

CALIFORNIA CODES  
**EDUCATION CODE**  
SECTION 49400-49415

49400. The governing board of any school district shall give diligent care to the health and physical development of pupils, and may employ properly certified persons for the work.

49401.5. (a) It is the intent of the Legislature in enacting this section to express its concern for the health and safety of school pupils and school personnel at schools where hazardous materials are stored on the school premises, and to encourage school districts to take steps to ensure hazardous materials are properly used and stored.

(b) The governing board of any school district may request consultation services from the California Occupational Safety and Health Consultation Service to ensure hazardous materials are being used and stored safely in school laboratories.

49402. Contracts between any city, county, or local health district and the governing board of any school district located wholly or partially within such city, county, or local health district for the performance by the health officers or other employees of the health department of such city, county, or local health district of any or all of the functions and duties set forth in this chapter, Section 49404, and in Article 1 (commencing with Section 49300) of Chapter 8 of this part relating to health supervision of school buildings and pupils are hereby authorized.

In any such contracts the consideration shall be such as may be agreed upon by the governing board and the city, county, or local health district and shall be paid by the governing board at such times as shall be specified in the contract. This section shall not apply to any district which is under the control of a governing board which has under its control a district or districts having a total average daily attendance of 100,000 or more pupils.

49403. (a) Anything to the contrary notwithstanding, the governing board of any school district shall cooperate with the local health officer in measures necessary for the prevention and control of communicable diseases in school age children. For that purpose the board may use any funds, property, and personnel of the district, and may permit any person licensed as a physician and surgeon, or any person licensed as a registered nurse acting under the direction of a supervising physician and surgeon as provided in subdivisions (b) and (c), to administer an immunizing agent to any pupil whose parents have consented in writing to the administration of such immunizing agent.

(b) A registered nurse, acting under the direction of a

supervising physician and surgeon, may perform immunization techniques within the course of a school immunization program provided that the administration of an immunizing agent is upon the standing orders of a supervising physician and surgeon and in accordance with such written regulations as the State Department of Health may adopt pursuant to Section 303.5 of the Health and Safety **Code**.

"Supervising physician and surgeon," as used herein, means the physician and surgeon of the local health department or the physician and surgeon of the school district that is directing the school immunization program.

(c) While nothing in this section shall be construed to require the physical presence of the supervising physician and surgeon, the supervising physician and surgeon under whose direction the registered nurse is acting shall require such nurse to:

(1) Satisfactorily demonstrate competence in the administration of immunizing agents, including knowledge of all indications and contraindications for the administration of such agents, and in the recognition and treatment of any emergency reactions to such agents which constitute a danger to the health or life of the person receiving the immunization; and

(2) Possess such medications and equipment as required, in the medical judgment of the supervising physician and surgeon, to treat any emergency conditions and reactions caused by the immunizing agents and which constitute a danger to the health or life of the person receiving the immunization, and to demonstrate the ability to administer such medications and to utilize such equipment as necessary.

49405. The control of smallpox is under the direction of the State Department of Health Services, and no rule or regulation on the subject of vaccination shall be adopted by school or local health authorities.

49406. (a) Except as provided in subdivision (h), no person shall be initially employed by a school district in a certificated or classified position unless the person has submitted to an examination within the past 60 days to determine that he or she is free of active tuberculosis, by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions **Code**. This examination shall consist of an approved intradermal tuberculin test, which, if positive, shall be followed by an X-ray of the lungs.

The X-ray film may be taken by a competent and qualified X-ray technician if the X-ray film is subsequently interpreted by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions **Code**.

The district superintendent or his or her designee may exempt, for a period not to exceed 60 days following termination of the pregnancy, a pregnant employee from the requirement that a positive intradermal tuberculin test be followed by an X-ray of the lungs.

(b) Thereafter, employees who are skin test negative shall be required to undergo the foregoing examination at least once each four years or more often if directed by the governing board upon recommendation of the local health officer for so long as the

employee remains skin test negative. Once an employee has a documented positive skin test which has been followed by an X-ray, the foregoing examination is no longer required and a referral shall be made within 30 days of completion of the examination to the local health officer to determine the need for followup care.

(c) After the examination, each employee shall cause to be on file with the district superintendent of schools a certificate from the examining physician and surgeon showing the employee was examined and found free from active tuberculosis. The county board of **education** may require, by rule, that all their certificates be filed in the office of the county superintendent of schools or shall require their files be maintained in the office of the county superintendent of schools if a majority of the governing boards of the districts within the county so petition the county board of **education**, except that in either case a district or districts with a common board having an average daily attendance of 60,000 or more may elect to maintain the files for its employees in that district. "Certificate," as used in this section, means a certificate signed by the examining physician and surgeon or a notice from a public health agency or unit of the American Lung Association which indicates freedom from active tuberculosis. The latter, regardless of form, will constitute evidence of compliance with this section. Nothing in this section shall prevent the governing board, upon recommendation of the local health officer, from establishing a rule requiring a more extensive or more frequent physical examination than required by this section, but the rule shall provide for reimbursement on the same basis as required in this section.

(d) This examination is a condition of initial employment and the expense incident thereto shall be borne by the applicant unless otherwise provided by rules of the governing board. However, the board may, if an applicant is accepted for employment, reimburse that person in a like manner prescribed in this section for employees.

(e) The governing board of each district shall reimburse the employee for the cost, if any, of this examination. The board may provide for the examination required by this section or may establish a reasonable fee for the examination that is reimbursable to employees of the district complying with the provisions of this section.

(f) At the discretion of the governing board, this section shall not apply to those employees not requiring certification qualifications who are employed for any period of time less than a school year whose functions do not require frequent or prolonged contact with pupils.

The governing board may, however, require an examination described in subdivision (2) and may, as a contract condition, require the examination of persons employed under contract, other than those persons specified in subdivision (a), if the board believes the presence of these persons in and around school premises would constitute a health hazard to pupils.

(g) If the governing board of a school district determines by resolution, after hearing, that the health of pupils in the district would not be jeopardized thereby, this section shall not apply to any employee of the district who files an affidavit stating that he or she adheres to the faith or teachings of any well-recognized religious sect, denomination, or organization and in accordance with its creed, tenets, or principles depends for healing upon prayer in the practice of religion and that to the best of his or her knowledge

and belief he or she is free from active tuberculosis. If at any time there should be probable cause to believe that the affiant is afflicted with active tuberculosis, he or she may be excluded from service until the governing board of the employing district is satisfied that he or she is not so afflicted.

(h) A person who transfers his or her employment from one school or school district to another shall be deemed to meet the requirements of subdivision (a) if that person can produce a certificate which shows that he or she was examined within the past four years and was found to be free of communicable tuberculosis, or if it is verified by the school previously employing him or her that it has a certificate on file which contains that showing.

A person who transfers his or her employment from a private or parochial elementary school, secondary school, or nursery school to a school or school district subject to this section shall be deemed to meet the requirements of subdivision (a) if that person can produce a certificate as provided for in Section 3450 of the Health and Safety Code which shows that he or she was examined within the past four years and was found to be free of communicable tuberculosis, or if it is verified by the school previously employing him or her that it has a certificate on file which contains that showing.

(i) Any governing board or county superintendent of schools providing for the transportation of pupils under contract authorized by Section 39800, 39801, or any other provision of law shall require as a condition of the contract the examination for active tuberculosis, as provided by subdivision (a), of all drivers transporting these pupils, provided that private contracted drivers who transport these pupils on an infrequent basis, not to exceed once a month, shall be excluded from this requirement.

49407. Notwithstanding any provision of any law, no school district, officer of any school district, school principal, physician, or hospital treating any child enrolled in any school in any district shall be held liable for the reasonable treatment of a child without the consent of a parent or guardian of the child when the child is ill or injured during regular school hours, requires reasonable medical treatment, and the parent or guardian cannot be reached, unless the parent or guardian has previously filed with the school district a written objection to any medical treatment other than first aid.

49408. For the protection of a pupil's health and welfare, the governing board of a school district may require the parent or legal guardian of a pupil to keep current at the pupil's school of attendance, emergency information including the home address and telephone number, business address and telephone number of the parents or guardian, and the name, address and telephone number of a relative or friend who is authorized to care for the pupil in any emergency situation if the parent or legal guardian cannot be reached.

49409. Notwithstanding any provision of any law, no physician and surgeon who in good faith and without compensation renders voluntary

emergency medical assistance to a participant in a school athletic event or contest at the site thereof, or during transportation to a health care facility, for an injury suffered in the course of the event or contest, shall be liable for any civil damages as a result of any acts or omissions by the physician and surgeon in rendering the emergency medical care. The immunity granted by this paragraph shall not apply in the event of an act or omission constituting gross negligence.

49410. (a) The Legislature finds that:

(1) There is substantial scientific and medical evidence that human exposure to asbestos fibers significantly increases the likelihood of contracting cancer and other debilitating or fatal diseases such as asbestosis.

(2) Medical and epidemiological evidence suggests that children exposed to asbestos fibers may be especially susceptible to the environmentally induced diseases associated with the exposure.

(3) Substantial amounts of asbestos materials were used in school construction during the period from 1946 through 1973 for fireproofing, soundproofing, decoration, and other purposes.

(4) When these materials age, deteriorate, or become damaged or friable, they release asbestos fibers into the ambient air. This can result in the exposure of school children and school employees to potentially dangerous levels of asbestos fibers.

(5) The presence of asbestos in the air in concentrations far exceeding the normal ambient levels has been found in schools, especially where the asbestos materials have reached a damaged, deteriorated, or disturbed state as a result of abuse, abrasion, water leakage, or forced air circulation.

(6) In view of the fact that the State of California has compulsory attendance laws for children of school age, and these children must be educated in a safe and healthy environment, the hazard presented by asbestos materials in the schools is of special concern to the Legislature.

(b) As a result of the findings in subdivision (a), it is the intent of the Legislature to provide for the safe and expeditious containment or removal of asbestos materials posing a hazard to health in schools.

(c) As used in this section and Sections 49410.2 and 49410.5, the following terms have the following meanings:

(1) "Asbestos" means naturally occurring hydrated mineral silicates separable into commercially used fibers: specifically chrysotile, amosite, crocidolite, tremolite, anthrophyllite, and actinolite.

(2) "Asbestos materials" means materials formed by mixing asbestos fibers with other products, including, but not limited to, rock wool, plaster, cellulose, clay, vermiculite, perlite, and a variety of adhesives. Some of these materials may be sprayed on surfaces or applied to surfaces in the form of plaster or a textured paint.

(3) "Hazard to health" means that the asbestos material is loose, friable, flaking, or dusting, or is likely to become so within the service life of the material in place.

49410.2. School districts and county offices of **education** may apply

to the State Allocation Board pursuant to Section 39619.6 for funds for the purposes of containment or removal of asbestos materials posing a hazard to health.

49410.5. (a) The State Allocation Board shall retain all information provided by school districts making application for funds pursuant to Sections 39619.6, 39619.7, and 39619.8 regarding the actual or estimated cost of inspection and testing for, and encapsulation or removal of, asbestos.

(b) The Legislature finds and declares that:

(1) Federal moneys may be made available to reimburse schools for costs related to asbestos inspection, testing, encapsulation, and removal, and that the distribution of these moneys will be expedited by the early collection of these data.

(2) School districts shall comply with guidelines suggested by the Environmental Protection Agency for the purposes of inspection and testing for asbestos materials, and for the protection and safety of workers and all other individuals during the encapsulation and removal of asbestos.

49410.7. (a) For purposes of funding pursuant to Section 39619.9, the factors determining the need for abatement of friable asbestos or potentially friable asbestos shall include, but not be limited to, visual inspection and bulk samples and air monitoring showing an airborne concentration of asbestos in the school building in excess of the standard 0.01 fibers/cc by Transmission Electron Microscopy (TEM) monitoring, as specified in subdivision (b), or the concurrently measured concentration of asbestos in the ambient air immediately adjacent to the building, whichever is higher. For purposes of reconstruction and rehabilitation projects approved pursuant to Chapter 22 (commencing with Section 17700) of Part 10 of the **Education Code**, for which asbestos abatement related work commenced on or after October 2, 1985, and for purposes of abating asbestos contained in pipe and block insulation, air monitoring shall not be required to determine the need for abatement of friable asbestos or potentially friable asbestos.

(b) For purposes of air monitoring, the operating agency for each public school building in which friable asbestos-containing materials (other than pipe and block insulation or materials to be abated during rehabilitation or reconstruction projects as specified in subdivision (a)) have been identified shall monitor airborne asbestos levels in each sampling area. Each sampling area in which asbestos-containing materials have been identified shall be monitored for at least eight hours during a period of normal building activity. Analysis of samples shall be by Transmission Electron Microscopy (TEM) methods, in accordance with the Environmental Protection Agency provisional method and update, to measure the number of observable asbestos fibers. The results of this monitoring shall be recorded in terms of the number of visible fibers greater than 1 micron in length per cubic centimeter of air (f/cc) in accord with standard definitions for asbestos monitoring established by the Occupational Safety and Health Administration.

"Sampling area," as used in this section, means any area, whether contiguous or not, within a building that contains friable material that is homogenous in texture and appearance.

(c) Any public primary or secondary school building in which asbestos abatement work has been performed shall not be reoccupied until air monitoring has been conducted to show that the airborne concentration of asbestos does not exceed the air monitoring standard of subdivision (a). Not less than one month after the reoccupancy of the school building where asbestos abatement work has occurred, the building shall be remonitored to determine compliance with subdivision (b).

(d) "School building," as used in this section, means any of the following:

(1) Structures used for the instruction of public school children, including classrooms, laboratories, libraries, research facilities, and administrative facilities.

(2) School eating facilities and school kitchens.

(3) Gymnasiums or other facilities used for athletic or recreational activities or for courses in physical **education**.

(4) Dormitories or other living areas of residential schools.

(5) Maintenance, storage, or utility facilities essential to the operation of the facilities described in paragraphs (1) to (4).

(e) School districts and county offices of **education** may apply for reimbursement from the Asbestos Abatement Fund for the costs of air monitoring completed pursuant to this section.

49411. (a) The State Department of **Education**, in cooperation with the Division of Occupational Safety and Health within the Department of Industrial Relations, shall formulate a listing of chemical compounds used in school programs that includes the potential hazards and estimated shelf life of each compound.

(b) The Superintendent of Public Instruction, in cooperation with the Division of Occupational Safety and Health within the Department of Industrial Relations, shall develop guidelines for school districts for the regular removal and disposal of all chemicals whose estimated shelf life has elapsed.

(c) The county superintendent of schools may implement a system for disposing of chemicals from schools within the county or may permit school districts to arrange for the disposal of the chemicals.

49412. (a) Except as provided in subdivision (b), counties and school districts, in the utilization of funds allocated pursuant to any appropriation from any account in the Cigarette and Tobacco Products Surtax Fund for the provision of health care to school populations, shall give initial consideration to the use of those of credentialed school nurses and school nurse practitioners employed by the school districts, to the extent those services are within the scope of practice of those nurses, and to the extent these purposes are consistent with the Tobacco Tax and Health Protection Act of 1988 and Chapter 1331 of the Statutes of 1989.

(b) Subdivision (a) does not apply to funds appropriated from the Health **Education** Account in the Cigarette and Tobacco Products Surtax Fund, except for purposes of providing health screenings through the Child Health and Disability Prevention Screening program.

(c) Any county which, after the initial consideration regarding

the utilization of funds, as required by subdivision (a), elects to utilize funds to which subdivisions (a) and (b) apply for the credentialed school nurses and school nurse practitioners employed by school districts may allocate those funds to the school districts for those purposes.

49413. (a) The Legislature recognizes the importance of first aid and cardiopulmonary resuscitation training. In enacting this section, it is the intent of the Legislature to encourage school districts and schools, individually or jointly, to develop a program whereby their staff and pupils understand the importance of this training and have an appropriate opportunity to develop these skills.

(b) A school district or school, individually or jointly with another school district or school, may provide a comprehensive program in first aid or cardiopulmonary resuscitation (CPR) training, or both, to pupils and employees. The program shall be developed using the following guidelines:

(1) The school district or school collaborates with existing local resources, including, but not limited to, parent teacher associations, hospitals, school nurses, fire departments, and other local agencies that promote safety, to make first aid or CPR training, or both, available to the pupils and employees of the school district or school.

(2) Each school district that develops a program, or the school district that has jurisdiction over a school that develops a program, compiles a list of resources for first aid or CPR information, to be distributed to all of the schools in the district.

(3) The first aid and CPR training are based on standards that are at least equivalent to the standards currently used by the American Red Cross or the American Heart Association.

**49414.** (a) A school district or county office of **education** may provide emergency epinephrine auto-injectors to trained personnel, and trained personnel may utilize those epinephrine auto-injectors to provide emergency medical aid to persons suffering from an anaphylactic reaction. Any school district or county office of **education** choosing to exercise the authority provided under this subdivision shall not receive state funds specifically for the purposes of this subdivision.

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

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

(c) Each public and 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. Any school choosing to exercise the authority provided under this subdivision shall not receive state funds specifically for the purposes of this subdivision.

(d) Each public and private elementary and secondary school in the state may designate one or more school personnel on a voluntary basis 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 the school district physician, the medical director of the local health department, or the local emergency medical services director. Any school choosing to exercise the authority provided under this subdivision shall not receive state funds specifically for the purposes of this subdivision.

(e) (1) The Superintendent of Public Instruction shall establish minimum standards of training for the administration of epinephrine auto-injectors that satisfy the requirements in paragraph (2). For purposes of this subdivision, the Superintendent of Public Instruction 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 Health Services, 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, 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 and emergency use of epinephrine auto-injectors.

(C) Emergency follow-up procedures, including calling the emergency 911 phone number and contacting, if possible, the pupil's parent and physician.

(D) Instruction and certification in cardiopulmonary resuscitation.

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

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

(f) A school nurse, or if the school does not have a school nurse, a person who has received training pursuant to subdivision (d), may do the following:

(1) Obtain from the school district physician, the medical director of the local health department, or the local emergency medical services director a prescription for epinephrine auto-injectors.

(2) Immediately 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.

(g) A person who has received training as set forth in subdivision (d) or a school nurse shall initiate emergency medical services or other appropriate medical follow up in accordance with the training materials retained pursuant to paragraph (3) of subdivision (e).

(h) Any school district or county office of **education** electing to utilize epinephrine auto-injectors for emergency medical aid shall create a plan to address all of the following issues:

(1) Designation of the individual or individuals who will provide the training pursuant to subdivision (d).

(2) Designation of the school district physician, the medical director of the local health department, or the local emergency medical services director that the school district or county office of **education** will consult for the prescription for epinephrine auto-injectors pursuant to paragraph (1) of subdivision (f).

(3) Documentation as to which individual, the school nurse or other trained person pursuant to subdivision (f), in the school district or county office of **education** will obtain the prescription from the physician and the medication from a pharmacist.

(4) Documentation as to where the medication is stored and how the medication will be made readily available in case of an emergency.

**49414.5.** (a) In the absence of a credentialed school nurse or other licensed nurse onsite at the school, each school district may provide school personnel with voluntary emergency medical training to provide emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia, and volunteer personnel shall provide this emergency care, in accordance with standards established pursuant to subdivision (b) and the performance instructions set forth by the licensed health care provider of the pupil. A school employee who does not volunteer or who has not been trained pursuant to subdivision (b) may not be required to provide emergency medical assistance pursuant to this subdivision.

(b) (1) The Legislature encourages the American Diabetes Association to develop performance standards for the training and supervision of school personnel in providing emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia. The performance standards shall be developed in cooperation with the department, the California School Nurses Organization, the California Medical Association, and the American Academy of Pediatrics. Upon the development of the performance standards pursuant to this paragraph, the State Department of Health Services' Diabetes Prevention and Control Program shall approve the performance standards for distribution and make those standards available upon request.

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

(A) Recognition and treatment of hypoglycemia.

(B) Administration of glucagon.

(C) Basic emergency followup procedures, including, but not limited to, calling the emergency 911 telephone number and contacting, if possible, the pupil's parent or guardian and licensed health care provider.

(3) Training by a physician, credentialed school nurse, registered nurse, or certificated public health nurse according to the

standards established pursuant to this section shall be deemed adequate training for the purposes of this section.

(4) (A) A school employee shall notify the credentialed school nurse assigned to the school district if he or she administers glucagon pursuant to this section.

(B) If a credentialed school nurse is not assigned to the school district, the school employee shall notify the superintendent of the school district, or his or her designee, if he or she administers glucagon pursuant to this section.

(5) All materials necessary to administer the glucagon shall be provided by the parent or guardian of the pupil.

(c) In the case of a pupil who is able to self-test and monitor his or her blood glucose level, upon written request of the parent or guardian, and with authorization of the licensed health care provider of the pupil, a pupil with diabetes shall be permitted to test his or her blood glucose level and to otherwise provide diabetes self-care in the classroom, in any area of the school or school grounds, during any school-related activity, and, upon specific request by a parent or guardian, in a private location.

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

(1) "School personnel" means any one or more employees of a school district who volunteers to be trained to administer emergency medical assistance to a pupil with diabetes.

(2) "Emergency medical assistance" means the administration of glucagon to a pupil who is suffering from severe hypoglycemia.

49415. On or before July 1, 2004, the State Board of **Education** shall adopt maximum weight standards for textbooks used by pupils in elementary and secondary schools. The weight standards shall take into consideration the health risks to pupils who transport textbooks to and from school each day.