



Protect Your Allergic Child At School

Description

As we are all aware, allergies including severe, life-threatening ones have become the norm rather than the exception in recent years. As a result, parents have begun asking school districts to make sure that school is a safe learning environment for their child. If you have a child with allergies, he or she may qualify for protection under Section 504 of the Rehabilitation Act (Section 504) or the Individuals with Disabilities in Education Act (IDEA).

In order to gain protection under Section 504, a student's allergies must be severe enough to interfere with her ability to attend school or jeopardize her health. Put another way, the student's allergies must substantially limit a major life activity such as breathing, immunologic function, or learning. This must be established by a doctor's note or evaluation.

In each case, the question of severity or substantial limitation is a question of fact. Whether allergies are substantially limiting is to be evaluated without regard to whether they can be controlled by medication or environmental modifications;

When a student's allergies have been determined to be substantially limiting, the District is required to take action and to develop a plan to address the problem. What accommodations are required will be decided on a case-by-case basis, depending on the student's needs (and to some extent, will be balanced against the needs of the larger school community.)

For example, Districts may be required to use of latex-free equipment or to require students and staff to wash hands after coming into contact with an allergen (latex, peanuts, etc.). They may be required to allow a student to carry an epi-pen. They may be required to ban nut products from the classroom, remove plants, add air filters, limit the use of scents or chemical products (such as formaldehyde), or to provide a chemical-free bathroom. They may be required to notify parents about on-campus construction or to allow PE in a pesticide or fertilizer free area or to have a gluten free menu available in the cafeteria. They could also be required to send home a list of "safe snacks" to other classroom parents and to make a provision for getting missed assignments to students who have to stay home from school due to allergies.

A student can also be eligible under IDEA if her allergies cause her to be “other health impaired (OHI)” if her allergies are chronic or acute. IDEA eligibility requires a comprehensive evaluation conducted by the school to determine whether the allergies adversely affect learning and cause diminished alertness, strength and vitality in the school environment. If the student’s allergies make her eligible under IDEA, then her safety at school becomes one of her unique needs and should be the subject of a supervised physical health care plan.

Where there is eligibility under IDEA for allergy caused OHI, Districts may be liable if they fail to refer a child for an initial evaluation for special education.

If you believe that your child’s allergies are substantially limiting within the meaning of section 504 or the ADA, you should write your district and ask them to have a meeting to develop reasonable accommodations to address the allergies.

If on the other hand, your child already has an IEP or has diminished strength, alertness or vitality as a result of her allergies, then the proper procedure would be to request an IEP meeting at which appropriate accommodations could be added.

For further questions about how to best manage allergies in a school environment, please feel free to contact this office.

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