

MEDICALLY NECESSARY TREATMENT IN SCHOOL SETTINGS

The provision of medically necessary treatment to students by private health-care specialists must be done in accordance with this policy. If medically necessary treatment requires administration of prescription and/or nonprescription medication to students, such administration must be in accordance with applicable federal and state law and the District's policy concerning the administration of medications to students.

Definitions

For purposes of this policy and accompanying regulation, the following definitions apply:

1. "Medically necessary treatment" means treatment recommended or ordered by a Colorado licensed health-care provider acting within the scope of the health-care provider's license.
2. "Private health-care specialist" means a health-care provider who is licensed, certified, or otherwise authorized to provide health-care services in Colorado, including pediatric behavioral health treatment providers pursuant to the state medical assistance program, as defined in C.R.S. § 22-20-121(b), and autism services providers who provide treatment pursuant to C.R.S. § 10-16-104(1.4). In no event may a school district or administrative unit staff member be recognized as a private health-care specialist for the purposes of this policy.

Notification of Rights

Pursuant to C.R.S. § 22-20-121(2)(b)(I), Section 504 of the Rehabilitation Act of 1973, 29 U.S.C § 794, as amended, and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., affords students access to medically necessary treatment required for the student to have meaningful access to the benefits of a public education, or to attend school without risks to the student's health or safety due to the student's disabling medical condition.

Determination Whether Medically Necessary Treatment Must be Provided on School Premises

1. It is the responsibility of a student's IEP team or Section 504 team to determine whether any medically necessary treatment is required during the school day and within the school building to ensure the student can access their education, in accordance with Section 504 and Title II.
2. When determining whether medically necessary treatment is required within the school setting, the student's IEP team or Section 504 team will invite the private health-care specialist who ordered or recommended the medically necessary

treatment to attend the meeting at which the issue will be discussed. Private health-care specialists are encouraged to submit information in writing that can be reviewed at the meeting by the student's IEP or Section 504 team. The invitation will be issued to the private health-care specialist at least ten (10) calendar days in advance of the IEP or section 504 meeting.

3. Nothing in this policy will be construed to prevent the District from using its own staff, if qualified, or contracting with a qualified provider of its choice to provide medically necessary treatment to a student within the school setting when determined appropriate by a student's IEP or Section 504 team.
4. Nothing in this policy will be construed to require the District to permit a third-party to determine or provide special education or related services in the school setting in a way that interferes with the District's obligations and authority under federal and state law.

Access to the District's Schools by Private Health-Care Specialists

1. **Access to provide medically necessary treatment.** A private health-care specialist may be granted access to school or district property to provide medically necessary treatment in accordance with the determination of the student's IEP team or Section 504 team, subject to the District's policy and/or procedures concerning visitors to schools and all other applicable policies, and the provisions of this accompanying regulation.
2. **Access to solely observe student or collaborate with school personnel.** A private health-care specialist may be granted access to school or district property to observe the student in the school setting, in accordance with the determination of the student's IEP team or Section 504 team, and with express consent from the parent/legal guardian. During the observation, the health-care specialist is prohibited from providing medical treatment, disrupting the student's instructional program, or interfering with the provision of special education and related services. The health-care specialist's observation is subject to the District's policies and procedures regarding visitors to schools and District property.

Permission to provide medically necessary treatment on school premises may be limited or revoked if the private health-care specialist violates this policy or any other board policy, or demonstrates an inability to responsibly follow the requirements of the school district.

Appeal

If the IEP team or the Section 504 team determines that any medically necessary treatment is not required to be provided in the school setting pursuant to this policy, the

IEP team or Section 504 team will provide notice to the student's parents or legal guardian that the student has a right to appeal such determination. Such appeal must meet, at a minimum, the following requirements:

- (a) The District will hold a hearing within a reasonable time, as determined by the District, after it has received the request for an appeal from the parent/legal guardian or student.
- (b) The District will provide the parent/legal guardian and student at least ten (10) calendar days' notice of the date, time, and place of the hearing.
- (c) The appeal hearing may be conducted by any individual, including an official of the District, who does not have a direct interest in the outcome of the hearing. The District will appoint the hearing officer.
- (d) The District will provide the parent/legal guardian and student a full and fair opportunity to present evidence relevant to the issue whether the medically necessary treatment as ordered or recommended by a private health-care specialist is required to be provided in the school setting pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, as amended or Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq. The parent/legal guardian or eligible student may, at their own expense, be assisted or represented by one or more individuals of their own choice, including an attorney.
- (e) The District will make its decision in writing within thirty (30) calendar days following the appeal hearing. The decision will include a summary of evidence presented at the hearing and the reasons for the decision. At the conclusion of the hearing, no additional evidence may be submitted.

Reporting

Each school shall designate a staff member to report the following to the Superintendent or Superintendent's designee on a quarterly basis: (1) the name of the student requesting medically necessary treatment at school and (2) the outcome of the request.

LEGAL REFS: 42 U.S.C. § 1396 and 1396d(r)(5) (Colorado's Medicaid program is required to cover all medically necessary treatment, including treatment in school settings)
C.R.S. § 22-20-121 (medically necessary treatment in school setting)

CROSS REFS: JLCD: Administering Medications to Students
JLCDB: Administration of Medical Marijuana to Qualified Students
JLCDC-R: Authorizing Private Health-Care Specialists to Provide Medically Necessary Treatment in School Setting
KI: Visitors to the Schools
KFA: Public Conduct on District Property

Adopted: June 21, 2023