

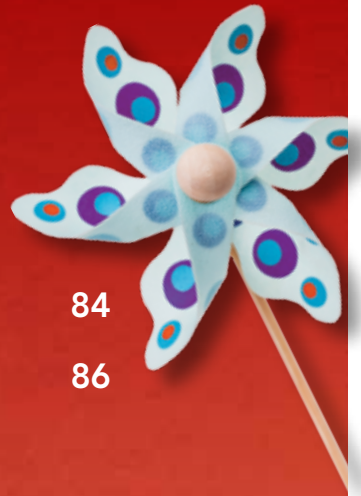
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Federal Laws

The Rehabilitation Act of 1973 (29 USC s.794)

This federal civil rights law, commonly referred to as Section 504, helps ensure that individuals with handicaps/disabilities are not excluded from participating in any program or activity that receives federal financial assistance. All public schools and some private schools usually receive some form of federal financial assistance. Most, if not all, school districts already have procedures to implement Section 504. Students who are covered by this law are eligible to receive what is known as a 504 Plan.

504 Plan

A 504 Plan is a written management plan outlining certain accommodations made by the school that address the student's **asthma and/or** food allergy. Examples of 504 accommodations may include, but not be limited to, special seating arrangements, curriculum adjustments, field trips, special school events and staff training. Parents/guardians are within their rights to request an evaluation for eligibility and to pursue such a plan. All schools subject to this law should have a 504 Coordinator on staff who can help parents/guardians throughout the 504 process.

The law is overseen by the US Department of Education's Office for Civil Rights (OCR).

- **Regional OCR contacts can be found at:**
wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm
- **More information about Section 504 can be found at:**
www2.ed.gov/about/offices/list/ocr/504faq.html

The Americans with Disabilities Act (ADA) of 1990

The ADA and Section 504 are both federal civil rights laws; however, the ADA can be applied to institutions that do not receive federal financial assistance, such as some private schools, private child care centers, etc. Congress amended the ADA in 2008 (ADAAA) to clarify that it had always intended a broad definition of disability. Disability under ADAAA means a physical or mental impairment that substantially limits one or more major life activities; a record (or past history) of such an impairment; or being regarded as having a disability. The regulations that implement the ADAAA require broad interpretation of the term disability. Parents/advocates of children with food allergy often point to the ADAAA as further evidence that food allergy is a disability as defined by this law; i.e., an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

- **More information about the ADAAA can be found at:**
www2.ed.gov/about/offices/list/ocr/docs/dcl-504faq-201109.html
(ADA Amendment Act Q & A)

The Individuals with Disabilities Act of 1976 (IDEA)

IDEA is another federal law that generally applies to students who have disabilities that impact their learning i.e., autism, vision/hearing impairment, etc. Asthma alone generally does not apply to IDEA; however, some children with learning disabilities may also have asthma. Typically in this situation, the child's asthma plan is incorporated into an Individual Education Plan (IEP). IDEA is governed by each state's department of education.

- **More information about the IDEA can be found at:**
idea.ed.gov

The Family Education Rights and Privacy Act of 1974 (FERPA)

FERPA is a privacy act that addresses student confidentiality. Schools should be careful if they attempt to somehow identify or publicize a student's asthma without consent from the student's parents/guardians. Without parental consent, this may represent a violation of FERPA. Be aware that some states have school student records laws that are more restrictive than FERPA.

- **More information about FERPA can be found at:**
www.ed.gov/policy/gen/guid/fpco/ferpa/index.html

The School Access to Emergency Epinephrine Act

The School Access to Emergency Epinephrine Act was passed into law in 2013. This federal law encourages states to implement policies requiring schools to stock undesignated epinephrine auto-injectors for use in emergencies. States that develop such policies will be given additional preference for federal asthma education grants.

The new law stresses the importance for schools to be prepared to treat anaphylaxis; however, it does not mandate that schools stock epinephrine. The law encourages states to pass their own laws mandating that schools within that state stock epinephrine.



Missouri Laws and Statutes

Missouri Revised Statutes, Chapter 162 – School Districts Section 162.680

Disabled children to be educated with others whenever possible.

1. No child may be denied services provided by sections 162.670 to 162.999 because of such child's disabling condition.
2. To the maximum extent appropriate, disabled and severely disabled children shall be educated along with children who do not have disabilities and shall attend regular classes, except that in the case of a disability resulting in violent behavior which causes a substantial likelihood of injury to the student or others, the school district shall initiate procedures consistent with state and federal law to remove the child to a more appropriate placement. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment shall occur only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Missouri Revised Statutes, Chapter 565 – Offenses Against the Person Section 565.075

CRIME OF ASSAULT WHILE ON SCHOOL PROPERTY (§ 565.075 RSMo. 2000)

1. A person commits the crime of assault while on school property if the person:
 - (1) Knowingly causes physical injury to another person; or
 - (2) With criminal negligence, causes physical injury to another person by means of a deadly weapon; or
 - (3) Recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person; and the act described under subdivision (1), (2) or (3) of this subsection occurred on school or school district property, or in a vehicle that at the time of the act was in the service of a school or school district, or arose as a result of a school or school district-sponsored activity.
2. Assault while on school property is a class D felony

Missouri Revised Statutes, Chapter 167 – Pupils and Special Services Section 167.113

Compliance with federal laws relating to pupil rights required.

167.113. The state of Missouri shall comply with all the provisions of the federal law relating to the protection of pupil rights, as contained in Section 1232h(b) of Title 20 United States Code.



Missouri Revised Statutes, Chapter 167–Pupils and Special Services Section 167.627
Possession and self-administration of medication in school—requirements.

167.627. 1. For purposes of this section, the following terms shall mean:

- (1) “Medication,” any medicine prescribed or ordered by a physician for the treatment of asthma or anaphylaxis, including without limitation inhaled bronchodilators and auto-injectable epinephrine;
- (2) “Self-administration,” a pupil’s discretionary use of medication prescribed by a physician or under a written treatment plan from a physician.

Missouri Revised Statutes, Chapter 167–Epinephrine prefilled auto-syringes
Section 167.630

School nurse authorized to maintain adequate supply-administration authorized, when

1. Each school board may authorize a school nurse licensed under chapter 335 who is employed by the school district and for whom the board is responsible for to maintain an adequate supply of prefilled auto syringes of epinephrine.
2. To obtain prefilled epinephrine auto syringes for a school district, a prescription written by a licensed physician, a physician’s assistant, or nurse practitioner is required.
3. A school nurse or other school employee trained by and supervised by the nurse shall have the discretion to use an epinephrine auto syringe on any student the school nurse or trained employee believes is having a life-threatening anaphylactic reaction based on the training in recognizing an acute episode of an anaphylactic reaction. The provisions of section 167.624 concerning immunity from civil liability for trained employees administering lifesaving methods shall apply to trained employees administering a prefilled auto syringe under this section.

House Bill No. SCS HB922, An Act–To amend chapter 167, RSMo

by adding thereto one new section relating to allergy prevention and response in schools Chapter 167, RSMo, is amended by adding thereto one new section, to read as follows:

167.208. 1. By July 1, 2011, each school district shall adopt a policy on allergy prevention and response, with priority given to addressing potentially deadly food-borne allergies.

House Bill No. 1188, An Act–To amend chapter 167, RSMo

by adding thereto one new section relating to the administration of asthma related rescue medication by school nurses.

167.635. 1. Each school board may authorize a school nurse licensed under chapter 335 who is employed by the school district and for whom the board is responsible to maintain a supply of asthma-related rescue medications at the school.

