

AMENDED IN SENATE MAY 12, 2010  
AMENDED IN SENATE APRIL 27, 2010  
AMENDED IN SENATE MARCH 22, 2010

**SENATE BILL**

**No. 1051**

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**Introduced by Senator Huff**

(Coauthors: Assembly Members Adams, Fuller, *Jeffries*, and Logue)

February 16, 2010

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An act to add and repeal Section 49414.7 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1051, as amended, Huff. Emergency medical assistance: administration of diastat.

Existing law provides that in the absence of a credentialed school nurse or other licensed nurse onsite at the school, a school district is authorized to provide school personnel with voluntary medical training to provide emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia.

This bill would authorize a school district to provide school employees with voluntary emergency medical training to provide, in the absence of a credentialed school nurse or other licensed nurse onsite at the school, emergency medical assistance to pupils with epilepsy suffering from seizures, in accordance with performance standards developed by specified entities. The bill would require the State Department of Public Health to approve the performance standards for distribution and make the standards available upon request. The bill would allow a parent or guardian of a pupil with epilepsy who has been prescribed diastat by the pupil's health care provider to request the pupil's school to have

one or more of its employees receive voluntary training, as specified, in order to administer diastat, as defined, in the event that the pupil suffers a seizure when a nurse is not available. The bill would require a school that decides to train school employees to distribute an electronic notice, as specified, to all staff regarding the request. ~~The bill would provide that volunteer school employees who are trained and who administer diastat in good faith be immune from civil and criminal liability for injuries resulting from acts or omissions in administering the diastat.~~ The bill would repeal these provisions on January 1, 2016.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) The Legislature finds and declares that all  
2 individuals with exceptional needs have a right to participate in a  
3 free appropriate public education, and that special instruction and  
4 services for these individuals are needed in order to ensure they  
5 have the right to an appropriate educational opportunity to meet  
6 their unique needs in compliance with the federal Individuals with  
7 Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).  
8 (b) It is the intent of the Legislature that individuals with  
9 exceptional needs and children with disabilities under the federal  
10 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101  
11 et seq.) and Section 504 of the federal Rehabilitation Act of 1973  
12 (29 U.S.C. Sec. 794) shall have a right to an appropriate  
13 educational opportunity to meet their unique needs, and that  
14 children suffering from seizures due to epilepsy have the right to  
15 appropriate programs and services that are designed to meet their  
16 unique needs. In order to meet that goal, it is the intent of the  
17 Legislature to authorize nurses to train and supervise employees  
18 of school districts and county offices of education to administer  
19 diastat to children with epilepsy in the public schools. The  
20 American Academy of Pediatrics and the Epilepsy Foundation of  
21 America support training of school employees to administer diastat  
22 and believe that diastat may be safely and effectively administered  
23 by trained school employees. The Legislature further finds and  
24 declares that, in the absence of a credentialed school nurse or other  
25 licensed nurse onsite at the school, it is in the best interest of the

1 health and safety of children to allow trained school employees to  
2 administer diastat to pupils in public schools.

3 SEC. 2. Section 49414.7 is added to the Education Code, to  
4 read:

5 49414.7. (a) It is the intent of the Legislature that, whenever  
6 possible, diastat should be administered by a school nurse who  
7 has been trained in its administration.

8 (b) Notwithstanding Sections 2052 and 2732 of the Business  
9 and Professions Code, in the absence of a credentialed school nurse  
10 or other licensed nurse onsite at the school, a school district may  
11 provide school employees with voluntary emergency medical  
12 training to provide emergency medical assistance to pupils with  
13 epilepsy suffering from seizures. A school employee with voluntary  
14 emergency medical training shall provide this emergency medical  
15 assistance in accordance with the standards established pursuant  
16 to subdivision-~~(h)~~ (k), and the performance instructions set forth  
17 by the licensed health care provider of the pupil. A school  
18 employee who does not volunteer or who has not been trained  
19 pursuant to subdivision-~~(h)~~ (k) shall not be required to provide  
20 emergency medical assistance pursuant to this section.

21 ~~(b)~~

22 (c) If a pupil with epilepsy has been prescribed diastat by his  
23 or her health care provider, the pupil's parent or guardian may  
24 request the pupil's school to have one or more of its employees  
25 receive training pursuant to this section in the administration of  
26 diastat in the event that the pupil suffers a seizure when a nurse is  
27 not available.

28 ~~(c)~~

29 (d) Upon receipt of the parent's or guardian's request, the school  
30 shall notify the parent or guardian that his or her child may qualify  
31 for services or accommodations guaranteed under Section 504 of  
32 the federal Rehabilitation Act of 1973, as amended, (29 U.S.C.  
33 Sec. 794), assist the parent or guardian with the exploration of that  
34 option, and encourage the parent or guardian to adopt that option  
35 if it is determined that the child is eligible for a Section 504 plan.

36 ~~(d)~~

37 (e) The school may ask the parent or guardian to sign a notice  
38 verifying that the parent or guardian was given information about  
39 Section 504 of the federal Rehabilitation Act of 1973, and that the

1 parent or guardian understands that it is his or her right to request  
2 a Section 504 plan at any time.

3 (e)

4 (f) If the parent or guardian does not choose to have the pupil  
5 assessed for a Section 504 plan, the school may create an  
6 individualized health plan, seizure action plan, or other appropriate  
7 health plan designed to acknowledge and prepare for the child’s  
8 health care needs in school. The plan may include the involvement  
9 of trained volunteer school employees.

10 (f)

11 (g) If a school decides to train school employees pursuant to  
12 this section, the school shall distribute an electronic notice to all  
13 staff that states all of the following:

14 (1) The notice is a request for volunteers to administer diastat  
15 to a pupil experiencing a severe epileptic seizure, in the absence  
16 of a school nurse.

17 (2) Diastat is an FDA-approved, predosed, rectally administered  
18 gel that reduces the severity of epileptic seizures.

19 (3) A volunteer will receive training from a licensed health  
20 professional regarding the administration of diastat.

21 (4) Any agreement by an employee to administer diastat is  
22 voluntary, and no employee of the school or district shall directly  
23 or indirectly use or attempt to use his or her authority or influence  
24 for the purpose of intimidating, threatening, coercing, or attempting  
25 to intimidate, threaten, or coerce, any staff member who does not  
26 choose to volunteer.

27 ~~(5) A volunteer is protected from civil and criminal liability~~  
28 ~~pursuant to subdivision (k) of Section 49414.7 of the Education~~  
29 ~~Code.~~

30 (g)

31 (h) If there are no volunteers, then the school shall renotify the  
32 pupil’s parent or guardian of the option to be assessed for services  
33 and accommodations guaranteed under Section 504 of the federal  
34 Rehabilitation Act of 1973.

35 (h)

36 (i) A school that chooses to participate pursuant to this section  
37 shall have in place a school plan that shall include, but not be  
38 limited to, all of the following:

39 (1) Identification of existing licensed staff within the district or  
40 region who could be trained in the administration of diastat and

1 could be available to respond to an emergency need to administer  
2 diastat. The school shall consult with the school district or county  
3 office of education to obtain this information.

4 (2) Identification of pupils who may require the administration  
5 of diastat.

6 (3) Written authorization from the parent or guardian for a  
7 nonmedical school employee to administer diastat.

8 (4) The requirement that the parent or guardian notify the school  
9 if the pupil has had diastat administered within the past four hours  
10 on a schoolday.

11 (5) Notification of the parent or guardian that diastat has been  
12 administered.

13 (6) A written statement from the pupil's health care practitioner  
14 that shall include, but not be limited to, all the following:

15 (A) The pupil's name.

16 (B) The name and purpose of the medication.

17 (C) The prescribed dosage.

18 (D) The length of time the seizure may continue before the  
19 administration of diastat becomes necessary.

20 (E) The method of administration.

21 (F) The frequency with which the medication may be  
22 administered.

23 (G) The circumstances under which the medication may be  
24 administered.

25 (H) Any potential adverse responses by the pupil and  
26 recommended mitigation actions, including when to call emergency  
27 services.

28 (I) A protocol for observing the pupil after a seizure, including,  
29 but not limited to, whether the pupil should rest in the school office,  
30 whether the pupil may return to class, and the length of time the  
31 pupil should be under direct observation.

32 (i)

33 (j) A school that chooses to allow volunteers to administer  
34 diastat shall compensate a volunteer when the administration of  
35 diastat and subsequent monitoring of a pupil requires a volunteer  
36 to work beyond his or her normally scheduled hours.

37 (j)

38 (k) (1) The Legislature encourages the Epilepsy Foundation of  
39 America to develop performance standards for the training and  
40 supervision of school employees in providing emergency medical

1 assistance to pupils with epilepsy suffering from seizures. The  
2 performance standards may be developed in cooperation with the  
3 State Department of Education, the California School Nurses  
4 Organization, the California Medical Association, and the  
5 American Academy of Pediatrics. Upon development of the  
6 performance standards, the State Department of Public Health  
7 shall approve the performance standards for distribution and make  
8 those standards available upon request.

9 (2) Training established pursuant to this subdivision shall  
10 include, but not be limited to, all of the following:

11 (A) Recognition and treatment of different types of seizures.

12 (B) Administration of diastat.

13 (C) Basic emergency followup procedures including, but not  
14 limited to, calling the emergency 911 telephone number and  
15 contacting the pupil's parent or guardian.

16 (D) Techniques and procedures to ensure pupil privacy.

17 (3) Training by one or more of the following:

18 (A) A physician and surgeon.

19 (B) A credentialed school nurse.

20 (C) A registered nurse.

21 (D) A certificated public health nurse.

22 (4) Training provided in accordance with the performance  
23 standards established pursuant to this section shall be deemed  
24 adequate training for purposes of this section.

25 (5) (A) A school employee shall notify the credentialed school  
26 nurse assigned to the school district if he or she administers diastat  
27 pursuant to this section.

28 (B) If a credentialed school nurse is not assigned to the school  
29 district, the school employee shall notify the superintendent of the  
30 school district, or his or her designee, if he or she administers  
31 diastat pursuant to this section.

32 (C) A school shall retain all records relating to the administration  
33 of diastat while a pupil is under the supervision of school staff.

34 (6) The pupil's parent or guardian shall provide all materials  
35 necessary to administer diastat, including the information described  
36 in paragraph (6) of subdivision ~~(h)~~ (i). A school shall not be  
37 responsible for providing any of the necessary materials.

38 ~~(k) A school employee who is trained to administer, and who,~~  
39 ~~acting in good faith, administers diastat shall be immune from~~  
40 ~~criminal or civil liability for perceived or real physical or emotional~~

1 ~~injuries resulting from his or her acts or omissions in administering~~  
2 ~~the diastat, including, but not limited to, sex offenses.~~

3 (l) For purposes of this section, “diastat” means diazepam rectal  
4 gel, marketed as Diastat AcuDial, approved by the federal Food  
5 and Drug Administration for patients with epilepsy for the  
6 management of seizures.

7 (m) This section shall remain in effect only until January 1,  
8 2016, and as of that date is repealed, unless a later enacted statute,  
9 that is enacted before January 1, 2016, deletes or extends that date.

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