

110TH CONGRESS  
1ST SESSION

# H. R. 2063

To direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop a voluntary policy for managing the risk of food allergy and anaphylaxis in schools, to establish school-based food allergy management grants, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2007

Mrs. LOWEY (for herself, Mr. EMANUEL, Mr. McDERMOTT, and Mr. KENNEDY) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop a voluntary policy for managing the risk of food allergy and anaphylaxis in schools, to establish school-based food allergy management grants, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Food Allergy and Ana-  
3 phylaxis Management Act of 2007”.

4 **SEC. 2. FINDINGS.**

5 Congress finds as follows:

6 (1) Food allergy is an increasing food safety  
7 and public health concern in the United States, es-  
8 pecially among students.

9 (2) Peanut allergy doubled among children from  
10 1997 to 2002.

11 (3) In a 2004 survey of 400 elementary school  
12 nurses, 37 percent reported having at least 10 stu-  
13 dents with severe food allergies and 62 percent re-  
14 ported having at least 5.

15 (4) Forty-four percent of the elementary school  
16 nurses surveyed reported that the number of stu-  
17 dents in their school with food allergy had increased  
18 over the past 5 years, while only 2 percent reported  
19 a decrease.

20 (5) In a 2001 study of 32 fatal food-allergy in-  
21 duced anaphylactic reactions (the largest study of its  
22 kind to date), more than half (53 percent) of the in-  
23 dividuals were aged 18 or younger.

24 (6) Eight foods account for 90 percent of all  
25 food-allergic reactions: milk, eggs, fish, shellfish, tree  
26 nuts, peanuts, wheat, and soy.

1           (7) Currently, there is no cure for food aller-  
2           gies; strict avoidance of the offending food is the  
3           only way to prevent a reaction.

4           (8) Anaphylaxis is a systemic allergic reaction  
5           that can kill within minutes.

6           (9) Food-allergic reactions are the leading cause  
7           of anaphylaxis outside the hospital setting, account-  
8           ing for an estimated 30,000 emergency room visits,  
9           2,000 hospitalizations, and 150 to 200 deaths each  
10          year in the United States.

11          (10) Fatalities from anaphylaxis are associated  
12          with a delay in the administration of epinephrine  
13          (adrenaline), or when epinephrine was not adminis-  
14          tered at all. In a study of 13 food allergy-induced  
15          anaphylactic reactions in school-age children (6 fatal  
16          and 7 near fatal), only 2 of the children who died  
17          received epinephrine within 1 hour of ingesting the  
18          allergen, and all but 1 of the children who survived  
19          received epinephrine within 30 minutes.

20          (11) The importance of managing life-threat-  
21          ening food allergies in the school setting has been  
22          recognized by the American Medical Association, the  
23          American Academy of Pediatrics, the American  
24          Academy of Allergy, Asthma and Immunology, the  
25          American College of Allergy, Asthma and Immu-

1 nology, and the National Association of School  
2 Nurses.

3 (12) There are no Federal guidelines con-  
4 cerning the management of life-threatening food al-  
5 lergies in the school setting.

6 (13) Three-quarters of the elementary school  
7 nurses surveyed reported developing their own train-  
8 ing guidelines.

9 (14) Relatively few schools actually employ a  
10 full-time school nurse. Many are forced to cover  
11 more than 1 school, and are often in charge of hun-  
12 dreds if not thousands of students.

13 (15) Parents of students with severe food aller-  
14 gies often face entirely different food allergy man-  
15 agement approaches when their students change  
16 schools or school districts.

17 (16) In a study of food allergy reactions in  
18 schools and day-care settings, delays in treatment  
19 were attributed to a failure to follow emergency  
20 plans, calling parents instead of administering emer-  
21 gency medications, and an inability to administer ep-  
22 ineprine.

23 **SEC. 3. DEFINITIONS.**

24 In this Act:

1           (1) ESEA DEFINITIONS.—The terms “local  
2 educational agency”, “secondary school”, and “ele-  
3 mentary school” have the meanings given the terms  
4 in section 9101 of the Elementary and Secondary  
5 Education Act of 1965 (20 U.S.C. 7801).

6           (2) SCHOOL.—The term “school” includes pub-  
7 lic—

8                   (A) kindergartens;

9                   (B) elementary schools; and

10                  (C) secondary schools.

11           (3) SECRETARY.—The term “Secretary” means  
12 the Secretary of Health and Human Services, in  
13 consultation with the Secretary of Education.

14 **SEC. 4. ESTABLISHMENT OF VOLUNTARY FOOD ALLERGY**  
15 **AND ANAPHYLAXIS MANAGEMENT POLICY.**

16           (a) ESTABLISHMENT.—Not later than 1 year after  
17 the date of enactment of this Act, the Secretary shall—

18                   (1) develop a policy to be used on a voluntary  
19 basis to manage the risk of food allergy and anaphy-  
20 laxis in schools; and

21                   (2) make such policy available to local edu-  
22 cational agencies and other interested individuals  
23 and entities to be implemented on a voluntary basis  
24 only.

1 (b) CONTENTS.—The voluntary policy developed by  
2 the Secretary under subsection (a) shall contain guidelines  
3 that address each of the following:

4 (1) Parental obligation to provide the school,  
5 prior to the start of every school year, with—

6 (A) documentation from the student’s phy-  
7 sician or nurse—

8 (i) supporting a diagnosis of food al-  
9 lergy and the risk of anaphylaxis;

10 (ii) identifying any food to which the  
11 student is allergic;

12 (iii) describing, if appropriate, any  
13 prior history of anaphylaxis;

14 (iv) listing any medication prescribed  
15 for the student for the treatment of ana-  
16 phylaxis;

17 (v) detailing emergency treatment  
18 procedures in the event of a reaction;

19 (vi) listing the signs and symptoms of  
20 a reaction; and

21 (vii) assessing the student’s readiness  
22 for self-administration of prescription  
23 medication; and

1 (B) a list of substitute meals that may be  
2 offered to the student by school food service  
3 personnel.

4 (2) The creation and maintenance of an indi-  
5 vidual health care plan tailored to the needs of each  
6 student with a documented risk for anaphylaxis, in-  
7 cluding any procedures for the self-administration of  
8 medication by such students in instances where—

9 (A) the students are capable of self-admin-  
10 istering medication; and

11 (B) such administration is not prohibited  
12 by State law.

13 (3) Communication strategies between indi-  
14 vidual schools and local providers of emergency med-  
15 ical services, including appropriate instructions for  
16 emergency medical response.

17 (4) Strategies to reduce the risk of exposure to  
18 anaphylactic causative agents in classrooms and  
19 common school areas such as cafeterias.

20 (5) The dissemination of information on life-  
21 threatening food allergies to school staff, parents,  
22 and students, if appropriate by law.

23 (6) Food allergy management training of school  
24 personnel who regularly come into contact with stu-  
25 dents with life-threatening food allergies.



1 (b) APPLICATION.—

2 (1) IN GENERAL.—To be eligible to receive a  
3 grant under this section, a local educational agency  
4 shall submit an application to the Secretary at such  
5 time, in such manner, and including such informa-  
6 tion as the Secretary may reasonably require.

7 (2) CONTENTS.—Each application submitted  
8 under paragraph (1) shall include—

9 (A) a certification that the food allergy  
10 management guidelines described in section 4  
11 have been adopted by the local educational  
12 agency;

13 (B) a description of the activities to be  
14 funded by the grant in carrying out the food al-  
15 lergy management guidelines, including—

16 (i) how the guidelines will be carried  
17 out at individual schools served by the  
18 local educational agency;

19 (ii) how the local educational agency  
20 will inform parents and students of the  
21 food allergy management guidelines in  
22 place;

23 (iii) how school nurses, teachers, ad-  
24 ministrators, and other school-based staff  
25 will be made aware of, and given training

1 on, when applicable, the food allergy man-  
2 agement guidelines in place; and

3 (iv) any other activities that the Sec-  
4 retary determines appropriate;

5 (C) an itemization of how grant funds re-  
6 ceived under this section will be expended;

7 (D) a description of how adoption of the  
8 guidelines and implementation of grant activi-  
9 ties will be monitored; and

10 (E) an agreement by the local educational  
11 agency to report information required by the  
12 Secretary to conduct evaluations under this sec-  
13 tion.

14 (c) USE OF FUNDS.—Each local educational agency  
15 that receives a grant under this section may use the grant  
16 funds for the following:

17 (1) Creation of systems and databases related  
18 to creation, storage, and maintenance of student  
19 records.

20 (2) Purchase of equipment or services, or both,  
21 related to the creation, storage, and maintenance of  
22 student records.

23 (3) In partnership with local health depart-  
24 ments, school nurse, teacher, and personnel training  
25 for food allergy management.

1           (4) Purchase and storage of limited medical  
2           supplies, including epinephrine and disposable wet  
3           wipes.

4           (5) Programs that educate students as to the  
5           presence of, and policies and procedures in place re-  
6           lated to, food allergies and anaphylactic shock.

7           (6) Outreach to parents.

8           (7) Any other activities consistent with the  
9           guidelines described in section 4.

10          (d) DURATION OF AWARDS.—The Secretary may  
11          award grants under this section for a period of not more  
12          than 2 years. In the event the Secretary conducts a pro-  
13          gram evaluation under this section, funding in the second  
14          year of the grant, where applicable, shall be contingent  
15          on a successful program evaluation by the Secretary after  
16          the first year.

17          (e) MAXIMUM AMOUNT OF ANNUAL AWARDS.—A  
18          grant awarded under this section may not be made in an  
19          amount that is more than \$50,000 annually.

20          (f) PRIORITY.—In awarding grants under this sec-  
21          tion, the Secretary shall give priority to local educational  
22          agencies that receive Federal funding under title I of the  
23          Elementary and Secondary Education Act of 1965 (20  
24          U.S.C. 6301 et seq.).

1 (g) ADMINISTRATIVE FUNDS.—A local educational  
2 agency that receives a grant under this section may use  
3 not more than 2 percent of the grant amount for adminis-  
4 trative costs related to carrying out this section.

5 (h) PROGRESS AND EVALUATIONS.—At the comple-  
6 tion of the grant period referred to in subsection (d), a  
7 local educational agency shall provide the Secretary with  
8 information on the status of implementation of the food  
9 allergy management guidelines described in section 4.

10 (i) SUPPLEMENT, NOT SUPPLANT.—Grant funds re-  
11 ceived under this section shall be used to supplement, and  
12 not supplant, non-Federal funds and any other Federal  
13 funds available to carry out the activities described in this  
14 section.

15 (j) AUTHORIZATION OF APPROPRIATIONS.—There  
16 are authorized to be appropriated to carry out this section  
17 \$30,000,000 for fiscal year 2008 and such sums as may  
18 be necessary for each of the 4 succeeding fiscal years.

19 **SEC. 6. VOLUNTARY NATURE OF POLICY AND GUIDELINES.**

20 (a) IN GENERAL.—The policy developed by the Sec-  
21 retary under section 4(a) and the food allergy manage-  
22 ment guidelines contained in such policy are voluntary.  
23 Nothing in this Act or the policy developed by the Sec-  
24 retary under section 4(a) shall be construed to require a

1 local educational agency or school to implement such pol-  
2 icy or guidelines.

3 (b) EXCEPTION.—Notwithstanding subsection (a),  
4 the Secretary may enforce an agreement by a local edu-  
5 cational agency to implement food allergy management  
6 guidelines as a condition on the receipt of a grant under  
7 section 5.

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