

This is an advanced copy of a Grand Jury report that will be publicly released on June 12, 2017. Penal Code section 933.05 (f) prohibits any officer, agency, department, or governing body of a public agency from disclosing any contents of the report prior to the public release of this report.



HOW HAVE SAN MATEO COUNTY PUBLIC SCHOOLS RESPONDED TO THE EPINEPHRINE AUTO-INJECTOR LAW, SB 1266?

Providing for the Emergency Medical Needs of Our Children

ISSUE

California Senate Bill 1266, which became effective January 1, 2015,¹ requires all California public schools to stock epinephrine auto-injectors (Pens) and ensure that school nurses or other school personnel are trained to use these devices to treat students suffering, or reasonably believed to be suffering, from anaphylaxis, *i.e.*, a severe allergic reaction. This report evaluates how public schools in San Mateo County have implemented SB 1266.

SUMMARY

Anaphylaxis, or anaphylactic shock, is a symptomatic manifestation of a severe allergic reaction. California Senate Bill 1266 (SB 1266) defines anaphylactic shock as a potentially life-threatening hypersensitivity to a substance or allergen. Allergic reactions to foods have become the most common cause of anaphylaxis in community health settings². Other common allergens, or triggers, include insect stings, medications, latex and exercise. Although aware of food allergies for decades, the public has become increasingly aware of the incidence and prevalence of untoward reactions to certain foods and of the potential life-threatening severity of these reactions presenting clinically as anaphylaxis. The immediate emergency treatment indicated for individuals experiencing severe allergic reactions to certain foods is the injection of epinephrine. In recognition of these potential dangers, the State of California passed SB 1266, effective January 1, 2015, mandating the availability of epinephrine auto-injectors at each of the state's public schools including charter schools. Schools must provide these epinephrine auto-injectors to school nurses or trained personnel who have volunteered to administer them to students suffering, or reasonably believed to be suffering, from a severe allergic reaction.

The 2016-2017 San Mateo County Civil Grand Jury (Grand Jury) was interested in determining how or whether the public schools throughout the County of San Mateo (County) were complying with the requirements of SB 1266. Though not all schools responded to a Grand Jury survey, it appears that most schools are complying with the provisions of SB 1266 which require the stocking and ready availability of Pens to school nurses and to personnel who have

¹ APPENDIX A.

² Branum AM, Lukacs SL. Food allergy among U.S. children: trends in prevalence and hospitalizations. NCHS Data Brief. 2008;10:1-8

This is an advanced copy of a Grand Jury report that will be publicly released on June 12, 2017. Penal Code section 933.05 (f) prohibits any officer, agency, department, or governing body of a public agency from disclosing any contents of the report prior to the public release of this report.

volunteered to administer epinephrine and who have been trained to recognize and treat adverse allergic reactions. Less information was available for evaluating the content and scheduling of annual training programs to maintain a qualified cadre of faculty and staff at each school.

GLOSSARY

For the purpose of this report, the following terms have the following meanings:

- “Anaphylaxis” A severe and potentially life-threatening allergic reaction to a situation or substance. Symptoms may include shortness of breath, difficulty in breathing caused by swelling of the airway, difficulty in swallowing, hives, itching, swelling, asthma or shock. Causes may include food allergies, insect stings, medications, latex and exercise.
- “Epinephrine Auto-injectors” also referenced herein as “Pens.” A disposable drug delivery system with a spring-activated needle that is designed for emergency administration of epinephrine (adrenaline) to provide rapid treatment for persons experiencing a potentially fatal reaction to triggers of anaphylaxis noted above.
- “Trained personnel” An employee who has volunteered to administer epinephrine auto-injectors to a person suffering, or reasonably believed to be suffering, from anaphylaxis, who has been designated by a school and who has received appropriate training pursuant to school district policy.

METHODOLOGY

In conducting its investigation, the Grand Jury:

- Developed an email survey of San Mateo County’s 23 K-12 public school district offices, 160 public school sites, the San Mateo County Office of Education (SMCOE), and 12 public charter schools. Together, all of these public schools serve more than 95,000 students.³ Charter schools were included in the group surveyed but SMCOE schools (i.e., court and community schools) were not.
- Reviewed relevant publications and the California School Nurses Organization (CSNO) website.
- Conducted on-site school and district office visits.

³ Statistics from Excellence and Equity in Education, San Mateo County Office of Education Strategic Plan 2016-2021, Strategies for the Future, 2016 Statistics from Excellence and Equity in Education, San Mateo County Office of Education Strategic Plan 2016-2021, Strategies for the Future, 2016.

BACKGROUND

Food allergies have become a significant food safety and public health concern and are currently estimated to affect approximately 8% of children in the United States.⁴ A study released in 2013 by the Centers for Disease Control (CDC) found that food allergies among children increased approximately 50% between 1997 and 2011.⁵ These allergic reactions can be severe and life-threatening. They can impact children and their families. Children with food allergies face health challenges that influence not only their ability to learn, but also their social and emotional development.⁶

Food allergies cannot be cured. Meaningful management of such allergies, including treatment of anaphylaxis, requires the participation of families, treating physicians, school staff, early caregivers and individuals supervising other extra-curricular and education programs. Involvement must include the development of comprehensive plans for protecting children with known food allergies and effective responses for dealing with food allergy emergencies.

Studies have shown that 16-18% of children with known food allergies have had a reaction after accidentally eating food allergens at school.⁷ Conversely, 25% of severe and potentially life-threatening or anaphylactic reactions to consumption of food allergens at school have occurred in children without prior diagnosis of a food allergy.⁸ School staff need to be prepared to respond effectively to the emergency needs of both children with known food allergies as well as those children who have not had a prior awareness of food allergies but who exhibit the clinical signs and symptoms of a significant allergic reaction.

Food Allergy Research and Education (FARE), a national non-profit, has noted that one in every 13 children under the age of 18 or approximately two children in every classroom will have a known food allergy.⁹ The CDC notes that food allergy reactions occur in one of every 25 children.¹⁰ Based on a student population of 95,000 in San Mateo County public schools, one would anticipate some 3,800 students using CDC estimates, and 7,307 students using incidence statistics noted by FARE, of having an identified food allergy. As noted above, there are probably many other students who have food allergies that are unknown to them, their parents, or

⁴ Gupta RS, Springston MR, Warrier BS, Rajesh K, Pongracic J, Holl JL. The prevalence, severity and distribution of childhood food allergy in the United States. *J Pediatr.*2011;128 doi:10.1542/peds.2011-0204.

⁵ Jackson K et al. Trends in Allergic Conditions among Children: United States, 1997-2011. National Center for Health Statistics Data Brief. 2013. Retrieved from <http://www.cdc.gov/nchs/products/databriefs/db121.htm>. Accessed October 19, 2016.

⁶ Centers for Disease Control and Prevention. Voluntary Guidelines for Managing Food Allergies in Schools and Early Care and Education Programs. Washington, DC: US Department of Health and Human Services; 2013.

⁷ Ibid

⁸ Branum AM, Lukacs SL. Food allergy among U.S. children: Trends in prevalence and hospitalizations. NCHS data brief, number 10. Hyattsville, MD: National Center for Health Statistics. 2008.

⁹ Food Allergy Research & Education, Facts and Statistics. <https://www.foodallergy.org/facts-and-stats>. Accessed November 14, 2016.

¹⁰ Branum AM, Lukacs SL. Food allergy among U.S. children: Trends in prevalence and hospitalizations. NCHS data brief, number 10. Hyattsville, MD: National Center for Health Statistics. 2008.

This is an advanced copy of a Grand Jury report that will be publicly released on June 12, 2017. Penal Code section 933.05 (f) prohibits any officer, agency, department, or governing body of a public agency from disclosing any contents of the report prior to the public release of this report.

their caregivers. The CDC notes the probability that one in every four students, without a previously identified food allergy, is at risk of experiencing a severe reaction after accidentally ingesting a food allergen while at school. The CDC has reported that food allergies result in more than 300,000 ambulatory medical visits a year among children under the age of 18.¹¹

Anaphylaxis is recognized as a severe and potentially fatal allergic reaction which is rapid in onset and progression. The most common clinical symptoms include throat tightening, hoarseness or swelling, itching, persistent wheezing, difficulty in breathing, fainting or low blood pressure. Currently there is no treatment that prevents the allergic reaction to certain foods other than avoiding ingestion of the food allergen. Early recognition of symptoms and prompt treatment are imperative.

The recommended first line of treatment for a significant allergic reaction or anaphylaxis is epinephrine, which is currently available in the form of an auto-injector.¹² Because it is not possible to predict which mild symptoms of an allergic reaction will progress to anaphylaxis, it becomes important to closely monitor children who develop symptoms of an allergic reaction after consuming a known or suspected food allergen and to be prepared to treat them for early signs of anaphylaxis. Food allergies account for 35-50% of all cases of anaphylaxis presenting to emergency rooms.¹³ A delay in administering epinephrine has been identified as one of the most significant risk factors associated with a fatal outcome.¹⁴ “Observation in a hospital setting is necessary for at least four hours after initial symptoms subside because delayed and prolonged reactions may occur even after proper initial treatment.”¹⁵

SB 1266 requires California public schools, charter schools, and county offices of education to stock Pens to treat any student who may be experiencing an anaphylactic reaction.¹⁶ This legislation requires school districts to develop policies and guidelines to improve the response to, and management of, food allergies in schools. In addition, private elementary and secondary schools in the state may voluntarily determine whether to follow the recommendations of this statute.

¹¹ Ibid

¹² Centers for Disease Control and Prevention. Voluntary Guidelines for Managing Food Allergies in Schools and Early Care and Education Programs. Washington, DC: US Department of Health and Human Services; 2013.

¹³ Joint Task Force on Practice Parameters, representing the American Academy of Allergy, Asthma & Immunology; American College of Allergy, Asthma, & Immunology; Joint Council of Allergy, Asthma & Immunology. The diagnosis and management of anaphylaxis: an updated practice parameter. *J Allergy Clin Immunol.* 2005;115 (suppl 3):S483-S523.

¹⁴ Food Allergy Research & Education, Facts and Statistics. <https://www.foodallergy.org/facts-and-stats>. Accessed November 14, 2016.

¹⁵ Joint Task Force on Practice Parameters, representing the American Academy of Allergy, Asthma & Immunology; American College of Allergy, Asthma, & Immunology; Joint Council of Allergy, Asthma & Immunology. The diagnosis and management of anaphylaxis: an updated practice parameter. *J Allergy Clin Immunol.* 2005;115 (suppl 3):S483-S523.

¹⁶ SB 1266 also added Section 4119.2 to the Business and Professions Code and Section 49414 to the Education Code.

This is an advanced copy of a Grand Jury report that will be publicly released on June 12, 2017. Penal Code section 933.05 (f) prohibits any officer, agency, department, or governing body of a public agency from disclosing any contents of the report prior to the public release of this report.

DISCUSSION

Prior to 2015, schools were only required to have Pens available. SB 1266 now requires California school districts, county offices of education, and charter schools to have Pens accessible to treat any student experiencing, or reasonably believed to be suffering from, an anaphylactic reaction to any allergen whether or not they are aware of previously diagnosed food allergies. The bill also authorizes a school nurse, or volunteer personnel who have been trained in the emergency use of Pens, to administer this medication should such a situation arise.

The Intent of SB 1266

SB 1266 amended Section 49414 of the Education code as follows:

- School districts, county offices of education and charter schools are required to provide emergency epinephrine auto-injectors for use in situations of student anaphylactic emergencies; and
- School nurses and trained personnel may use epinephrine auto-injectors to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction.

SB 1266 also requires the State Superintendent of Public Instruction to review and update minimum standards for training in the use of epinephrine auto-injectors at least every five years. These training standards are to be developed using evidence-based, commonly accepted standards of care. Training in cardiopulmonary resuscitation (CPR) is recommended for those identified as qualified to administer Pens to treat anaphylaxis. Also important is recognizing the need for prompt follow-up medical care at an emergency room or from a treating physician.

School districts, county offices of education, and charter schools are also required to ensure that each employee who volunteers to administer epinephrine auto-injectors and who has undertaken the training required by SB 1266 be provided defense and indemnification for any and all civil liability.

Public schools, county offices of education, and charter schools are required to have up-to-date prescriptions for Pens. The law addresses the use of Pens on public school or county office of education school campuses but does not require the presence of a school nurse or trained volunteer to treat anaphylaxis occurring during field trips or other off-site school supervised activities.

The California School Nurses Organization “recommends that school nurses work with their districts to develop policies and procedures that address activities outside of the school site,

This is an advanced copy of a Grand Jury report that will be publicly released on June 12, 2017. Penal Code section 933.05 (f) prohibits any officer, agency, department, or governing body of a public agency from disclosing any contents of the report prior to the public release of this report.

considering school nurse staffing and other challenges with regards to evenings and weekends.”¹⁷

Training of Staff and Volunteers

Previous legislation addressing the use of epinephrine auto-injectors in state public schools required the Superintendent of Public Instruction to establish minimum standards of training for those certified to administer epinephrine auto-injectors, and required school districts and county offices of education to create plans addressing the use of epinephrine auto-injectors. SB 1266 deletes the requirement for school districts and county offices of education to create such plans, revises the training requirements, and requires the Superintendent to review the minimum standards of training every five years.

Section 49414 of the California Education Code requires that training in the use of epinephrine auto-injectors include all of the following:

- Techniques for recognizing symptoms of anaphylaxis.
- Standards and procedures for the storage, restocking and emergency use of epinephrine auto-injectors.
- Emergency follow-up procedures, including calling 911 and contacting, if possible, the pupil’s parent and physician.
- Recommendations on the necessity of instruction and certification in cardiopulmonary resuscitation.
- Instruction on how to determine whether to use an adult epinephrine auto-injector or a junior epinephrine auto-injector, which shall include consideration of a pupil’s grade level or age as a guidance of equivalency for the appropriate pupil weight determination.
- Written materials covering the information required under this subdivision.

Section 49414 further provided that such training programs be consistent with the most recent Voluntary Guidelines for Managing Food Allergies in Schools and Early Care and Education Programs¹⁸ published by the CDC and the most recent guidelines for medication administration issued by the CDC.¹⁹ These current guidelines recommend:

¹⁷ California School Nurses Organization: Position Statement on Epinephrine Auto-Injector Administration for Treatment of Anaphylaxis at School. Stock Epinephrine Requirements for California Schools SB 1266. August 2014.

¹⁸ Centers for Disease Control and Prevention. *Voluntary Guidelines for Managing Food Allergies in Schools and Early Care and Education Programs*. Washington, DC: US Department of Health and Human Services; 2013.

¹⁹ Centers for Disease Control and Prevention. *CDC Guidelines for Medication Administration*. Washington, DC: US Department of Health and Human Services, 2015.

This is an advanced copy of a Grand Jury report that will be publicly released on June 12, 2017. Penal Code section 933.05 (f) prohibits any officer, agency, department, or governing body of a public agency from disclosing any contents of the report prior to the public release of this report.

- Accommodations for services needed for the allergic child to be safely included in activities by providing allergen-free classrooms and allergy-friendly seating arrangements;
- Provisions or instructions for treatment of allergic reactions be posted in the cafeteria, establishment of designated allergy-friendly seating during meals (open to any child eating foods free of identified allergens), rapid access to epinephrine auto-injectors in cases of food allergy emergency, and training in the use of Pens for staff.²⁰

In carrying out the provisions of SB 1266, all public schools are authorized to accept gifts, grants, or donations from any source including, but not limited to, the acceptance of epinephrine auto-injectors.

Survey of Schools to Monitor Compliance

In October 2016, the Grand Jury emailed surveys to each of the 160 K-12 public schools as well as the County Office of Education (SMCOE) and each of the 23 school district offices in San Mateo County. These surveys solicited objective responses from each of the public schools and school districts for the purposes of evaluating the status of their compliance with the requirements of SB 1266. The survey consisted of eight focused questions readily answerable with a yes or no response. In the event a responding school or district already had a policy or procedure responsive to a particular question, such respondents were directed to forward a copy of such policy or procedure. [Appendices A and B]

Responses to the initial survey solicitation were received from 139 of 160 of the county public schools (87%), from 16 of the 23 county school district offices and from the SMCOE. Responses to four primary questions were evaluated to assess basic compliance with SB 1266:

- How many regular Pens were available for use in emergencies at your school?
- How many Jr. Pens were available for use in emergencies at your school?
- How many trained volunteers or school nurses were certified to administer Pens in the event of an emergency at your school?
- At your school, who is responsible for stocking and replenishing the stock of Pens?

Other questions addressed how many students with known allergies carried their own Pens to school, how the individual schools obtained their supply of Pens, whether individual schools had

²⁰ Centers for Disease Control and Prevention. *Voluntary Guidelines for Managing Food Allergies in Schools and Early Care and Education Programs*. Washington, DC: US Department of Health and Human Services; 2013.

This is an advanced copy of a Grand Jury report that will be publicly released on June 12, 2017. Penal Code section 933.05 (f) prohibits any officer, agency, department, or governing body of a public agency from disclosing any contents of the report prior to the public release of this report.

a policy for the possible emergency use of Pens at off-site school supervised events and whether individual schools had policies to accommodate students with known food allergies.

The collection, evaluation and interpretation of responses to the survey sent to the public schools in the County was complicated by the unanticipated involvement of the San Mateo County Schools Insurance Group (SMCSIG), a joint powers agency comprised of all 23 school districts and the SMCOE. As a general matter, SMCSIG provides risk management and insurance coverage for all of its members (i.e., the 23 school districts and the SMCOE) and, in addition, “provides training and offers programs to schools that are designed to reduce risk and promote safety.”²¹

To facilitate the response to the stipulations of SB 1266, SMCSIG was affirmatively selected by the SMCOE and school district Superintendents to develop policy and procedures for all of the county’s public schools, school district offices, and the SMCOE, to enable them to meet the requirements of the bill.

Pursuant to the procedures implemented by SMCSIG, San Mateo County schools receive two boxes of Pens (4 adult per site or 2 junior and 2 adult) from Mylan Specialty, the manufacturer, through BioRidge Pharma, LLC. SMCSIG has established itself as an intermediary between BioRidge Pharma and has assumed the responsibility for ordering, distributing, and replacing Pens for each of the 23 school districts in the County. Schools using their stock of Pens for emergencies can receive replacement Pens from SMCSIG if they complete a form describing the incident requiring the use of the Pen. In the event that stocked Pens expire (Pens have a shelf life of 12-18 months), schools are eligible to replenish outdated stock at no cost.

SMCSIG also developed model policies and procedures for schools and school districts to adopt in order to comply with SB 1266. Such policies and procedures were developed by SMCSIG with the assistance of a consultant, utilizing the California School Nurses Association publication *Stock Epinephrine Requirements for California Schools, Senate Bill SB1266*. These policies and procedures were presented and distributed to the individual San Mateo County public schools and school district offices in February 2015.

On February 1, 2015, the training plan and program developed by SMCSIG was presented to school nurses, school faculty and staff interested in being trained and in training others, and becoming certified to administer Pens in the treatment of a student experiencing an anaphylactic emergency. SMCSIG has taken responsibility for managing and monitoring the distribution of Pens to school district offices. They have scheduled additional annual training programs and otherwise depend on individual schools and districts taking the initiative to conduct such training programs on their own. Recently, district offices in Brisbane, San Bruno and Millbrae have developed and presented their own training programs (October-November 2016). Of further

²¹ San Mateo County Office of Education. <http://www.smcoe.org/business-services/san-mateo-county-schools-insurance-group/>. San Mateo County Schools Insurance Group. Accessed January 5, 2017.

This is an advanced copy of a Grand Jury report that will be publicly released on June 12, 2017. Penal Code section 933.05 (f) prohibits any officer, agency, department, or governing body of a public agency from disclosing any contents of the report prior to the public release of this report.

interest is the fact that at least one district has been holding annual training sessions for faculty and staff for the past eight years (i.e., even prior to the passage of SB 1266) after having recognized the potential danger of food allergy anaphylactic reactions in its students.

For the Grand Jury, assessing the performance of schools in addressing the dangers of allergy-induced anaphylaxis was somewhat arduous both because of the involvement of SMCSIG in the process of presentation, management, supply, and oversight, as well as the large number of individual public schools and school district offices to be evaluated.

The CSNO has recommended that identified individuals in each of the County's school districts work to develop and implement procedures to document the proper care, use, follow-up, and the restocking of Pens in a timely manner. The Grand Jury's site visits to various schools throughout the County showed compliance with SB 1266's requirement that each school site maintain its requisite supply of Pens, which are supplied through SMCSIG. At the schools visited by the Grand Jury, Pens were stored in labeled and brightly colored yellow boxes which were maintained unlocked in school administrative offices. Their location was known to administrative office staff and to a number of school faculty and staff, depending upon the training at each site. Replacement of Pens, either because of use or expiration, was monitored by identified personnel at the school or district office, by the district nurse, if the district had a nurse, and by SMCSIG.

In contrast, it was more difficult for the Grand Jury to assess schools' maintenance of a list of the individuals trained to recognize allergic anaphylactic reactions and to administer Pens, and if the training of such individuals was current. Although SMCSIG undertook an initial training presentation in February 2015 addressing recognition and treatment of food allergic reactions, the intent was to train individuals at the County schools and for the district offices to schedule subsequent training sessions. SMCSIG has scheduled annual training programs but scheduling of additional training programs has been left to the school districts themselves and additional or refresher training seems to have been somewhat sporadic and appears to be limited to those school districts that are fortunate enough to have nurses, or which have nurse consultants through contracted healthcare providers.

In assessing compliance with the training standards mandated by SB 1266, the Grand Jury found that school personnel had been instructed in selecting the appropriate size of Pen to administer to a particular student experiencing an anaphylactic allergic reaction. However, in the schools visited, personnel did not seem to be aware of the existence or location of written training materials required by SB 1266 even though such materials were distributed by SMCSIG to be made readily accessible in a school's administrative office.

Of the remaining six component standards recommended for the training program, techniques for recognizing symptoms of anaphylaxis and emergency use of Pens were addressed in initial and subsequent annual presentations by SMCSIG but were otherwise left to school district offices to cover in subsequent presentations to schools in their districts. Management of standards and

procedures for the storage and restocking of Pens was assumed by SMCSIG. Recommendations on the necessity of instruction and certification in cardiopulmonary resuscitation, one of the six component standards, have not been addressed. It is noted that a prerequisite for obtaining a teaching credential is completion of a course in CPR. Refresher or additional training in CPR after receiving the credential is optional in most districts.

FINDINGS

- F1. In the public schools visited by the Grand Jury, Pens were maintained in brightly colored and clearly labeled yellow boxes and were maintained in plain sight in the main administrative office or anteroom.
- F2. The distribution and supply of Pens is managed by the San Mateo County Schools Insurance Group through the school district offices with a process for replacing used or expired Pens.
- F3. In the public schools visited by the Grand Jury, principals generally indicated that their faculty and staff had attended a training program addressing recognition of an allergic anaphylactic event and the techniques for using a Pen to treat the student experiencing an anaphylactic reaction. One school had a list of faculty and staff who had received the prescribed annual training including their position and location, which was mounted in a plastic sleeve and posted next to the brightly yellow-colored EpiPen box.
- F4. The San Mateo County Schools Insurance Group provided an initial training program in February 2015, discussing the content and intent of SB 1266 and describing techniques for recognizing symptoms of anaphylaxis and emergency use of Pens. The San Mateo County Schools Insurance Group has scheduled annual training programs but additional responsibility for training was left to each school district to cover in subsequent presentations to their schools without a format for tracking whether or not the districts were actually offering these presentations on an annual basis.
- F5. Some schools visited had no awareness of the packet of information describing the content and intent of SB 1266, and the training program addressing recognition of an allergic anaphylactic reaction and the techniques for using a Pen to treat a student experiencing an anaphylactic reaction, that were originally distributed by the San Mateo County Schools Insurance Group at their February, 2015 presentation.
- F6. Some schools visited had no standard policies or procedures for the possible emergency use of Pens at off-site or evening on-site school supervised events though some schools had policies to accommodate students with known food or other allergies and all seemed to have conscientiously recorded a medical history for students attending their school.

This is an advanced copy of a Grand Jury report that will be publicly released on June 12, 2017. Penal Code section 933.05 (f) prohibits any officer, agency, department, or governing body of a public agency from disclosing any contents of the report prior to the public release of this report.

RECOMMENDATIONS

[To the San Mateo County Schools Insurance Group]:

- R1. The Grand Jury recommends that the San Mateo County Schools Insurance Group implement policies and procedures to confirm whether the school district offices are offering the annual training programs required by SB 1266.
- R2. The Grand Jury recommends that the San Mateo County Schools Insurance Group update and redistribute its packet of information describing the content and intent of SB 1266 and the required training program.

[To each school district]:

- R3. Each school district shall ensure that each of its schools keeps Pens in clearly labeled boxes that are in plain sight in the school's main administrative office.
- R4. Each school district shall ensure that each of its schools posts a list of faculty and staff who have completed the annual training program required by SB 1266. Such list should be posted in or near the school's Pens.
- R5. Each school district shall ensure that the packet of information provided by the San Mateo County Schools Insurance Group describing the content and intent of SB 1266 and the required training program, as may be updated from time to time, is available as a resource in each of its schools.
- R6. Each school district shall ensure that schools develop policies and procedures for the possible emergency use of Pens at off-site or evening on-site school supervised events and for the accommodation of students with known food or other allergies (i.e., designated areas in the cafeteria, allergen-aware classrooms, etc.)

REQUEST FOR RESPONSES

Pursuant to Penal code section 933.05, the grand jury requests responses as follows:

From the following governing bodies:

- R1 and R2: San Mateo County Schools Insurance Group
- R3 through R7: San Mateo County Public School District Offices
 - Bayshore Elementary School District
 - Belmont-Redwood Shores School District
 - Brisbane School District
 - Burlingame School District
 - Cabrillo Unified School District

This is an advanced copy of a Grand Jury report that will be publicly released on June 12, 2017. Penal Code section 933.05 (f) prohibits any officer, agency, department, or governing body of a public agency from disclosing any contents of the report prior to the public release of this report.

Hillsborough City School District

Jefferson Elementary School District

Jefferson Union High School District

La Honda-Pescadero Unified School District

Las Lomas Elementary School District

Menlo Park City School District

Millbrae School District

Pacifica School District

Portola Valley School District

Ravenswood City School District

Redwood City School District

San Bruno Park School District

San Carlos School District

San Mateo-Foster City School District

San Mateo Union High School District

Sequoia Union High School District

South San Francisco Unified School District

Woodside Elementary School District

- R3 through R7: San Mateo County Office of Education

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

This is an advanced copy of a Grand Jury report that will be publicly released on June 12, 2017. Penal Code section 933.05 (f) prohibits any officer, agency, department, or governing body of a public agency from disclosing any contents of the report prior to the public release of this report.

BIBLIOGRAPHY

J Allergy Clin Immunol. 2005;115 (suppl 3):S483-S523.

Branum AM, Lukacs SL. Food allergy among U.S. children: Trends in prevalence and hospitalizations. NCHS data brief, number 10. Hyattsville, MD: National Center for Health Statistics. 2008.

California School Nurses Organization: Position Statement on Epinephrine Auto-Injector Administration for Treatment of Anaphylaxis at School. Stock Epinephrine Requirements for California Schools SB 1266. August 2014.

California School Nurses Association training materials <http://codes.findlaw.com/ca/education-code/edc-sect-49414.html>. Accessed October 20, 2016.

Centers for Disease Control and Prevention. CDC Guidelines for Medication Administration. Washington, DC: US Department of Health and Human Services, 2015.

Centers for Disease Control and Prevention. *Voluntary Guidelines for Managing Food Allergies in Schools and Early Care and Education Programs*. Washington, DC: US Department of Health and Human Services; 2013.

Excellence and Equity in Education, San Mateo County Office of Education Strategic Plan 2016-2021, Strategies for the Future, 2016

Food Allergy Research and Education, Inc. Food Allergy Research & Education, Facts and Statistics. <https://www.foodallergy.org/facts-and-stats> . Accessed November 14, 2016.

Gupta RS, Springston MR, Warriar BS, Rajesh K, Pongracic J, Holl JL. The prevalence, severity and distribution of childhood food allergy in the United States. J Pediatr.2011;128
doi:10.1542/peds.2011-0204.

Jackson K et al. Trends in Allergic Conditions among Children: United States, 1997-2011. National Center for Health Statistics Data Brief. 2013. Retrieved from <http://www.cdc.gov/nchs/products/databriefs/db121.htm>. Accessed November 14, 2016.

Joint Task Force on Practice Parameters, representing the American Academy of Allergy, Asthma & Immunology; American College of Allergy, Asthma, & Immunology; Joint Council of Allergy, Asthma & Immunology. The diagnosis and management of anaphylaxis: an updated practice parameter. J Allergy Clin Immunol. 2005;115 (suppl 3):S483-S523.

San Mateo County Office of Education. <http://www.smcoe.org/business-services/san-mateo-county-schools-insurance-group/>. San Mateo County Schools Insurance Group. Accessed January 5, 2017.

This is an advanced copy of a Grand Jury report that will be publicly released on June 12, 2017. Penal Code section 933.05 (f) prohibits any officer, agency, department, or governing body of a public agency from disclosing any contents of the report prior to the public release of this report.

SB1266 also added Section 4119.2 to the Business and Professions Code and Section 49414 to the Education Code.

Statistics from Excellence and Equity in Education, San Mateo County Office of Education Strategic Plan 2016-2021, Strategies for the Future, 2016.

This is an advanced copy of a Grand Jury report that will be publicly released on June 12, 2017. Penal Code section 933.05 (f) prohibits any officer, agency, department, or governing body of a public agency from disclosing any contents of the report prior to the public release of this report.

APPENDIX A: SB 1266

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.

Section 4119.2 of the Business and Professions Code is amended to read:

4119.2. (a) Notwithstanding any other law, a pharmacy may furnish epinephrine auto-injectors to a school district, county office of education, or charter school pursuant to Section 49414 of the Education Code if all of the following are met:

(1) The epinephrine auto-injectors are furnished exclusively for use at a school district site, county office of education, or charter school.

(2) A physician and surgeon provides a written order that specifies the quantity of epinephrine auto-injectors to be furnished.

(b) Records regarding the acquisition and disposition of epinephrine auto-injectors furnished pursuant to subdivision (a) shall be maintained by the school district, county office of education, or charter school for a period of three years from the date the records were created. The school district, county office of education, or charter school shall be responsible for monitoring the supply of epinephrine auto-injectors and ensuring the destruction of expired epinephrine auto-injectors.

SEC. 2. Section 49414 of the Education Code is amended to read:

49414. (a) School districts, county offices of education, and charter schools shall provide emergency epinephrine auto-injectors to school nurses or trained personnel who have volunteered pursuant to subdivision (d), and school nurses or trained personnel may use epinephrine auto-injectors to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction.

(b) For purposes of this section, the following terms have the following meanings:

(1) “Anaphylaxis” means a potentially life-threatening hypersensitivity to a substance.

(A) Symptoms of anaphylaxis may include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma.

(B) Causes of anaphylaxis may include, but are not limited to, an insect sting, food allergy, drug reaction, and exercise.

(2) “Authorizing physician and surgeon” may include, but is not limited to, a physician and surgeon employed by, or contracting with, a local educational agency, a medical director of the local health department, or a local emergency medical services director.

This is an advanced copy of a Grand Jury report that will be publicly released on June 12, 2017. Penal Code section 933.05 (f) prohibits any officer, agency, department, or governing body of a public agency from disclosing any contents of the report prior to the public release of this report.

(3) “Epinephrine auto-injector” means a disposable drug delivery system with a spring-activated needle that is designed for emergency administration of epinephrine to provide rapid, convenient first aid for persons suffering a potentially fatal reaction to anaphylaxis.

(4) “Qualified supervisor of health” may include, but is not limited to, a school nurse.

(5) “Volunteer” or “trained personnel” means an employee who has volunteered to administer epinephrine auto-injectors to a person if the person is suffering, or reasonably believed to be suffering, from anaphylaxis, has been designated by a school, and has received training pursuant to subdivision (d).

(c) Each private elementary and secondary school in the state may voluntarily determine whether or not to make emergency epinephrine auto-injectors and trained personnel available at its school. In making this determination, a school shall evaluate the emergency medical response time to the school and determine whether initiating emergency medical services is an acceptable alternative to epinephrine auto-injectors and trained personnel. A private elementary or secondary school choosing to exercise the authority provided under this subdivision shall not receive state funds specifically for purposes of this subdivision.

(d) Each public and private elementary and secondary school in the state may designate one or more volunteers to receive initial and annual refresher training, based on the standards developed pursuant to subdivision (e), regarding the storage and emergency use of an epinephrine auto-injector from the school nurse or other qualified person designated by an authorizing physician and surgeon.

(e) (1) Every five years, or sooner as deemed necessary by the Superintendent, the Superintendent shall review minimum standards of training for the administration of epinephrine auto-injectors that satisfy the requirements of paragraph (2). For purposes of this subdivision, the Superintendent shall consult with organizations and providers with expertise in administering epinephrine auto-injectors and administering medication in a school environment, including, but not limited to, the State Department of Public Health, the Emergency Medical Services Authority, the American Academy of Allergy, Asthma and Immunology, the California School Nurses Organization, the California Medical Association, the American Academy of Pediatrics, Food Allergy Research and Education, the California Society of Allergy, Asthma and Immunology, the American College of Allergy, Asthma and Immunology, the Stanford Allergy Center, and others.

(2) Training established pursuant to this subdivision shall include all of the following:

(A) Techniques for recognizing symptoms of anaphylaxis.

(B) Standards and procedures for the storage, restocking, and emergency use of epinephrine auto-injectors.

(C) Emergency followup procedures, including calling the emergency 911 telephone number and contacting, if possible, the pupil’s parent and physician.

(D) Recommendations on the necessity of instruction and certification in cardiopulmonary resuscitation.

(E) Instruction on how to determine whether to use an adult epinephrine auto-injector or a junior epinephrine auto-injector, which shall include consideration of a pupil’s grade level or age as a guideline of equivalency for the appropriate pupil weight determination.

This is an advanced copy of a Grand Jury report that will be publicly released on June 12, 2017. Penal Code section 933.05 (f) prohibits any officer, agency, department, or governing body of a public agency from disclosing any contents of the report prior to the public release of this report.

(F) Written materials covering the information required under this subdivision.

(3) Training established pursuant to this subdivision shall be consistent with the most recent Voluntary Guidelines for Managing Food Allergies In Schools and Early Care and Education Programs published by the federal Centers for Disease Control and Prevention and the most recent guidelines for medication administration issued by the department.

(4) A school shall retain for reference the written materials prepared under subparagraph (F) of paragraph (2).

(f) A school district, county office of education, or charter school shall distribute a notice at least once per school year to all staff that contains the following information:

(1) A description of the volunteer request stating that the request is for volunteers to be trained to administer an epinephrine auto-injector to a person if the person is suffering, or reasonably believed to be suffering, from anaphylaxis, as specified in subdivision (b).

(2) A description of the training that the volunteer will receive pursuant to subdivision (d).

(g) (1) A qualified supervisor of health at a school district, county office of education, or charter school shall obtain from an authorizing physician and surgeon a prescription for each school for epinephrine auto-injectors that, at a minimum, includes, for elementary schools, one regular epinephrine auto-injector and one junior epinephrine auto-injector, and for junior high schools, middle schools, and high schools, if there are no pupils who require a junior epinephrine auto-injector, one regular epinephrine auto-injector. A qualified supervisor of health at a school district, county office of education, or charter school shall be responsible for stocking the epinephrine auto-injector and restocking it if it is used.

(2) If a school district, county office of education, or charter school does not have a qualified supervisor of health, an administrator at the school district, county office of education, or charter school shall carry out the duties specified in paragraph (1).

(3) A prescription pursuant to this subdivision may be filled by local or mail order pharmacies or epinephrine auto-injector manufacturers.

(h) A school nurse or, if the school does not have a school nurse or the school nurse is not onsite or available, a volunteer may administer an epinephrine auto-injector to a person exhibiting potentially life-threatening symptoms of anaphylaxis at school or a school activity when a physician is not immediately available. If the epinephrine auto-injector is used it shall be restocked as soon as reasonably possible, but no later than two weeks after it is used. Epinephrine auto-injectors shall be restocked before their expiration date.

(i) A volunteer shall initiate emergency medical services or other appropriate medical followup in accordance with the training materials retained pursuant to paragraph (4) of subdivision (e).

(j) A school district, county office of education, or charter school shall ensure that each employee who volunteers under this section will be provided defense and indemnification by the school district, county office of education, or charter school for any and all civil liability, in accordance with, but not limited to,

This is an advanced copy of a Grand Jury report that will be publicly released on June 12, 2017. Penal Code section 933.05 (f) prohibits any officer, agency, department, or governing body of a public agency from disclosing any contents of the report prior to the public release of this report.

that provided in Division 3.6 (commencing with Section 810) of Title 1 of the Government Code. This information shall be reduced to writing, provided to the volunteer, and retained in the volunteer's personnel file.

(k) A state agency, the department, or a public school may accept gifts, grants, and donations from any source for the support of the public school carrying out the provisions of this section, including, but not limited to, the acceptance of epinephrine auto-injectors from a manufacturer or wholesaler.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

This is an advanced copy of a Grand Jury report that will be publicly released on June 12, 2017. Penal Code section 933.05 (f) prohibits any officer, agency, department, or governing body of a public agency from disclosing any contents of the report prior to the public release of this report.

APPENDIX B: Survey #1 (sent to county public schools)

**SB1266 and Epinephrine Auto-Injector (“EpiPens®” or “PENS”) Use
in San Mateo County Schools**

1. How many adult PENS does your school stock? _____
2. How many junior PENS does your school stock? _____
3. How many students with known allergies carry their own prescribed PENS for treatment of anaphylaxis or have them stored at school in emergency medical cabinets under their names?

4. How many persons at your school (school nurses, volunteer trained personnel) have received the requisite initial and annual training regarding the storage and emergency use of PENS?

5. At your school, who is responsible (Title/Position) for stocking PENS and for replenishing stock when PENS are used or have expired? _____
6. How does the school obtain PENS, e.g. by pharmacy prescription at a cost or from Mylan or its representative without cost? Are any costs incurred supported by gifts, grants or donations from any source? _____
7. Does your school have a policy addressing the possible emergency need for PENS availability and use at off-site events? If so, please attach a copy of the policy.

8. Does your school have a policy to accommodate children with known food allergies such as allergen-free classrooms, allergy-friendly seating during meals, and/or posting of instructions for treatment of allergic reactions? If so, please attach a copy of the policy.

9. Additional Comments _____

Thank you for your help in completing this survey. Please return by _____

This is an advanced copy of a Grand Jury report that will be publicly released on June 12, 2017. Penal Code section 933.05 (f) prohibits any officer, agency, department, or governing body of a public agency from disclosing any contents of the report prior to the public release of this report.

APPENDIX C: Survey #1 (sent to county school district offices)

**SB1266 and Epinephrine Auto-Injector (“EpiPens®” or “PENS”) Use
in San Mateo County Schools**

1. Approximately how many students are there in your district? [Please note that this figure should include all general education, special education, and charter school students.]

2. Have you (i.e., County Superintendent of Schools, District Superintendent or Charter School Director or Principal) established minimum standards of training regarding the emergency administration of epinephrine which are reviewed at least every 5 years _____ and do these standards include:

- Techniques for recognizing signs of anaphylaxis _____
- Procedures for storing, restocking and use of PENS _____
- Emergency follow up procedures including instruction and certification in CPR, calling 911 and student’s parents and MDs _____
- Recommendations on the necessity of instruction and certification _____
- Instructions on how to determine whether adult or Jr. PEN _____

3. Does your district (i.e., County Office of Education, School District or Charter School) distribute a request, at least annually, for volunteers to train to use epinephrine auto-injectors to provide emergency medical aid? _____

4. Does your district (i.e., County Office of Education, School District or Charter School) have a policy to ensure that each employee or volunteer trained to use epinephrine auto-injectors to provide emergency medical aid is provided defense and indemnification for any and all civil liability? If so, please attach a copy of your policy.

5. Does the San Mateo County Office of Education have any policies or procedures addressing the use of PENS at pre-schools which fall under the SMCOE supervision?

6. Does your district (County Office of Education, School District or Charter School) have any programs in place to educate parents to understand the risks of allergy induced anaphylaxis and to inform them of protocols in place for the emergency administration of epinephrine?

7. Additional Comments _____

Thank you for your help in completing this survey. Please return by _____

This is an advanced copy of a Grand Jury report that will be publicly released on June 12, 2017. Penal Code section 933.05 (f) prohibits any officer, agency, department, or governing body of a public agency from disclosing any contents of the report prior to the public release of this report.

Interviews

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.

- Interviews were completed at selected San Mateo Elementary and Middle Public Schools, the San Mateo County Office of Education and San Mateo County District School Offices.
- Interviews were completed at the San Mateo County Schools Insurance Group