File: JLCDC*

Medically Necessary Treatment in School Setting

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 medications to students, such administration must be in accordance with applicable law and the Board's policy concerning the administration of medications to students.

Definitions

For purposes of this policy, 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, C.R.S. 25.5, articles 4, 5, and 6, 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

Parents and/or legal guardians of a student with disabilities will be notified that section 504 of the federal "Rehabilitation Act of 1973", 29 U.S.C. sec. 794, as amended, and Title II of the federal "Americans with Disabilities Act of 1990" provide rights and protections to students to access medically necessary treatment required by 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 will be the responsibility of a student's IEP team or 504 team to determine whether any medically necessary treatment must be provided to the student within the school setting in order for the student to access their education, pursuant to section 504 of the federal "Rehabilitation Act of 1973", 29 U.S.C. sec. 794, as amended, and Title II of the federal "Americans with Disabilities Act of 1990."

2. When making the determination whether medically necessary treatment must be provided within the school setting, the student's IEP team or 504 team will invite the private health-care specialist who ordered or recommended the medically necessary treatment to attend the student's IEP meeting or 504 meeting at which the issue will be discussed. The invitation will include the option for the private health-care specialist to submit information in writing that can be reviewed at such IEP meeting or 504 meeting. The invitation will be given not less than ten (10) calendar days in advance of the IEP or 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 that a student's IEP team or 504 team has determined must be provided in the school setting pursuant to section 504 of the federal "Rehabilitation Act of 1973", 29 U.S.C. sec. 794, as amended, and/or Title II of the federal "Americans with Disabilities Act of 1990."

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 law.

Access to School Setting 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 504 team, and subject to the Board's policy and/or procedures concerning visitors to schools and all other applicable policies, and subject to the provisions of regulation JLCDC-R.

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 or collaborate with school personnel regarding the student, without providing direct treatment to the student, in accordance with the determination of the student's IEP team or 504 team, and subject to the Board's policy and/or procedures concerning visitors to schools and all other applicable policies.

Permission to provide medically necessary treatment on school premises may be limited or revoked if the private health-care specialist violates this policy or JLCDC*-R or demonstrates an inability to responsibly follow the requirements of the school District or administrative unit.

Appeal

If the IEP team or the 504 team determines that any medically necessary treatment is not required to be provided in the school setting pursuant to section 504 of the

federal "Rehabilitation Act of 1973", 29 U.S.C. sec. 794, as amended, and/or Title II of the federal "Americans with Disabilities Act of 1990," the IEP team or 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 an appeal hearing within a reasonable time after it has received the request for an appeal from the parent or student.

(b) The District will give the parent and student notice of the date, time, and place, reasonably in advance of the appeal 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.

(d) The District will give the parent 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 federal "Rehabilitation Act of 1973", 29 U.S.C. sec. 794, as amended, and/or Title II of the federal "Americans with Disabilities Act of 1990." The parent or eligible student may, at their own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney.

(e) The District will make its decision in writing within a reasonable period of time after the appeal hearing.

(f) The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.

Reporting

Each school shall designate a particular staff member to report the following to the superintendent or designee on a regular basis: the name of the requesting student, the student's request, and the outcome of the request, whether accepted or denied.

Adopted April 17, 2023

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

CROSS REFS.: JLCD, Administering Medications to Students

JLCDB*, Administration of Medical Marijuana to Qualified Students
JLCE, First Aid and Emergency Medical Care
JLCDC*-R, Authorizing Private Health-Care Specialists to Provide Medically Necessary Treatment in School Setting
KI, Visitors in Schools