

SENATE FLOOR VERSION

February 11, 2025

SENATE BILL NO. 331

By: Hines

An Act relating to schools; creating the Emerson Kate Cole Act; providing short title; amending 70 O.S. 2021, Section 1-116.3, which relates to school medication policies; updating statutory language; updating statutory reference; requiring a school employee to call 911 if Epinephrine is administered to a student; requiring notification of a parent or legal guardian if a student experiences a possible allergic reaction; requiring annual training for certain teachers and school employees; providing for content and method of training; providing for noncodification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be

codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Emerson Kate
Act".

SECTION 2. AMENDATORY 70 O.S. 2021, Section 1-116.3, is amended to read as follows:

Section 1-116.3. A. Notwithstanding the provisions of Section 1-116.2 of this title, the board of education of each school district shall adopt a policy on or before September 1, 2008, that

1 permits the self-administration of inhaled asthma medication by a
2 student for treatment of asthma, the self-administration of
3 anaphylaxis medication by a student for treatment of anaphylaxis,
4 and the self-administration of replacement pancreatic enzymes by a
5 student for treatment of cystic fibrosis. The policy shall require:

6 1. The parent or legal guardian of the student to authorize in
7 writing the student's self-administration of medication;

8 2. The parent or legal guardian of the student to provide to
9 the school a written statement from the physician treating the
10 student that the student has asthma, anaphylaxis,
11 or cystic fibrosis
12 and is capable of, and has been instructed in the proper method of,
self-administration of medication;

13 3. The parent or legal guardian of the student to provide to
14 the school an emergency supply of the student's medication to be
15 administered pursuant to the provisions of Section 1-116.2 of this
16 title;

17 4. The school district to inform the parent or legal guardian
18 of the student, in writing, that the school district and its
19 employees and agents shall incur no liability as a result of any
20 injury arising from the self-administration of medication by the
21 student; and

22 5. The parent or legal guardian of the student to sign a
23 statement acknowledging that the school district shall incur no
24

1 liability as a result of any injury arising from the self-
2 administration of medication by the student.

3 B. The ~~school~~ board of education of each school district that
4 elects to stock Epinephrine injectors or inhalers shall amend the
5 policy identified in subsection A of this section.

6 1. The amended policy for Epinephrine injectors shall require:

- 7 a. the school district to inform the parent or legal
8 guardian of each student, in writing, that a school
9 nurse or school employee trained by a health care
10 professional or trained in correlation with the State
11 Department of Health's ~~Diabetes Management Annual~~
12 School Training Program annual diabetes management
13 training may administer, with parent or legal guardian
14 permission but without a health care provider order,
15 an Epinephrine injection to a student whom the school
16 nurse or trained school employee in good faith
17 believes is having an anaphylactic reaction,
18 b. a waiver of liability executed by a parent or legal
19 guardian to be on file with the school district prior
20 to the administration of an Epinephrine injection
21 pursuant to subparagraph a of this paragraph 4 of this
22 subsection, and

1 c. the school district to designate the employee
2 responsible for obtaining the Epinephrine injectors at
3 each school site.

4 2. The amended policy for inhalers shall require:

- 5 a. the school district to inform the parent or legal
6 guardian of each student, in writing, that a school
7 nurse or school employee trained by a health care
8 professional may administer an inhaler to a student
9 whom the school nurse or trained school employee in
10 good faith believes is having respiratory distress,
11 b. the school district to designate the employee
12 responsible for obtaining the inhalers and spacers or
13 holding chambers at each school site, and
14 c. the school district to notify the parent or legal
15 guardian of a student after administration of an
16 inhaler.

17 C. The school district and its employees and agents shall incur
18 no liability as a result of any injury arising pursuant to the
19 discharge or nondischarge of the powers provided for pursuant to
20 subparagraph a of paragraphs 1 and 2 of subsection B of this
21 section.

22 D. A licensed physician who has prescriptive authority may
23 write a prescription for Epinephrine injectors and inhalers and
24 spacers or holding chambers to the school district in the name of

1 the district as a body corporate specified in Section 5-105 of this
2 title which shall be maintained at each school site. Such physician
3 shall incur no liability as a result of any injury arising from the
4 use of the Epinephrine injectors or the inhalers and spacers or
5 holding chambers.

6 E. The school district may maintain at each school a minimum of
7 two Epinephrine injectors and two inhalers with spacers or holding
8 chambers in a secure location. Provided, however, that nothing in
9 this section shall be construed as creating or imposing a duty on a
10 school district to maintain Epinephrine injectors or inhalers with
11 spacers or holding chambers at a school site or sites.

12 F. In the event a student is believed to be having an
13 anaphylactic reaction or respiratory distress, a school employee
14 shall contact 911 as soon as possible. If Epinephrine is
15 administered to a student, a school employee shall contact 911 as
16 soon as possible. The school district shall notify the parent or
17 legal guardian of any student who experiences a possible allergic
18 reaction as soon as possible.

19 G. The State Board of Education, in consultation with the State
20 Board of Health, shall develop model policies which school districts
21 may use in compliance with this section. The model policies shall
22 include, at a minimum, required annual training for teachers and
23 school employees who are directly responsible for students on the
24 topics of food allergies, recognizing anaphylaxis, and instruction

1 on how to administer Epinephrine. The training shall be completed
2 before the school year begins or upon hiring the teacher or school
3 employee. Documentation certifying completion of the required
4 training shall be retained in the personnel file for the teacher or
5 school employee. The training may be provided online or in person
6 by the school nurse or a recognized food allergy and anaphylaxis
7 training program.

8 H. The State Board of Education, in consultation with the State
9 Board of Health, shall promulgate rules to implement this section.

10 I. As used in this section:

11 1. "Medication" means a metered dose inhaler or a dry powder
12 inhaler to alleviate asthmatic symptoms, prescribed by a physician
13 and having an individual label, an anaphylaxis medication used to
14 treat anaphylaxis including but not limited to Epinephrine injectors
15 prescribed by a physician and having an individual label, or
16 replacement pancreatic enzymes prescribed by a physician and having
17 an individual label; and

18 2. "Self-administration" means a student's use of medication
19 pursuant to prescription or written direction from a physician-;

20 3. "Respiratory distress" means the perceived or actual
21 presence of coughing, wheezing, or shortness of breath; and

22 4. "Inhaler" means a device that delivers a bronchodilator to
23 alleviate symptoms of respiratory distress that is manufactured in
24 the form of a metered-dose inhaler or dry-powder inhaler and that

1 may include a spacer or holding chamber that attaches to the inhaler
2 to improve the delivery of the bronchodilator.

3 J. The permission for self-administration of asthma,
4 anaphylaxis, or replacement pancreatic enzyme medication is
5 effective for the school year for which it is granted and shall be
6 renewed each subsequent school year upon fulfillment of the
7 requirements of this section.

8 K. A student who is permitted to self-administer asthma,
9 anaphylaxis, or replacement pancreatic enzyme medication pursuant to
10 this section shall be permitted to possess and use a prescribed
11 inhaler, anaphylaxis medication including but not limited to an
12 Epinephrine injector, or replacement pancreatic enzyme medication at
13 all times.

14 SECTION 3. This act shall become effective July 1, 2025.

15 SECTION 4. It being immediately necessary for the preservation
16 of the public peace, health, or safety, an emergency is hereby
17 declared to exist, by reason whereof this act shall take effect and
18 be in full force from and after its passage and approval.

19 COMMITTEE REPORT BY: COMMITTEE ON EDUCATION
February 11, 2025 - DO PASS