

# HOUSE BILL 154

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(PRE-FILED)

2lr0585  
CF SB 95

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By: **Delegate Palakovich Carr**

Requested: September 28, 2021

Introduced and read first time: January 12, 2022

Assigned to: Ways and Means

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 22, 2022

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

3 FOR the purpose of requiring each county board of education to adopt, implement, and  
4 publish certain guidelines for reducing the risk to students with anaphylactic food  
5 allergies; and generally relating to anaphylactic food allergies and public schools.

6 BY repealing and reenacting, with amendments,

7 Article – Education

8 Section 7–426.1

9 Annotated Code of Maryland

10 (2018 Replacement Volume and 2021 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

12 That the Laws of Maryland read as follows:

13 **Article – Education**

14 7–426.1.

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

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

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

5 (4) "MAJOR FOOD ALLERGEN" MEANS:

6 (I) MILK;

7 (II) EGG;

8 (III) FISH;

9 (IV) CRUSTACEAN SHELLFISH;

10 (V) TREE NUTS;

11 (VI) WHEAT;

12 (VII) PEANUTS;

13 (VIII) SOYBEANS; AND

14 (IX) SESAME.

15 [(4)] (5) "Self-administer" means the application or consumption of  
16 medications in a manner prescribed by a health practitioner who is licensed, certified, or  
17 otherwise authorized under the Health Occupations Article to prescribe medications and  
18 medication delivery devices by the individual for whom the medication was prescribed  
19 without additional assistance or direction.

20 (B) (1) EACH COUNTY BOARD SHALL ADOPT AND IMPLEMENT  
21 GUIDELINES IN ACCORDANCE WITH THE MARYLAND STATE SCHOOL HEALTH  
22 SERVICE GUIDELINES TO REDUCE THE RISK OF EXPOSURE TO ANAPHYLACTIC  
23 CAUSATIVE AGENTS IN CLASSROOMS AND COMMON AREAS.

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

26 (I) ~~DESCRIBE~~ IF APPROPRIATE, IN ACCORDANCE WITH THE  
27 COLLECTIVE BARGAINING AGREEMENT, DESCRIBE THE ROLES AND  
28 RESPONSIBILITIES OF PARENTS, ADMINISTRATORS, HEALTH CARE STAFF,  
29 EDUCATORS, FOOD SERVICE EMPLOYEES, AND OPERATIONS STAFF;

1 (II) EMPHASIZE COMMUNICATION AND COLLABORATION  
2 BETWEEN SCHOOL STAFF, STUDENTS, AND PARENTS, INCLUDING:

3 1. NOTIFICATION OF A STUDENT'S ANAPHYLACTIC  
4 ALLERGY TO EDUCATORS AND OTHER SCHOOL STAFF WHO COME INTO CONTACT  
5 WITH THE STUDENT; AND

6 2. NOTIFICATION TO PARENTS AND STUDENTS ABOUT  
7 MEASURES THE SCHOOL IS TAKING TO AVOID EXPOSURE TO ALLERGENS;

8 (III) PROVIDE INFORMATION TO PARENTS ABOUT 504 PLANS  
9 AND THEIR APPLICABILITY TO STUDENTS WITH ANAPHYLACTIC ALLERGIES;

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

11 (V) DESIGNATE TABLES IN THE CAFETERIA TO BE USED BY  
12 STUDENTS WITH ANAPHYLACTIC ALLERGIES THAT ARE FREE OF FOODS CONTAINING  
13 THE MAJOR FOOD ALLERGEN OF THE STUDENT USERS;

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

16 (VII) PROMOTE HAND WASHING AND OTHER METHODS FOR THE  
17 SAFE HANDLING OF FOOD;

18 (VIII) PROVIDE GUIDELINES FOR THE HANDLING OF FOOD ON  
19 SCHOOL-PROVIDED TRANSPORTATION;

20 (IX) ~~ENSURE~~ PROVIDE GUIDELINES DESIGNED TO ENSURE THAT  
21 STUDENTS WITH ANAPHYLACTIC ALLERGIES ARE ABLE TO FULLY PARTICIPATE IN  
22 ALL SCHOOL EVENTS, AFTER SCHOOL ACTIVITIES, AND FIELD TRIPS;

23 (X) PROVIDE GUIDANCE FOR FOOD DISTRIBUTION BY PRIVATE  
24 GROUPS OUTSIDE PUBLIC OR PRIVATE INDIVIDUALS, GROUPS, AND ENTITIES  
25 HOLDING FUNCTIONS ON SCHOOL GROUNDS; AND

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

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

1 (c) (1) ~~(H)~~ EACH PUBLIC SCHOOL SHALL DEVELOP A SYSTEM TO  
 2 DISCLOSE, WITHIN A REASONABLE TIME IN ADVANCE OF SERVICE, THE FOODS  
 3 SERVED IN THE SCHOOL AND THE MAJOR FOOD ALLERGENS CONTAINED IN THE  
 4 FOOD.

5 ~~(H)~~ (2) A DISCLOSURE MADE UNDER THIS ~~PARAGRAPH~~  
 6 SUBSECTION MAY BE BY:

7 ~~1.~~ (I) DIRECT ELECTRONIC OR PHYSICAL MESSAGES SENT  
 8 TO THE SCHOOL COMMUNITY; OR

9 ~~2.~~ (II) POSTING ON THE INTERNET.

10 ~~(2) EACH DAY THAT FOOD IS SERVED IN A SCHOOL, THE SCHOOL~~  
 11 ~~SHALL POST IN A CONSPICUOUS LOCATION IN THE CAFETERIA A LIST OF ALL THE~~  
 12 ~~FOODS BEING SERVED AND ANY MAJOR FOOD ALLERGENS CONTAINED IN THE FOOD.~~

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 this Act shall take effect July  
4 1, 2022.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.