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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	State Board of Education
Division:	N/A
Contact Person:	Angie Sanders
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Angie Sanders
Address:	500 James Robertson Parkway, 5 th Floor, Nashville, TN 37243
Phone:	(615) 253-5707
Email:	Angela.C.Sanders@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	500 James Robertson Parkway		
Address 2:	Davy Crockett Building, Conference Room 1C, 1 st Floor		
City:	Nashville, TN		
Zip:	37243		
Hearing Date :	07/28/2020		
Hearing Time:	1:00 PM	<input checked="" type="checkbox"/> _X_	CST/CDT <input type="checkbox"/> _EST/EDT

Additional Hearing Information:

*****Anyone wishing to participate electronically may access the hearing using the following information:**

URL: <https://bit.ly/3bMNOLM>

Password: SBERules

Phone: 415-655-0003

Access code: 619 908 083

Please check the State Board's website at <https://www.tn.gov/sbe/meetings.html> for any additional information regarding this rulemaking hearing. If prohibitions on in-person gatherings due to COVID-19 prevent this hearing from occurring in-person, such information will be posted on the State Board's website and all attendees will utilize the above information to participate electronically.

Oral comments are invited at the hearing. In addition, written comments may be submitted via email at angela.c.sanders@tn.gov or mailed to: Tennessee State Board of Education, Attention: Angie Sanders, Davy Crockett Tower, 500 James Robertson Parkway, 5th Floor, Nashville, Tennessee 37243. Written comments must

be received by 4:30 PM CT on July 31, 2020 in order to ensure consideration. For further information, please contact Angie Sanders at the above address or by e-mail at angela.c.sanders@tn.gov.

If attending the hearing in-person, please bring identification so that you may be checked into the building by security. Conference room 1C is located on the first floor of the building.

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0520-01-13	School and Student Health Services
Rule Number	Rule Title
0520-01-13-.01	School Health Policies
0520-01-13-.02	HIV, HIV-Related Illness, and AIDS
0520-01-13-.03	Health Care Procedures in a School Setting
0520-01-13-.04	Administration of Medication for Adrenal Insufficiency
0520-01-13-.05	Administration of an Opioid Antagonist

**RULES
OF
THE STATE BOARD OF EDUCATION**

**CHAPTER 0520-01-13
SCHOOL AND STUDENT HEALTH SERVICES**

0520-01-13-.01	School Health Policies
0520-01-13-.02	HIV, HIV-Related Illness, and AIDS
0520-01-13-.03	Health Care Procedures in a School Setting
0520-01-13-.04	Administration of Medication for Adrenal Insufficiency
0520-01-13-.05	Administration of an Opioid Antagonist

0520-01-13-.01 SCHOOL HEALTH POLICIES.

- (1) Each local board of education shall develop and adopt standards and policies for school health services. The school health services program shall include, at a minimum, the following:
 - (a) A policy providing for a physical examination of every child entering school for the first time and every student participating in interscholastic athletics, performed by a doctor of medicine, osteopathic physician, physician assistant, certified nurse practitioner, or a properly trained public health nurse.
 - (b) Procedures for verifying proof of immunization for all students, except those who are exempt by statute as provided in T.C.A. § 49-6-5001.
 - (c) A policy for excluding students with communicable diseases and for readmitting them following recovery in accordance with the Department of Health's Communicable and Environment Diseases Rule 1200-14-01.
 - (d) A Drug Free Schools Policy that addresses drug and alcohol related medical emergencies, guidelines for reporting drug and alcohol related incidents and referral of students.
 1. Local boards of education may implement a drug testing program, however before a drug testing program is implemented the local board of education shall establish policies procedures and guidelines on drug testing. Local boards of education may adopt the State Board's Model Drug Testing Policy 4.201.
 - (e) Procedures for reporting suspected cases of child abuse and neglect as required by T.C.A. § 37-1-403.
- (2) Each LEA or consortium of LEAs that receives coordinated school health funding pursuant to T.C.A. § 49-1-1002 shall adopt a coordinated school health policy in accordance with the State Board's Coordinated School Health Program Policy 4.204.

Authority: T.C.A. §§ 49-1-302, 49-6-5001. **Administrative History:** Original rules filed May 3, 2018; effective August 1, 2018.

0520-01-13-.02 HIV, HIV-RELATED ILLNESS, AND AIDS.

- (1) Each local board of education shall adopt a HIV, HIV-Related Illness, and AIDS policy to ensure all children with HIV, HIV-related illness, and AIDS infection who enroll in the public schools of Tennessee are able to attend and participate in the educational programs of the student's LEA. Each local policy

shall be in compliance with the State Board of Education's HIV and AIDS Policy 5.300(2) Each LEA shall develop a comprehensive local HIV, HIV-Related Illness, and AIDS plan that addresses appropriate education programs, confidentiality, liability, safety, curriculum, education, communications, and public relations. The plan shall, at a minimum:

- (a) Be developed in coordination with local public health officials;
 - (b) Provide education and training resources for school personnel, parents, and local school board members;
 - (c) Include a policy for personnel with HIV, HIV-related illness, and AIDS infection; and
 - (d) Be aligned to the Department of Health's policy universal precautions for handling blood and other bodily fluids.
- (3) Information including names, records, reports, or correspondence, or any other identifying information on HIV, HIV-related illness, and AIDS infection status for any individual child or school employee shall be confidential.
- (a) Unauthorized disclosure by employees is cause for disciplinary action, up to and including dismissal, and could lead to individual liability in addition to criminal or civil penalties against LEAs and their personnel.
 - (b) No information regarding a student's or employee's HIV or AIDS status shall ever be disclosed to any individual or organization without a court order or the informed, written, signed, and dated consent of the person with HIV infection or AIDS (or the parent or guardian of a legal minor). The written consent must specify the recipient of the information and the purpose of the disclosure. Any disclosure shall be made in accordance with the Health Insurance Portability and Accountability Act (HIPAA), the Family Educational Rights and Privacy Act (FERPA) and all other applicable state and federal laws.

Authority: T.C.A. § 49-1-302. **Administrative History:** Original rules filed May 3, 2018; effective August 1, 2018.

0520-01-13-.03 HEALTH CARE PROCEDURES IN A SCHOOL SETTING.

- (1) Pursuant to T.C.A. § 49-50-1602, any health care procedure a student is not capable or competent to perform must be performed by a licensed health care professional in accordance with applicable guidelines of their respective regulatory boards. A physician's orders and parental authorization are required for any health care procedures performed by a licensed health care professional in the school setting. The written parental authorization shall be kept in the student's school records.
- (2) All health care procedures, including the administration of medication, shall be conducted in accordance with the *Guidelines for Use of Health Care Professionals and Health Care Procedures in a School Setting* produced by the Department of Education and the Department of Health.
- (3) Any child with acute or chronic health issues should have a health assessment completed by a registered nurse.
 - (a) As warranted by the child's condition or diagnosis, an Individual Health Plan (IHP) will be completed by the registered nurse.
 - (b) The IHP shall include:
 - 1. Emergency care procedures;
 - 2. A nursing assessment;

3. Physician's orders; and
 4. Parental authorization.
- (c) A school nurse employed or contracted by the LEA shall be responsible for updating and maintaining each IHP.
- (4) School nursing staff and any other school personnel, including transportation personnel, who perform or assist with health care procedures which may involve blood borne pathogens must receive annual training on blood borne pathogens, be offered the Hepatitis B vaccine, have appropriate cleaning supplies, and be supplied with gloves.
- (5) Administration of Medication.
- (a) Each LEA shall adopt procedures for the safe, effective, and efficient administration of medications at school consistent with the requirements of this rule.
 - (b) Medications administered at school should be limited to those required during school hours which are necessary to maintain the student's health and those needed in the event of an emergency.
 - (c) For all prescription and non-prescription drugs, a written request shall be obtained from the parent or guardian requesting that medication be given during school hours. The request must include the parent's or guardian's name and phone number in case of emergency. It is the parent's or guardian's responsibility to ensure that the written request and medication are brought to the school. Local school board policies related to "Zero Tolerance" may require all medications, prescription and non-prescription, be brought to school and delivered to appropriate or designated school personnel by a responsible adult.
 - (d) In the event a dosage is not administered as ordered or any other medication error occurs, a Medication Error Form must be filled out and submitted to the appropriate administrative person in the local school district or routed per the protocol of a contracted agency. The school nurse and parent or legal guardian must be notified in the event of a medication error. Each school shall establish a procedure for providing communication with the parent or guardian regarding any problems with administration of the medication.
- (6) Self-Administration of Medication.
- (a) If a student has been taught to perform his or her own health care procedure, including administration of medication, and does not need assistance, space must be made available for the student to perform this task. If a student is performing an invasive procedure, that student should have at minimum a bi-annual nursing assessment of competency and proficiency as well as an IHP. Every attempt should be made on an individual basis to allow a child who is independent to continue self-management.
 1. In accordance with T.C.A. § 49-50-1601, a student diagnosed with pancreatic insufficiency or cystic fibrosis may be permitted to self-manage prescribed pancreatic enzyme therapy in the manner directed by the licensed healthcare provider without additional assistance or direction. With written authorization from the healthcare provider and parent, a student with pancreatic insufficiency or cystic fibrosis shall be allowed to carry and self-administer prescribed pancreatic enzymes.
 2. Each LEA shall permit possession and self-administration of a prescribed, metered dosage asthma-reliever inhaler by any student with asthma if the student's parent or guardian:

- (i) Provides to the school written authorization for student possession and self-administration of the inhaler; and
- (ii) Provides a written statement from the prescribing health care practitioner that the student suffers from asthma and has been instructed in self-administration of the prescribed, metered dosage asthma-reliever inhaler and provides the name and purpose of the medication, the prescribed dosage, the time or times the prescribed inhaler is to be regularly administered, as well as any additional special circumstances under which the inhaler is to be administered, and the length of time for which the inhaler is prescribed. The statements shall be kept on file in the office of the school nurse or school administrator.
- (iii) The permission for self-administration of the prescribed, metered dosage asthma-reliever inhaler shall be effective for the school year in which it is granted and must be renewed each following school year. The LEA may suspend or revoke the student's possession and self-administration privileges if the student misuses the inhaler or makes the inhaler available for usage by any other person.
- (iv) A student granted permission to possess and use a metered dosage asthma-reliever inhaler may possess and use the prescribed, metered dose asthma-reliever inhaler when at school, at a school-sponsored activity, or before or after normal school activities while on school properties, including school-sponsored child care or after-school programs.

- 3. A student with anaphylaxis is entitled to possess and self-administer prescription anaphylaxis medication while on school property or at a school-related event or activity in compliance with the requirements of T.C.A. § 49-50-1602.
- 4. Upon written request of the parent or guardian, and if included in the student's medical management plan and in the IHP, a student with diabetes shall be permitted to perform blood glucose checks, administer insulin, treat hypoglycemia and hyperglycemia, and otherwise attend to the care and management of the student's diabetes in any area of the school or school grounds and at any school related activity, and shall be permitted to possess on the student's person at all times all necessary diabetes monitoring and treatment supplies, including sharps.

(7) Assistance with Self-Administration of Medication

- (a) A local board of education may permit an employee or a person under contract with the board to assist in self-administration of medications, under the following conditions:
 - 1. The student is competent to self-administer nonprescription or prescription medication with assistance;
 - 2. The student's condition, for which the medication is authorized or prescribed, is stable;
 - 3. The self-administration of each dose of the medication is properly documented and the documentation easily retrievable. Documentation shall include date, time, dosage, route, and the signature of the person assisting the student in self-administration;
 - 4. School personnel assisting in self-administration of medications are properly trained by a registered nurse.
 - 5. The *Guidelines for Use of Health Care Professionals and Health Care Procedures in a School Setting* produced by the Department of Education and the Department of Health are followed; and

6. The student's parent or guardian has provided permission in writing for school personnel to assist with self-administration of medications.
 - (b) The individual assisting with medication self-administration must visually observe the student self-administer the medication or, in the case of a cognitively competent but physically challenged student, perform that portion of self-administration for which the student is physically incapable.
 - (c) Nursing supervision shall be provided to school personnel assisting with the self-administration of medication to ensure local school board policies and state guidelines are being followed.
 - (d) School personnel who volunteer under no duress or pressure and who have been properly trained may administer glucagon in emergency situations and may administer insulin to a student based on the student's IHP. However, if a public school nurse is available and on site, the nurse shall provide this service to the student.
 1. Training provided to school personnel on the administration of glucagon and insulin shall be repeated annually and competencies shall be documented at least twice a year in the employee's personnel file.
 - (e) 49-50-1602 School personnel who volunteer under no duress or pressure and who have been properly trained may administer epinephrine auto-injector to respond to any student believed to be having a life-threatening allergic or anaphylactic reaction, even if a student does not have an epinephrine auto-injector or a prescription for an on file. If a public school nurse is available and on site, the nurse shall provide this service to the student. The LEA's supply of epinephrine auto-injectors reaction shall be under a standing protocol from a physician licensed to practice medicine in all its branches
- (8) Storage of Medication
 - (a) School personnel who volunteer under no duress or pressure and who have been properly trained may administer anti-seizure medications, including diazepam gel, to a student in an emergency situation based on that student's IHP.
 1. If a school nurse is available, on site, and able to reach the student within the time limit for administration specified in the IHP, then the nurse shall provide this service to the student.
 2. All volunteers trained to administer anti-seizure medications shall also be trained in cardiopulmonary resuscitation (CPR).
 3. At least one (1) school employee shall serve as a witness on any occasion a volunteer administers anti-seizure medication during an emergency situation, unless a witness is not available within the time limit for administration specified in the IHP.

Authority: T.C.A. §§ 49-50-1601, 49-50-1602. **Administrative History:** Original rules filed May 3, 2018; effective August 1, 2018.

0520-01-13-.04 ADMINISTRATION OF MEDICATION FOR ADRENAL INSUFFICIENCY.

- (1) Each local board of education shall adopt policies and procedures that provide for the administration of medications that treat adrenal insufficiency in compliance with these rules.
- (2) For purposes of this rule the following definitions are applicable:

- (a) “Adrenal crisis” means a sudden, severe worsening of symptoms associated with adrenal insufficiency, such as: severe pain in the lower back, abdomen, or legs; vomiting; diarrhea; dehydration; low blood pressure; or loss of consciousness.
 - (b) “Adrenal insufficiency” means a hormonal disorder that occurs when the adrenal glands do not produce enough adrenal hormones.
 - (c) “IHP” means Individualized Healthcare Plan.
 - (d) “LEA” means Local Education Agency.
 - (e) “Nurse practitioner” means a nurse practitioner licensed under T.C.A. title 63, chapter 7.
 - (f) “Physician” means a physician licensed under T.C.A. title 63, chapter 6 or 9.
 - (g) “School personnel” means any person employed by a Local Education Agency (LEA).
- (3) Training
- (a) If an LEA has been informed by a parent or guardian that a student in a school of the LEA has adrenal insufficiency, the LEA shall train school personnel at the school who will be responsible for administering the medication for the treatment of adrenal crisis.
 - (b) Trained personnel shall be available to each student identified as having adrenal insufficiency whose parent or guardian has provided the medication for treatment of adrenal crisis.
 - (c) An LEA shall provide training to any school personnel who volunteer to receive the training and to be responsible for the administration of the medication for the treatment of adrenal crisis.
 - (d) Training on the treatment of adrenal insufficiency shall be coordinated by the LEA and shall be conducted under the supervision of a physician or nurse practitioner or by any other health care professional licensed under T.C.A. title 63 as delegated by a supervising physician or nurse practitioner.(e) The training shall include, at a minimum, the following:
 - 1. General information about adrenal insufficiency and the dangers associated with adrenal insufficiency;
 - 2. Recognition of the symptoms of a person who is experiencing an adrenal crisis;
 - 3. The types of medications that are available for treating adrenal insufficiency;
 - 4. Proper administration of medications that treat adrenal insufficiency; and
 - 5. LEAs shall maintain a written record of all school personnel who have completed such training.
 - (f) A person who has successfully completed training in the treatment of adrenal insufficiency may possess the medication and necessary paraphernalia for administration of medication. Trained school personnel may administer the medication to the student for whom the medication is prescribed if the student is suffering an adrenal crisis when a school nurse or other licensed health care professional is not immediately available.
 - (g) Trained school personnel shall:
 - 1. Be familiar with the IHP for each student with adrenal insufficiency in the school and become familiar with:

- (i) The student's baseline activity level, attitude, and behavior;
 - (ii) The conditions that place additional stress on the body (such as illness or injury) that may trigger an adrenal crisis;
 - (iii) The student's past history with adrenal crisis; and
 - (iv) The medication and administration route that is prescribed to the student from his or her physician to use during an adrenal crisis.
2. Understand the symptoms of adrenal crisis including unconsciousness, extreme lethargy, or nausea and vomiting.
 3. Understand the student's 504 Plan, Individualized Education Program, or other education plan, if applicable.
 4. Practice universal precautions and infection control procedures.
 5. Comply with all state and federal privacy laws.
- (h) An LEA shall not require school personnel who have not received appropriate training to administer medication.
- (4) If it is determined a student is suffering from an adrenal crisis and the school nurse or other licensed health care professional is not available, the trained school personnel shall:
- (a) Instruct someone to call 911 and the student's parent or guardian.
 - (b) Administer the medication and wait with the student until help arrives. Do not leave the student unattended.
 - (c) Turn the student on his or her side and monitor the student's breathing.
 - (d) Give the empty vial to the Emergency Medical Responders when they arrive.
- (5) Medication shall be stored safely and in a location that is readily available and in close proximity of the student.
- (6) School transportation and activities such as field trips or other out-of-school functions shall be taken into account in the LEA policy regarding treatment of adrenal crisis.
- (7) The student's IHP team may consider allowing a student to carry his/her own medication in certain circumstances. The IHP team shall take into account the student's age and maturity when making this determination.

Authority: T.C.A. § 49-50-1603. **Administrative History:**

0520-01-13-.05 ADMINISTRATION OF AN OPIOID ANTAGONIST.

- (1) Each school within an LEA and each nonpublic school is authorized to adopt a policy to maintain an opioid antagonist so that an opioid antagonist may be administered to any student believed to be having a drug overdose.
- (2) Each LEA or nonpublic school that adopts a policy to maintain an opioid antagonist shall include a provision for parental notification. Administration of an opioid antagonist shall be in compliance with the

procedures outlined in the *Guidelines for Use of Health Care Professionals and Health Care Procedures in a School Setting* produced by the Department of Education and the Department of Health.

- (3) Naloxone, an opioid antagonist, is to be used when there is suspicion of an opioid overdose. Naloxone is available as an auto-injector or an intranasal spray. Each LEA that adopts a policy to maintain an opioid antagonist shall decide which form of Naloxone will be kept in schools.
- (4) School personnel, including school nurses, who might administer naloxone in an suspected overdose must complete the Tennessee Department of Health training on Naloxone administration. The certificate of training completion must be kept in they employee's file.
- (5) Each school within an LEA and each nonpublic school is authorized to maintain Naloxone in at least two unlocked, secure locations to be determined by each school. Naloxone should be stored according to the manufacturer's instructions. Each LEA should develop a procedure for maintaining an inventory documenting the quantities, locations, and expirations of Naloxone, proper storage, and documentation of replacement units.
- (6) In the case of a suspected opioid overdose, school nurses or other trained school personnel shall follow the protocols outlined in the Naloxone training and the instructions in the Naloxone kit.
- (7) Each LEA that adopts a policy to maintain an opioid antagonist, shall develop a Naloxone receipt form with storage information as well as a use reporting form which should be completed after any incident involving the use of Naloxone.

Authority: T.C.A. § 49-50-1604. **Administrative History:**

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 5/19/2020

Signature: 

Name of Officer: Angie Sanders

Title of Officer: General Counsel

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Tre Hargett
Secretary of State

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