

Ohio Education Association

Summary of School District Drug Administration Policy Requirements

October, 2011

The following is intended to provide general guidance regarding members' rights and obligations in the context of administering prescription drugs to students.

I. Summary of Changes to the Law

- Prior to July 1, 2011, there was no statutory requirement that teachers or support staff receive specific training before being required to administer prescription drugs to students.
- The training provided by school districts varied. Some districts provided training from parents, some from school nurses. The degree and content of the training varied widely.
- In 2003, OEA filed a lawsuit against the Lancaster City School District Board of Education arguing that a licensed health professional must delegate duties in compliance with the Nurse Practice Act in order for a school district's drug administration policy to be valid. In that case, support staff, such as bus drivers, were being instructed that they might need to insert an anal suppository if a certain student experienced a seizure, and were provided with minimal training from the student's parent. The trial court found in favor of the school district, holding that it could require the support staff members to administer the suppository. On appeal, in 2006, the appellate court dismissed the case as moot, since the student had transferred out of the district.
- In 2009, the Ohio General Assembly amended Revised Code Section 3313.713, the Section that addresses prescription drug administration in schools, to include the following language:

Effective July 1, 2011, only employees of the board who are licensed health professionals, or who have completed a drug administration training program conducted by a licensed health professional and considered appropriate by the board, may administer to a student a drug prescribed for the student.

- With this language, teachers and support staff obtained the requirement that OEA was seeking though the litigation against the Lancaster City School District Board of Education—prescription medications may be administered only by licensed health professionals or under the authority of a licensed health professional.¹

II. Steps to Create a Valid Drug Administration Policy

- The newly effective requirement that only a licensed health professional or those who complete the requisite training program conducted by a licensed health professional may administer prescription drugs means that any training program must comply with the limits placed on the school nurse's ability to delegate her nursing duties.
- Therefore, it is both Revised Code Section 3313.713 and the Nurse Practice Act, as amplified by Administrative Code Chapter 4723-13, that provide the following requirements and guidelines for the implementation of a valid school board drug policy that allows someone other than a licensed health professional to administer prescription drugs to students:

¹ Practically speaking, the licensed health professional is virtually always the school nurse. Therefore, the term licensed health professional, as used in this informational summary, is synonymous with school nurse.

Mandatory Requirements:

- the school board must adopt a policy which designates certain persons as authorized to administer drugs prescribed to a student;
- the school board or their designee must receive a written request signed by the student's parent or guardian that the drug be administered to the student;
- the school board or their designee must receive a written statement signed by the prescriber which includes the following:
 - name and address of student;
 - school and class in which student is enrolled;
 - name of drug and dosage to be administered;
 - times or intervals at which each dose is to be administered;
 - date administration of drug is to begin;
 - date administration of drug is to cease;
 - any adverse reactions that should be reported to the prescriber and at least one telephone number at which the prescriber can be reached in an emergency; and
 - any special instructions for the administration of the drug, including sterile conditions and storage.
- student's parent or guardian must agree to submit a revised statement signed by the prescriber if any information changes;
- the person authorized by the school board to administer the drug must receive a copy of the statement signed by the prescriber and any revised statements from the prescriber;
- the person authorized by the school board to administer the drug must receive the drug in the container in which it was dispensed by the prescriber or licensed pharmacist;
- any other procedures required by the school board must be followed;
- the school board must ensure that the person authorized to administer the drug receives a copy of the statements required to be signed by the prescriber by the next school day following the receipt of the statement;
- the school board or their designee must establish a location for the storage of prescription drugs in each school building that is a locked storage space, except that drugs that require refrigeration may be kept in a refrigerator in a place not commonly used by students; and
- any person, who is not a licensed health professional, who is designated to administer prescription drugs to a student, must receive training from a licensed health professional that meets the following requirements:
 - the licensed health professional has determined:
 - that the task to be delegated is within the scope of practice of the licensed health professional providing the training;
 - that the task is within the knowledge, skill, and ability of the licensed health professional;
 - that the task is within the training, ability, and skill of the individual being trained;
 - that the appropriate resources and support are available for the administration of the drug and the management of the outcome;
 - that the individual administering the drug receives the appropriate amount of supervision from the licensed health professional, as determined by the licensed health professional, which can include being on-site or being available by telephone, and includes ongoing guidance and evaluation;
 - the drug administration requires no judgment based on nursing knowledge and expertise on the part of the designated individual performing the task;

- the results of the drug administration are reasonably predictable;
- the drug administration can be safely performed according to exact, unchanging directions, with no need to alter the standard procedures for performing the administration;
- the drug administration does not require that complex observations or crucial decision be made;
- the drug administration does not require repeated performance of nursing assessments;
- the consequences of performing the drug administration improperly are minimal and not life-threatening;
- the identity of the individual on whom the drug administration may be performed and the time frame in which the drug administration may be performed; and
- that an evaluation of the circumstances allows the drug administration to be delegated to an individual who is not a licensed health professional.
- the training program includes the following:
 - presentation of information on infection control and universal precautions;
 - presentation of information and directions on the concepts underlying the drug administration;
 - presentation of information and direction on how to correctly perform the drug administration according to current standards of practice following step-by-step directions readily available to the designated individual;
 - demonstration of the drug administration; and
 - observation and documentation of a satisfactory return demonstration by the designated individual of the drug administration.

Guidelines:

- the school board policy may provide that certain drugs or types of drugs cannot be administered, or that employees cannot use certain procedures, such as injections, except as otherwise provided by federal law;
- the school board may designate individuals to administer drugs under the policy by name, position, training, qualifications, or other similar distinguishing factors.

III. Handling Objections

- Immunity:
 - Please note that a person who is authorized to administer a drug by the school board and who has a copy of the most recent statement provided by the prescriber prior to administering the drug is immune from civil damages for administering or failing to administer the drug, unless such person acts in a manner that constitutes gross negligence or wanton or reckless misconduct.
 - Gross negligence or wanton or reckless misconduct goes beyond mere negligence, and requires that the individual act with conscious or reckless disregard of the rights of others, with a lack of even slight diligence or care. Mere negligence is a failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation, and is insufficient to defeat the immunity.
 - Please also note that, in general, regardless of any school board policy or lack thereof, any person who provides emergency medical care or treatment outside of a place which has proper medical equipment, such as a hospital or doctor's office, is immune from civil liability unless he or she acts with willful or wanton misconduct.

- Nothing requires a person employed by a school board to administer a drug under a valid school board policy unless the school board's policy establishes such a requirement.
- Religious objection: an employee with a bona fide religious objection may not be required to administer a drug.
- General objections:
 - If the school board policy complies with the requirements described above in Section II, and provides that a designated individual must administer the drug if so required, then the individual must administer the drug or face possible discipline for insubordination.
 - If, however, the designated individual expresses a bona fide and good faith objection to his or her ability to administer the drug to the licensed health professional during the requisite training, and the licensed health professional determines in his or her professional judgment that it is beyond the ability of the designated individual to perform the drug administration, then the designated individual cannot perform the drug administration, because the licensed health professional cannot delegate the task to him or her. Therefore, it is during the training process that a designated individual must express any bona fide and good faith objections he or she has related to the drug administration.
 - A bona fide and good faith objection must be sufficient to justify the licensed health professional's judgment that the individual lacks the ability to administer the drug. An example would be someone who faints at the sight of blood and the drug administration may require the sight of blood. In the absence of extraordinary circumstances, administering an epinephrine injector (a.k.a., EpiPen), or a similar drug and delivery system, is within the capabilities of any designated individual who receives appropriate training.
 - Additionally, a collective bargaining agreement can alter the requirements of who may administer drugs, under what circumstances, and what training they must receive. Therefore, it is also essential to review the collective bargaining agreement for any language that impacts drug administration.