



COMMONWEALTH of VIRGINIA
Department of Education

May 15, 2015

TO: Division Superintendents

FROM: Steven R. Staples, Superintendent of Public Instruction

SUBJECT: Auto-injectable Epinephrine in Private Schools for Students with Disabilities

With the passage of HB 2216, which addresses the possession and administration of epinephrine in private schools for students with disabilities, and reads, in part, “[b]y the beginning of the 2016-2017 school year, the Board shall promulgate regulations for the possession and administration of epinephrine in every school for students with disabilities to be administered by any employee of the school who is authorized by a prescriber and trained in the administration of epinephrine to any student believed to be having an anaphylactic reaction,” the following is provided to further clarify the contents of the Virginia Department of Education’s (VDOE) memorandum, dated July 8, 2014, in which this issue was initially addressed. Since the regulations are to be promulgated according to the procedures of the Administrative Process Act, it is estimated that it will be a year or more before they are effective. However, the civil liability protection and authority of private school employees to be trained in and administer undesignated epinephrine will take effect on July 1, 2015; there are no legal or regulatory barriers to doing so after July 1, 2015.

HB 2216 also amended the definition of a person rendering emergency care, obstetrical services exempt from liability to include an individual who “*is an employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or an employee of a private school that complies with the accreditation requirements set forth in § 22.1-19 and is accredited by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. Whenever any employee is covered by the immunity granted in this subdivision, the school shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from such administration or assistance.*” As such, local educational agency personnel are reminded that they need to ensure that private schools where they place students afford the protection of undesignated epinephrine and private school administrators should view this legislation as removing the barriers that previously kept them from providing this protection.

In preparation for the implementation of the forthcoming regulations, we continue to recommend, as outlined in our July 8, 2014, memorandum, that contractual agreements to provide educational services to publicly-placed students include provisions that private schools are required to maintain undesignated auto-injectable epinephrine for emergency use. Assistance in obtaining required standing orders for treatment of anaphylaxis and prescriptions to order auto-injectable epinephrine is available through: (i) placing school divisions; (ii) local health department directors; (iii) local practitioners; and (iv) the Virginia Chapter of the American Academy of Pediatrics.

It is further recommended that each school have a minimum of two single doses of 0.15 mg epinephrine for students weighing 66 pounds or less and a minimum of two single doses of 0.3 mg epinephrine for students weighing greater than 66 pounds. *Guidelines for Recognition and Treatment of Anaphylaxis* in a school setting, including a sample policy development template and standing orders; as well as other useful resources related to anaphylaxis and epinephrine, are available on the VDOE's Web site at:

http://www.doe.virginia.gov/support/health_medical/anaphylaxis_epinephrine/.

If you have questions, please contact the Division of Special Education and Student Services: Tia Campbell, school health specialist, at Tia.Campbell@doe.virginia.gov; telephone (804) 786-8671 or Judith McKinney, monitoring specialist for private schools, at Judith.Mckinney@doe.virginia.gov; telephone (804) 225-2725.

SRS/hm