AMERICAN LUNG ASSOCIATION®

American Lung Association Tip Sheet: Policies & Legislative Issues Affecting Asthma in Schools

When working with schools, the coalition must research and understand federal, state, and local legislative and policy issues that shape their administration and directly affect asthma management and education issues, including facilities and air quality management. Being aware of the range of issues administrators and teachers face will help you present program activities that reflect their work environments.

Establishing specific policies and legislation can create long-term, institutionalized change focused on supporting asthma-friendly schools activities. This backgrounder presents information about federal and state policies and legislative issues, as well as ideas for approaching local and state issues.

Federal Statutes

Several federal laws affect asthma management within schools. These include:

- *The No Child Left Behind (NCLB) Act,* signed into law in 2002, has had a profound impact on schools as each state is required to provide an implementation plan and statewide testing. This work impacts curriculum schedules, time availability for outside programs, and school health. Contact your state department of education to determine how NCLB is impacting schools in your state. Providing solutions to a school that fit within the schools' commitment to NCLB mandates will be important. For specific information about NCLB, visit http://www.ed.gov/nclb/landing.jhtml?src=pb.
- *Health Insurance Portability and Accountability Act of 1996 ("HIPAA")*: HIPPA's Privacy Rule addresses the use and disclosure of individuals' health information—called "protected health information" by organizations subject to the Privacy Rule—called "covered entities," as well as standards for individuals' privacy rights to understand and control how their health information is used.[1] The Privacy Rule is not school-focused but it does affect the ability of schools and physicians to communicate with each other about patients. If schools do bill for medical services, they would fall under HIPPA.
- *The Family Educational Rights and Privacy Act (FERPA)* is designed to protect the privacy of a student's education records. FERPA also gives parents certain rights with respect to their children's education records.[2] This encompasses health inquiry forms, Asthma Action Plans and other health records. Generally, schools must have written permission from the parent before releasing any information from a student's record to all teachers, coaches, a community program, a private physician, etc. The law does allow schools to disclose records without consent to limited parties including school employees who have a need to know, such as the student's teachers or coaches.[3]
- *"Section 504"*—Section 504, Rehabilitation Act of 1973, prohibits discrimination against individuals with a disability under any program receiving Federal financial assistance. This applies to public schools. Children covered under Section 504 must have a disability that substantially limits a major life activity. Depending on the level to which the disability limits a student's learning, a school district must determine if a student is also eligible under the Individuals with Disabilities Education Act (see below).[5]
- *Individuals with Disabilities Education Act of 1997 (IDEA)*—The IDEA "guarantees that eligible children with disabilities have the right to receive a free appropriate public education in the least restrictive setting."[6] Implementation of this law includes schools' creation of Individualized Health Plans and Individualized Education Plans for students with disabilities, including some students with asthma, to ensure their individual education. If a student with asthma is eligible for IDEA due to another disability (e.g., learning disability), the student's asthma needs are also covered by IDEA.
- *Pro-Children Act of 1994:* This prohibits smoking within any indoor facility (in some cases, portions of facilities) in which certain federally funded children's services are provided on a routine or

regular basis. The provisions apply if funds are being provided through an applicable federal grant, loan, loan guarantee, or contract.[7] This applies to practically all public elementary and secondary education and library facilities.

- *Americans with Disabilities Act (ADA):* The basic requirements of ADA relevant to schools is that they not discriminate against persons with disabilities on the basis of disability; that is, that they provide children and parents with disabilities with an equal opportunity to participate in programs and services. This is particularly relevant for private schools, who must accept children with chronic conditions. The ADA requires that private schools accept students with asthma and allergies, with the exception of a facility that is part of a religious institution (which would be exempt from the law). Reasonable modifications and services should be provided for students with disabilities.

State and Local Issues

State and local laws and policies will impact asthma management within schools. You may also want to research these issues on CDC's web site (www.cdc.gov/healthyyouth) or the National Conference of State Legislature's web site (www.ncsl.org). Types of issues that will affect your AFSI planning and implementation include:

- *Healthy School Environments/Air Quality*—State laws will vary and would have been established as either education or health bills, depending on each piece of legislation. These issues may include requirements of a coordinated, reported IAQ management system, which could be fulfilled by EPA's IAQ Tools for Schools. They also may include managing students' and staff's exposure to particle pollution and ozone on Orange and Red days per the Air Quality Index. The Environmental Law Institute's report Healthier Schools: A Review of State Policies for Improving Indoor Air Quality can be used as a guide when IAQ legislation is being researched/drafted. (See the Resources section for ordering information.)
- *Smoke-Free/Tobacco-Free Schools*—Are schools legally required to develop policies such as CDC's Guidelines for School Health Programs to Prevent Tobacco Use and Addiction, cessation programs to support policies such as the American Lung Association's Not On Tobacco (N-O-T), or programs to respond to policy violations, such as American Lung Association's Alternative to Suspension? (See the Resources section for ordering information.)
- *School Accreditation Requirements*—These state-by-state requirements include curricular and facilities/buildings requirements. For example, the video Asthma 101, Open Airways For Schools or Quest for the Code may meet curricular requirements; IAQ Tools for Schools may meet facilities management requirements. (See the Resources section for ordering information.)
- *Self-Carry/Self-Administration of Asthma Medications*—Provide resources and expertise to help schools communicate with parents and primary health care providers, educate school faculty and staff, and track students' self-administration.

1. *Summary of the HIPPA Privacy Rule,* U.S. Department of Health & Human Services Web site (April 20, 2006), http://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/index.html
2. U.S. Department of Education Web site (November 28, 2005), http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html
3. U.S. Department of Education Web site (January 29, 2002), http://familypolicy.ed.gov/ferpa-school-officials?src=ferpa-pl
5. National Association of School Nurses Issue Brief. *School Health Nursing Services Role in Health Care: Section 504 of the Rehabilitation Act of 1973.*
6. National Association of School Nurses Issue Brief. *School Health Nursing Services Role in Health Care: School Nurses and the Individuals with Disabilities Education Act (IDEA)*
7. *Pro-Children Act of 1994.* United States Code Title 20. Education, Chapter 68.