

THE REVISED SCHOOL CODE (EXCERPT)
Act 451 of 1976

380.1179 Use of inhaler or epinephrine auto-injector permitted; conditions; liability; extra inhaler or epinephrine auto-injector; FDA approved over-the-counter topical substance; notice to classroom teachers; definitions.

Sec. 1179.

(1) If the conditions prescribed in subsection (2) are met, notwithstanding any school or school district policy to the contrary, a pupil of a public school or nonpublic school may possess and use 1 or more of the following at school, on school-sponsored transportation, or at any activity, event, or program sponsored by or in which the pupil's school is participating:

(a) A metered dose inhaler or a dry powder inhaler to alleviate asthmatic symptoms or for use before exercise to prevent the onset of asthmatic symptoms.

(b) An epinephrine auto-injector or epinephrine inhaler to treat anaphylaxis.

(2) Subsection (1) applies to a pupil if all of the following conditions are met:

(a) The pupil has written approval to possess and use the inhaler or epinephrine auto-injector as described in subsection (1) from the pupil's physician or other health care provider authorized by law to prescribe an inhaler or epinephrine auto-injector and, if the pupil is a minor, from the pupil's parent or legal guardian.

(b) The principal or other chief administrator of the pupil's school has received a copy of each written approval required under subdivision (a) for the pupil.

(c) There is on file at the pupil's school a written emergency care plan that contains specific instructions for the pupil's needs, that is prepared by a physician licensed in this state in collaboration with the pupil and the pupil's parent or legal guardian, and that is updated as necessary for changing circumstances.

(3) Notwithstanding any school or school district policy to the contrary, a pupil of a public school or nonpublic school may possess and use a United States Food and Drug Administration approved, over-the-counter topical substance at school, on school-sponsored transportation, or at any activity, event, or program sponsored by or in which the pupil's school is participating if all of the following conditions are met:

(a) If the pupil is a minor, the pupil has written approval to possess and use the United States Food and Drug Administration approved, over-the-counter topical substance from the pupil's parent or legal guardian.

(b) The principal or other chief administrator of the pupil's school has received a copy of the written approval required under subdivision (a), if any, for the pupil.

(4) A school district, nonpublic school, member of a school board, director or officer of a nonpublic school, or employee of a school district or nonpublic school is not liable for damages in a civil action for injury, death, or loss to person or property allegedly arising from a pupil being prohibited by an employee of the school or school district from using a United States Food and Drug Administration approved, over-the-counter topical substance, an inhaler, or an epinephrine auto-injector because of the employee's reasonable belief formed after a reasonable and ordinary inquiry that the conditions prescribed in subsection (2) or (3), as applicable, had not been satisfied. A school district, nonpublic school, member of a school board, director or officer of a nonpublic school, or employee of a school district or nonpublic school is not liable for damages in a civil action for injury, death, or loss to person or property allegedly arising from a pupil being permitted by an employee of the school or school district to use or possess a United States Food and Drug Administration approved, over-the-counter topical substance, an inhaler, or an epinephrine auto-injector because of the employee's reasonable belief formed after a reasonable and ordinary inquiry that the conditions prescribed in subsection (2) or (3), as applicable, had been satisfied. This subsection does not eliminate, limit, or reduce any other immunity or defense that a school district, nonpublic school, member of a school board, director or officer of a nonpublic school, or employee of a school district or nonpublic school may have under section 1178 or other state law.

(5) As part of its general powers, a school district may request a pupil's parent or legal guardian to provide an extra inhaler or epinephrine auto-injector to designated school personnel for use in case of emergency. A parent or legal guardian is not required to provide an extra inhaler or epinephrine auto-injector to school personnel.

(6) A principal or other chief administrator who is aware that a pupil is in possession of a United States Food and Drug Administration approved, over-the-counter topical substance, an inhaler, or an epinephrine auto-injector pursuant to this section shall notify each of the pupil's classroom teachers of that fact and of the provisions of this section.

(7) As used in this section and in section 1179a:

(a) "School board" includes a school board, intermediate school board, or the board of directors of a public school academy.

(b) "School district" includes a school district, intermediate school district, or public school academy.

(c) "United States Food and Drug Administration approved, over-the-counter topical substance" includes, but is

not limited to, sunscreen, antimicrobial or antifungal products, external analgesics including lidocaine, psoriasis or eczema topical treatments, or any other topical product with a therapeutic effect.

History: Add. 2000, Act 10, Imd. Eff. Mar. 7, 2000 ;-- Am. 2004, Act 73, Imd. Eff. Apr. 20, 2004 ;-- Am. 2013, Act 187, Eff. Mar. 14, 2014 ;-- Am. 2018, Act 243, Eff. Sept. 26, 2018

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