



School Administrators

Many important issues demand the attention of K-12 Administrators. Each day you're asked to provide guidance in areas that touch every aspect of life in your district/school. There are concerns about budget, curriculum, staffing and much more.

Among the most important issues you address are those that affect the health and well-being of students under your care ... issues like asthma. That's why it's vital for you to understand the impact that asthma is having within your district/school and to support the development and implementation of a program to minimize its effects. Under your leadership, your district/school can have an asthma management program that enables children with asthma to get the most from their time in school and that can help them live healthy, active lives.

“Approximately 2.5 students in a class of 30 are likely to have asthma.”



Why Learning about Asthma is Important for Administrators



ASTHMA CAN BE LIFE-THREATENING.

An asthma episode can quickly escalate and may result in death without prompt medical attention.

- Asthma symptoms can get out of control, causing an asthma episode.
- A child can die from a severe asthma episode.
- An asthma episode may come on suddenly, requiring school staff to respond to a life-threatening emergency.

ASTHMA IS AN EPIDEMIC.

- Asthma is the most common chronic childhood disease, affecting more than six million children in America.¹
- Nearly one in 13 school-aged children has asthma.²
- Asthma in children has increased significantly in both numbers and severity over the past 15 years.³
- Asthma is the third leading cause of hospitalizations among children.⁴

ASTHMA IS THE SINGLE MOST COMMON CHRONIC DISEASE CAUSING ABSENCE FROM SCHOOL.

What's more, asthma can affect a child's performance. It can disrupt sleep and the ability to concentrate, and, if not managed properly, prevent a child from participation in "normal" school activities. A child who misses school due to uncontrolled asthma not only misses classroom instruction, but also misses out on social interactions with other children which can lead to fears of social isolation, rejection, and believing they are "different" from other children.

- Over 14 million school days are missed each year by school children experiencing asthma-related problems.⁵
- Children with asthma make 4.6 million physician visits annually.¹
- Children whose nighttime sleep is disrupted by asthma symptoms can have greater difficulty with schoolwork.
- Missed sleep due to nighttime asthma can cause children to have poor recall memory, lack of concentration, and mood swings.
- Some medications have side effects which may interfere with a child's ability to concentrate or participate in school activities.

MOST ASTHMA EPISODES CAN BE PREVENTED.

By combining a reduction of environmental asthma “triggers” in the school’s internal environment with increased asthma awareness and proper medical management, most asthma episodes can be prevented. Good communication among parents, the child’s physician, and school staff is also vital to successful asthma prevention. The result is a better learning environment.

THERE ARE LEGAL REQUIREMENTS THAT AFFECT HOW SCHOOLS DEAL WITH STUDENTS AND STAFF WHO HAVE ASTHMA.

Federal and state laws require that schools take steps to promote the health, development and achievement of students and staff with asthma. Be sure to read “Relevant Legislation” later in this section.





What Administrators Need to Know

What is Asthma?

Asthma is a chronic disease that causes broncho-constriction (tightening of the muscles around the airways) and swelling of the airways. During normal breathing, air flows freely in and out of the lungs. But, during an “asthma episode,” linings of the airways (bronchioles) swell, muscles around the airways tighten and mucus clogs the tiny airways, making breathing difficult. The airways become overly responsive (twitchy) to environmental changes, sometimes resulting in wheezing, coughing, breathlessness, or tightness in the chest. During an asthma episode a child may feel he/she can’t inhale enough air, but actually, his/her lungs are having trouble exhaling.

Asthma symptoms can vary greatly from hour-to-hour and day-to-day. Symptoms are often worse at night and in the early morning hours. The severity of asthma varies from child to child and the severity may worsen or improve depending on the child’s symptom control and amount of exposure to triggers or allergens. Some children have occasional symptoms (e.g., after strenuous exercise), while others have symptoms that interfere with their daily life, including concentration and participating in school.

Recognizing the Signs of an Asthma Episode

Children who have asthma often learn to identify their own unique early warning signs—the physical changes that occur as their airways begin to close. These early warning signs usually begin long before the more serious symptoms appear and taking action quickly is paramount to preventing an asthma crisis! An asthma episode is easier to subdue if a child and school staff are aware of significant changes and the child is able to take medication quickly.

There should not be any delay once a child has notified school staff of a possible problem or developing asthma episode.

During the initial phase of an asthma episode a child may exhibit one or more of these signs:

Changes in breathing: Coughing, wheezing (a high pitched sound heard on exhalation), shortness of breath, breathing through the mouth, and/or rapid breathing.

Verbal complaints: Often a child who is familiar with his/her asthma symptoms will know that an episode is about to happen. The child may tell school staff that his/her chest is tight, or hurts, or that he/she cannot catch a breath. Complaints may include “dry mouth” or a more general “I don’t feel well” or “I’m scared.”

Behavior changes and other signs: Clipped speech — a child may speak in very short, choppy sentences and appear to be gulping at air as he/she speaks. Some children may become very quiet (trying to control their breathing or simply out of fear) and subdued, while others may become highly agitated and panicky.

What Causes Asthma Episodes?

Children with asthma have airways that narrow more easily than children who do not have asthma. They may be allergic or sensitive to inhaled (or even some ingested) irritants. A variety of factors can set off an asthma episode including viral infections (cold and flu season is especially difficult) and exposure to allergens or “triggers.” Each child with asthma reacts to a different set of factors.

Some common “allergens” are:

- Dust mites
- Dander from furry or feathery animals (*including pets in the classroom*)
- Mold (*moist ceiling tiles or wet sink areas*)
- Seasonal pollens (*e.g., tree pollen in the spring, grass in the summer, ragweed in the fall*)
- Cockroach droppings
- Mice/rat dander, urine and their droppings
- Some medications (*e.g., aspirin*)
- Some foods*

Some common “triggers” are:

- Exercise (*Exercise induced asthma or EIA*)
- Cold air
- Chalk dust
- Viral/upper respiratory infections, bronchitis, sinusitis
- Strong emotional expressions (*such as stress, anxiety, anger, crying*)
- Air pollution—both indoor and outdoor (*high ozone, high particulate matter*)
- Chemical irritants (*cleaning supplies, perfumes, whiteboard markers, paints, pesticides, glues*)
- Tobacco smoke, secondhand smoke, smoke from burning wood and other substances

*** “About 6-8% of children who have asthma have food allergies that can trigger asthma symptoms.”⁶**

Exercise-Induced Asthma (EIA)

Exercise is a very common trigger for asthma. However, since exercise and participating in sports are a part of healthy living, this is one trigger that should be managed and not avoided. For teenagers, exercise is often the most common cause of asthma symptoms. Fortunately, with better medications, monitoring, and proper management, children can participate in physical activity and sports and achieve their highest performance levels!

SYMPTOMS OF EIA

May include coughing, wheezing, chest tightness and shortness of breath. Coughing is the most common symptom of EIA and may be the only symptom a child has at that time. The symptoms of EIA may begin during exercise and can be worse 5 to 10 minutes after stopping exercise or during the normal “cooling down” period rather than during the actual exercise. Symptoms can range from mild to severe and often resolve in 20 to 30 minutes. Occasionally, some individuals will experience “late phase” symptoms four to twelve hours after stopping exercise. These late phase symptoms are frequently less severe and can take up to 24 hours to go away. This is an important fact to remember when children are participating in school competitions that are repeated throughout the day.

CAUSES OF EIA

When a child exercises, he/she breathes faster due to increased oxygen demands. Usually, during exercise a child inhales through the mouth, causing the air to be dryer and cooler than when breathing normally and through the nasal passages. Decreases in warmth and humidity are both causes of bronchospasm or “airway constriction”. Exercise that exposes a child to cold air, like skiing, skating, or hockey is therefore more likely to cause symptoms than exercise involving warm and humid air such as swimming (although recent studies have shown the chemicals in a pool can be detrimental to children with asthma too). Pollution levels, high pollen counts and exposure to other irritants such as smoke and strong fumes can also make EIA symptoms worse. A recent cold or asthma episode can also cause a child to have more difficulty exercising.

Asthma Medications

Treatment for asthma is based on how severe a child's symptoms are at any given time. Typically, there are two types of medications used to treat asthma:

- Quick relief (reliever) or rescue, and
- Controller or preventive.

Quick relief or rescue medications provide quick relief of an acute asthma episode and are used as needed for symptoms and before exercise. Controller or preventive medications must be taken daily and are used to control and prevent asthma symptoms. Controller medications are not effective once an episode has already begun.

A note about inhaled corticosteroids: When you hear the word “steroid” you might think of the steroids used by athletes. But inhaled corticosteroids are not the same steroids used by athletes to build muscles and do not have the same side effects. They are the most consistently effective controller medications available.



All medications carry the potential for side effects. Some common complaints with rescue medications include **nervousness, jitteriness, nausea** and **drowsiness**. If side effects are excessive or the child is complaining of not feeling well, promptly contact the school nurse for evaluation and follow-up. Do not leave the child unattended.

For a complete listing of asthma medications, see the Resource Section.

Relevant Legislation



There are legal requirements that regulate schools working both with children with asthma and with children with special needs in general. The following are simplified summaries of current statutes. The full statutes/laws are in the Resource Section.

FEDERAL LAWS (IDEA 1997) AND SECTION 504 OF THE REHABILITATION ACT OF 1973



These mandates require that schools promote the health, development, and achievement of students with asthma when the disease interferes with their learning. Schools are required to remove “disability barriers” that impede health, participation, and achievement. The law requires schools and parents to work together as partners to develop and implement health plans to protect the welfare of the child.

FAMILY EDUCATION RIGHTS AND PRIVACY ACT (FERPA)



Generally prohibits schools from disclosing personally identifiable information in a student’s education record unless the school obtains the consent of the student’s parent or the eligible student (a student who is 18 years old or older or who attends an institution of postsecondary education). FERPA does allow schools to disclose this information, without obtaining consent, to school officials, including teachers, who have legitimate educational interests in the information, including the educational interests of the child. Schools that do this must include in their annual notification to parents and eligible students the criteria for determining who constitutes a school official and what constitutes a legitimate educational interest. Schools may not prevent the parents of students, or eligible students themselves, from inspecting and reviewing the student’s education records.

MINNESOTA INHALER LAW OVERVIEW

Minnesota Statutes, Section 121A.22



The Minnesota legislature enacted language during the 2001 session that allows public elementary and secondary school students to possess and use inhalers prescribed for asthma or reactive airway disease. The following provides an overview of the requirements that must be met before a student is given permission to carry asthma medication and self-medicate in school:

1. The parent has not requested that school personnel administer the student’s asthma medication; *and*
2. The school district receives annual written authorization from the student’s parent for the student to self-administer; *and*
3. The inhaler is properly labeled for that student; *and*
4. The school nurse or other appropriate party assesses the student’s knowledge and skills to safely possess and use his/her inhaler in a school setting and enters a plan to implement safe possession and use of the inhaler into the student’s school health record; *or* for schools without a school nurse or nursing services, the student’s parent or guardian submits written verification from the student’s physician documenting that the physician has assessed the student’s knowledge and skills to safely possess and use his/her inhaler in a school setting.

Summary, August 2001 ALAMN



SCHOOL BUS IDLING LAW

Minnesota Statutes, Section 123B.885



Diesel School bus idling

All operators of diesel school buses must minimize, to the extent practical, the idling of school bus engines and exposure of children to diesel exhaust fumes.

(This pertains to bus drivers lining up buses waiting for the children to exit the school and load the buses. Except in inclement weather (i.e. too cold or too hot), the buses engines should be shut off until all children are loaded onto the buses.)

Parking:

On and after July 1, 2003, diesel school buses must be parked and loaded at sufficient distance from school air-intake systems to avoid diesel fumes being drawn into the systems, unless, in the judgment of the school board, alternative locations block traffic, impair student safety, or are not cost effective.

(Indoor Air Quality (IAQ) can suffer greatly when diesel fuel fumes are pulled into the building and circulated via the ventilation system. These fumes/odors are potent asthma triggers for some children.)

PESTICIDE LAW

Minnesota Statutes, Section 121A.30



The Minnesota Parents Right To Know Act requires public and non-public K-12 schools that plan to apply pesticides specified in the law to provide notices to parents and employees. This law also requires the Minnesota Department of Health (MDH) to develop and make available model notices for schools to use if they so choose.

IAQ PLAN

Minnesota Statutes, Section 123B.57

Public school districts are required to adopt plans to monitor and improve indoor air quality. The Minnesota Department of Education (MDE) has adopted the US EPA's Indoor Air Quality Tools for Schools program as the basis for an effective IAQ Management Plan.

An effective IAQ Management Plan is a comprehensive, district specific set of policies and procedures established to maintain and improve indoor air quality. To meet MDE requirements, the IAQ Management Plan must include:

- A certified (trained) IAQ Coordinator;
- An overall evaluation (walk through) performed on all school district buildings;
- The evaluation of specific building systems (classrooms, ventilation system, maintenance operations), using checklists or a comparable method;
- A written set of policies and schedules that describe ways to correct the identified IAQ problems, prevent future problems from arising, and respond to emergencies and concerns;
- School board approval.

The MDE Health and Safety financing program requires all school districts to implement an IAQ Management Plan.

The MDH web site has additional information about IAQ Management Plans including the status of specific districts and the IAQ Coordinator for each district. To learn more about IAQ Management Plans go to:

<http://www.health.state.mn.us/divs/eh/indoorair/schools/index.html>.

To find out about your district, go to:

<http://www.health.state.mn.us/divs/eh/indoorair/schools/progress.htm>.



What Administrators Can Do

Providing Health Services

Administrators ensure that there is adequate health staff in each district and school. Typically, school boards make the final decision regarding health services staffing based on the recommendations of the Superintendent. Superintendents make sure that school board members understand the health and safety needs of students and how to best meet those needs.

School Health Services Law
Minnesota Statute, Section 121A.21

A. Every school board must provide services to promote the health of its pupils.

B. The board of a district with 1,000 pupils or more in average daily membership in early childhood family education, preschool handicapped, elementary, and secondary programs must comply with the requirements of this paragraph. It may use one or a combination of the following methods:

1. Employ personnel, including at least one full-time equivalent licensed school nurse;
2. Contract with a public or private health organization or another public agency for personnel during the regular school year, determined appropriate by the board, who are currently licensed under chapter 148 and who are certified public health nurses; or
3. Enter into another arrangement approved by the commissioner.

While the statute specifically defines how districts with over 1,000 pupils should provide health services, it also clearly states that **every** school board **must** provide services to promote the health of its pupils.



Remember – as an Administrator, you do not have to do it all. Look to your community for support and assistance.

SCHOOL HEALTH SERVICES

Schools have flexibility in providing health care services. The essential steps are:

- Assess the health needs of students
- Create a system to meet those needs
- Evaluate the effectiveness of the system
- Adjust the services/contract if needs are not being met, and
- Communicate the information to parents.

ASSESSMENT

To determine what services need to be provided at the school or district, an assessment should be done of the students' health needs within the district. No matter the size of the student population, a proportional number of children will have chronic health conditions.

If there is no one within the system who can do this assessment, look to the community. Local public health agencies work to determine public health priorities. Children and youth are intrinsically a part of their public health target population and schools can build a relationship with their local public health agencies and work together in assessing the health priorities for children and youth in the school and in the community.

Schools can also contract with a university or find a graduate student who could provide the assessment as a part of his/her graduation requirements.

Use your health council. It is recommended that school districts develop a school health council. A well-developed health council can assist in providing input related to the determination of the health and safety needs of students within the district.

Another option for determining the health needs of students is to contract with an evaluator to do the assessment.



PROVIDING HEALTH SERVICES



■ Hire a Licensed School Nurse

“School nursing is a specialized practice of professional nursing that advances the well being, academic success, and life-long achievement of students. To that end, school nurses facilitate positive student responses to normal development; promote health and safety; intervene with actual and potential health problems; provide case management services; and actively collaborate with others to build student and family capacity for adaptation, self management, self advocacy, and learning.” (This definition was adopted by the National Association of School Nurses).

■ Contract with a Public Health Organization

Be specific with the services that you contract for and base those services on the health needs of students. If you contract for only vision and hearing screening, referral and follow-up, the public health nurse will provide only those services. The nurse is liable if he/she provides services beyond the scope of the contract.

■ Contract with Other Organizations

Look to your community to find the organizations or systems that provide health services and contract with them to provide services at school. This could be another school district, a hospital, a home health agency, or a clinic.

■ Creative negotiation

If the necessary resources are not available, try a bartering system to provide services. The school or district may have technology, equipment, or staff that would be useful for a community organization. Barter those services for providing health services.



EVALUATE

It is important to ensure that the system you established is working and that the health needs of students are being met. An evaluation can tell you if you're meeting your goals.

As a suggestion, within 60 days of the services being provided and at the end of the school year, sit down with the agency or person under contract to identify the positives and negatives of the service agreement or contract. Another way to measure program achievement is to listen to the comments and concerns coming from the parents/guardians, students, and teachers.

Any meeting to determine whether the plan and contractual arrangement for student health services is working should include an option for change. Incorporate what you learn from the evaluation so that the appropriate/needed health services are provided in a timely fashion, whether it is during the contract year or at the beginning of the new contract year.

COMMUNICATION

Regardless of how these services are provided, clearly state to parents/guardians and students what health services are available at the school, including the amount of time services are available (every day, once per week, a few hours per day, etc). This information should be included in the student handbook and can be posted on the health service office door or sent to parents/guardians directly. If services change, share that information with parents.

UTILIZE A HEALTH COUNCIL

A school health council, or school health advisory council, is an advisory group of individuals who represent segments of the community. The group acts collectively to provide advice to the school system on aspects of the school health program. Typical roles of a school health council include: program planning; advocacy; fiscal planning; liaison with district and state agencies; direct intervention; evaluation; accountability; and quality control.

Establish a school health council in your district or school. Include medical professionals (including doctors and dentists), teachers, and representatives from local businesses. Utilize your school health council in determining which health services should be provided and how they should be provided and evaluated.

ADEQUATE COVERAGE

Look at both the number of students and the needs of those students. For instance, one nurse for a district with 3,500 students does not meet the need. The National Association of School Nurses recommends a ratio of one FTE licensed school nurse for every 750 students.

If there is not a nurse in the district or at the school, Administrators must make the decisions about who deals with health issues (including asthma). It's up to the Administrator not only to determine policy but to communicate that there is a health issue and follow-up on it. Without a school nurse or contracted health services, the Administrator must be more hands-on because no one within that system has health knowledge. This does not mean that the Administrator must practice nursing, but it does mean that the Administrator must determine how the health needs of the students will be met. The system needs to be organized to meet the health needs which in turn will meet the educational needs of students.



Check List of Actions for the School Administrator



Help Children with Asthma and Their Families Manage Asthma

- ✓ Ensure adequate licensed school nurse/health staff time in each district and school.
- ✓ Involve your staff in developing a school asthma management program. An effective program requires a cooperative effort that involves students, parents or guardians, administrators, teachers, school staff, and physicians. Encourage and support staff attendance at the Minnesota Department of Health's training on managing asthma in Minnesota schools. For more information, contact asthma@health.state.mn.us or 1-877-925-4189.
- ✓ Work with school nurses, other medical professionals, and parents or guardians to develop and implement policies that ensure a healthy environment for children with asthma. Be aware of legal issues and specific legislation regarding asthma. Every school should have policies in place for the following areas:
 - Medication administration
 - School bus idling
 - Animals in school
 - Indoor Air Quality Plan
 - Smoke free environment
 - Pesticide use
- ✓ Designate one person on the school staff, preferably the school nurse, to be responsible for maintaining students' asthma action plans and for educating appropriate staff members, including teachers, about each student's individual asthma action plan. Have a backup plan for emergencies in case the designee is not immediately available.
- ✓ Allocate sufficient resources to manage students with asthma.
- ✓ Provide health alerts and guidelines for outside play to protect students from extreme temperatures, high pollen counts, and air pollutants that may affect asthma.
- ✓ Provide opportunities for safe, enjoyable physical activity. Encourage full participation in physical activities when students are well. Provide modified activities as indicated by the asthma action plan, Individual Health Plan, 504 Plan or IEP, as appropriate, and ensure that students have access to medications before activity.
- ✓ Be able to recognize and respond to signs and symptoms of an asthma episode.

Teach Staff, Students, and Families about Asthma

- ✓ Make sure that staff members understand the school's responsibilities under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973. In addition, staff should be familiar with any applicable state and local legal requirements.
- ✓ Provide in-service programs for staff members about managing asthma.
- ✓ Present an asthma awareness program for all students and staff.
- ✓ Encourage regular communication with parents or guardians and health care providers to improve school health services. Obtain written permission for school health staff and physicians to share student health information. Work with local communities to educate families about asthma symptoms to help reduce student absences. Proactive leadership by superintendents and boards can create a coordinated, supportive environment for children with asthma. By working with other school district staff, families, and the community, the negative impact of asthma on students can be significantly reduced or eliminated.

Enforce smoking bans on school property for students and staff.

IAQ Plan

The school administration and school board play a key role in maintaining IAQ by formulating and approving IAQ-related policies and operations and maintenance budgets. By understanding IAQ in their school buildings, school administrators should be able to prioritize IAQ-related policy decisions and expenditures. The following is a list of things school board members and school administrators can do to support the efforts of facility operators to maintain and improve IAQ.

IAQ Management Plan

- ✓ If you're a public school district, make sure you have written an IAQ Management Plan that meets the state's requirements.
- ✓ If you have no IAQ Management Plan, create one. You can use MDH's IAQ Management Plan Development Package (<http://www.health.state.mn.us/divs/eh/indoorair/schools/plan/index.html>).
- ✓ Review your written Plan and be sure it complements related policies and that the practices and procedures described are followed.
- ✓ Know where your IAQ Management Plan and supporting documents are so that you can show it to parents and staff when they request to see it.
- ✓ Make sure you and other key staff (such as the IAQ Coordinator and custodians) understand the Plan, and that the IAQ Coordinator is available and prepared to answer basic questions from staff and parents.
- ✓ School board needs to approve the first version of the Plan and following major revisions. Include the approval documentation in your plan.
- ✓ Talk to the school nurse about asthma, and its potential association with school building factors.

Funding

- ✓ If you are a public school district, understand the MDE's health and safety program guidelines for funding projects and creatively use this program to pay for your expenses.
- ✓ To help accomplish other IAQ-related improvements (such as ventilation upgrades), consider the available free IAQ services and funding and financing opportunities.

Contracts with Service Providers

- ✓ Be sure to include IAQ related provisions in your contracts with ventilation engineers, architects, pest eradicators, flooring vendors, and other building contractors.
- ✓ Show them your IAQ Management Plan, which should outline general expectations. For example, in renovation projects there should be a written agreement regarding who is responsible for controlling pollutant emissions during renovation and cleaning after the project is completed.
- ✓ If you have an IAQ Consultant, make sure they are very familiar with MDE's health and safety policy letter.
- ✓ Make sure that pest management professionals have the proper applicator license(s), and that all pesticide label instructions are strictly followed.

Communication

- ✓ Contact the Minnesota Department of Health for one-on-one consultation regarding your IAQ concerns (651-215-0909 or 1-800-798-9050).
- ✓ Be sure to share information about IAQ issues and investigations with parents and staff. Sometimes rumors cause more problems than the situation itself!

Liability and Litigation – A legal Primer

Used with permission from the American Association of School Administrators. School Governance and Leadership, Vol. 5, No. 1, Spring 2003.

School Responsibilities

Under the Individuals with Disabilities Education Act (IDEA) of 1997, schools are required to promote the health, development, and achievement of students with asthma. Asthma is classed as a disability under the “Health Impaired” category of IDEA, if it adversely affects a child’s educational performance or interferes with learning.

Schools are also required to remove “disability barriers” under Section 504 of the Rehabilitation Act (“504”). This law prohibits discrimination against those with disabilities in education or employment. While having asthma is not considered a disability in itself, school conditions (such as poor indoor air quality (IAQ)) may be considered “disability barriers” which bar equal access for those with asthma. Schools are obliged to inform parents and students whom to contact if they perceive discriminatory situations, conditions, practices or policies within the school. Further, “504” requires schools to follow certain procedures to protect the rights of parents, students, and school staff, and to ensure that decisions made regarding a child’s needs, and their implementation, are fair and appropriate. It stipulates that schools and parents should act as partners in the planning and decision making involved in the child’s welfare.

Both IDEA and “504” outline student evaluation procedures and stipulate the creation of individual health plans—an Individualized Education Plan (IEP) and a “504” accommodation plan, respectively. In addition to a student’s

asthma-related information, these plans include environmental modifications, physical education planning, and provision for studies during asthma-related absences from school. “504” ensures access to federally funded services for any handicapped person; IDEA provides funds to help schools serve these students when specific requirements are followed (IDEA grants.)

Maurice Watson, an attorney with Blackwell Sanders Peper Martin of Kansas City, MO, and a specialist in education law, notes that in disability cases the courts increasingly look at the severity of the impairment. Thus, if the asthma can be reasonably managed by medication, he continues, that individual might no longer have protection under IDEA and other federal statutes. “The court might say there is no “need” for further accommodation. On the other hand parents might respond that if there was higher compliance with IAQ, the child could use fewer medications.”

A school’s best protection against liability is having policies and procedures in place and being proactive. In the event of a lawsuit against the school district, it is important to be able to demonstrate that a school maintained its duty of care to students and staff by responding to complaints, dealing with problems (establishing or disapproving causation between, for example, poor IAQ and health complaints), and foreseeing potential problems.

Know the Law

In 1996, a court found the school's principal, guidance counselor, and Orleans Parish school board negligent in the death of an 18-year old New Orleans schoolgirl, according to a report in the May 29, 1996, issue of Education Week. Catrina Lewis died when a call to 911 was delayed because of efforts by the school counselor to contact her mother, as directed by the principal. Lewis alerted a school security guard when her inhaler was ineffectual in controlling her asthma attack. The guard immediately contacted the school principal who said that the girl's mother had to be called (in his testimony he said he did not mean for her to be called first, but to be contacted about the situation.) The school counselor tried unsuccessfully to reach Lewis' mother, and after 34 minutes it was the girl's younger sister who eventually called 911.

The judge found that the principal and counselor violated a state law stating that school officials have a duty to provide emergency medical care when a student requests it, and found the school board negligent in both failing to provide adequate training for its employees, and in failing to have a clear policy on medical emergencies. The judge ordered the insurance companies for the two school officials to pay \$1.4 million in damages to Ms. Lewis' mother and two sisters, and the school board to pay \$200,000.

In 2002, a California jury unanimously awarded \$9 million in damages (later reduced to \$2.225 million on appeal) to a mother after death of her 11-year old son from an asthma attack at school. The school district was found guilty of negligence for failing to warn parents of an unwritten school policy that would have allowed the boy to carry an inhaler

with him. Due to a written school policy stating that all medications must be stored in a specific place at the school, Phillip Gonzalez and his mother understood that he was not permitted to carry his inhaler. The school district contended that the regulation did not preclude a student from carrying necessary medication if certified necessary by a physician. However in her testimony, Phillip's mother pointed out that the physician's authorization form supplied by the school does not have a space for a doctor to indicate that the student should carry and/or administer his or her own medication. The court ruled that the district was liable for negligence due to the fact that the policy requiring medications to be stored at school was written but the exception was not (Health and Health Care, 2002.) Twenty-one states currently have statewide policies or laws giving students the right to carry and use asthma inhalers at school.

Some Uncertainties

Attorney Maurice Watson points out that in terms of air quality issues, schools are not covered by Occupational Safety Health Administration (OSHA) standards, and it is uncertain what the legal obligations might be in the future.

Mold in schools is emerging as a big problem for school districts. Many schools across the country have been closed for days, weeks and in some cases permanently, due to mold. And dozens of lawsuits have been filed already by teachers. The whole school district pays in such cases: students often have to be accommodated on other campuses, repairs are expensive and public (especially if the school is closed down), and someone may have to foot the illness compensation bill.

Resources

School Governance and Leadership, Spring 2003 Vol. 5, No. 1. Asthma Wellness.
<http://www.aasa.org/publications/sgl/Spring2003.pdf>

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, implementing regulations at 34 CFR Part 104. Available at www.ed.gov/ocr/disability.html.

Individuals with Disabilities Education Act, 20 U.S.C. 111 et seq., implementing regulations at 34 CFR Part 300. Available at www.ed.gov/offices/OSERS/OSEP.

Family Education Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, implementing regulations at 34 CFR Part 99. Available at www.ed.gov/offices/OM/fpc.

Strategies for Addressing Asthma Within a Coordinated School Health Program.
http://www.cdc.gov/nccdphp/dash/00_pdf/asthma.pdf

American Association of School Administrators (AASA) Asthma Initiative.
http://www.aasa.org/issues_and_insights/safety/asthma.htm

Improving School Health: A Guide to School Health Councils.
http://208.142.197.5/hkn/schools/print_schools/print_advisory.htm

Sierra Club: School Bus Diesel Campaign
<http://www.northstar.sierraclub.org/schoolbus/>

IAQ Design Tools for Schools
<http://www.epa.gov/iaq/schooldesign>

Minneapolis Acceptable IAQ for School Construction Projects
<http://www.health.state.mn.us/divs/eh/indoorair/schools/plan/appdxg.pdf>

MDH IAQ Management Plan Development Package
<http://www.health.state.mn.us/divs/eh/indoorair/schools/plan/index.html>

Citations

¹ "Asthma Prevalence, Health Care Use, and Mortality, 2000–2001," National Center for Health Statistics, Centers for Disease Control and Prevention.

² National Center for Health Statistics, National Health Interview Survey, 1999.

³ "Guidelines for the Diagnosis and Management of Asthma," National Institutes of Health National Heart Lung Blood Institute.

⁴ "Asthma in Children Fact Sheet," American Lung Association, June 17, 2003.
www.lungusa.org/asthma/ascpedfac99.html

⁵ "Surveillance for Asthma – United States, 1980–1999," MMWR Surveillance Summaries, Centers for Disease Control and Prevention, March 29, 2002.

⁶ "Update on Food Allergies and Asthma" by Hugh A Sampson, M.D. Food Allergy News, Volume 6, No. 1, October–November 1996.