An act concerning public schools – anaphylactic food allergies – guidelines and requirements

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

By repealing and reenacting, with amendments,

Article—Education

Section 7–426.1

Annotated Code of Maryland (2018 Replacement Volume and 2021 Supplement)

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

Article—Education

Section 7–426.1.

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

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

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

(4) “Major food allergen” means:

(I) Milk;

(II) Egg;

(III) Fish;

(IV) Crustacean shellfish;

(V) Tree nuts;

(VI) Wheat;

(VII) Peanuts;

(VIII) Soybeans; and

(IX) Sesame.

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

(B) (1) Each county board shall adopt and implement guidelines 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.

(2) At a minimum, the guidelines under paragraph (1) of this subsection shall:

(1) Describe if appropriate, in accordance with the collective bargaining agreement, describe the roles and responsibilities of parents, administrators, health care staff, educators, food service employees, and operations staff;
(II) **Emphasize Communication and Collaboration**

between school staff, students, and parents, including:

1. **Notification of a Student’s Anaphylactic Allergy** to educators and other school staff who come into contact with the student; and

2. **Notification to Parents and Students** about measures the school is taking to avoid exposure to allergens;

(III) **Provide Information to Parents** about 504 plans and their applicability to students with anaphylactic allergies;

(IV) **Designate School Areas** that are food–free;

(V) **Designate Tables in the Cafeteria** to be used by students with anaphylactic allergies that are free of foods containing the major food allergen of the student users;

(VI) **Provide Guidelines** for who may use or accompany students using tables free of major food allergens;

(VII) **Promote Hand Washing** and other methods for the safe handling of food;

(VIII) **Provide Guidelines for the Handling of Food on School–Provided Transportation**;

(IX) **Ensure Provide Guidelines** designed to ensure that students with anaphylactic allergies are able to fully participate in all school events, after school activities, and field trips;

(X) **Provide Guidance for Food Distribution** by private groups outside public or private individuals, groups, and entities holding functions on school grounds; and

(XI) **Establish Strategies to Reduce Bullying and Harassment** of students with anaphylactic allergies.

(3) **Each County Board** shall publish the guidelines adopted under this subsection on its website and by any other method determined appropriate by the board.
(c) (1) (i) Each public school shall 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.

(ii) (2) A disclosure made under this paragraph subsection may be by:

(i) Direct electronic or physical messages sent to the school community; or

(ii) Posting on the Internet.

(ii) (2) Each day that food is served in a school, the school shall 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.

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

(1) Monitor AND IMPLEMENT, AS NECESSARY, 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;

(2) Monitor and implement the guidelines established by the county board under subsection (B) of this section; and

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

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

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

[(e)] (G) If a child has authority to self-administer medication in accordance with subsection [(b)(3)] (D)(3) of this section, a local county board may require the parent
or guardian of the child to sign a statement acknowledging that the school or its employee
incurs no liability as a result of injury arising from self-administration by the child.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2022.

Approved:

_________________________  ________________________  __________________
Governor.

_________________________  ________________________  __________________
Speaker of the House of Delegates.

_________________________
President of the Senate.