

Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



Virginia Department of Planning and Budget Economic Impact Analysis

8 VAC 20-671 Regulations Governing the Operation of Private Day Schools for Students with Disabilities and Educational Programs Offered in Group Homes and Residential Facilities in the Commonwealth

Department of Education

Town Hall Action/Stage: 4686 / 7725

May 10, 2017

Summary of the Proposed Amendments to Regulation

Pursuant to Chapter 387 of the 2015 Acts of Assembly, the Board of Education (Board) proposes to establish requirements for the possession and administration of epinephrine in private schools for students with disabilities. Epinephrine is used to treat persons believed to be having an anaphylactic reaction.

Result of Analysis

The benefits likely exceed the costs.

Estimated Economic Impact

Anaphylaxis is a severe, potentially life-threatening allergic reaction. It can occur within seconds or minutes of exposure to something you're allergic to, such as peanuts or bee stings. Anaphylaxis causes your immune system to release a flood of chemicals that can cause you to go into shock — your blood pressure drops suddenly and your airways narrow, blocking breathing. Signs and symptoms include a rapid, weak pulse; a skin rash; and nausea and vomiting. Common triggers include certain foods, some medications, insect venom and latex. Anaphylaxis requires

an injection of epinephrine. If anaphylaxis isn't treated right away with epinephrine, it can be fatal.¹

The Board proposes to require that each school has: 1) on campus at least two auto-injectable epinephrine units for both dosage sizes, 0.3 mg (for students weighing more than 66 pounds) and 0.15 mg (for student who weigh 33 to 66 pounds), 2) a written policy consistent with the Department of Education's (DOE) *Guidelines for Recognition and Treatment of Anaphylaxis in the School Setting* for its procedures to address students with severe allergies who may be at risk of an anaphylactic reaction necessitating the use of an epinephrine auto-injector, 3) for students with known life threatening allergies, "student specific" written instructions from the student's health care provider for handling anaphylaxis and all necessary medications, and 4) a standing order (from an authorized medical provider) to prescribe "non-student specific" epinephrine for students within the school who do not presently have a health care plan addressing the administration of epinephrine. Additionally, the Board proposes to specify documentation and storage requirements, as well as procedures once epinephrine is administered. Finally, the Board proposes to require that at least two school employees in addition to the school nurse are trained in the administration of epinephrine by auto-injector.

As of May 10, 2017, generic auto-injectable epinephrine units were listed at a cost of \$109.99 for a two-pack on CVS's website.² Thus requiring that each school has at least two auto-injectable epinephrine units for both dosage sizes would cost about \$220. The auto-injectable epinephrine units are expected to last at least 12 months before expiry.³ Thereafter, the replacement costs for used and expired auto-injectors is projected to be at about the same rate. DOE's *Guidelines for Recognition and Treatment of Anaphylaxis in the School Setting* provides the information needed for schools to produce a written policy related to its procedures to address students with severe allergies who may be at risk of an anaphylactic reaction necessitating the use of an epinephrine auto-injector. The annual administrative costs for recordkeeping and other administrative costs required for compliance is projected at \$240 (1hr

¹ Source: Mayo Clinic <http://www.mayoclinic.org/diseases-conditions/anaphylaxis/home/ovc-20307210>

² See <https://www.cvs.com/content/epipen-alternative>

³ See <http://www.epipen.ca/en/about-epipen/frequently-asked-questions>

per month at \$20 per hour).⁴ Thus most years, obtaining and maintaining the required auto-injectable epinephrine units and the associated procedures would likely cost less than \$500.

Given the not insignificant chance that the presence of auto-injectable epinephrine and staff who know how to properly administer it could save the life of a child at the school, the benefits of the proposed amendments likely exceed the costs (less than \$500 annually most years).

Businesses and Entities Affected

The proposed amendments affect the 136 licensed private schools for students with disabilities in the Commonwealth.⁵ Most would likely qualify as small businesses.

Localities Particularly Affected

The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment

The proposed amendments are unlikely to significantly affect employment.

Effects on the Use and Value of Private Property

The proposed amendments are unlikely to significantly affect the use and value of private property.

Real Estate Development Costs

The proposed amendments do not affect real estate development costs.

Small Businesses:

Definition

Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

Costs and Other Effects

The proposed amendments increase costs for small private schools for students with disabilities.

⁴ Source: Department of Education

⁵ Ibid

Alternative Method that Minimizes Adverse Impact

There is no apparent alternative that would reduce costs while meeting the intended policy goal of increasing the likelihood that children at private schools for students with disabilities who go into anaphylactic shock survive.

Adverse Impacts:

Businesses:

The proposed amendments increase costs for private schools for students with disabilities.

Localities:

The proposed amendments do not adversely affect localities.

Other Entities:

The proposed amendments do not adversely affect other entities.

Legal Mandates

General: The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

Adverse impacts: Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.