



ROSENSTEIN, FIST & RINGOLD

RED BANNER UPDATE

Date: April 30, 2021

Re: SB 128

Signed: April 26, 2021

Effective: April 26, 2021

Topic: Seizure-Safe Schools Act

Summary: This Act creates the *Seizure-Safe Schools Act* which applies only to school district sites where a student is enrolled who (1) has a seizure disorder and (2) has a seizure rescue medication or other medication prescribed to treat seizure disorder symptoms. The medication must be prescribed by the student's health care provider and approved by the U.S. Food and Drug Administration (FDA) and any successor agency.

Beginning January 1, 2022, for each school site where such a student is enrolled, a school district must have one employee who has met the training requirements necessary to (1) administer or assist with the self-administration of a seizure rescue medication, or medication prescribed to treat seizure disorder symptoms as approved by the FDA and any successor agency; and (2) recognize the signs and symptoms of seizures and the appropriate steps to be taken to respond to those symptoms. Any training programs or guidelines adopted by a state agency for the training of school personnel in the health care needs of a student diagnosed with a seizure disorder must be fully consistent with training programs and guidelines developed by the Epilepsy Foundation of America (or successor agency), and Districts are permitted to use any adequate and appropriate training programs or guidelines for the training of such school personnel in the "seizure disorder care tasks" covered in this Act.

Before a school employee can administer a seizure rescue medication to a student, the student's parent or legal guardian must first do the following:

1. provide the school written authorization to administer the medication at school;



2. provide a written statement from the student's health care provider that contains all of the following information:
 - a. the student's name,
 - b. the name and purpose of the medication,
 - c. the prescribed dosage,
 - d. the "route of administration,"
 - e. the frequency by which the medication may be administered, and
 - f. the circumstances under which that medication may be administered;
3. provide the prescribed medication to the school in its unopened, sealed package with the label that was affixed by the dispensing pharmacy still intact; and
4. collaborate with school personnel to create a "seizure action plan," which is defined within the Act as "a written, individualized health plan designed to acknowledge and prepare for the health care needs of a student diagnosed with a seizure disorder."

The above written authorization, written statement, and seizure action plan must be kept on file in the office of the school nurse or administrator and must be distributed to any school personnel or volunteers responsible for the supervision or care of the student. The written authorization is effective only for the school year in which it is granted and may be renewed each following school year upon fulfilling the requirements listed in this paragraph.

School employees may not be subject to any disciplinary proceeding that results from an action taken in compliance with this Act, and when acting in compliance with this Act, the employee is immune from civil liability, unless that employee's actions are either reckless or constitute intentional misconduct. Likewise, a school nurse will not be responsible for, and not subject to disciplinary action for, actions taken by a school volunteer.

The State Department of Education is authorized to promulgate administrative rules for the development and implementation of seizure education programs and procedures for the development and content of seizure action plans, which school districts should follow once/if promulgated.

Please visit the firm's website to view the signed Act.

RFR attorneys are reviewing this legislation and will be advising clients as to any recommended changes to existing district policies.