

On The Alert!

Date:	August 28, 2013
Attention:	ASCIP Members
Affected Department:	Supreme Court Decision Regarding Administration of Prescription Medication
Applicability:	K-12 Districts

Supreme Court Decision Regarding Administration of Prescription Medication

This Risk Alert provides a summary of the recent California Supreme Court decision which ruled that trained, unlicensed school district personnel can administer prescription medications. ASCIP aims to provide guidelines to ensure compliance with the new Supreme Court decision in the event that licensed personnel are unavailable and districts choose to utilize unlicensed district personnel.

On August 12, 2013, the California Supreme Court ruled that California law permits trained, unlicensed school personnel to administer prescription medications, including insulin, in accordance with the written statement of a student's treating physician and parental consent pursuant to Education Code Section 49423. The court held that state law authorizes each student's physician, with parental consent, to decide whether prescription medication may safely and appropriately be administered by trained, unlicensed school personnel.

It is recommended that Districts not use the California Department of Education (CDE) 2005 Advisory, 2006 FAQ and the previous 2007 Advisory regarding the administration of insulin. These documents do not reflect the CDE's current position nor do they reflect the recent California Supreme Court decision. It is our understanding that the CDE will be revising the 2007 Advisory to correspond to the new decision.

In the event that nurses are unavailable or District's choose to use trained, unlicensed personnel, ASCIP recommends that districts review and/or revise their current policies and procedures with regard to the administration of prescription medications for students. The following are some suggested guidelines/ best practices to ensure compliance with the new ruling:

1. Obtain current written medical orders from the student's treating physician. Such orders must specify the following:
 - Name of the medication
 - Method for administration
 - Amount of dosage
 - Time schedule for administration
2. Obtain written permission from the parent/guardian for prescription medication to be administered by trained, unlicensed school personnel (if applicable). This permission should state that the parent/guardian desires that the school district assist the pupil in the matters as set forth in the physician's written order.

3. Identify unlicensed school personnel who volunteer to administer prescription medication.
4. Provide adequate training to unlicensed school personnel.
5. Develop an individual health and emergency plan for prescription medication administration during field trips or other school sponsored events.
6. Document in the student's IEP or 504 Plan regarding the administration of prescription medication on a regular or emergency basis, as per physician's orders.
7. Verify that parent/guardian has not signed previous blanket waivers regarding their student's right to medical treatment at school.
8. Ensure that parent/guardian is not personally required to provide prescription medication administration at school.

Additionally, this new decision may result in possible collective bargaining obligations as districts consider hourly compensation or stipends for employees that administer prescription medication to students. Districts are advised to consult with their Human Resources Department and Legal Counsel to determine any possible labor-related issues.

Legal References:

California Education Code 49423

California Code of Regulations (CCR) Title 5, Sections 600-611