 days each school year, maintenance  
2 workers, and administrative staff.

3 **(4) "MAJOR FOOD ALLERGEN" MEANS:**

4 **(I) MILK;**

5 **(II) EGGS;**

6 **(III) FISH;**

7 **(IV) CRUSTACEAN SHELLFISH;**

8 **(V) TREE NUTS;**

9 **(VI) WHEAT;**

10 **(VII) PEANUTS;**

11 **(VIII) SOYBEANS; AND**

12 **(IX) SESAME.**

13 **[(4)] (5)** "Self-administer" means the application or consumption of  
14 medications in a manner prescribed by a health practitioner who is licensed, certified, or  
15 otherwise authorized under the Health Occupations Article to prescribe medications and  
16 medication delivery devices by the individual for whom the medication was prescribed  
17 without additional assistance or direction.

18 **(B) (1) EACH COUNTY BOARD SHALL ADOPT AND IMPLEMENT**  
19 **GUIDELINES IN ACCORDANCE WITH THE MARYLAND STATE SCHOOL HEALTH**  
20 **SERVICE GUIDELINES TO REDUCE THE RISK OF EXPOSURE TO ANAPHYLACTIC**  
21 **CAUSATIVE AGENTS IN CLASSROOMS AND COMMON AREAS.**

22 **(2) AT A MINIMUM, THE GUIDELINES UNDER PARAGRAPH (1) OF THIS**  
23 **SUBSECTION SHALL:**

24 **(I) IF APPROPRIATE, IN ACCORDANCE WITH THE COLLECTIVE**  
25 **BARGAINING AGREEMENT, DESCRIBE THE ROLES AND RESPONSIBILITIES OF**  
26 **PARENTS, ADMINISTRATORS, HEALTH CARE STAFF, EDUCATORS, FOOD SERVICE**  
27 **EMPLOYEES, AND OPERATIONS STAFF;**

28 **(II) EMPHASIZE COMMUNICATION AND COLLABORATION**  
29 **BETWEEN SCHOOL STAFF, STUDENTS, AND PARENTS, INCLUDING:**

1                   **1. NOTIFICATION OF A STUDENT’S ANAPHYLACTIC**  
2 **ALLERGY TO EDUCATORS AND OTHER SCHOOL STAFF WHO COME INTO CONTACT**  
3 **WITH THE STUDENT; AND**

4                   **2. NOTIFICATION TO PARENTS AND STUDENTS ABOUT**  
5 **MEASURES THE SCHOOL IS TAKING TO AVOID EXPOSURE TO ALLERGENS;**

6                   **(III) PROVIDE INFORMATION TO PARENTS ABOUT 504 PLANS**  
7 **AND THEIR APPLICABILITY TO STUDENTS WITH ANAPHYLACTIC ALLERGIES;**

8                   **(IV) DESIGNATE SCHOOL AREAS THAT ARE FOOD-FREE;**

9                   **(V) DESIGNATE TABLES IN THE CAFETERIA TO BE USED BY**  
10 **STUDENTS WITH ANAPHYLACTIC ALLERGIES THAT ARE FREE OF FOODS CONTAINING**  
11 **THE MAJOR FOOD ALLERGENS OF THE STUDENT USERS;**

12                   **(VI) PROVIDE GUIDELINES FOR WHO MAY USE OR ACCOMPANY**  
13 **STUDENTS USING TABLES FREE OF MAJOR FOOD ALLERGENS;**

14                   **(VII) PROMOTE HANDWASHING AND OTHER METHODS FOR THE**  
15 **SAFE HANDLING OF FOOD;**

16                   **(VIII) PROVIDE GUIDELINES FOR THE HANDLING OF FOOD ON**  
17 **SCHOOL-PROVIDED TRANSPORTATION;**

18                   **(IX) PROVIDE GUIDELINES DESIGNED TO ENSURE THAT**  
19 **STUDENTS WITH ANAPHYLACTIC ALLERGIES ARE ABLE TO PARTICIPATE IN SCHOOL**  
20 **EVENTS, AFTER-SCHOOL ACTIVITIES, AND FIELD TRIPS;**

21                   **(X) PROVIDE GUIDANCE FOR FOOD DISTRIBUTION BY OUTSIDE**  
22 **PUBLIC OR PRIVATE INDIVIDUALS, GROUPS, AND ENTITIES HOLDING FUNCTIONS ON**  
23 **SCHOOL GROUNDS; AND**

24                   **(XI) ESTABLISH STRATEGIES TO REDUCE BULLYING AND**  
25 **HARASSMENT OF STUDENTS WITH ANAPHYLACTIC ALLERGIES.**

26                   **(3) EACH COUNTY BOARD SHALL PUBLISH THE GUIDELINES**  
27 **ADOPTED UNDER THIS SUBSECTION ON ITS WEBSITE AND BY ANY OTHER METHOD**  
28 **DETERMINED APPROPRIATE BY THE BOARD.**

29                   **(C) (1) EACH PUBLIC SCHOOL SHALL DEVELOP A SYSTEM TO DISCLOSE,**  
30 **WITHIN A REASONABLE TIME IN ADVANCE OF SERVICE, THE FOODS SERVED IN THE**  
31 **SCHOOL AND THE MAJOR FOOD ALLERGENS CONTAINED IN THE FOOD.**

1           **(2) A DISCLOSURE MADE UNDER THIS SUBSECTION MAY BE BY:**

2                   **(I) DIRECT ELECTRONIC OR PHYSICAL MESSAGES SENT TO THE**  
3 **SCHOOL COMMUNITY; OR**

4                   **(II) POSTING ON THE INTERNET.**

5           **[(b)] (D)** In consultation with a school health professional, the principal of a  
6 public school that has a child attending the school who has been identified to the school as  
7 having an anaphylactic allergy shall:

8                   (1) Monitor **AND IMPLEMENT, AS NECESSARY**, the strategies developed  
9 in accordance with the Maryland State school health service guidelines to reduce the risk  
10 of exposure to anaphylactic causative agents in classrooms and common areas;

11                   (2) **[Designate a peanut- and tree nut-free table in the cafeteria]**  
12 **MONITOR AND IMPLEMENT THE GUIDELINES ESTABLISHED BY THE COUNTY BOARD**  
13 **UNDER SUBSECTION (B) OF THIS SECTION; and**

14                   (3) Establish procedures for self-administration of medication by the child  
15 if the child is determined to be capable of and responsible for self-administration by the  
16 principal, parent or guardian of the child, and physician of the child.

17           **[(c)] (E)** A school may revoke the authority of a child to self-administer  
18 medication if the child endangers himself or herself or another child through misuse of the  
19 medication.

20           **[(d)] (F)** Except for any willful or grossly negligent act, an employee who  
21 responds in good faith to the anaphylactic reaction of a child in accordance with this section  
22 is immune from civil liability for any act or omission in the course of responding to the  
23 reaction.

24           **[(e)] (G)** If a child has authority to self-administer medication in accordance  
25 with subsection **[(b)(3)] (D)(3)** of this section, a local county board may require the parent  
26 or guardian of the child to sign a statement acknowledging that the school or its employee  
27 incurs no liability as a result of injury arising from self-administration by the child.

28           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
29 1, 2023.