

Department of Legislative Services  
Maryland General Assembly  
2022 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 95 (Senator Lam)  
Education, Health, and Environmental Affairs

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**Public Schools - Anaphylactic Food Allergies - Guidelines and Requirements**

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This bill requires each local board of education to adopt and implement guidelines, in accordance with the Maryland State School Health Service guidelines, to reduce the risk of exposure to anaphylactic causative agents (specifically, major food allergens) in classrooms and common areas. Each public school must 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. The principal of a public school that has a child attending with an anaphylactic allergy must monitor and implement the strategies developed in accordance with the Maryland State School Health Service guidelines and the guidelines established by the local board of education as required by the bill. **The bill takes effect July 1, 2022.**

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**Fiscal Summary**

**State Effect:** State finances and operations are not affected; the bill only affects local government operations, as discussed below.

**Local Effect:** The bill's requirements can be handled with existing budgeted resources, as discussed below. Revenues are not affected.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** "Major food allergen" means milk, egg, fish, crustacean shellfish, tree nuts, wheat, peanuts, soybeans, and sesame.

At a minimum, guidelines established by each local board of education must include certain specified elements, including an emphasis on communication between students, staff, and parents or guardians; designation of food-free areas in the school and of tables in the cafeteria that are free of major food allergens; establishment of allergen-related guidelines; and strategies to reduce bullying and harassment of students with anaphylactic allergies. Each local board must publish the guidelines on its website and by any other method determined appropriate by the board.

Each public school must develop a system to disclose, within a reasonable time in advance of service, the foods served in the school and any major food allergens contained in the food. A disclosure may be posted on the Internet, communicated electronically, or communicated via physical messages sent to the school community. Each day that food is served in a school, the school must post, in a conspicuous location in the cafeteria, a list of all the foods being served and any major food allergens contained in the food.

**Current Law:** A principal of a public school in which a student has an anaphylactic allergy must take steps, in consultation with a school health professional, to reduce the child's risk of exposure to anaphylactic causative agents and to establish procedures for self-administration of medication for anaphylaxis. A school may revoke a child's authority to self-administer medication if the child misuses the medication. Current law limits the liability of school staff who respond in good faith with respect to treatment of students having anaphylactic allergic reactions.

In consultation with a school health professional, a school principal must monitor 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. A school principal must also designate a peanut- and tree-nut-free table in the cafeteria.

The Maryland State Department of Education (MSDE) and the Maryland Department of Health (MDH) are jointly responsible for developing public standards and guidelines for school health programs. Pursuant to that statutory authority, they have issued guidelines titled [\*Management of Students at Risk for Anaphylaxis\*](#). The guidelines contain recommendations for minimum standards of care and current best practices for students with anaphylactic allergies. Last revised in 2009, MSDE advises that the department is presently collaborating with MDH to review and update the guidelines.

The 2009 guidelines note that school nurses should develop an emergency plan for all students with a diagnosis of anaphylaxis or at risk for anaphylaxis (including those with food allergies). The nurse must communicate the plan with parents/guardians and appropriate school staff. Part of this communication should be to the school food service manager in relation to students with food allergies, diagnosis of anaphylaxis, or health

conditions that place them at risk from anaphylactic causative foods. The emergency plan should include, identify, and address possible allergen exposure in classrooms and cafeterias. The guidelines also indicate that school nurses should assess the special health needs of students with a diagnosis of or at risk for anaphylaxis. Part of this assessment should include an appraisal of a student's food allergy history. Students who obtain school meals as part of any U.S. Department of Agriculture school meal program are entitled to meal modifications because of their special health needs.

**State Fiscal Effect:** MSDE advises that it is working in collaboration with MDH to develop updated guidelines that will be made available to local school systems. MDH's Office of Food Protection oversees the regulation of food service facilities, including cafeterias, which is delegated to local health departments (LHDs) for inspections, licensing, and enforcement. MDH advises that the requirements of the bill are beyond the scope of the regulations for food service facilities and would not be enforced by MDH or LHD staff.

**Local Expenditures:** Local boards of education can adopt and implement the required regulations with existing resources. Similarly, public schools can develop systems to disclose the foods served in the school and major food allergens contained in the food with existing resources. Some school systems already implement these measures.

Some school nurses are employed by LHDs, not local boards of education. To the extent that school nurses employed by LHDs must alter existing practices surrounding the creation of emergency plans and allergy assessments related to food allergens, there may be an operational impact, but school nurses can likely accommodate any changes with existing resources.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** HB 154 (Delegate Palakovich Carr) - Ways and Means.

**Information Source(s):** Maryland Association of County Health Officers; Maryland State Department of Education; Maryland Department of Health; Anne Arundel County Public Schools; Montgomery County Public Schools; Prince George's County Public Schools; St. Mary's County Public Schools; Department of Legislative Services

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