



TO: The Honorable Members of the Board of Regents

FROM: Angelique Johnson-Dingle *Angelique Johnson-Dingle*

SUBJECT: Proposed Amendment of Section 136.6 of the Regulations of the Commissioner of Education Relating to Written Informational Material for the Authorized Use of Epinephrine Auto-Injectors

DATE: April 4, 2024

AUTHORIZATION(S): *Don McGreevey* *Betsy Clark*

SUMMARY

Issue for Decision (Consent)

Should the Board of Regents adopt the proposed amendment of section 136.6 of the Regulations of the Commissioner of Education relating to written informational material for the authorized use of epinephrine auto-injectors?

Reason(s) for Consideration

Required by State statute (Chapter 422 of the Laws of 2023).

Proposed Handling

The proposed amendment is submitted to the Full Board for adoption as a permanent rule at the April 2024 Regents meeting. A copy of the proposed rule (Attachment A) is attached.

Procedural History

The proposed amendment was presented to the P-12 Education Committee for discussion and recommendation to the Full Board for adoption as an emergency rule at its December 2023 meeting, effective December 12, 2023. A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on December 27, 2023, for a 60-day public comment period. Because the December 2023 emergency action was set to expire on March 10, 2024, a second emergency action was necessary at the February 2024 Regents meeting, effective March 11, 2024, to ensure that the emergency rule remained continuously in effect until it could be permanently adopted and take effect as a permanent rule. A Notice of Emergency Adoption was published in the State Register on March 27, 2024.

Following publication in the State Register, the Department received no comments on the proposed amendment. Therefore, an Assessment of Public Comment is not required and no changes to the proposed amendment are needed. If adopted at the April 2024 meeting, a Notice of Adoption will be published in the State Register on May 1, 2024. Supporting materials are available upon request to the Secretary of the Board of Regents.

Background Information

Education Law §921-a,¹ added by Chapter 424 of the Laws of 2014, permits school districts, boards of cooperative educational services (BOCES), county vocational education and extension boards (CVEEBs), charter schools, and non-public elementary and secondary schools (covered schools) in New York State to provide and maintain epinephrine auto-injectors on-site. This law also authorizes employees of covered schools to administer epinephrine auto-injectors in the event of an emergency pursuant to the requirements of Public Health Law §3000-c.²

On September 15, 2023, the Governor signed Chapter 422 of the Laws of 2023 (Chapter 422), which adds a new subdivision to Education Law §921-a that requires covered schools to provide all teachers with written informational material, created and approved by the Commissioner of Health, on the use of an epinephrine auto-injector.

The proposed amendment conforms section 136.6 of the Commissioner's regulations with Chapter 422 by adding this requirement.

Related Regents Items

March 2015: [Proposed Addition of Section 136.6 of the Commissioner's Regulations, Relating to School Use of Epinephrine Auto-Injectors](http://www.regents.nysed.gov/common/regents/files/meetings/Mar%202015/315brca5.pdf)
(<http://www.regents.nysed.gov/common/regents/files/meetings/Mar%202015/315brca5.pdf>)

March 2017: [Proposed Amendments to Section 136.6 of the Commissioner's Regulations Relating to School Health Services](http://www.regents.nysed.gov/common/regents/files/317p12a3.pdf)
(<http://www.regents.nysed.gov/common/regents/files/317p12a3.pdf>)

December 2023: [Proposed Amendment of Section 136.6 of the Regulations of the Commissioner of Education Relating to Written Informational Material for the Authorized Use of Epinephrine Auto-Injectors](https://www.regents.nysed.gov/sites/regents/files/1223p12a1.pdf)
(<https://www.regents.nysed.gov/sites/regents/files/1223p12a1.pdf>)

February 2024: [Proposed Amendment of Section 136.6 of the Regulations of the Commissioner of Education Relating to Written Informational Material for the Authorized Use of Epinephrine Auto-Injectors](https://www.regents.nysed.gov/sites/regents/files/224brca3.pdf)
(<https://www.regents.nysed.gov/sites/regents/files/224brca3.pdf>)

¹ This section was added as section 921 of the Education Law and renumbered as 921-a by Chapter 200 of the Laws of 2017.

² Education Law §921-a and Public Health Law section 3000-c were subsequently amended by Chapter 373 of the Laws of 2016.

Recommendation

It is recommended that the Board of Regents take the following action:

VOTED: That section 136.6 of the Regulations of the Commissioner of Education be amended, as submitted, effective May 1, 2024.

Timetable for Implementation

If adopted at the April 2024 meeting, the proposed amendment will become effective as a permanent rule on May 1, 2024.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 207, 305, and 921-a and Chapter 422 of the Laws of 2023.

1. Section 136.6 of the Regulations of the Commissioner of Education is amended by adding a new subdivision (d) to read as follows:

(d) School districts, boards of cooperative educational services, county vocational education and extension boards, charter schools, and non-public elementary and secondary schools in this state that are authorized to provide and maintain epinephrine auto-injectors on-site pursuant to Education Law §921-a shall provide all teachers with written informational material on the use of an epinephrine auto-injector that has been created and approved by the commissioner of health.