

**SUBJECT:** Notification and posting of student food allergies in schools

**COMMITTEE:** Public Education — committee substitute recommended

**VOTE:** 6 ayes — Eissler, Hochberg, Allen, Dutton, Jackson, Olivo  
2 nays — Aycock, Shelton  
3 absent — Farias, Patrick, Weber

**WITNESSES:** For — Ted Melina Raab, Texas American Federation of Teachers;  
(*Registered, but did not testify:* Jay Arnold, Texas PTA; Noelita Lugo, Texans Care for Children)  
  
Against — None

**BACKGROUND:** Education Code, sec. 38.009 allows a school administrator, nurse, or teacher to access student medical records maintained by the school district for reasons determined by district policy. These school personnel must maintain the confidentiality of student medical records.

**DIGEST:** CSHB 1410 would require that public schools request that a parent or other person with legal control of a child enrolling in a school disclose any foods to which the child was allergic and provide documentation from a physician about the allergy, including any physician's order to administer medication. Information regarding the allergy would be placed in the student's medical records. This information could be released to teachers, school counselors, school nurses, and other appropriate school personnel consistent with state and federal requirements for confidentiality of a student's records.

Severe food allergies would be those allergies considered dangerous or life-threatening. The school would have to post a sign in each elementary school classroom in which a child with a severe food allergy was placed. The commissioner of education would adopt rules for the sign, which would include the phrase "Severe Food Allergy." The sign could not indicate which child had the allergy.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009, and would apply beginning with the 2009-2010 school year.

**SUPPORTERS  
SAY:**

CSHB 1410 would help schools maintain student health and safety by establishing policies for disclosure of students' food allergies to appropriate school personnel. If school personnel are informed of students' food allergies, they can play a role in preventing children from being exposed to the foods to which they are allergic and prevent adverse health reactions.

The bill would require that a sign be posted in all classrooms in which a student with dangerous or life-threatening food allergies was placed as a further safeguard against the inadvertent triggering of a child's allergic reaction. Often, schools permit parents to distribute snacks to classes. CSHB 1410 would help these parents, substitute teachers, or any other person not aware fully of students' health needs avoid providing harmful food products to the allergic child. The bill would establish confidentiality requirements for disclosure of a student's food allergy, including a prohibition on the food allergy sign of indicating the name of the student who had the allergy. These measures would prevent social repercussions for the allergic student by keeping the child's identity confidential.

By requesting that the parent of an allergic child provide the school with any physician's order to administer medication related to the allergy, the school nurse could be freed from liability to administer ongoing preventative medication to a child as well as to administer any authorized emergency treatment.

**OPPONENTS  
SAY:**

CSHB 1410 would draw unnecessary attention to elementary school children who had severe allergies by posting a sign in classrooms that a child in the classroom had a severe allergy. Even though the signs would not have a child's name on them, a child's curious classmates most likely would determine which child had the severe food allergy. Anything that identifies children as different from their classmates can be socially isolating during this critical stage in personal development. The signs would not be necessary if appropriate school personnel were informed of the allergy, because most of the time the child's teacher could ensure inappropriate snacks were not provided to a child with food allergies. If a

substitute teacher taught the allergic student, the principal discreetly could inform the substitute of the issue.