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Introduction Date	8-14-13
Enactment Number	13-1548
Enactment Date	8/14/13 02



OAKLAND UNIFIED  
SCHOOL DISTRICT

Community Schools, Thriving Students

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**To:** Board of Education

**From:** Jacqueline P. Minor, General Counsel. Troy Christmas, Director

**Meeting Date:** August 14, 2013

**Subject:** OUSD-AFSCME Side Letter of Agreement regarding Student Seizure Coverage

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**Action Requested:** Approval of Side Letter of Agreement between the District and AFSCME dated July 19, 2013 regarding Aides Special Education administering anti-seizure medication to students with epilepsy.

**Summary:** California Education Code Section 49414.7 provides that a district may select and use volunteer Aides to Special Education (ASEs) to administer the anti-seizure medication to students with epilepsy as provided by law. The attached Side Letter was reached with AFSCME to govern the process and compensation for ASEs being available and actually administering the anti-seizure medication.

**Fiscal Impact:** Change represents a net reduction in cost.

**Recommendation:** Approval of Side Letter of Agreement between the District and AFSCME dated July 19, 2013 regarding Aides Special Education administering anti-seizure medication to students with epilepsy.

**Attachment:** Side Letter of Agreement  
Summary of Education Code 49414.7

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**SIDE LETTER OF AGREEMENT**  
between the  
**OAKLAND UNIFIED SCHOOL DISTRICT ("DISTRICT")**  
and the  
**AMERICAN FEDERATION of STATE, COUNTY and MUNICIPAL EMPLOYEES ("AFSCME") LOCAL 257**  
regarding  
**STUDENT SEIZURE COVERAGE**

**1. CONCEPT**

- The purpose of this Side Letter is to outline a process by which the District may select and use volunteer Aide to Special Education ("ASE") to administer anti-seizure medication to students with epilepsy as provided in California Education Code section 49414.7. The Education Code requires administration of anti-seizure medication to designated students within five minutes of the beginning of a seizure.

**2. LEGAL GUIDELINES**

Education Code section 49414.7 describes the following guidelines for volunteer non-medical employees (ASEs) who participate in this program:

- Participation of an ASE must be voluntary;
- ASE must complete the required training to administer the anti-seizure medication to a student in an emergency situation;
- ASE will not administer an emergency anti-seizure medication until he/she have completed the required training and documentation of completion is recorded in their personnel file maintained by the Human Resources Office;
- ASE may rescind his/her offer to administer an emergency anti-seizure medication up to three (3) days after completion of the training; after three (3) days of completing the training the ASE may rescind his/her offer to administer an emergency anti-seizure medication with a two (2) week notice, or after a new IEP, Individual Student Health Plan or Section 504 Plan is developed for an affected pupil, whichever is less;
- ASE will be provided defense and indemnification by the District for any and all civil liability, in accordance with, but not limited to Government Code section 810 *et seq*;
- ASE will be compensated in accordance with their pay scale as set forth in Education Code section 45128, when the administration of an emergency anti-seizure medication and subsequent monitoring of a pupil requires an ASE to work beyond his/her normally scheduled hours;
- If an ASE have not administered an emergency anti-seizure medication within the past two (2) years and there is a pupil in the school who may need the administration of an emergency anti-seizure medication, he/she must be retrained in order to retain the ability to administer an emergency anti-seizure medication;
- ASE must report every administration of anti-seizure medication to the school administrator

File ID Number: 13-1656  
Introduction Date: 8/14/13  
Enactment Number: 13-1548  
Enactment Date: 8/14/13  
By: JS

**3. SELECTION PROCESS**

- Annually, the District may solicit ASEs by soliciting every ASE in writing either electronically (e.g. email), on paper or both consistent with Education Code section 49414.7 and provide a list of known sites with needs for student seizure coverage.
- To be eligible the ASE must have a rating of at least "Satisfactory" on most current evaluation and must possess a current CPR certificate.
- If more eligible ASEs seek to volunteer than the need for student seizure coverage, seniority will determine priority.

**4. RESPONSIBILITIES**

- ASEs in the program may be required to transfer to sites based on need for student seizure coverage.
- ASEs in the program will be required to successfully complete training associated with administering anti-seizure medication and appropriate documentation.

**5. COMPENSATION**

- ASEs in the program shall be paid a stipend of 5% regardless of whether they are actually called upon to administer anti-seizure medication.

**6. TERM**

- This side letter of agreement is intended to continue unless there is a material change in Education Code section 49414.7 or associated law governing the same requirements. Should such a change in law occur, the parties agree to immediately meet and negotiate any desired changes in this side letter.

In witness whereof, the parties hereto have agreed to the above this 19<sup>th</sup> day of July 2013.

For AFSCME

M. H. Tatum  
Morris Tatum, President

Jo Bates  
Jo Bates, Business Representative

For the DISTRICT

Troy Christmas  
Troy Christmas, Director of Labor Strategy

Sheilagh Andujar  
Sheilagh Andujar, Associate Superintendent, PEC

Barbara Parker  
Barbara Parker, Coordinator Health Services

David Kakishiba  
David Kakishiba, President, Board of Education

Joseph D. Yee  
Secretary, Board of Education

Approved as to form:

Jacqueline P. Minor  
Jacqueline P. Minor, General Counsel

## Summary of Education Code section 49414.7

Education Code section 49414.7 authorizes the administration of antiseizure medications in schools in emergency situations. Section 49414.7 establishes procedures for school districts that elect to allow volunteer nonmedical school personnel to administer emergency antiseizure medication at school. Section 49414.7 sets forth the following guiding principles:

- School personnel who volunteer under no duress from school administrators and who have been properly trained by an authorized licensed health care professional may administer emergency antiseizure medication, including *Diastat*, to a student in an emergency situation based on that student's Individualized School Health Plan (ISHP), Section 504 Plan, or Individualized Education Program (IEP).
- If a school nurse is available on site and able to reach the student within the time frame for administration specified in that student's ISHP, Section 504 Plan or IEP developed in accordance with the Seizure Plan, then the nurse shall provide this service to the student.
- The school nurse is responsible for maintaining and updating each ISHP, Section 504 Plan or IEP as it relates to the administration of medication for a pupil.
- Training of volunteer nonmedical school personnel shall be conducted prior to the administration of emergency antiseizure medication with demonstrated competency to administer emergency antiseizure medication documented in their respective personnel files.
- When a trained volunteer administers an emergency antiseizure medication, the school nurse and pupil's parent/guardian shall be notified, and school officials shall immediately call 911 to provide necessary monitoring as part of the basic emergency follow-up procedures.
- Recruitment for volunteers to administer an emergency antiseizure medication, may be conducted twice per school year per child, via electronic notice., Each employee who volunteers to administer emergency antiseizure medication will be provided defense and indemnification by the school district for any and all civil liability. This assurance shall be provided in writing to the volunteer and retained in the volunteer's personnel file.
- Prior to administration of emergency antiseizure medication to a student by a school nurse or a trained volunteer nonmedical school personnel, the student's parent/guardian shall annually provide the school with a: 1) Written authorization to administer the medication at school, and 2) Written statement from the student's physician which shall include the student's name, the name and purpose of the medication, the prescribed dosage, detailed seizure symptoms, the method and frequency of administration, the specific circumstances under which the medication may be administered, any potential adverse response, and a protocol for observing the pupil after a seizure. Any changes to the prescribed medication will require new authorizations.