

HOUSE BILL 78

F1
SB 95/22 – EHE

(PRE-FILED)

3lr0354
CF SB 120

By: **Delegate Palakovich Carr**

Requested: September 1, 2022

Introduced and read first time: January 11, 2023

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 14, 2023

CHAPTER _____

1 AN ACT concerning

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

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

14 BY repealing and reenacting, with amendments,

15 Article – Education

16 Section 7–426.1

17 Annotated Code of Maryland

18 (2022 Replacement Volume)

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

21 **Article – Education**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 7-426.1.

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

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

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

9 (4) **“MAJOR FOOD ALLERGEN” MEANS:**

10 (I) **MILK;**

11 (II) **EGGS;**

12 (III) **FISH;**

13 (IV) **CRUSTACEAN SHELLFISH;**

14 (V) **TREE NUTS;**

15 (VI) **WHEAT;**

16 (VII) **PEANUTS;**

17 (VIII) **SOYBEANS; AND**

18 (IX) **SESAME.**

19 [(4)] (5) “Self-administer” means the application or consumption of
20 medications in a manner prescribed by a health practitioner who is licensed, certified, or
21 otherwise authorized under the Health Occupations Article to prescribe medications and
22 medication delivery devices by the individual for whom the medication was prescribed
23 without additional assistance or direction.

24 (B) (1) **EACH BEFORE THE START OF THE 2024-2025 SCHOOL YEAR,**
25 **EACH COUNTY BOARD SHALL ADOPT AND IMPLEMENT GUIDELINES IN ACCORDANCE**
26 **WITH THE MARYLAND STATE SCHOOL HEALTH SERVICE GUIDELINES TO REDUCE**
27 **THE RISK OF EXPOSURE TO ANAPHYLACTIC CAUSATIVE AGENTS IN CLASSROOMS**
28 **AND COMMON AREAS.**

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

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

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

9 **1. NOTIFICATION OF A STUDENT'S ANAPHYLACTIC**
10 **ALLERGY TO EDUCATORS AND OTHER SCHOOL STAFF WHO COME INTO CONTACT**
11 **WITH THE STUDENT; AND**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (II) POSTING ON THE INTERNET.

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

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

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

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

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

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

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

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

3 SECTION 2. AND BE IT FURTHER ENACTED, That:

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.