



**Texas Association of School Boards**

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## **What do School Districts Need to Know About Epinephrine Auto-Injectors?<sup>1</sup>**

An epinephrine auto-injector is a medical device that injects epinephrine (adrenaline) to treat anaphylaxis. A person experiencing anaphylaxis may have a sudden and severe allergic reaction that can occur within minutes of exposure to an allergen. Anaphylaxis can be life-threatening if not treated with immediacy. Prompt administration of an epinephrine auto-injector (e.g., an EpiPen) can save the life of a person experiencing anaphylaxis.

In 2015, the Texas Legislature authorized school districts to adopt a policy to maintain unassigned (not prescribed to a specific patient) epinephrine auto-injectors for emergency administration. Districts with this epinephrine policy may authorize trained personnel or school volunteers to administer an unassigned epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis. Recently, the Department of State Health Services (DSHS) adopted new regulations that districts must comply with in order to administer unassigned epinephrine auto-injectors. These regulations became effective August 1, 2018. Districts should be aware that the new requirements may conflict with any policy for epinephrine administration that was adopted before the regulations were adopted. If your district is interested in updating or adopting an epinephrine auto-injector policy, TASB Policy Service can provide sample language that complies with the new rules.

### **The District Epinephrine Policy**

Texas Education Code section 38.208 authorizes a district to adopt and implement a policy regarding the maintenance, administration, and disposal of epinephrine auto-injectors at each campus in the district. If the district has such a policy, it must authorize trained school personnel and/or volunteers to administer epinephrine on a school campus. The district may choose whether to apply its policy to administration of epinephrine at an off-campus school event or while in transit to or from a school event. Tex. Educ. Code § 38.208(a)-(b).

### ***How broad?***

Districts must first decide how broadly they will authorize the administration of unassigned epinephrine. Will epinephrine be carried to every field trip? Will it be transported to out-of-town football games? And what about the school-sponsored transportation to those locations?

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<sup>1</sup> An electronic version of this document is available on TASB School Law eSource at [tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Students/documents/what-sch-dists-need-to-know-about-epinephrine-auto.pdf](http://tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Students/documents/what-sch-dists-need-to-know-about-epinephrine-auto.pdf).

Because of the expense of auto-injectors like the EpiPen and the availability of trained and authorized staff, districts should make those decisions carefully.

### ***All hours the campus is open***

Each campus with a policy authorizing administration of unassigned epinephrine on campus must have one or more authorized and trained school personnel or school volunteers available during all the hours the campus is open. DSHS regulations define “all hours the campus is open” as “[a]t a minimum, during regular on-campus school hours, and when school personnel are physically on site for school-sponsored activities.” Prior to the rule, the TASB sample epinephrine policy language adopted by many districts at Policy FFAC(LOCAL) defined “all the hours the campus is open” as “the first hour of instruction through the last hour of instruction.” Districts with that language in their policy should follow the new definition of “all the hours the campus is open” and not the conflicting policy language. Beginning August 1, 2018, the effective date of the new rules, the district should ensure that at least one authorized and trained school personnel or volunteer is available to cover all hours the campus is open, including any time a school-sponsored activity is occurring on the campus. 25 Tex. Admin. Code § 37.603(1).

Certain activities are clearly school-sponsored activities, such as a high school basketball game, an after-school spirit assembly, or a school fundraiser. In other circumstances, the activity may be sponsored by a third party under the district’s Policy GKD(LOCAL). Occasionally, circumstances may arise that make it hard to determine if the activity is school-sponsored. To avoid a situation where no trained staff members are available to administer epinephrine during a school-sponsored activity, a district may choose to train and authorize every employee in the district on the administration of epinephrine auto-injectors. Alternatively, a district may choose to create a list of key personnel that are likely to be available at these times and require training for those positions.

### ***Notice to Parents***

Before the district’s epinephrine policy can be implemented, the district must provide notice of the policy to the parents and guardians of each student at the school. This notice is required to be distributed annually. See TASB Policy FFAC(EXHIBIT D) for a sample notice of a district’s epinephrine policy. If the district discontinues its epinephrine policy, it must provide a notice of discontinuation to parents and guardians of each student within 15 calendar days. Tex. Educ. Code § 38.212; 25 Tex. Admin. Code § 37.609.

### **Employee or Volunteer Assignment and Training**

Prior to the DSHS regulations, the superintendent was delegated authority in many local policies to designate who was trained and authorized to administer epinephrine. Under the new rules, the superintendent is tasked with designating school personnel to coordinate and manage the district’s epinephrine program. At each school campus with an epinephrine policy, the principal may assign or request volunteers for the program. Once trained and authorized,

the school employee or volunteer must submit a signed statement indicating that he or she agrees to perform the service of administering an unassigned epinephrine auto-injector to a student or individual that may be experiencing anaphylaxis. As described in more detail below in the section on immunity, a person who in good faith administers or fails to administer epinephrine in an emergency will not be held liable. The signed statement is available through TASB Policy FFAC(EXHIBIT F). 25 Tex. Admin. Code §§ 37.605(b)-(c), .606.

The new rules also include training requirements for authorized employees and volunteers. The rule requires an initial training and an annual refresher training. Both trainings should include a hands-on demonstration. District training must be consistent with the most recent [Voluntary Guidelines for Managing Food Allergies in Schools and Early Care and Education Programs](#) published by the federal Centers for Disease Control and Prevention (CDC). Additionally, the district is required to retain records of the training in accordance with the law. Exhibit E of TASB Policy FFAC(EXHIBIT) includes a form that districts may use to track the annual training requirements. 25 Tex. Admin. Code § 37.607.

### **Administering Epinephrine**

The district should follow its local policy on administering prescription medication for students who have a prescribed epinephrine auto-injector available on campus. Additionally, Texas Education Code section 38.015 allows some students at risk of anaphylaxis reactions to possess and self-administer prescription anaphylaxis medicine, including epinephrine auto-injectors, while on school property or at a school-related event or activity. In order for a student to qualify for self-possession and administration of the medication, the student must demonstrate the skill level necessary to self-administer and provide written and signed authorization by a parent and the student's licensed health-care provider. Tex. Educ. Code §§ 38.015, .0151.

A 2014 survey conducted by the EpiPen4Schools program found that over 20% of anaphylaxis reactions at school involved people with no known allergies. Though not all anaphylaxis reactions require epinephrine, and mild symptoms can be treated with antihistamines, some people, particularly young students, may not be aware they have a life threatening allergy. Therefore, it is imperative that a school employee or volunteer be able to recognize when a person is experiencing life-threatening anaphylaxis. Signs and symptoms include skin reactions, including rashes or hives; low blood pressure; constriction of the airways and a swollen tongue or throat, which may lead to breathing difficulty; a weak or rapid pulse; nausea, vomiting, or diarrhea; and dizziness or fainting. See Chicago Institute for Health and Wellness, [EpiPen Supply in Schools Not Enough Without Training](#) (Apr. 13, 2017) (discussing the results of the Institute for Asthma and Allergy's study on epinephrine auto injectors); Mayo Clinic, [Anaphylaxis: Symptoms & Causes](#) (Jan. 5, 2018).

## **Reporting**

When a person is reasonably believed to be experiencing anaphylaxis, the authorized employee or volunteer may administer the medication. The school is required to promptly notify local emergency medical services that the epinephrine has been administered. If the authorized employee or volunteer is the only person available to notify emergency medical services, he or she should administer the epinephrine before notifying emergency medical services. As soon as feasible during the emergency response, the school is also required to contact the parents, legal guardian, or emergency contact of the person experiencing anaphylaxis. 25 Tex. Admin. Code § 37.605(d)-(f).

After the emergency response, districts are required to comply with the record retention and reporting requirements described by the epinephrine law and the requirements from the DSHS website. Within 10 business days after the administration of the unassigned epinephrine auto-injector, the school is required to send a report to the district and the physician who prescribed the unassigned epinephrine auto-injector. Although the law also requires a report to the commissioner at the Texas Education Agency and the commissioner of state health services, currently only the commissioner of state health services has a system in place to receive such a report. Texas Education Code section 38.209 designates the specific information that must be included in the report. 25 Tex. Admin. Code §§ 37.605(g), .608; TASB Policy FFAC(EXHIBIT G); Texas Department of State Health Services, [Required Reporting of Administered Epinephrine Auto-Injectors to DSHS](#).

## **Maintenance, Storage, and Disposal**

Districts may obtain a prescription for an unassigned epinephrine auto-injector from an authorized healthcare provider. The prescription, which is obtained in the name of the school district, must be renewed annually. The prescription and authorizing policy allow the district to stock, possess, and maintain at least one unassigned adult epinephrine auto-injector pack on each school campus. Each auto-injector pack includes two doses. A school may also choose to stock epinephrine auto-injectors made for small children, such as the EpiPen Jr. Tex. Educ. Code § 38.211; 25 Tex. Admin. Code § 37.605(a).

The epinephrine auto-injectors must be stored in a secure, easily accessible area, in accordance with the manufacturer's guidelines. DSHS recommends that districts place a map indicating the location of the epinephrine in high traffic areas in each school campus. The map could include other information such as the locations of the automated external defibrillator (AED) and other safety information. The district coordinator for the epinephrine program is responsible for checking the epinephrine supply monthly and documenting this monthly check for each campus. Districts may use TASB Policy FFAC(EXHIBIT H) to track the maintenance of the unassigned epinephrine pen. The district is also required to have a plan for replacing epinephrine auto-injectors after use or when they are close to expiration. 25 Tex. Admin. Code § 37.605(b), (h)-(i).

When an epinephrine auto-injector expires, schools should dispose of the unused expired auto-injector in accordance with the school's medication disposal policy. Many schools follow the disposal recommendations described in the [Texas DSHS Guide to Medication Administration in the School Setting](#). Used epinephrine auto-injectors should be disposed in accordance with the school's bloodborne pathogen control policy because a used auto-injector is considered infectious waste. The [Texas DSHS Model Bloodborne Pathogens Exposure Control Plan](#) includes information about disposal, but districts and schools will need to provide additional details and training to staff on proper disposal. Districts should check to ensure both their bloodborne pathogen disposal policies and their medication disposal policies are up-to-date and that appropriate district staff are trained in proper disposal. 25 Tex. Admin. Code § 36.605(j)-(k); TASB Policy DBB(LEGAL).

### **Immunity**

Generally speaking (and with important exceptions), school districts have immunity from liability for negligence, including negligence involving the administration of medication. Texas Education Code section 38.215 further specifies that any person who in good faith takes, or fails to take, any action under an authorized epinephrine policy is immune from civil or criminal liability. In addition to legal immunity, the epinephrine law states that people should not be subject to disciplinary action resulting from action or failure to act under the epinephrine policy if acting in good faith. Tex. Educ. Code §§ 22.0511, .052, 38.215.

### **The District To-Do List**

A district's decision to implement an unassigned epinephrine policy is entirely a local decision. A district that already has an epinephrine policy should take care to ensure that the policy is aligned with the new rules. The following list includes things a district should do when considering an epinephrine policy:

- Decide when administration of an epinephrine auto-injector is authorized.
  - Update the district's policy with the correct definition of "all the hours the campus is open."
  - Decide if the district will authorize administration at off-campus school events and during transportation to and from off-campus school events.
- Determine who is authorized to administer the epinephrine. All employees? Volunteers?
- Obtain a standing order prescription that complies with Texas Education Code section 38.211.
- Create or adopt training for authorized employees and volunteers. Ensure the training meets the requirements of the new rule.
- Give notice to parents regarding the epinephrine policy.

- Ensure the district's maintenance and disposal policy are in compliance with the new rules and best practices by DSHS.
- Review district procedures at least annually and after any emergency administration of epinephrine.

### **For More Information**

Districts can contact their TASB Policy Service consultants for sample epinephrine policies and for help accessing sample rules and forms. Districts with legal questions regarding their policies and the new rules should call local counsel or TASB Legal Services at 800.580.5345. For more information from the DSHS, see Texas DSHS' webpage on [Epinephrine Auto-Injector Resources for Schools](#).

For more information on this and other school law topics,  
visit TASB School Law eSource online at [schollawesource.tasb.org](http://schollawesource.tasb.org).

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