

1 AN ACT relating to seizure disorders in schools.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 158.832 is amended to read as follows:

4 As used in KRS 158.830 to **158.838**~~[158.836]~~:

- 5 (1) "Anaphylaxis" means an allergic reaction resulting from sensitization following
6 prior contact with an antigen which can be a life-threatening emergency.
7 Anaphylaxis may be triggered by, among other agents, foods, drugs, injections,
8 insect stings, and physical activity.
- 9 (2) "Medications" means all medicines individually prescribed by a health care
10 practitioner for the student that pertain to his or her asthma or used to treat
11 anaphylaxis, including but not limited to EpiPen or other auto-injectible
12 epinephrine;
- 13 (3) "Health care practitioner" means a physician or other health care provider who has
14 prescriptive authority;~~and~~
- 15 (4) "Self-administration" means the student's use of his or her prescribed asthma or
16 anaphylaxis medications, pursuant to prescription or written direction from the
17 health care practitioner; **and**
- 18 **(5) "Seizure action plan" means a written, individualized health plan designed to**
19 **acknowledge and prepare for the health care needs of a student diagnosed with a**
20 **seizure disorder.**

21 ➔Section 2. KRS 158.838 is amended to read as follows:

- 22 (1) (a) Beginning July 15, 2014, the board of each local public school district and the
23 governing body of each private and parochial school or school district shall
24 have at least one (1) school employee at each school who has met the
25 requirements of KRS 156.502 on duty during the entire school day to
26 administer or assist with the self-administration of the following medication:
- 27 1. Glucagon subcutaneously to students with diabetes who are

1 experiencing hypoglycemia or other conditions noted in the health care
2 practitioner's written statement under subsection (2)(b) of this section;

3 2. Insulin subcutaneously, through the insulin delivery method used by the
4 student and at the times and under the conditions noted in the health care
5 practitioner's written statement under subsection (2)(b) of this section;
6 and

7 3. A seizure rescue medication **or medication prescribed to treat seizure**
8 **disorder symptoms** approved by the United States Food and Drug
9 Administration and any successor agency.

10 (b) For those assigned the duties under paragraph (a) of this subsection, the
11 training provided under KRS 156.502 shall include instruction in
12 administering:

13 **1.** Insulin and glucagon, as well as recognition of the signs and symptoms
14 of hypoglycemia and hyperglycemia and the appropriate steps to be
15 taken to respond to these symptoms; **and**

16 **2.** **Seizure medications, as well as the recognition of the signs and**
17 **symptoms of seizures and the appropriate steps to be taken to respond**
18 **to these symptoms.**

19 (c) Any training program or guidelines adopted by any state agency for training of
20 school personnel in the diabetes care tasks covered by this section shall be
21 fully consistent with training programs and guidelines developed by the
22 American Diabetes Association. Notwithstanding any state agency
23 requirement or other law to the contrary, for purposes of this training a local
24 school district shall be permitted to use any adequate and appropriate training
25 program or guidelines for training of school personnel in the diabetes care
26 tasks covered under this section.

27 **(d) Any training program or guidelines adopted by any state agency for**

1 training of school personnel in the health care needs of students diagnosed
 2 with a seizure disorder shall be fully consistent with training programs and
 3 guidelines developed by the Epilepsy Foundation of America and any
 4 successor organization. Notwithstanding any state agency requirement or
 5 other law to the contrary, for purposes of this training a local school district
 6 shall be permitted to use any adequate and appropriate training program or
 7 guidelines for training of school personnel in the seizure disorder care tasks
 8 covered under this section.

9 (2) (a) Prior to administering any of the medications listed under subsection (1)(a) of
 10 this section to a student, the student's parent or guardian shall:

11 ~~1. (a)~~ Provide the school with a written authorization to administer the
 12 medication at school;

13 ~~2. (b)~~ Provide a written statement from the student's health care
 14 practitioner, which shall contain the following information:

15 ~~a[1].~~ Student's name;

16 ~~b[2].~~ The name and purpose of the medication;

17 ~~c[3].~~ The prescribed dosage;

18 ~~d[4].~~ The route of administration;

19 ~~e[5].~~ The frequency that the medication may be administered; and

20 ~~f[6].~~ The circumstances under which the medication may be
 21 administered; and

22 ~~3. (c)~~ Provide the prescribed medication to the school in its unopened,
 23 sealed package with the label affixed by the dispensing pharmacy intact.

24 (b) In addition to the statements required in paragraph (a) of this subsection,
 25 the parent or guardian of each student diagnosed with a seizure disorder
 26 shall collaborate with school personnel to create a seizure action plan. The
 27 Kentucky Board of Education shall promulgate administrative regulations

1 *establishing procedures for the development and content of seizure action*
2 *plans.*

3 (3) *(a)* The statements *and seizure action plan* required in subsection (2) of this
4 section shall be kept on file in the office of the school nurse or school
5 administrator.

6 *(b) The seizure action plan required in paragraph (b) of subsection (2) of this*
7 *section shall be distributed to any school personnel or volunteers*
8 *responsible for the supervision or care of the student.*

9 (4) The school district or the governing body of each private and parochial school or
10 school district shall inform the parent or guardian of the student that the school and
11 its employees and agents shall not incur any liability as a result of any injury
12 sustained by the student from any reaction to any medication listed under subsection
13 (1)(a) of this section that a parent or guardian has authorized the school district to
14 administer to a student to treat a hypoglycemic or hyperglycemic episode or a
15 seizure or its administration, unless the injury is the result of negligence or
16 misconduct on behalf of the school or its employees. The parent or guardian of the
17 student shall sign a written statement acknowledging that the school shall incur no
18 liability except as provided in this subsection, and the parent or guardian shall hold
19 harmless the school and its employees against any claims made for any reaction to
20 any medication listed under subsection (1)(a) of this section that a parent or
21 guardian has authorized the school district to administer to a student to treat a
22 hypoglycemic or hyperglycemic episode or a seizure or its administration if the
23 reaction is not due to negligence or misconduct on behalf of the school or its
24 employees.

25 (5) The permission for the administration of any of the medications listed under
26 subsection (1)(a) of this section shall be effective for the school year in which it is
27 granted and shall be renewed each following school year upon fulfilling the

1 requirements of subsections (2) to (4) of this section.

2 (6) The school nurse or school administrator shall check the expiration date monthly for
3 each medication listed under subsection (1)(a) of this section that is in the
4 possession of the school. At least one (1) month prior to the expiration date of each
5 medication, the school nurse or school administrator shall inform the parent or
6 guardian of the expiration date.

7 (7) Upon the written request of the parent or guardian of the student and written
8 authorization by the student's health care practitioner, a student with diabetes shall
9 be permitted to perform blood glucose checks, administer insulin through the
10 insulin delivery system the student uses, treat hypoglycemia and hyperglycemia, and
11 otherwise attend to the care and management of his or her diabetes in the school
12 setting and at school-related activities. A student shall be permitted to possess on
13 his or her person at all times necessary supplies and equipment to perform these
14 monitoring and treatment functions. Upon request by the parent or student, the
15 student shall have access to a private area for performing diabetes care tasks.

16 (8) (a) Beginning July 15, 2014, a school district shall permit a student who has
17 diabetes or a seizure disorder to attend the same school the student would
18 attend if the student did not have diabetes or a seizure disorder. Such a student
19 may only be transferred to a different school based on health care needs if the
20 individualized education program team, the Section 504 team, or, if
21 appropriate, the student's health services team, makes the determination that
22 the student's health condition requires that the student's care be provided by a
23 licensed health care professional at a different school. For the purpose of this
24 determination, the teams shall include the parent or guardian. The parent or
25 guardian may invite the student's treating physician to the team meeting and
26 the team shall consider the physician's input, whether in person or in written
27 form, when making this determination. This determination shall be based on

1 individualized factors related to the student's health conditions. A school
2 district shall not prohibit a student who has diabetes or a seizure disorder from
3 attending any school on the sole basis that:

- 4 1. The student has diabetes or a seizure disorder;
- 5 2. The school does not have a full-time school nurse; or
- 6 3. The school does not have school employees who are trained in
7 accordance with KRS 156.502 and assigned to provide care under this
8 section.

9 (b) Parents or guardians of students who have diabetes or a seizure disorder shall
10 not be required or pressured by school personnel to provide care for a student
11 with diabetes or a seizure disorder during regular school hours or during
12 school-related activities in which the student is a participant. For the purposes
13 of this paragraph, a participant is not a student who merely observes the
14 activity.

15 (9) The requirements of subsections (1) to (8) of this section shall apply only to schools
16 that have a student enrolled who:

17 (a) Has a seizure disorder and has a seizure rescue medication *or medication*
18 *prescribed to treat seizure disorder symptoms* approved by the United States
19 Food and Drug Administration and any successor agency prescribed by the
20 student's health care provider; or

21 (b) Has diabetes mellitus and has any of the medications listed under subsection
22 (1)(a) of this section prescribed by the student's health care provider.

23 (10) Nothing in this section shall be construed to require a school employee to consent to
24 administer medications listed under subsection (1)(a) of this section to a student if
25 the employee does not otherwise consent to provide the health service under KRS
26 156.502.

27 (11) Notwithstanding any other provision of the law to the contrary:

1 (a) The administration of the medications listed under subsection (1)(a) of this
 2 section by school employees shall not constitute the practice of nursing and
 3 shall be exempt from all applicable statutory and regulatory provisions that
 4 restrict the activities that may be delegated to or performed by a person who is
 5 not a licensed health care professional; and

6 (b) A licensed health care professional may provide training to or supervise
 7 school employees in the administration of the medications listed under
 8 subsection (1)(a) of this section.

9 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO
 10 READ AS FOLLOWS:

11 *Every public school shall provide age-appropriate seizure education program to all*
 12 *students on seizures and seizure disorders. The seizure education program shall be*
 13 *consistent with guidelines published by the Epilepsy Foundation of America and any*
 14 *successor organization. The Kentucky Board of Education shall promulgate*
 15 *administrative regulations for the development and implementation of the seizure*
 16 *education program.*

17 ➔Section 4. KRS 158.070 is amended to read as follows:

18 (1) As used in this section:

19 (a) "Election" has the same meaning as in KRS 121.015;

20 (b) "Minimum school term" or "school term" means not less than one hundred
 21 eighty-five (185) days composed of the student attendance days, teacher
 22 professional days, and holidays;

23 (c) "School calendar" means the document adopted by a local board of education
 24 that establishes the minimum school term, student instructional year or
 25 variable student instructional year, and days that school will not be in session;

26 (d) "School district calendar committee" means a committee consisting of:

27 1. One (1) school district principal;

- 1 2. One (1) school district office administrator other than the
2 superintendent;
- 3 3. One (1) member of the local board of education;
- 4 4. Two (2) parents of students attending a school in the district;
- 5 5. One (1) school district elementary school teacher;
- 6 6. One (1) school district middle or high school teacher;
- 7 7. Two (2) school district classified employees; and
- 8 8. Two (2) community members from the local chamber of commerce,
9 business community, or tourism commission;
- 10 (e) "Student attendance day" means any day that students are scheduled to be at
11 school to receive instruction, and encompasses the designated start and
12 dismissal time;
- 13 (f) "Student instructional year" means at least one thousand sixty-two (1,062)
14 hours of instructional time for students delivered on not less than one hundred
15 seventy (170) student attendance days;
- 16 (g) "Teacher professional day" means any day teachers are required to report to
17 work as determined by a local board of education, with or without the
18 presence of students; and
- 19 (h) "Variable student instructional year" means at least one thousand sixty-two
20 (1,062) hours of instructional time delivered on the number of student
21 attendance days adopted by a local board of education which shall be
22 considered proportionally equivalent to one hundred seventy (170) student
23 attendance days and calendar days for the purposes of a student instructional
24 year, employment contracts that are based on the school term, service credit
25 under KRS 161.500, and funding under KRS 157.350.
- 26 (2) (a) Beginning with the 2018-2019 school year, and each year thereafter, the local
27 board of education, upon recommendation of the local school district

1 superintendent, shall annually appoint a school district calendar committee to
2 review, develop, and recommend school calendar options.

3 (b) The school district calendar committee, after seeking feedback from school
4 district employees, parents, and community members, shall recommend
5 school calendar options to the local school district superintendent for
6 presentation to the local board of education. The committee's
7 recommendations shall comply with state laws and regulations and consider
8 the economic impact of the school calendar on the community and the state.

9 (c) Prior to adopting a school calendar, the local board of education shall hear for
10 discussion the school district calendar committee's recommendations and the
11 recommendation of the superintendent at a meeting of the local board of
12 education.

13 (d) During a subsequent meeting of the local board of education, the local board
14 shall adopt a school calendar for the upcoming school year that establishes the
15 opening and closing dates of the school term, beginning and ending dates of
16 each school month, student attendance days, and days on which schools shall
17 be dismissed. The local board may schedule days for breaks in the school
18 calendar that shall not be counted as a part of the minimum school term.

19 (e) For local board of education meetings described in paragraphs (c) and (d) of
20 this subsection, if the meeting is a regular meeting, notice shall be given to
21 media outlets that have requests on file to be notified of special meetings
22 stating the date of the regular meeting and that one (1) of the items to be
23 considered in the regular meeting will be the school calendar. The notice shall
24 be sent at least twenty-four (24) hours before the regular meeting. This
25 requirement shall not be deemed to make any requirements or limitations
26 relating to special meetings applicable to the regular meeting.

27 (f) Beginning with the 2018-2019 school year, and each year thereafter, a local

1 school board of education that adopts a school calendar with the first student
2 attendance day in the school term starting no earlier than the Monday closest
3 to August 26 may use a variable student instructional year. Districts may set
4 the length of individual student attendance days in a variable student
5 instructional schedule, but no student attendance day shall contain more than
6 seven (7) hours of instructional time unless the district submitted and received
7 approval from the commissioner of education for an innovative alternative
8 calendar.

9 (3) (a) Each local board of education shall use four (4) days of the minimum school
10 term for professional development and collegial planning activities for the
11 professional staff without the presence of students pursuant to the
12 requirements of KRS 156.095. At the discretion of the superintendent, one (1)
13 day of professional development may be used for district-wide activities and
14 for training that is mandated by federal or state law. The use of three (3) days
15 shall be planned by each school council, except that the district is encouraged
16 to provide technical assistance and leadership to school councils to maximize
17 existing resources and to encourage shared planning.

18 (b) In addition to the four (4) days required under paragraph (a) of this
19 subsection:~~[-]~~

20 1. A minimum of two (2) hours of self-study review of suicide prevention
21 materials shall be required for all high school and middle school
22 principals, guidance counselors, and teachers each school year; and

23 2. A minimum of one (1) hour of self-study review of seizure disorder
24 materials shall be required for all principals, guidance counselors,
25 and teachers each school year.

26 (c) A local board may approve a school's flexible professional development plan
27 that permits teachers or other certified personnel within a school to participate

1 in professional development activities outside the days scheduled in the school
2 calendar or the regularly scheduled hours in the school work day and receive
3 credit towards the four (4) day professional development requirement within
4 the minimum one hundred eighty-five (185) days that a teacher shall be
5 employed.

6 1. A flexible schedule option shall be reflected in the school's professional
7 development component within the school improvement plan or
8 consolidated plan and approved by the local board. Credit for approved
9 professional development activities may be accumulated in periods of
10 time other than full day segments.

11 2. No teacher or administrator shall be permitted to count participation in a
12 professional development activity under the flexible schedule option
13 unless the activity is related to the teacher's classroom assignment and
14 content area, or the administrator's job requirements, or is required by
15 the school improvement or consolidated plan, or is tied to the teacher's
16 or the administrator's individual growth plan. The supervisor shall give
17 prior approval and shall monitor compliance with the requirements of
18 this paragraph. In the case of teachers, a professional development
19 committee or the school council by council policy may be responsible
20 for reviewing requests for approval.

21 (d) The local board of each school district may use up to a maximum of four (4)
22 days of the minimum school term for holidays; provided, however, any
23 holiday which occurs on Saturday may be observed on the preceding Friday.

24 (e) Each local board may use two (2) days for planning activities without the
25 presence of students.

26 (f) Each local board may close schools for the number of days deemed necessary
27 for:

- 1 1. National or state emergency or mourning when proclaimed by the
2 President of the United States or the Governor of the Commonwealth of
3 Kentucky;
- 4 2. Local emergency which would endanger the health or safety of children;
5 and
- 6 3. Mourning when so designated by the local board of education and
7 approved by the Kentucky Board of Education upon recommendation of
8 the commissioner of education.

9 (4) (a) The Kentucky Board of Education, upon recommendation of the
10 commissioner of education, shall adopt administrative regulations governing
11 the use of student attendance days as a result of a local emergency, as
12 described in subsection (3)(f)2. of this section, and regulations setting forth
13 the guidelines and procedures to be observed for the approval of waivers from
14 the requirements of a student instructional year in subsection (1)(f) of this
15 section for districts that wish to adopt innovative instructional calendars, or
16 for circumstances that would create extreme hardship.

17 (b) If a local board of education amends its school calendar after its adoption due
18 to an emergency, it may lengthen or shorten any remaining student attendance
19 days by thirty (30) minutes or more, as it deems necessary, provided the
20 amended calendar complies with the requirements of a student instructional
21 year in subsection (1)(f) of this section or a variable student instructional year
22 in subsection (1)(h) of this section. No student attendance day shall contain
23 more than seven (7) hours of instructional time unless the district submitted
24 and received approval from the commissioner of education for an innovative
25 alternative calendar.

26 (5) (a) 1. In setting the school calendar, school may be closed for two (2)
27 consecutive days for the purpose of permitting professional school

- 1 employees to attend statewide professional meetings.
- 2 2. These two (2) days for statewide professional meetings may be
3 scheduled to begin with the first Thursday after Easter, or upon request
4 of the statewide professional education association having the largest
5 paid membership, the commissioner of education may designate
6 alternate dates.
- 7 3. If schools are scheduled to operate during days designated for the
8 statewide professional meeting, the school district shall permit
9 employees who are delegates to attend as compensated professional
10 leave time and shall employ substitute teachers in their absence.
- 11 4. The commissioner of education shall designate one (1) additional day
12 during the school year when schools may be closed to permit
13 professional school employees to participate in regional or district
14 professional meetings.
- 15 5. These three (3) days so designated for attendance at professional
16 meetings may be counted as a part of the minimum school term.
- 17 (b) 1. If any school in a district is used as a polling place, the school district
18 shall be closed on the day of the election, and those days may be used
19 for professional development activities, professional meetings, or
20 parent-teacher conferences.
- 21 2. A district may be open on the day of an election if no school in the
22 district is used as a polling place.
- 23 (c) All schools shall be closed on the third Monday of January in observance of
24 the birthday of Martin Luther King, Jr. Districts may:
- 25 1. Designate the day as one (1) of the four (4) holidays permitted under
26 subsection (3)(d) of this section; or
- 27 2. Not include the day in the minimum school term specified in subsection

1 (1) of this section.

2 (6) (a) The Kentucky Board of Education, or the organization or agency designated
3 by the board to manage interscholastic athletics, shall be encouraged to
4 schedule athletic competitions outside the regularly scheduled student
5 attendance day.

6 (b) Beginning with the 2009-2010 school year, any member of a school-
7 sponsored interscholastic athletic team who competes in a regional
8 tournament or state tournament sanctioned by the Kentucky Board of
9 Education, or the organization or agency designated by the board to manage
10 interscholastic athletics, and occurring on a regularly scheduled student
11 attendance day may be counted present at school on the date or dates of the
12 competition, as determined by local board policy, for a maximum of two (2)
13 days per student per year. The student shall be expected to complete any
14 assignments missed on the date or dates of the competition.

15 (c) The school attendance record of any student for whom paragraph (b) of this
16 subsection applies shall indicate that the student was in attendance on the date
17 or dates of competition.

18 (7) Students applying for excused absence for attendance at the Kentucky State Fair
19 shall be granted one (1) day of excused absence.

20 (8) Schools shall provide continuing education for those students who are determined
21 to need additional time to achieve the outcomes defined in KRS 158.6451, and
22 schools shall not be limited to the minimum school term in providing this
23 education. Continuing education time may include extended days, extended weeks,
24 or extended years. A local board of education may adopt a policy requiring its
25 students to participate in continuing education. The local policy shall set out the
26 conditions under which attendance will be required and any exceptions which are
27 provided. The Kentucky Board of Education shall promulgate administrative

1 regulations establishing criteria for the allotment of grants to local school districts
2 and shall include criteria by which the commissioner of education may approve a
3 district's request for a waiver to use an alternative service delivery option, including
4 providing services during the student attendance day on a limited basis. These
5 grants shall be allotted to school districts to provide instructional programs for
6 pupils who are identified as needing additional time to achieve the outcomes
7 defined in KRS 158.6451. A school district that has a school operating a model
8 early reading program under KRS 158.792 may use a portion of its grant money as
9 part of the matching funds to provide individualized or small group reading
10 instruction to qualified students outside of the regular classroom during the student
11 attendance day.

12 (9) Notwithstanding any other statute, each school term shall include no less than the
13 equivalent of the student instructional year in subsection (1)(f) of this section, or a
14 variable student instructional year in subsection (1)(h) of this section, except that
15 the commissioner of education may grant up to the equivalent of ten (10) student
16 attendance days for school districts that have an alternative instruction plan
17 approved by the commissioner of education for the use of alternative methods of
18 instruction, including virtual learning, on days when the school district is closed for
19 health or safety reasons, on nontraditional days, or on nontraditional time. The
20 district's plan shall demonstrate how teaching and learning in the district will not be
21 negatively impacted. Average daily attendance for purposes of Support Education
22 Excellence in Kentucky program funding during the student attendance days
23 granted shall be calculated in compliance with administrative regulations
24 promulgated by the Kentucky Board of Education.

25 (10) Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection
26 (2) of this section, a school district shall arrange bus schedules so that all buses
27 arrive in sufficient time to provide breakfast prior to the beginning of the student

1 attendance day. In the event of an unforeseen bus delay, the administrator of a
2 school that participates in the Federal School Breakfast Program may authorize up
3 to fifteen (15) minutes of the student attendance day if necessary to provide the
4 opportunity for children to eat breakfast not to exceed eight (8) times during the
5 school year within a school building.

6 (11) Notwithstanding any other statute to the contrary, the following provisions shall
7 apply to a school district that misses student attendance days due to emergencies,
8 including weather-related emergencies:

9 (a) A certified school employee shall be considered to have fulfilled the minimum
10 one hundred eighty-five (185) day contract with a school district under KRS
11 157.350 and shall be given credit for the purpose of calculating service credit
12 for retirement under KRS 161.500 for certified school personnel if:

13 1. State and local requirements under this section are met regarding the
14 equivalent of the number and length of student attendance days, teacher
15 professional days, professional development days, holidays, and days for
16 planning activities without the presence of students; and

17 2. The provisions of the district's school calendar to make up student
18 attendance days missed due to any emergency, as approved by the
19 Kentucky Department of Education when required, including but not
20 limited to a provision for additional instructional time per day, are met.

21 (b) Additional time worked by a classified school employee shall be considered as
22 equivalent time to be applied toward the employee's contract and calculation
23 of service credit for classified employees under KRS 78.615 if:

24 1. The employee works for a school district with a school calendar
25 approved by the Kentucky Department of Education that contains a
26 provision that additional instructional time per day shall be used to make
27 up full days missed due to an emergency;

- 1 2. The employee's contract requires a minimum six (6) hour work day; and
- 2 3. The employee's job responsibilities and work day are extended when the
- 3 instructional time is extended for the purposes of making up time.

4 (c) Classified employees who are regularly scheduled to work less than six (6)

5 hours per day and who do not have additional work responsibilities as a result

6 of lengthened student attendance days shall be excluded from the provisions

7 of this subsection. These employees may be assigned additional work

8 responsibilities to make up service credit under KRS 78.615 that would be

9 lost due to lengthened student attendance days.

10 ➔Section 5. This Act may be cited as the Lyndsey Crunk Act.