

Chapter 770

(House Bill 78)

AN ACT concerning

Public Schools – Anaphylactic Food Allergies – Guidelines

FOR the purpose of requiring each county board of education, before the start of a certain school year, to adopt, implement, and publish certain guidelines for reducing the risk to students with anaphylactic food allergies; requiring each public school to develop a system to disclose the major food allergens contained in the foods served in the school; requiring the principal of a certain public school to implement certain strategies and monitor and implement the guidelines established by the county board; requiring the State Department of Education and the Maryland Department of Health jointly to update certain anaphylactic food guidelines on or before a certain date; requiring each county board to make a good faith effort to adopt certain guidelines before the start of a certain school year; and generally relating to anaphylactic food allergies and public schools.

BY repealing and reenacting, with amendments,

Article – Education

Section 7–426.1

Annotated Code of Maryland

(2022 Replacement Volume)

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

Article – Education

7–426.1.

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

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

(3) “Employee” means an individual who is employed by a local board of education, including part–time employees, certified and noncertified substitute teachers employed by the local board of education for at least 7 days each school year, maintenance workers, and administrative staff.

(4) **“MAJOR FOOD ALLERGEN” MEANS:**

(i) **MILK;**

- (II) EGGS;
- (III) FISH;
- (IV) CRUSTACEAN SHELLFISH;
- (V) TREE NUTS;
- (VI) WHEAT;
- (VII) PEANUTS;
- (VIII) SOYBEANS; AND
- (IX) SESAME.

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

(B) (1) ~~EACH~~ BEFORE THE START OF THE 2024–2025 SCHOOL YEAR, EACH COUNTY BOARD SHALL ADOPT AND IMPLEMENT GUIDELINES IN ACCORDANCE WITH THE MARYLAND STATE SCHOOL HEALTH SERVICE GUIDELINES TO REDUCE THE RISK OF EXPOSURE TO ANAPHYLACTIC CAUSATIVE AGENTS MAJOR FOOD ALLERGENS IN CLASSROOMS AND COMMON AREAS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) (1) ~~EACH~~ SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, EACH PUBLIC SCHOOL SHALL DEVELOP A SYSTEM TO DISCLOSE, WITHIN A REASONABLE TIME IN ADVANCE OF SERVICE, THE FOODS SERVED IN THE SCHOOL AND THE MAJOR FOOD ALLERGENS CONTAINED IN THE FOOD.

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

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

(II) POSTING ON THE INTERNET.

(3) (I) BEFORE JANUARY 1, 2026, A PUBLIC SCHOOL MAY NOT BE REQUIRED TO DISPOSE OF A FOOD PRODUCT MADE OR PURCHASED BEFORE JANUARY 1, 2023, THAT WAS LABELED IN ACCORDANCE WITH FEDERAL LAW BEFORE THE EFFECTIVE DATE OF THE REQUIREMENT THAT SESAME BE LISTED ON THE FOOD PRODUCT LABEL UNDER THE FEDERAL FOOD ALLERGY SAFETY, TREATMENT, EDUCATION, AND RESEARCH ACT OF 2021.

(II) IF A PUBLIC SCHOOL IS USING A FOOD PRODUCT THAT WAS MADE OR PURCHASED BEFORE JANUARY 1, 2023, THE SCHOOL SHALL DISCLOSE THAT THE FOOD MAY CONTAIN SESAME.

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

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

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

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

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

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

[(e)] (G) If a child has authority to self-administer medication in accordance with subsection [(b)(3)] (D)(3) of this section, a local county board may require the parent

or guardian of the child to sign a statement acknowledging that the school or its employee incurs no liability as a result of injury arising from self-administration by the child.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On or before August 1, 2023, the State Department of Education and the Maryland Department of Health jointly shall update the Maryland State school health service guidelines to reduce the risk of exposure to anaphylactic causative agents in classrooms and common areas described under § 7-426.1 of the Education Article.

(b) Before the start of the 2023-2024 school year, each county board of education, including the Baltimore City Board of School Commissioners, shall make a good faith effort to adopt and implement guidelines in accordance with § 7-426.1 of the Education Article, as enacted by Section 1 of this Act, and following the Maryland State school health service guidelines updated under subsection (a) of this section.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ June 1, 2023.

Approved by the Governor, May 16, 2023.