

EDUCATION CODE  
TITLE 2. PUBLIC EDUCATION  
SUBTITLE G. SAFE SCHOOLS  
CHAPTER 38. HEALTH AND SAFETY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 38.001. IMMUNIZATION; REQUIREMENTS; EXCEPTIONS. (a) Each student shall be fully immunized against diphtheria, rubeola, rubella, mumps, tetanus, and poliomyelitis, except as provided by Subsection (c).

Text of subsection as amended by Acts 2007, 80th Leg., R.S., Ch. 43  
(H.B. 1098), Sec. 1

(b) Subject to Subsections (b-1) and (c), the executive commissioner of the Health and Human Services Commission may modify or delete any of the immunizations in Subsection (a) or may require immunizations against additional diseases as a requirement for admission to any elementary or secondary school.

Text of subsection as amended by Acts 2007, 80th Leg., R.S., Ch. 94  
(H.B. 1059), Sec. 2

(b) Subject to Subsection (c), the Department of State Health Services may modify or delete any of the immunizations in Subsection (a) or may require immunizations against additional diseases as a requirement for admission to any elementary or secondary school.

(b-1) Each year, the Department of State Health Services shall prepare a list of the immunizations required under this section for admission to public schools and of any additional immunizations the department recommends for school-age children. The department shall prepare the list in English and Spanish and make the list available in a manner that permits a school district to easily post the list on the district's Internet website as required by Section 38.019.

(c) Immunization is not required for a person's admission to any elementary or secondary school if the person applying for admission:

(1) submits to the admitting official:

(A) an affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine in the United States, in which it is stated that, in the physician's opinion, the immunization required poses a significant risk to the health and well-being of the applicant or any member of the applicant's family or household; or

(B) an affidavit signed by the applicant or, if a minor, by the applicant's parent or guardian stating that the applicant declines immunization for reasons of conscience, including a religious belief; or

(2) is a member of the armed forces of the United States and is on active duty.

(c-1) An affidavit submitted under Section (c)(1)(B) must be on a form described by Section [161.0041](#), Health and Safety Code, and must be submitted to the admitting official not later than the 90th day after the date the affidavit is notarized.

(d) The Department of State Health Services shall provide the required immunization to children in areas where no local provision exists to provide those services.

(e) A person may be provisionally admitted to an elementary or secondary school if the person has begun the required immunizations and if the person continues to receive the necessary immunizations as rapidly as is medically feasible. The Department of State Health Services shall adopt rules relating to the provisional admission of persons to an elementary or secondary school.

(f) A person who has not received the immunizations required by this section for reasons of conscience, including because of the person's religious beliefs, may be excluded from school in times of emergency or epidemic declared by the commissioner of public health.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.  
Amended by Acts 2003, 78th Leg., ch. 198, Sec. 2.160, eff. Sept. 1,

2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 43 (H.B. 1098), Sec. 1, eff. May 8, 2007.

Acts 2007, 80th Leg., R.S., Ch. 94 (H.B. 1059), Sec. 2, eff. May 15, 2007.

Sec. 38.002. IMMUNIZATION RECORDS; REPORTING. (a) Each public school shall keep an individual immunization record during the period of attendance for each student admitted. The records shall be open for inspection at all reasonable times by the Texas Education Agency or by representatives of local health departments or the Texas Department of Health.

(b) Each public school shall cooperate in transferring students' immunization records to other schools. Specific approval from students, parents, or guardians is not required before transferring those records.

(c) The Texas Education Agency and the Texas Department of Health shall develop the form for a required annual report of the immunization status of students. The report shall be submitted by all schools at the time and in the manner indicated in the instructions printed on the form.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 38.0025. DISSEMINATION OF BACTERIAL MENINGITIS INFORMATION. (a) The agency shall prescribe procedures by which each school district shall provide information relating to bacterial meningitis to its students and their parents each school year. The procedures must ensure that the information is reasonably likely to come to the attention of the parents of each student. The agency shall prescribe the form and content of the information. The information must cover:

(1) the symptoms of the disease, how it may be diagnosed, and its possible consequences if untreated;

(2) how the disease is transmitted, how it may be prevented, and the relative risk of contracting the disease for primary and secondary school students;

(3) the availability and effectiveness of vaccination against and treatment for the disease, and a brief description of the risks and possible side effects of vaccination; and

(4) sources of additional information regarding the disease, including any appropriate office of the school district and the appropriate office of the Texas Department of Health.

(b) The agency shall consult with the Texas Department of Health in prescribing the content of the information to be provided to students under this section. The agency shall establish an advisory committee to assist the agency in the initial implementation of this section. The advisory committee must include at least two members who are parents of students at public schools in this state.

(c) A school district, with the written consent of the agency, may provide the information required by this section to its students and their parents by a method different from the method prescribed by the agency under Subsection (a) if the agency determines that method would be effective in bringing the information to the attention of the parents of each student.

Added by Acts 2001, 77th Leg., ch. 219, Sec. 2, eff. May 22, 2001.

Sec. 38.003. SCREENING AND TREATMENT FOR DYSLEXIA AND RELATED DISORDERS. (a) Students enrolling in public schools in this state shall be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the State Board of Education. The program must include screening at the end of the school year of each student in kindergarten and each student in the first grade.

(b) In accordance with the program approved by the State Board of Education, the board of trustees of each school district shall provide for the treatment of any student determined to have dyslexia or a related disorder.

(b-1) Unless otherwise provided by law, a student determined to have dyslexia during screening or testing under Subsection (a) or accommodated because of dyslexia may not be rescreened or retested for dyslexia for the purpose of reassessing the student's need for accommodations until the district

reevaluates the information obtained from previous screening or testing of the student.

(c) The State Board of Education shall adopt any rules and standards necessary to administer this section.

(d) In this section:

(1) "Dyslexia" means a disorder of constitutional origin manifested by a difficulty in learning to read, write, or spell, despite conventional instruction, adequate intelligence, and sociocultural opportunity.

(2) "Related disorders" includes disorders similar to or related to dyslexia, such as developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability. Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 635 (S.B. 866), Sec. 3, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 1044 (H.B. 1886), Sec. 5, eff. June 15, 2017.

Sec. 38.0031. CLASSROOM TECHNOLOGY PLAN FOR STUDENTS WITH DYSLEXIA. (a) The agency shall establish a committee to develop a plan for integrating technology into the classroom to help accommodate students with dyslexia. The plan must:

(1) determine the classroom technologies that are useful and practical in assisting public schools in accommodating students with dyslexia, considering budget constraints of school districts; and

(2) develop a strategy for providing those effective technologies to students.

(b) The agency shall provide the plan and information about the availability and benefits of the technologies identified under Subsection (a)(1) to school districts.

(c) A member of the committee established under Subsection (a) is not entitled to reimbursement for travel expenses incurred by the member under this section unless agency funds are available for that purpose.

Added by Acts 2011, 82nd Leg., R.S., Ch. 635 (S.B. 866), Sec. 4, eff. June 17, 2011.

Sec. 38.0032. DYSLEXIA TRAINING OPPORTUNITIES. (a) The agency shall annually develop a list of training opportunities regarding dyslexia that satisfy the requirements of Section 21.054(b). The list of training opportunities must include at least one opportunity that is available online.

(b) A training opportunity included in the list developed under Subsection (a) must:

(1) comply with the knowledge and practice standards of an international organization on dyslexia; and

(2) enable an educator to:

(A) understand and recognize dyslexia; and

(B) implement instruction that is systematic, explicit, and evidence-based to meet the educational needs of a student with dyslexia.

Added by Acts 2017, 85th Leg., R.S., Ch. 1044 (H.B. 1886), Sec. 6, eff. June 15, 2017.

Sec. 38.004. CHILD ABUSE REPORTING AND PROGRAMS. (a) The agency shall develop a policy governing the reports of child abuse or neglect, including reports related to the trafficking of a child under Section 20A.02(a)(5), (6), (7), or (8), Penal Code, as required by Chapter 261, Family Code, for school districts, open-enrollment charter schools, and their employees. The policy must provide for cooperation with law enforcement child abuse investigations without the consent of the child's parents if necessary, including investigations by the Department of Family and Protective Services. The policy must require each school district and open-enrollment charter school employee to report child abuse or neglect, including the trafficking of a child under Section 20A.02(a)(5) or (7), Penal Code, in the manner required by Chapter 261, Family Code. Each school district and open-enrollment charter school shall adopt the policy.

(a-1) The agency shall:

(1) maintain on the agency Internet website a list of

links to websites that provide information regarding the prevention of child abuse; and

(2) develop and periodically update a training program on prevention of child abuse that a school district may use for staff development.

(b) Each school district shall provide child abuse antivictimization programs in elementary and secondary schools.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 561 (S.B. 1456), Sec. 1, eff. June 16, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 592 (S.B. 939), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 332 (H.B. 10), Sec. 6, eff. September 1, 2015.

See note following this section.

Sec. 38.0041. POLICIES ADDRESSING SEXUAL ABUSE AND OTHER MALTREATMENT OF CHILDREN. (a) Each school district and open-enrollment charter school shall adopt and implement a policy addressing sexual abuse, sex trafficking, and other maltreatment of children, to be included in the district improvement plan under Section 11.252 and any informational handbook provided to students and parents.

(a-1) A school district may collaborate with local law enforcement and outside consultants with expertise in the prevention of sexual abuse and sex trafficking to create the policy required under Subsection (a), and to create a referral protocol for high-risk students.

(b) A policy required by this section must address:

(1) methods for increasing staff, student, and parent awareness of issues regarding sexual abuse, sex trafficking, and other maltreatment of children, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim of sexual abuse, sex trafficking, or other maltreatment, using resources developed by the agency under Section 38.004 or by the commissioner under Section 28.017;

(2) actions that a child who is a victim of sexual abuse, sex trafficking, or other maltreatment should take to obtain assistance and intervention; and

(3) available counseling options for students affected by sexual abuse, sex trafficking, or other maltreatment.

(c) The methods under Subsection (b)(1) for increasing awareness of issues regarding sexual abuse, sex trafficking, and other maltreatment of children must include training, as provided by this subsection, concerning prevention techniques for and recognition of sexual abuse, sex trafficking, and all other maltreatment of children. The training:

(1) must be provided, as part of a new employee orientation, to all new school district and open-enrollment charter school employees and to existing district and open-enrollment charter school employees on a schedule adopted by the agency by rule until all district and open-enrollment charter school employees have taken the training; and

(2) must include training concerning:

(A) factors indicating a child is at risk for sexual abuse, sex trafficking, or other maltreatment;

(B) likely warning signs indicating a child may be a victim of sexual abuse, sex trafficking, or other maltreatment;

(C) internal procedures for seeking assistance for a child who is at risk for sexual abuse, sex trafficking, or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;

(D) techniques for reducing a child's risk of sexual abuse, sex trafficking, or other maltreatment; and

(E) community organizations that have relevant existing research-based programs that are able to provide training or other education for school district or open-enrollment charter school staff members, students, and parents.

(d) For any training under Subsection (c), each school district and open-enrollment charter school shall maintain records that include the name of each district or charter school staff member who participated in the training.

(e) If a school district or open-enrollment charter school determines that the district or charter school does not have sufficient resources to provide the training required under Subsection (c), the district or charter school shall work in conjunction with a community organization to provide the training at no cost to the district or charter school.

(f) The training under Subsection (c) may be included in staff development under Section [21.451](#).

(g) A school district or open-enrollment charter school employee may not be subject to any disciplinary proceeding, as defined by Section [22.0512\(b\)](#), resulting from an action taken in compliance with this section. The requirements of this section are considered to involve an employee's judgment and discretion and are not considered ministerial acts for purposes of immunity from liability under Section [22.0511](#). Nothing in this section may be considered to limit the immunity from liability provided under Section [22.0511](#).

(h) For purposes of this section, "other maltreatment" has the meaning assigned by Section [42.002](#), Human Resources Code.

Amendments to this section made by Acts 2017, 85th Leg., R.S., Ch. 762 (S.B. [2039](#)), take effect on June 12, 2017, but only if a specific appropriation is provided as described by Acts 2017, 85th Leg., R.S., Ch. 762 (S.B. [2039](#)), Sec. 5, which states: This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 85th Legislature.

Added by Acts 2009, 81st Leg., R.S., Ch. 1115 (H.B. [1041](#)), Sec. 2, eff. June 19, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1323 (S.B. [471](#)), Sec. 2, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 443 (S.B. [715](#)), Sec. 34, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 592 (S.B. [939](#)), Sec. 2, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 762 (S.B. [2039](#)), Sec. 2, eff. June 12, 2017.

Sec. 38.0042. POSTING CHILD ABUSE HOTLINE TELEPHONE NUMBER.

(a) Each public school and open-enrollment charter school shall post in a clearly visible location in a public area of the school that is readily accessible to students a sign in English and in Spanish that contains the toll-free telephone number operated by the Department of Family and Protective Services to receive reports of child abuse or neglect.

(b) The commissioner may adopt rules relating to the size and location of the sign required by Subsection (a).

Added by Acts 2013, 83rd Leg., R.S., Ch. 592 (S.B. 939), Sec. 3, eff. September 1, 2013.

Sec. 38.005. PROTECTIVE EYE DEVICES IN PUBLIC SCHOOLS.

Each teacher and student must wear industrial-quality eye-protective devices in appropriate situations as determined by school district policy.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 38.006. E-CIGARETTES AND TOBACCO PRODUCTS ON SCHOOL

PROPERTY. (a) In this section, "e-cigarette" has the meaning assigned by Section 161.081, Health and Safety Code.

(b) The board of trustees of a school district shall:

(1) prohibit smoking or using e-cigarettes or tobacco products at a school-related or school-sanctioned activity on or off school property;

(2) prohibit students from possessing e-cigarettes or tobacco products at a school-related or school-sanctioned activity on or off school property; and

(3) ensure that school personnel enforce the policies on school property.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 181 (S.B. 97), Sec. 38, eff. October 1, 2015.

Sec. 38.007. ALCOHOL-FREE SCHOOL ZONES. (a) The board of

trustees of a school district shall prohibit the use of alcoholic beverages at a school-related or school-sanctioned activity on or off school property.

(b) The board of trustees of a school district shall attempt to provide a safe alcohol-free environment to students coming to or going from school. The board of trustees may cooperate with local law enforcement officials and the Texas Alcoholic Beverage Commission in attempting to provide this environment and in enforcing Sections 101.75, 109.33, and 109.59, Alcoholic Beverage Code. Additionally, the board, if a majority of the area of a district is located in a municipality with a population of 900,000 or more, may petition the commissioners court of the county in which the district is located or the governing board of an incorporated city or town in which the district is located to adopt a 1,000-foot zone under Section 109.33, Alcoholic Beverage Code.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 38.008. POSTING OF STEROID LAW NOTICE. Each school in a school district in which there is a grade level of seven or higher shall post in a conspicuous location in the school gymnasium and each other place in a building where physical education classes are conducted the following notice:

Anabolic steroids are for medical use only. State law prohibits possessing, dispensing, delivering, or administering an anabolic steroid in any manner not allowed by state law. State law provides that body building, muscle enhancement, or the increase of muscle bulk or strength through the use of an anabolic steroid or human growth hormone by a person who is in good health is not a valid medical purpose. Only a medical doctor may prescribe an anabolic steroid or human growth hormone for a person. A violation of state law concerning anabolic steroids or human growth hormones is a criminal offense punishable by confinement in jail or imprisonment in the Texas Department of Criminal Justice.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.050, eff. September 1, 2009.

Sec. 38.0081. INFORMATION ABOUT STEROIDS. (a) The agency, in conjunction with the Department of State Health Services, shall:

(1) develop information about the use of anabolic steroids and the health risks involved with such use; and

(2) distribute the information to school districts.

(b) Each school district shall, at appropriate grade levels as determined by the State Board of Education, provide the information developed under Subsection (a) to district students, particularly to those students involved in extracurricular athletic activities.

Added by Acts 2005, 79th Leg., Ch. 1177 (H.B. 3563), Sec. 2, eff. June 18, 2005.

Sec. 38.009. ACCESS TO MEDICAL RECORDS. (a) A school administrator, nurse, or teacher is entitled to access to a student's medical records maintained by the school district for reasons determined by district policy.

(b) A school administrator, nurse, or teacher who views medical records under this section shall maintain the confidentiality of those medical records.

(c) This section does not authorize a school administrator, nurse, or teacher to require a student to be tested to determine the student's medical condition or status.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 38.0095. PARENTAL ACCESS TO MEDICAL RECORDS. (a) A parent or guardian of a student is entitled to access to the student's medical records maintained by a school district.

(b) On request of a student's parent or guardian, the school district shall provide a copy of the student's medical records to the parent or guardian. The district may not impose a charge for providing the copy that exceeds the charge authorized by Section

552.261, Government Code, for providing a copy of public information.

Added by Acts 1999, 76th Leg., ch. 1418, Sec. 3, eff. June 19, 1999.

Sec. 38.010. OUTSIDE COUNSELORS. (a) A school district or school district employee may not refer a student to an outside counselor for care or treatment of a chemical dependency or an emotional or psychological condition unless the district:

(1) obtains prior written consent for the referral from the student's parent;

(2) discloses to the student's parent any relationship between the district and the outside counselor;

(3) informs the student and the student's parent of any alternative public or private source of care or treatment reasonably available in the area;

(4) requires the approval of appropriate school district personnel before a student may be referred for care or treatment or before a referral is suggested as being warranted; and

(5) specifically prohibits any disclosure of a student record that violates state or federal law.

(b) In this section, "parent" includes a managing conservator or guardian.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 38.011. DIETARY SUPPLEMENTS. (a) A school district employee may not:

(1) knowingly sell, market, or distribute a dietary supplement that contains performance enhancing compounds to a primary or secondary education student with whom the employee has contact as part of the employee's school district duties; or

(2) knowingly endorse or suggest the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by a primary or secondary education student with whom the employee has contact as part of the employee's school district duties.

(b) This section does not prohibit a school district employee from:

(1) providing or endorsing a dietary supplement that contains performance enhancing compounds to, or suggesting the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by, the employee's child; or

(2) selling, marketing, or distributing a dietary supplement that contains performance enhancing compounds to, or endorsing or suggesting the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by, a primary or secondary education student as part of activities that:

(A) do not occur on school property or at a school-related function;

(B) are entirely separate from any aspect of the employee's employment with the school district; and

(C) do not in any way involve information about or contacts with students that the employee has had access to, directly or indirectly, through any aspect of the employee's employment with the school district.

(c) A person who violates this section commits an offense. An offense under this section is a Class C misdemeanor.

(d) In this section:

(1) "Dietary supplement" has the meaning assigned by 21 U.S.C. Section 321 and its subsequent amendments.

(2) "Performance enhancing compound" means a manufactured product for oral ingestion, intranasal application, or inhalation that:

(A) contains a stimulant, amino acid, hormone precursor, herb or other botanical, or any other substance other than an essential vitamin or mineral; and

(B) is intended to increase athletic or intellectual performance, promote muscle growth, or increase an individual's endurance or capacity for exercise.

Added by Acts 1999, 76th Leg., ch. 1086, Sec. 1, eff. Sept. 1, 1999.

Sec. 38.012. NOTICE CONCERNING HEALTH CARE SERVICES. (a) Before a school district or school may expand or change the health

care services available at a school in the district from those that were available on January 1, 1999, the board of trustees must:

(1) hold a public hearing at which the board discloses all information on the proposed health care services, including:

(A) all health care services to be provided;

(B) whether federal law permits or requires any health care service provided to be kept confidential from parents;

(C) whether a child's medical records will be accessible to the child's parent;

(D) information concerning grant funds to be used;

(E) the titles of persons who will have access to the medical records of a student; and

(F) the security measures that will be used to protect the privacy of students' medical records; and

(2) approve the expansion or change by a record vote.

(b) A hearing under Subsection (a) must include an opportunity for public comment on the proposal.

Added by Acts 1999, 76th Leg., ch. 1418, Sec. 2, eff. June 19, 1999.

Sec. 38.013. COORDINATED HEALTH PROGRAM FOR ELEMENTARY, MIDDLE, AND JUNIOR HIGH SCHOOL STUDENTS. (a) The agency shall make available to each school district one or more coordinated health programs designed to prevent obesity, cardiovascular disease, oral diseases, and Type 2 diabetes in elementary school, middle school, and junior high school students. Each program must provide for coordinating:

(1) health education, including oral health education;

(2) physical education and physical activity;

(3) nutrition services; and

(4) parental involvement.

(a-1) The commissioner by rule shall adopt criteria for evaluating a coordinated health program before making the program available under Subsection (a). Before adopting the criteria, the commissioner shall request review and comment concerning the criteria from the Department of State Health Services School Health

Advisory Committee. The commissioner may make available under Subsection (a) only those programs that meet criteria adopted under this subsection.

(b) The agency shall notify each school district of the availability of the programs.

(c) The commissioner by rule shall adopt criteria for evaluating the nutritional services component of a program under this section that includes an evaluation of program compliance with the Department of Agriculture guidelines relating to foods of minimal nutritional value.

Added by Acts 2001, 77th Leg., ch. 907, Sec. 3, eff. June 14, 2001.

Amended by Acts 2003, 78th Leg., ch. 944, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 784 (S.B. 42), Sec. 3, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 784 (S.B. 42), Sec. 4, eff. June 17, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1399 (H.B. 2483), Sec. 1, eff. June 14, 2013.

Sec. 38.014. IMPLEMENTATION OF COORDINATED HEALTH PROGRAM FOR ELEMENTARY, MIDDLE, AND JUNIOR HIGH SCHOOL STUDENTS. (a) Each school district shall:

(1) participate in appropriate training for the implementation of the program approved by the agency under Section 38.013; and

(2) implement the program in each elementary school, middle school, and junior high school in the district.

(b) The agency, in cooperation with the Texas Department of Health, shall adopt a schedule for regional education service centers to provide necessary training under this section.

Added by Acts 2001, 77th Leg., ch. 907, Sec. 3, eff. June 14, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 784 (S.B. 42), Sec. 5, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 784 (S.B. 42), Sec. 6, eff. June 17,

2005.

Sec. 38.0141. REPORTING OF CERTAIN HEALTH AND SAFETY INFORMATION REQUIRED. (a) Each school district shall provide to the agency information as required by the commissioner, including statistics and data, relating to student health and physical activity and information described by Section 28.004(k), presented in a form determined by the commissioner. The district shall provide the information required by this subsection for the district and for each campus in the district.

(b) Not later than one year after the agency receives the information required by Subsection (a), the commissioner shall complete a report on physical education provided by each school district and publish the report on the agency's Internet website.

(c) The report must include:

(1) the number of physical education classes offered at each campus in the district and detail the number of days, classes, and minutes offered each week by each campus;

(2) the ratio of students enrolled in physical education classes in the district compared to the overall enrollment;

(3) the average physical education class size at each campus in the district;

(4) the number of physical education teachers in the district who are licensed, certified, or endorsed by an accredited teacher preparation program to teach physical education;

(5) whether each campus in the district has the appropriate equipment and adequate facilities for students to engage in the amount and intensity of physical activity required under Section 28.002;

(6) whether the district allows modifications or accommodations that allow physical education courses to meet the needs of students with disabilities; and

(7) whether the district has a policy that allows teachers or administrators in the district to withhold physical activity from a student as punishment.

Added by Acts 2005, 79th Leg., Ch. 784 (S.B. 42), Sec. 7, eff. June

17, 2005.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1126 (S.B. 1873), Sec. 1, eff. June 15, 2017.

Sec. 38.015. SELF-ADMINISTRATION OF PRESCRIPTION ASTHMA OR ANAPHYLAXIS MEDICINE BY STUDENTS. (a) In this section:

(1) "Parent" includes a person standing in parental relation.

(2) "Self-administration of prescription asthma or anaphylaxis medicine" means a student's discretionary use of prescription asthma or anaphylaxis medicine.

(b) A student with asthma or anaphylaxis is entitled to possess and self-administer prescription asthma or anaphylaxis medicine while on school property or at a school-related event or activity if:

(1) the prescription medicine has been prescribed for that student as indicated by the prescription label on the medicine;

(2) the student has demonstrated to the student's physician or other licensed health care provider and the school nurse, if available, the skill level necessary to self-administer the prescription medication, including the use of any device required to administer the medication;

(3) the self-administration is done in compliance with the prescription or written instructions from the student's physician or other licensed health care provider; and

(4) a parent of the student provides to the school:

(A) a written authorization, signed by the parent, for the student to self-administer the prescription medicine while on school property or at a school-related event or activity; and

(B) a written statement from the student's physician or other licensed health care provider, signed by the physician or provider, that states:

(i) that the student has asthma or anaphylaxis and is capable of self-administering the prescription

medicine;

(ii) the name and purpose of the medicine;

(iii) the prescribed dosage for the medicine;

(iv) the times at which or circumstances under which the medicine may be administered; and

(v) the period for which the medicine is prescribed.

(c) The physician's statement must be kept on file in the office of the school nurse of the school the student attends or, if there is not a school nurse, in the office of the principal of the school the student attends.

(d) This section does not:

(1) waive any liability or immunity of a governmental unit or its officers or employees; or

(2) create any liability for or a cause of action against a governmental unit or its officers or employees.

(e) The commissioner may adopt rules and prescribe forms to assist in the implementation of this section.

Added by Acts 2001, 77th Leg., ch. 511, Sec. 1, eff. June 11, 2001.

Renumbered from Education Code Sec. 38.013 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(19), eff. Sept. 1, 2003.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B. 1), Sec. 10.01, eff. May 31, 2006.

Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B. 1), Sec. 10.02, eff. May 31, 2006.

Sec. 38.0151. POLICIES FOR CARE OF CERTAIN STUDENTS AT RISK FOR ANAPHYLAXIS. (a) The board of trustees of each school district and the governing body or an appropriate officer of each open-enrollment charter school shall adopt and administer a policy for the care of students with a diagnosed food allergy at risk for anaphylaxis based on guidelines developed by the commissioner of state health services in consultation with an ad hoc committee appointed by the commissioner of state health services.

(b) A school district or open-enrollment charter school

that implemented a policy for the care of students with a diagnosed food allergy at risk for anaphylaxis before the development of the guidelines described by Subsection (a) shall review the policy and revise the policy as necessary to ensure the policy is consistent with the guidelines.

(b-1) Expired.

(b-2) Expired.

(b-3) Expired.

(b-4) Expired.

(c) The guidelines described by Subsection (a) may not:

(1) require a school district or open-enrollment charter school to purchase prescription anaphylaxis medication, such as epinephrine, or require any other expenditure that would result in a negative fiscal impact on the district or charter school; or

(2) require the personnel of a district or charter school to administer anaphylaxis medication, such as epinephrine, to a student unless the anaphylaxis medication is prescribed for that student.

(d) This section does not:

(1) waive any liability or immunity of a governmental entity or its officers or employees; or

(2) create any liability for or a cause of action against a governmental entity or its officers or employees.

(e) The agency shall post the guidelines developed by the commissioner of state health services under this section on the agency's website with any other information relating to students with special health needs.

(f) A school district or open-enrollment charter school that provides for the maintenance, administration, and disposal of epinephrine auto-injectors under Subchapter E is not required to comply with this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 590 (S.B. 27), Sec. 1, eff. June 17, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 180 (S.B. 66), Sec. 3, eff. May 28, 2015.

Sec. 38.016. PSYCHOTROPIC DRUGS AND PSYCHIATRIC EVALUATIONS OR EXAMINATIONS. (a) In this section:

(1) "Parent" includes a guardian or other person standing in parental relation.

(2) "Psychotropic drug" means a substance that is:

(A) used in the diagnosis, treatment, or prevention of a disease or as a component of a medication; and

(B) intended to have an altering effect on perception, emotion, or behavior.

(b) A school district employee may not:

(1) recommend that a student use a psychotropic drug; or

(2) suggest any particular diagnosis; or

(3) use the refusal by a parent to consent to administration of a psychotropic drug to a student or to a psychiatric evaluation or examination of a student as grounds, by itself, for prohibiting the child from attending a class or participating in a school-related activity.

(c) Subsection (b) does not:

(1) prevent an appropriate referral under the child find system required under 20 U.S.C. Section 1412, as amended; or

(2) prohibit a school district employee who is a registered nurse, advanced nurse practitioner, physician, or certified or appropriately credentialed mental health professional from recommending that a child be evaluated by an appropriate medical practitioner; or

(3) prohibit a school employee from discussing any aspect of a child's behavior or academic progress with the child's parent or another school district employee.

(d) The board of trustees of each school district shall adopt a policy to ensure implementation and enforcement of this section.

(e) An act in violation of Subsection (b) does not override the immunity from personal liability granted in Section [22.0511](#) or other law or the district's sovereign and governmental immunity.

Added by Acts 2003, 78th Leg., ch. 1058, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 4.008, eff. September 1, 2007.

Sec. 38.017. AVAILABILITY OF AUTOMATED EXTERNAL DEFIBRILLATOR. (a) Each school district shall make available at each campus in the district at least one automated external defibrillator, as defined by Section 779.001, Health and Safety Code. A campus defibrillator must be readily available during any University Interscholastic League athletic competition held on the campus. In determining the location at which to store a campus defibrillator, the principal of the campus shall consider the primary location on campus where students engage in athletic activities.

(b) To the extent practicable, each school district, in cooperation with the University Interscholastic League, shall make reasonable efforts to ensure that an automated external defibrillator is available at each University Interscholastic League athletic practice held at a district campus. If a school district is not able to make an automated external defibrillator available in the manner provided by this subsection, the district shall determine the extent to which an automated external defibrillator must be available at each University Interscholastic League athletic practice held at a district campus. The determination must be based, in addition to any other appropriate considerations, on relevant medical information.

(c) Each school district, in cooperation with the University Interscholastic League, shall determine the extent to which an automated external defibrillator must be available at each University Interscholastic League athletic competition held at a location other than a district campus. The determination must be based, in addition to any other appropriate considerations, on relevant medical information and whether emergency services personnel are present at the athletic competition under a contract with the school district.

(d) Each school district shall ensure the presence at each location at which an automated external defibrillator is required

under Subsection (a), (b), or (c) of at least one campus or district employee trained in the proper use of the defibrillator at any time a substantial number of district students are present at the location.

(e) A school district shall ensure that an automated external defibrillator is used and maintained in accordance with standards established under Chapter 779, Health and Safety Code.

(f) This section does not:

(1) waive any immunity from liability of a school district or its officers or employees;

(2) create any liability for or a cause of action against a school district or its officers or employees; or

(3) waive any immunity from liability under Section 74.151, Civil Practice and Remedies Code.

(g) This subsection applies only to a private school that receives an automated external defibrillator from the agency or receives funding from the agency to purchase or lease an automated external defibrillator. A private school shall:

(1) make available at the school at least one automated external defibrillator; and

(2) in coordination with the Texas Association of Private and Parochial Schools, adopt a policy concerning the availability of an automated external defibrillator at athletic competitions and practices in a manner consistent with the requirements prescribed by this section, including the training and maintenance requirements prescribed by this section.

(h) A school district may seek and accept gifts, grants, or other donations to pay the district's cost of purchasing automated external defibrillators required under this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1371 (S.B. 7), Sec. 6, eff. June 15, 2007.

Sec. 38.018. PROCEDURES REGARDING RESPONSE TO CARDIAC ARREST. (a) Each school district and private school shall develop safety procedures for a district or school employee or student to follow in responding to a medical emergency involving cardiac arrest, including the appropriate response time in administering

cardiopulmonary resuscitation, using an automated external defibrillator, as defined by Section 779.001, Health and Safety Code, or calling a local emergency medical services provider.

(b) A private school is required to develop safety procedures under this section only if the school receives an automated external defibrillator from the agency or receives funding from the agency to purchase or lease an automated external defibrillator.

Added by Acts 2007, 80th Leg., R.S., Ch. 1371 (S.B. 7), Sec. 6, eff. June 15, 2007.

Sec. 38.0181. CARDIOVASCULAR SCREENING PILOT PROGRAM. (a) In this section, "pilot program" means the cardiovascular screening pilot program.

(b) The commissioner shall establish a pilot program under which sixth grade students at participating campuses are administered a cardiovascular screening, including an electrocardiogram and an echocardiogram.

(c) The commissioner shall select campuses to participate in the pilot program. In selecting campuses, the commissioner shall ensure that the cardiovascular screening is administered to an ethnically diverse range of students.

(d) The commissioner may accept grants and donations for use in administering the pilot program.

(e) The commissioner shall require a participating campus to provide the results of a student's cardiovascular screening to the student's parent or guardian.

(f) Expired.

(g) The commissioner may adopt rules necessary to administer this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1371 (S.B. 7), Sec. 6, eff. June 15, 2007.

Renumbered from Education Code, Section 38.019 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(6), eff. September 1, 2009.

Sec. 38.019. IMMUNIZATION AWARENESS PROGRAM. (a) A school

district that maintains an Internet website shall post prominently on the website:

(1) a list, in English and Spanish, of:

(A) the immunizations required for admission to public school by rules of the Department of State Health Services adopted under Section [38.001](#);

(B) any immunizations or vaccines recommended for public school students by the Department of State Health Services; and

(C) health clinics in the district that offer the influenza vaccine, to the extent those clinics are known to the district; and

(2) a link to the Department of State Health Services Internet website where a person may obtain information relating to the procedures for claiming an exemption from the immunization requirements of Section [38.001](#).

(a-1) The link to the Department of State Health Services Internet website provided under Subsection (a)(2) must be presented in the same manner as the information provided under Subsection (a)(1).

(b) The list of recommended immunizations or vaccines under Subsection (a)(2) must include the influenza vaccine, unless the Department of State Health Services requires the influenza vaccine for admission to public school.

Added by Acts 2007, 80th Leg., R.S., Ch. 94 (H.B. [1059](#)), Sec. 3, eff. May 15, 2007.

Sec. 38.021. USE OF SUNSCREEN PRODUCTS. (a) A student may possess and use a topical sunscreen product while on school property or at a school-related event or activity to avoid overexposure to the sun and not for the medical treatment of an injury or illness if the product is approved by the federal Food and Drug Administration for over-the-counter use.

(b) This section does not:

(1) waive any immunity from liability of a school district, its board of trustees, or its employees; or

(2) create any liability for or a cause of action

against a school district, its board of trustees, or its employees. Added by Acts 2015, 84th Leg., R.S., Ch. 1139 (S.B. 265), Sec. 1, eff. June 19, 2015.

Sec. 38.022. SCHOOL VISITORS. (a) A school district may require a person who enters a district campus to display the person's driver's license or another form of identification containing the person's photograph issued by a governmental entity.

(b) A school district may establish an electronic database for the purpose of storing information concerning visitors to district campuses. Information stored in the electronic database may be used only for the purpose of school district security and may not be sold or otherwise disseminated to a third party for any purpose.

(c) A school district may verify whether a visitor to a district campus is a sex offender registered with the computerized central database maintained by the Department of Public Safety as provided by Article 62.005, Code of Criminal Procedure, or any other database accessible by the district.

(d) The board of trustees of a school district shall adopt a policy regarding the action to be taken by the administration of a school campus when a visitor is identified as a sex offender.

Added by Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 12, eff. June 15, 2007.

Sec. 38.023. LIST OF RESOURCES CONCERNING INTERNET SAFETY. The agency shall develop and make available to school districts a list of resources concerning Internet safety, including a list of organizations and Internet websites that may assist in educating teachers and students about:

- (1) the potential dangers of allowing personal information to appear on an Internet website;
- (2) the significance of copyright laws; and
- (3) the consequences of cyber-plagiarism and theft of audiovisual works, including motion pictures, software, and sound recordings, through uploading and downloading files on the Internet.

Added by Acts 2007, 80th Leg., R.S., Ch. 751 (H.B. 3171), Sec. 1, eff. June 15, 2007.

Sec. 38.024. INSURANCE AGAINST STUDENT INJURIES. (a) In compliance with this section, the board of trustees of a school district may obtain insurance against bodily injuries sustained by students while training for or engaging in interschool athletic competition or while engaging in school-sponsored activities.

(b) The amount of insurance to be obtained must be in keeping with the financial condition of the school district and may not exceed the amount that, in the opinion of the board of trustees, is reasonably necessary to afford adequate medical treatment of injured students.

(c) The insurance authorized by this section must be obtained from a reliable insurance company authorized to do business in this state and must be on forms approved by the commissioner of insurance.

(d) The cost of the insurance is a legitimate part of the total cost of operating the school district.

(e) The failure of any board of trustees to carry the insurance authorized by this section may not be construed as placing any legal liability on the school district or its officers, agents, or employees for any injury that results.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2001, 77th Leg., ch. 534, Sec. 1, eff. Sept. 1, 2001.

Transferred from Education Code, Section 33.085 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 7.004(a), eff. September 1, 2009.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 7.004(b), eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 92 (H.B. 744), Sec. 1, eff. May 23, 2015.

Sec. 38.026. GRANT PROGRAM FOR BEST PRACTICES IN NUTRITION EDUCATION. (a) The Department of Agriculture shall develop a

program under which the department awards grants to public school campuses for best practices in nutrition education.

(b) The Department of Agriculture may solicit and accept gifts, grants, and donations from any public or private source for the purposes of this section.

(c) The Department of Agriculture may adopt rules as necessary to administer a grant program established under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 728 (S.B. 282), Sec. 2, eff. June 19, 2009.

Sec. 38.027. ELECTRONIC COMMUNICATION POLICY. (a) In this section, "electronic communication" means any communication facilitated by the use of any electronic device, including a telephone, cellular telephone, computer, computer network, personal data assistant, or pager. The term includes e-mails, text messages, instant messages, and any communications made through an Internet website, including a social media website or a social networking website.

(b) A school district shall adopt a written policy concerning electronic communications between a school employee and a student enrolled in the district.

(c) The policy adopted under this section must:

(1) include provisions designed to prevent improper electronic communications between a school employee and a student;

(2) allow a school employee to elect to not disclose to students the employee's personal telephone number or e-mail address; and

(3) include provisions instructing a school employee about the proper method for notifying appropriate local administrators about an incident in which a student engages in improper communications with the school employee.

Added by Acts 2017, 85th Leg., R.S., Ch. 178 (S.B. 7), Sec. 15, eff. September 1, 2017.

Sec. 38.031. NOTICE OF LICE. (a) The board of trustees of an independent school district shall adopt a policy requiring a

school nurse of a public elementary school who determines or otherwise becomes aware that a child enrolled in the school has lice shall provide written or electronic notice of that fact to:

(1) the parent of the child with lice as soon as practicable but not later than 48 hours after the administrator or nurse, as applicable, determines or becomes aware of that fact; and

(2) the parent of each child assigned to the same classroom as the child with lice not later than the fifth school day after the date on which the administrator or nurse, as applicable, determines or becomes aware of that fact.

(b) The notice provided under Subsection (a):

(1) must include the recommendations of the Centers for Disease Control and Prevention for the treatment and prevention of lice; and

(2) if the notice is provided under Subsection (a)(2), may not identify the child with lice.

(c) The commissioner shall adopt rules as necessary to implement this section in a manner that complies with federal law regarding confidentiality of student medical or educational information, including the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.) and the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), and any state law relating to the privacy of student information.

Added by Acts 2017, 85th Leg., R.S., Ch. 925 (S.B. [1566](#)), Sec. 14, eff. September 1, 2017.

## SUBCHAPTER B. SCHOOL-BASED HEALTH CENTERS

Sec. 38.051. ESTABLISHMENT OF SCHOOL-BASED HEALTH CENTERS.

(a) A school district in this state may, if the district identifies the need, design a model in accordance with this subchapter for the delivery of cooperative health care programs for students and their families and may compete for grants awarded under this subchapter. The model may provide for the delivery of conventional health services and disease prevention of emerging health threats that are specific to the district.

(b) On the recommendation of an advisory council established under Section 38.058, a school district may establish a school-based health center at one or more campuses in the district to meet the health care needs of students and their families.

Added by Acts 1999, 76th Leg., ch. 1418, Sec. 1, eff. June 19, 1999.  
Renumbered from Education Code Sec. 38.011 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 4.005, eff. Sept. 1, 2001.

Sec. 38.052. CONTRACT FOR SERVICES. A district may contract with a person to provide services at a school-based health center.

Added by Acts 1999, 76th Leg., ch. 1418, Sec. 1, eff. June 19, 1999.  
Renumbered from Education Code Sec. 38.011 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 4.005, eff. Sept. 1, 2001.

Sec. 38.053. PARENTAL CONSENT REQUIRED. (a) A school-based health center may provide services to a student only if the district or the provider with whom the district contracts obtains the written consent of the student's parent or guardian or another person having legal control of the student on a consent form developed by the district or provider. The student's parent or guardian or another person having legal control of the student may give consent for a student to receive ongoing services or may limit consent to one or more services provided on a single occasion.

(b) The consent form must list every service the school-based health center delivers in a format that complies with all applicable state and federal laws and allows a person to consent to one or more categories of services.

Added by Acts 1999, 76th Leg., ch. 1418, Sec. 1, eff. June 19, 1999.  
Renumbered from Education Code Sec. 38.011 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 4.005, eff. Sept. 1, 2001.

Sec. 38.054. CATEGORIES OF SERVICES. The permissible categories of services are:

- (1) family and home support;
- (2) health care, including immunizations;
- (3) dental health care;

- (4) health education; and
- (5) preventive health strategies.

Added by Acts 1999, 76th Leg., ch. 1418, Sec. 1, eff. June 19, 1999.  
Renumbered from Education Code Sec. 38.011 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 4.005, eff. Sept. 1, 2001.

Sec. 38.055. USE OF GRANT FUNDS FOR REPRODUCTIVE SERVICES PROHIBITED. Reproductive services, counseling, or referrals may not be provided through a school-based health center using grant funds awarded under this subchapter.

Added by Acts 1999, 76th Leg., ch. 1418, Sec. 1, eff. June 19, 1999.  
Renumbered from Education Code Sec. 38.011 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 4.005, eff. Sept. 1, 2001.

Sec. 38.056. PROVISION OF CERTAIN SERVICES BY LICENSED HEALTH CARE PROVIDER REQUIRED. Any service provided using grant funds awarded under this subchapter must be provided by an appropriate professional who is properly licensed, certified, or otherwise authorized under state law to provide the service.

Added by Acts 1999, 76th Leg., ch. 1418, Sec. 1, eff. June 19, 1999.  
Renumbered from Education Code Sec. 38.011 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 4.005, eff. Sept. 1, 2001.

Sec. 38.057. IDENTIFICATION OF HEALTH-RELATED CONCERNS.  
(a) The staff of a school-based health center and the person whose consent is obtained under Section 38.053 shall jointly identify any health-related concerns of a student that may be interfering with the student's well-being or ability to succeed in school.

(b) If it is determined that a student is in need of a referral for mental health services, the staff of the center shall notify the person whose consent is required under Section 38.053 verbally and in writing of the basis for the referral. The referral may not be provided unless the person provides written consent for the type of service to be provided and provides specific written consent for each treatment occasion.

Added by Acts 1999, 76th Leg., ch. 1418, Sec. 1, eff. June 19, 1999.  
Renumbered from Education Code Sec. 38.011 and amended by Acts

2001, 77th Leg., ch. 1420, Sec. 4.005, eff. Sept. 1, 2001.

Sec. 38.058. HEALTH EDUCATION AND HEALTH CARE ADVISORY COUNCIL. (a) The board of trustees of a school district may establish and appoint members to a local health education and health care advisory council to make recommendations to the district on the establishment of school-based health centers and to assist the district in ensuring that local community values are reflected in the operation of each center and in the provision of health education.

(b) A majority of the members of the council must be parents of students enrolled in the district. In addition to the appointees who are parents of students, the board of trustees shall also appoint at least one person from each of the following groups:

- (1) teachers;
- (2) school administrators;
- (3) licensed health care professionals;
- (4) the clergy;
- (5) law enforcement;
- (6) the business community;
- (7) senior citizens; and
- (8) students.

Added by Acts 1999, 76th Leg., ch. 1418, Sec. 1, eff. June 19, 1999. Renumbered from Education Code Sec. 38.011 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 4.005, eff. Sept. 1, 2001.

Sec. 38.059. ASSISTANCE OF PUBLIC HEALTH AGENCY. (a) A school district may seek assistance in establishing and operating a school-based health center from any public health agency in the community. On request, a public health agency shall cooperate with a district and to the extent practicable, considering the resources of the agency, may provide assistance.

(b) A district and a public health agency may, by agreement, jointly establish, operate, and fund a school-based health center. Added by Acts 1999, 76th Leg., ch. 1418, Sec. 1, eff. June 19, 1999. Renumbered from Education Code Sec. 38.011 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 4.005, eff. Sept. 1, 2001.

Sec. 38.060. COORDINATION WITH EXISTING PROVIDERS IN CERTAIN AREAS. (a) This section applies only to a school-based health center serving an area that:

(1) is located in a county with a population not greater than 50,000; or

(2) has been designated under state or federal law as:

(A) a health professional shortage area;

(B) a medically underserved area; or

(C) a medically underserved community by the Texas Department of Rural Affairs.

(b) If a school-based health center is located in an area described by Subsection (a), the school district and the advisory council established under Section 38.058 shall make a good faith effort to identify and coordinate with existing providers to preserve and protect existing health care systems and medical relationships in the area.

(c) The council shall keep a record of efforts made to coordinate with existing providers.

Added by Acts 1999, 76th Leg., ch. 1418, Sec. 1, eff. June 19, 1999. Renumbered from Education Code Sec. 38.011 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 4.005, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 609, Sec. 7, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.006(f), eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 2, eff. September 1, 2009.

Sec. 38.061. COMMUNICATION WITH PRIMARY CARE PHYSICIAN.

(a) If a person receiving a medical service from a school-based health center has a primary care physician, the staff of the center shall provide notice of the service the person received to the primary care physician in order to allow the physician to maintain a complete medical history of the person.

(b) The staff of a school-based health center shall, before delivering a medical service to a person with a primary care physician under the state Medicaid program, a state children's

health plan program, or a private health insurance or health benefit plan, notify the physician for the purpose of sharing medical information and obtaining authorization for delivering the medical service.

Added by Acts 1999, 76th Leg., ch. 1418, Sec. 1, eff. June 19, 1999. Renumbered from Education Code Sec. 38.011 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 4.005, eff. Sept. 1, 2001.

Sec. 38.062. FUNDING FOR PROVISION OF SERVICES. A school district or the provider with whom the district contracts shall seek all available sources of funding to compensate the district or provider for services provided by a school-based health center, including money available under the state Medicaid program, a state children's health plan program, or private health insurance or health benefit plans or available from those persons using a school-based health center who have the ability to pay for the services.

Added by Acts 1999, 76th Leg., ch. 1418, Sec. 1, eff. June 19, 1999. Renumbered from Education Code Sec. 38.011 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 4.005, eff. Sept. 1, 2001.

Sec. 38.063. GRANTS. (a) Subject to the availability of federal or state appropriated funds, the commissioner of state health services shall administer a program under which grants are awarded to assist school districts and local health departments, hospitals, health care systems, universities, or nonprofit organizations that contract with school districts with the costs of school-based health centers in accordance with this section.

(b) The commissioner of state health services, by rules adopted in accordance with this section, shall establish procedures for awarding grants. The rules must provide that:

(1) grants are awarded annually through a competitive process to:

(A) school districts; and

(B) local health departments, hospitals, health care systems, universities, or nonprofit organizations that have contracted with school districts to establish and operate

school-based health centers;

(2) subject to the availability of federal or state appropriated funds, each grant is for a term of five years; and

(3) a preference is given to school-based health centers in school districts that are located in rural areas or that have low property wealth per student.

(c) All health care programs should be designed to meet the following goals:

(1) reducing student absenteeism;

(2) increasing a student's ability to meet the student's academic potential; and

(3) stabilizing the physical well-being of a student.

(d) A school district, local health department, hospital, health care system, university, or nonprofit organization may not receive more than \$250,000 per state fiscal biennium through grants awarded under this section.

(e) To be eligible to receive a grant, a school district, local health department, hospital, health care system, university, or nonprofit organization must provide matching funds in accordance with rules adopted under Subsection (b). The matching funds may be obtained from any source available to the district, local health department, hospital, health care system, university, or nonprofit organization, including in-kind contributions, community or foundation grants, individual contributions, and local governmental agency operating funds.

(e-1) A grant under this section may not be given to a nonprofit organization that offers reproductive services, contraceptive services, counseling, or referrals, or any other services that require a license under Chapter 245, Health and Safety Code, or that is affiliated with a nonprofit organization that is licensed under Chapter 245, Health and Safety Code.

(e-2) A school district, local health department, hospital, health care system, university, or nonprofit organization receiving a grant under this section may use the grant funds to:

(1) establish a new school-based health center;

(2) expand an existing school-based health center; or

(3) operate a school-based health center.

(f) The commissioner of state health services shall adopt rules establishing standards for health care centers funded through grants that place primary emphasis on delivery of health services and secondary emphasis on population-based models that prevent emerging health threats.

(g) The commissioner of state health services shall require client surveys to be conducted in school-based health centers funded through grants awarded under this section.

Added by Acts 1999, 76th Leg., ch. 1418, Sec. 1, eff. June 19, 1999.

Renumbered from Education Code Sec. 38.011 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 4.005, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 598 (H.B. 281), Sec. 1, eff. June 19, 2009.

Sec. 38.064. REPORT TO LEGISLATURE. (a) Based on statistics obtained from every school-based health center in this state that receives funding through the Department of State Health Services, the Department of State Health Services shall issue a biennial report to the legislature about the relative efficacy of services delivered by the centers during the preceding two years and any increased academic success of students at campuses served by those centers, with special emphasis on any:

(1) increased attendance, including attendance information regarding students with chronic illnesses;

(2) decreased drop-out rates;

(3) improved student health;

(4) increased student immunization rates;

(5) increased student participation in preventive health measures, including routine physical examinations and checkups conducted in accordance with the Texas Health Steps program; and

(6) improved performance on student assessment instruments administered under Subchapter B, Chapter 39.

(b) The Department of State Health Services may modify any requirement imposed by Subsection (a) if necessary to comply with federal law regarding confidentiality of student medical or

educational information, including the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.) and the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

Added by Acts 1999, 76th Leg., ch. 1418, Sec. 1, eff. June 19, 1999.  
Renumbered from Education Code Sec. 38.011 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 4.005, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 598 (H.B. 281), Sec. 2, eff. June 19, 2009.

#### SUBCHAPTER C. PHYSICAL FITNESS ASSESSMENT

Sec. 38.101. ASSESSMENT REQUIRED. (a) Except as provided by Subsection (b), a school district annually shall assess the physical fitness of students enrolled in grade three or higher in a course that satisfies the curriculum requirements for physical education under Section 28.002(a)(2)(C).

(b) A school district is not required to assess a student for whom, as a result of disability or other condition identified by commissioner rule, the assessment instrument adopted under Section 38.102 is inappropriate.

Added by Acts 2007, 80th Leg., R.S., Ch. 1377 (S.B. 530), Sec. 3, eff. June 15, 2007.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 8 (S.B. 8), Sec. 17, eff. September 28, 2011.

Sec. 38.102. ADOPTION OF ASSESSMENT INSTRUMENT. (a) The commissioner by rule shall adopt an assessment instrument to be used by a school district in assessing student physical fitness under this subchapter.

(b) The assessment instrument must:

(1) be based on factors related to student health, including the following factors that have been identified as essential to overall health and function:

(A) aerobic capacity;

(B) body composition; and  
(C) muscular strength, endurance, and flexibility; and

(2) include criterion-referenced standards specific to a student's age and gender and based on the physical fitness level required for good health.

Added by Acts 2007, 80th Leg., R.S., Ch. 1377 (S.B. 530), Sec. 3, eff. June 15, 2007.

Sec. 38.103. REPORTING OF PHYSICAL FITNESS RESULTS. (a) A school district shall provide the results of individual student performance on the physical fitness assessment required by this subchapter to the agency. The results may not contain the names of individual students or teachers or a student's social security number or date of birth.

(b) The results of individual student performance on the physical fitness assessment instrument are confidential and may be released only in accordance with state and federal law.

Added by Acts 2007, 80th Leg., R.S., Ch. 1377 (S.B. 530), Sec. 3, eff. June 15, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 372 (S.B. 226), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 372 (S.B. 226), Sec. 2, eff. June 17, 2011.

Sec. 38.104. ANALYSIS OF RESULTS. (a) The agency shall analyze the results received by the agency under this subchapter and identify, for each school district, any correlation between the results and the following:

- (1) student academic achievement levels;
- (2) student attendance levels;
- (3) student obesity;
- (4) student disciplinary problems; and
- (5) school meal programs.

(b) The agency may contract with a public or private entity for that entity to conduct all or part of the analysis required by

Subsection (a).

(c) Not later than September 1 of each year, the agency shall report the findings of the analysis under this section of the results obtained during the preceding school year to the School Health Advisory Committee established under Section [1001.0711](#), Health and Safety Code, for use by the committee in:

(1) assessing the effectiveness of coordinated health programs provided by school districts in accordance with Section [38.014](#); and

(2) developing recommendations for modifications to coordinated health program requirements or related curriculum.

Added by Acts 2007, 80th Leg., R.S., Ch. 1377 (S.B. [530](#)), Sec. 3, eff. June 15, 2007.

Sec. 38.105. DONATIONS. The agency and each school district may accept donations made to facilitate implementation of this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1377 (S.B. [530](#)), Sec. 3, eff. June 15, 2007.

Sec. 38.106. RULES. The commissioner shall adopt rules necessary to implement this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1377 (S.B. [530](#)), Sec. 3, eff. June 15, 2007.

#### SUBCHAPTER D. PREVENTION, TREATMENT, AND OVERSIGHT OF CONCUSSIONS AFFECTING STUDENT ATHLETES

Sec. 38.151. DEFINITIONS. In this subchapter:

(1) "Advanced practice nurse" has the meaning assigned by Section [301.152](#), Occupations Code.

(2) "Athletic trainer" has the meaning assigned by Section [451.001](#), Occupations Code.

(3) "Coach" includes an assistant coach.

(4) "Concussion" means a complex pathophysiological process affecting the brain caused by a traumatic physical force or impact to the head or body, which may:

(A) include temporary or prolonged altered brain function resulting in physical, cognitive, or emotional symptoms or altered sleep patterns; and

(B) involve loss of consciousness.

(5) "Licensed health care professional" means an advanced practice nurse, athletic trainer, neuropsychologist, or physician assistant, as those terms are defined by this section.

(6) "Neuropsychologist" means a person who:

(A) holds a license to engage in the practice of psychology issued under Section 501.252, Occupations Code; and

(B) specializes in the practice of neuropsychology.

(7) "Open-enrollment charter school" includes a school granted a charter under Subchapter E, Chapter 12.

(8) "Physician" means a person who holds a license to practice medicine in this state.

(9) "Physician assistant" means a person who holds a license issued under Chapter 204, Occupations Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 781 (H.B. 2038), Sec. 2, eff. June 17, 2011.

Sec. 38.152. APPLICABILITY. This subchapter applies to an interscholastic athletic activity, including practice and competition, sponsored or sanctioned by:

(1) a school district, including a home-rule school district, or a public school, including any school for which a charter has been granted under Chapter 12; or

(2) the University Interscholastic League.

Added by Acts 2011, 82nd Leg., R.S., Ch. 781 (H.B. 2038), Sec. 2, eff. June 17, 2011.

Sec. 38.153. OVERSIGHT OF CONCUSSIONS BY SCHOOL DISTRICTS AND CHARTER SCHOOLS; RETURN-TO-PLAY PROTOCOL DEVELOPMENT BY CONCUSSION OVERSIGHT TEAM. (a) The governing body of each school district and open-enrollment charter school with students enrolled who participate in an interscholastic athletic activity shall appoint or approve a concussion oversight team.

(b) Each concussion oversight team shall establish a return-to-play protocol, based on peer-reviewed scientific evidence, for a student's return to interscholastic athletics practice or competition following the force or impact believed to have caused a concussion.

Added by Acts 2011, 82nd Leg., R.S., Ch. 781 (H.B. 2038), Sec. 2, eff. June 17, 2011.

Sec. 38.154. CONCUSSION OVERSIGHT TEAM: MEMBERSHIP. (a) Each concussion oversight team must include at least one physician and, to the greatest extent practicable, considering factors including the population of the metropolitan statistical area in which the school district or open-enrollment charter school is located, district or charter school student enrollment, and the availability of and access to licensed health care professionals in the district or charter school area, must also include one or more of the following:

- (1) an athletic trainer;
- (2) an advanced practice nurse;
- (3) a neuropsychologist; or
- (4) a physician assistant.

(b) If a school district or open-enrollment charter school employs an athletic trainer, the athletic trainer must be a member of the district or charter school concussion oversight team.

(c) Each member of the concussion oversight team must have had training in the evaluation, treatment, and oversight of concussions at the time of appointment or approval as a member of the team.

Added by Acts 2011, 82nd Leg., R.S., Ch. 781 (H.B. 2038), Sec. 2, eff. June 17, 2011.

Sec. 38.155. REQUIRED ANNUAL FORM ACKNOWLEDGING CONCUSSION INFORMATION. A student may not participate in an interscholastic athletic activity for a school year until both the student and the student's parent or guardian or another person with legal authority to make medical decisions for the student have signed a form for that school year that acknowledges receiving and reading written

information that explains concussion prevention, symptoms, treatment, and oversight and that includes guidelines for safely resuming participation in an athletic activity following a concussion. The form must be approved by the University Interscholastic League.

Added by Acts 2011, 82nd Leg., R.S., Ch. 781 (H.B. 2038), Sec. 2, eff. June 17, 2011.

Sec. 38.156. REMOVAL FROM PLAY IN PRACTICE OR COMPETITION FOLLOWING CONCUSSION. A student shall be removed from an interscholastic athletics practice or competition immediately if one of the following persons believes the student might have sustained a concussion during the practice or competition:

- (1) a coach;
- (2) a physician;
- (3) a licensed health care professional;
- (4) a person licensed under Chapter 201, Occupations Code; or

- (5) the student's parent or guardian or another person with legal authority to make medical decisions for the student.

Added by Acts 2011, 82nd Leg., R.S., Ch. 781 (H.B. 2038), Sec. 2, eff. June 17, 2011.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 362 (H.B. 3024), Sec. 1, eff. June 1, 2017.

Sec. 38.157. RETURN TO PLAY IN PRACTICE OR COMPETITION.

(a) A student removed from an interscholastic athletics practice or competition under Section 38.156 may not be permitted to practice or compete again following the force or impact believed to have caused the concussion until:

- (1) the student has been evaluated, using established medical protocols based on peer-reviewed scientific evidence, by a treating physician chosen by the student or the student's parent or guardian or another person with legal authority to make medical decisions for the student;

- (2) the student has successfully completed each

requirement of the return-to-play protocol established under Section 38.153 necessary for the student to return to play;

(3) the treating physician has provided a written statement indicating that, in the physician's professional judgment, it is safe for the student to return to play; and

(4) the student and the student's parent or guardian or another person with legal authority to make medical decisions for the student:

(A) have acknowledged that the student has completed the requirements of the return-to-play protocol necessary for the student to return to play;

(B) have provided the treating physician's written statement under Subdivision (3) to the person responsible for compliance with the return-to-play protocol under Subsection (c) and the person who has supervisory responsibilities under Subsection (c); and

(C) have signed a consent form indicating that the person signing:

(i) has been informed concerning and consents to the student participating in returning to play in accordance with the return-to-play protocol;

(ii) understands the risks associated with the student returning to play and will comply with any ongoing requirements in the return-to-play protocol;

(iii) consents to the disclosure to appropriate persons, consistent with the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191), of the treating physician's written statement under Subdivision (3) and, if any, the return-to-play recommendations of the treating physician; and

(iv) understands the immunity provisions under Section 38.159.

(b) A coach of an interscholastic athletics team may not authorize a student's return to play.

(c) The school district superintendent or the superintendent's designee or, in the case of a home-rule school district or open-enrollment charter school, the person who serves

the function of superintendent or that person's designee shall supervise an athletic trainer or other person responsible for compliance with the return-to-play protocol. The person who has supervisory responsibilities under this subsection may not be a coach of an interscholastic athletics team.

Added by Acts 2011, 82nd Leg., R.S., Ch. 781 (H.B. 2038), Sec. 2, eff. June 17, 2011.

Sec. 38.158. TRAINING COURSES. (a) The University Interscholastic League shall approve for coaches of interscholastic athletic activities training courses that provide for not less than two hours of training in the subject matter of concussions, including evaluation, prevention, symptoms, risks, and long-term effects. The league shall maintain an updated list of individuals and organizations authorized by the league to provide the training.

(b) The Texas Department of Licensing and Regulation shall approve for athletic trainers training courses in the subject matter of concussions and shall maintain an updated list of individuals and organizations authorized by the board to provide the training.

(c) The following persons must take a training course in accordance with Subsection (e) from an authorized training provider at least once every two years:

- (1) a coach of an interscholastic athletic activity;
- (2) a licensed health care professional who serves as a member of a concussion oversight team and is an employee, representative, or agent of a school district or open-enrollment charter school; and
- (3) a licensed health care professional who serves on a volunteer basis as a member of a concussion oversight team for a school district or open-enrollment charter school.

(d) A physician who serves as a member of a concussion oversight team shall, to the greatest extent practicable, periodically take an appropriate continuing medical education course in the subject matter of concussions.

(e) For purposes of Subsection (c):

(1) a coach must take a course described by Subsection (a);

(2) an athletic trainer must take:

(A) a course described by Subsection (b); or

(B) a course concerning the subject matter of concussions that has been approved for continuing education credit by the appropriate licensing authority for the profession; and

(3) a licensed health care professional, other than an athletic trainer, must take:

(A) a course described by Subsection (a) or (b);

or

(B) a course concerning the subject matter of concussions that has been approved for continuing education credit by the appropriate licensing authority for the profession.

(f) Each person described by Subsection (c) must submit proof of timely completion of an approved course in compliance with Subsection (e) to the school district superintendent or the superintendent's designee or, in the case of a home-rule school district or open-enrollment charter school, a person who serves the function of a superintendent or that person's designee.

(g) A licensed health care professional who is not in compliance with the training requirements under this section may not serve on a concussion oversight team in any capacity.

Added by Acts 2011, 82nd Leg., R.S., Ch. 781 (H.B. 2038), Sec. 2, eff. June 17, 2011.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 6.003, eff. September 1, 2017.

Sec. 38.159. IMMUNITY. This subchapter does not:

(1) waive any immunity from liability of a school district or open-enrollment charter school or of district or charter school officers or employees;

(2) create any liability for a cause of action against a school district or open-enrollment charter school or against district or charter school officers or employees;

(3) waive any immunity from liability under Section

[74.151](#), Civil Practice and Remedies Code; or

(4) create any cause of action or liability for a member of a concussion oversight team arising from the injury or death of a student participating in an interscholastic athletics practice or competition, based on service or participation on the concussion oversight team.

Added by Acts 2011, 82nd Leg., R.S., Ch. 781 (H.B. [2038](#)), Sec. 2, eff. June 17, 2011.

Sec. 38.160. RULES. The commissioner may adopt rules as necessary to administer this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 781 (H.B. [2038](#)), Sec. 2, eff. June 17, 2011.

SUBCHAPTER E. MAINTENANCE, ADMINISTRATION, AND DISPOSAL OF  
EPINEPHRINE AUTO-INJECTORS

Sec. 38.201. DEFINITIONS. In this subchapter:

(1) "Advisory committee" means the committee established under Section [38.202](#).

(2) "Anaphylaxis" means a sudden, severe, and potentially life-threatening allergic reaction that occurs when a person is exposed to an allergen.

(3) "Epinephrine auto-injector" means a disposable medical drug delivery device that contains a premeasured single dose of epinephrine that is intended to be used to treat anaphylaxis.

(4) "Physician" means a person who holds a license to practice medicine in this state.

(5) "Private school" means a school that:

- (A) offers a course of instruction for students in one or more grades from prekindergarten through grade 12;
- (B) is not operated by a governmental entity; and
- (C) is not a school whose students meet the definition provided by Section [29.916\(a\)\(1\)](#).

(6) "School personnel" means an employee of a school district, open-enrollment charter school, or private school. The

term includes a member of the board of trustees of a school district or the governing body of an open-enrollment charter school or private school.

Added by Acts 2015, 84th Leg., R.S., Ch. 180 (S.B. 66), Sec. 2, eff. May 28, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 61 (S.B. 579), Sec. 1, eff. May 22, 2017.

Sec. 38.202. ADVISORY COMMITTEE: ESTABLISHMENT AND COMPOSITION. (a) The commissioner of state health services shall establish an advisory committee to examine and review the administration of epinephrine auto-injectors to a person experiencing an anaphylactic reaction on a campus of a school district, an open-enrollment charter school, a private school, or an institution of higher education.

(b) The advisory committee shall be composed of members appointed by the commissioner of state health services. In making appointments, the commissioner shall ensure that:

(1) a majority of the members are physicians with expertise in treating anaphylaxis, including physicians who specialize in the fields of pediatrics, allergies, asthma, and immunology;

(2) at least one member is a registered nurse employed by a school district, open-enrollment charter school, or private school as a school nurse;

(3) at least one member is an employee of a general academic teaching institution; and

(4) at least one member is an employee of a public junior college or a public technical institute.

(c) A member of the advisory committee serves at the pleasure of the commissioner of state health services.

(d) A vacancy on the advisory committee is filled by the commissioner of state health services in the same manner as other appointments to the advisory committee.

(e) In this section, "general academic teaching institution," "institution of higher education," "public junior

college," and "public technical institute" have the meanings assigned by Section [61.003](#).

Added by Acts 2015, 84th Leg., R.S., Ch. 180 (S.B. [66](#)), Sec. 2, eff. May 28, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 61 (S.B. [579](#)), Sec. 2, eff. May 22, 2017.

Acts 2017, 85th Leg., R.S., Ch. 206 (S.B. [1367](#)), Sec. 1, eff. September 1, 2017.

Sec. 38.203. ADVISORY COMMITTEE: PRESIDING OFFICER. The advisory committee shall elect a presiding officer.

Added by Acts 2015, 84th Leg., R.S., Ch. 180 (S.B. [66](#)), Sec. 2, eff. May 28, 2015.

Sec. 38.204. ADVISORY COMMITTEE: COMPENSATION AND EXPENSES. Members of the advisory committee serve without compensation but are entitled to reimbursement for travel expenses.

Added by Acts 2015, 84th Leg., R.S., Ch. 180 (S.B. [66](#)), Sec. 2, eff. May 28, 2015.

Sec. 38.205. ADVISORY COMMITTEE: APPLICABILITY OF OTHER LAW. Chapter [2110](#), Government Code, does not apply to the advisory committee.

Added by Acts 2015, 84th Leg., R.S., Ch. 180 (S.B. [66](#)), Sec. 2, eff. May 28, 2015.

Sec. 38.206. ADVISORY COMMITTEE: OPEN MEETINGS. Meetings of the advisory committee are subject to Chapter [551](#), Government Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 180 (S.B. [66](#)), Sec. 2, eff. May 28, 2015.

Sec. 38.207. ADVISORY COMMITTEE: DUTIES. The advisory committee shall advise the commissioner of state health services on:

- (1) the storage and maintenance of epinephrine

auto-injectors on school campuses and campuses of institutions of higher education;

(2) the training of school personnel and school volunteers, and of personnel and volunteers at institutions of higher education, in the administration of an epinephrine auto-injector; and

(3) a plan for:

(A) one or more school personnel members or school volunteers trained in the administration of an epinephrine auto-injector to be on each school campus; and

(B) one or more personnel members or volunteers of an institution of higher education trained in the administration of an epinephrine auto-injector to be on each campus of an institution of higher education.

Added by Acts 2015, 84th Leg., R.S., Ch. 180 (S.B. 66), Sec. 2, eff. May 28, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 206 (S.B. 1367), Sec. 2, eff. September 1, 2017.

Sec. 38.208. MAINTENANCE AND ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS. (a) Each school district, open-enrollment charter school, and private school may adopt and implement a policy regarding the maintenance, administration, and disposal of epinephrine auto-injectors at each campus in the district or school.

(b) If a policy is adopted under Subsection (a), the policy:

(1) must provide that school personnel and school volunteers who are authorized and trained may administer an epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis on a school campus; and

(2) may provide that school personnel and school volunteers who are authorized and trained may administer an epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis at an off-campus school event or while in transit to or from a school event.

(c) The executive commissioner of the Health and Human

Services Commission, in consultation with the commissioner of education, and with advice from the advisory committee, shall adopt rules regarding the maintenance, administration, and disposal of an epinephrine auto-injector at a school campus subject to a policy adopted under Subsection (a). The rules must establish:

(1) the number of epinephrine auto-injectors available at each campus;

(2) the process for each school district, open-enrollment charter school, and private school to check the inventory of epinephrine auto-injectors at regular intervals for expiration and replacement; and

(3) the amount of training required for school personnel and school volunteers to administer an epinephrine auto-injector.

(d) Each school district, open-enrollment charter school, and private school that adopts a policy under Subsection (a) must require that each campus have one or more school personnel members or school volunteers authorized and trained to administer an epinephrine auto-injector present during all hours the campus is open.

(e) The supply of epinephrine auto-injectors at each campus must be stored in a secure location and be easily accessible to school personnel and school volunteers authorized and trained to administer an epinephrine auto-injector.

Added by Acts 2015, 84th Leg., R.S., Ch. 180 (S.B. 66), Sec. 2, eff. May 28, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 61 (S.B. 579), Sec. 3, eff. May 22, 2017.

Sec. 38.209. REPORT ON ADMINISTERING EPINEPHRINE AUTO-INJECTOR. (a) Not later than the 10th business day after the date a school personnel member or school volunteer administers an epinephrine auto-injector in accordance with a policy adopted under Section 38.208(a), the school shall report the information required under Subsection (b) to:

(1) the school district, the charter holder if the

school is an open-enrollment charter school, or the governing body of the school if the school is a private school;

(2) the physician or other person who prescribed the epinephrine auto-injector;

(3) the commissioner of education; and

(4) the commissioner of state health services.

(b) The report required under this section must include the following information:

(1) the age of the person who received the administration of the epinephrine auto-injector;

(2) whether the person who received the administration of the epinephrine auto-injector was a student, a school personnel member or school volunteer, or a visitor;

(3) the physical location where the epinephrine auto-injector was administered;

(4) the number of doses of epinephrine auto-injector administered;

(5) the title of the person who administered the epinephrine auto-injector; and

(6) any other information required by the commissioner of education.

Added by Acts 2015, 84th Leg., R.S., Ch. 180 (S.B. 66), Sec. 2, eff. May 28, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 61 (S.B. 579), Sec. 4, eff. May 22, 2017.

Sec. 38.210. TRAINING. (a) Each school district, open-enrollment charter school, and private school that adopts a policy under Section 38.208(a) is responsible for training school personnel and school volunteers in the administration of an epinephrine auto-injector.

(b) Training required under this section must:

(1) include information on:

(A) recognizing the signs and symptoms of anaphylaxis;

(B) administering an epinephrine auto-injector;

(C) implementing emergency procedures, if necessary, after administering an epinephrine auto-injector; and

(D) properly disposing of used or expired epinephrine auto-injectors; and

(2) be provided in a formal training session or through online education and be completed annually.

(c) Each school district, open-enrollment charter school, and private school shall maintain records on the training required under this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 180 (S.B. 66), Sec. 2, eff. May 28, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 61 (S.B. 579), Sec. 5, eff. May 22, 2017.

Sec. 38.211. PRESCRIPTION OF EPINEPHRINE AUTO-INJECTORS.

(a) A physician or person who has been delegated prescriptive authority under Chapter 157, Occupations Code, may prescribe epinephrine auto-injectors in the name of a school district, open-enrollment charter school, or private school.

(b) A physician or other person who prescribes epinephrine auto-injectors under Subsection (a) shall provide the school district, open-enrollment charter school, or private school with a standing order for the administration of an epinephrine auto-injector to a person reasonably believed to be experiencing anaphylaxis.

(c) The standing order under Subsection (b) is not required to be patient-specific, and the epinephrine auto-injector may be administered to a person without a previously established physician-patient relationship.

(d) Notwithstanding any other provisions of law, supervision or delegation by a physician is considered adequate if the physician:

(1) periodically reviews the order; and

(2) is available through direct telecommunication as needed for consultation, assistance, and direction.

(e) An order issued under this section must contain:

(1) the name and signature of the prescribing physician or other person;

(2) the name of the school district, open-enrollment charter school, or private school to which the order is issued;

(3) the quantity of epinephrine auto-injectors to be obtained and maintained under the order; and

(4) the date of issue.

(f) A pharmacist may dispense an epinephrine auto-injector to a school district, open-enrollment charter school, or private school without requiring the name or any other identifying information relating to the user.

Added by Acts 2015, 84th Leg., R.S., Ch. 180 (S.B. 66), Sec. 2, eff. May 28, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 61 (S.B. 579), Sec. 6, eff. May 22, 2017.

Sec. 38.212. NOTICE TO PARENTS. If a school district, open-enrollment charter school, or private school implements a policy under this subchapter for the maintenance, administration, and disposal of epinephrine auto-injectors, the district or school shall provide written notice to a parent or guardian of each student enrolled in the district or school. Notice required under this section must be provided before the policy is implemented by the district or school and before the start of each school year.

Added by Acts 2015, 84th Leg., R.S., Ch. 180 (S.B. 66), Sec. 2, eff. May 28, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 61 (S.B. 579), Sec. 7, eff. May 22, 2017.

Sec. 38.213. GIFTS, GRANTS, AND DONATIONS. A school district, open-enrollment charter school, or private school may accept gifts, grants, donations, and federal and local funds to implement this subchapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 180 (S.B. 66), Sec. 2, eff. May 28, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 61 (S.B. 579), Sec. 8, eff. May 22, 2017.

Sec. 38.214. RULES. Except as otherwise provided by this subchapter, the commissioner of education and the executive commissioner of the Health and Human Services Commission shall jointly adopt rules necessary to implement this subchapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 180 (S.B. 66), Sec. 2, eff. May 28, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 61 (S.B. 579), Sec. 9, eff. May 22, 2017.

Sec. 38.215. IMMUNITY FROM LIABILITY. (a) A person who in good faith takes, or fails to take, any action under this subchapter is immune from civil or criminal liability or disciplinary action resulting from that action or failure to act, including:

- (1) issuing an order for epinephrine auto-injectors;
- (2) supervising or delegating the administration of an epinephrine auto-injector;
- (3) possessing, maintaining, storing, or disposing of an epinephrine auto-injector;
- (4) prescribing an epinephrine auto-injector;
- (5) dispensing an epinephrine auto-injector;
- (6) administering, or assisting in administering, an epinephrine auto-injector;
- (7) providing, or assisting in providing, training, consultation, or advice in the development, adoption, or implementation of policies, guidelines, rules, or plans; or
- (8) undertaking any other act permitted or required under this subchapter.

(b) The immunities and protections provided by this subchapter are in addition to other immunities or limitations of liability provided by law.

(c) Notwithstanding any other law, this subchapter does not create a civil, criminal, or administrative cause of action or

liability or create a standard of care, obligation, or duty that provides a basis for a cause of action for an act or omission under this subchapter.

(d) A cause of action does not arise from an act or omission described by this section.

(e) A school district, open-enrollment charter school, or private school and school personnel and school volunteers are immune from suit resulting from an act, or failure to act, under this subchapter, including an act or failure to act under related policies and procedures.

(f) An act or failure to act by school personnel or a school volunteer under this subchapter, including an act or failure to act under related policies and procedures, is the exercise of judgment or discretion on the part of the school personnel or school volunteer and is not considered to be a ministerial act for purposes of liability of the school district or open-enrollment charter school.

Added by Acts 2015, 84th Leg., R.S., Ch. 180 (S.B. 66), Sec. 2, eff. May 28, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 61 (S.B. 579), Sec. 10, eff. May 22, 2017.