S T A T E O F N E W Y O R K

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I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. JACOBS, McENENY -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to pupils afflicted with asthma

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 916 of the education law, as amended by chapter 524 of the laws of 2006, is amended to read as follows:

S 916. Pupils afflicted with asthma. 1. The board of education or trustees of each school district and board of cooperative educational services shall allow pupils who have been diagnosed by a physician or other duly authorized health care provider with a severe asthmatic condition to carry and use a prescribed inhaler during the school day, with the written permission of a physician or other duly authorized health care provider, and parental consent, based on such physician's or provider's determination that such pupil is subject to sudden asthmatic attacks severe enough to debilitate such pupil. A record of such permission shall be maintained in the school office. In addition, upon the written request of a parent or person in parental relation, the board of education or trustees of a school district and board of cooperative educational services shall allow such pupils to maintain an extra such inhaler in the care and custody of a registered professional nurse employed by such district or board of cooperative educational services. Nothing in this section shall require a school district or board of cooperative educational services to retain a school nurse solely for the purpose of taking custody of a spare inhaler, or require that a school nurse be available at all times in a school building for such purpose.

2. THE BOARD OF EDUCATION OR TRUSTEES OF EACH SCHOOL DISTRICT AND BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL DEVELOP FOR EACH SCHOOL WITHIN SUCH DISTRICT, AN ASTHMA MANAGEMENT PROGRAM TO INCLUDE POLICIES

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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AND PROCEDURES FOR THE ADMINISTRATION OF MEDICATION AND THE USE OF DIAGNOSTIC AND TREATMENT DEVICES TO STUDENTS DIAGNOSED BY A PHYSICIAN AS HAVING ASTHMA. SUCH ASTHMA MANAGEMENT PROGRAM SHALL ALSO INCLUDE A SPECIFIC PLAN OF ACTION FOR SCHOOL PERSONNEL TO FOLLOW IN THE EVENT OF AN ACUTE ASTHMATIC EPISODE.

3. THE BOARD OF EDUCATION OR TRUSTEES OF EACH SCHOOL DISTRICT AND BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL ALSO ENSURE THAT EACH STUDENT DIAGNOSED BY A PHYSICIAN AS HAVING ASTHMA HAS ON FILE IN THE SCHOOL THAT SUCH STUDENT ATTENDS AN ACTION PLAN APPROVED BY THE STUDENT'S PHYSICIAN AND A PARENT FOR THE MANAGEMENT OF SUCH STUDENT'S ASTHMA. SUCH PLAN, WHICH SHALL BE UPDATED AT LEAST ANNUALLY OR WHENEVER THERE IS A CHANGE IN SUCH STUDENT'S CONDITION OR TREATMENT PLAN, SHALL INCLUDE: A LIST OF THE MEDICATIONS THAT THE STUDENT RECEIVES INCLUDING THOSE WHICH NEED TO BE TAKEN DURING THE SCHOOL DAY; A SPECIFIC PLAN OF ACTION TO BE TAKEN BY SCHOOL PERSONNEL IN THE CASE OF AN ACUTE ASTHMATIC EPISODE; A LIST OF DIAGNOSTIC OR TREATMENT DEVICES TO BE USED BY THE STUDENT DURING THE SCHOOL DAY; ANY LIMITATIONS IMPOSED ON STUDENT ACTIVITIES; AND EMERGENCY PROCEDURES AND TELEPHONE NUMBERS TO BE USED DURING ACUTE EPISODES. SUCH ACTION PLAN SHALL BE SIGNED BY THE PHYSICIAN AND A PARENT AND SHALL BE KEPT ON FILE IN AN ACCESSIBLE LOCATION IN THE SCHOOL SUCH STUDENT ATTENDS.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law.