

Medically Necessary Treatment in School Settings

The provision of medically necessary treatment to IDEA-eligible students during the school day 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 of attendance's policy concerning the administration of medications to students. If students who are not IDEA-eligible seek medically necessary treatment during the school day, the district of attendance's local board policy regarding medically necessary treatment applies.

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, 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 member school district or administrative unit staff member be recognized as a private health-care specialist for the purposes of this policy.

Notification of Rights

According 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 of Whether Medically Necessary Treatment Must be Provided during IDEA-Eligible Students' Educational Settings during the School Day

1. For IDEA-eligible students, it is the responsibility of a student's IEP 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 will invite the private health-care specialist

who ordered or recommended the medically necessary treatment to attend the IEP team 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 team. The invitation will issue to the private health-care specialist at least ten (10) calendar days in advance of the IEP team meeting.

3. Nothing in this policy will be construed to prevent the EC BOCES, the student's district and/or administrative unit of residence, or the district and/or administrative unit of attendance 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 team.
4. Nothing in this policy will be construed to require the EC BOCES, the student's district and/or administrative unit of residence, or the district and/or administrative unit of attendance, to permit a third-party to determine or provide special education or related services in the school setting in a way that interferes with either the EC BOCES's, district and/or administrative unit of residence's, or district and/or administrative unit of attendance's obligations and authority under federal and state law.

Access to IDEA-Eligible Students' Educational Setting during the School Day by Private Health-Care Specialists

1. **Access to provide medically necessary treatment.** A private health-care specialist may be granted access to an IDEA-eligible student's educational setting during the school day to provide medically necessary treatment in accordance with the determination of the student's IEP team, subject to the district of attendance's policy and/or procedures concerning visitors to schools and all other applicable policies, and the provisions of regulation JLCDC*-R.
2. **Access solely to observe student or collaborate with school and/or EC BOCES personnel.** A private health-care specialist may be granted access to the student's educational setting to observe the student or collaborate with school and/or EC BOCES personnel with express consent from the parent/legal guardian and the provisions of regulation JLCDC*-R. During any observation or collaboration, 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. A health-care specialist's observation and collaboration is subject to the district of attendance'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, JLCDC*-R, or any other board policy of the EC BOCES or district and/or administrative unit of attendance or

demonstrates an inability to responsibly follow the requirements of the EC BOCES or district and/or administrative unit of attendance.

Appeal

If the IEP team determines that any medically necessary treatment is not required to be provided in the school setting pursuant to this policy, the IEP team will provide notice to the student's parents or legal guardian that the student has a right to appeal such determination to the district of attendance pursuant to the appeal process set forth in said district's local board policy regarding medically necessary treatment.

Reporting

Each member district shall report the following to the Special Education Director or designee on or before June 1 of each year: (1) the name of any student attending school in the district who requested medically necessary treatment at school during the last calendar year, and (2) whether it authorized or denied the request. The EC BOCES shall report the above-referenced data to the state for all students attending school within its jurisdiction during the last calendar year.

EAST CENTRAL BOCES BOARD POLICY

Adopted: June 28, 2023

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*)
 1 CCR 301-8, 2220-R-2.02, R-8.03, and R-9.01 (*dividing application of certain responsibilities among administrative unit of attendance, district of attendance, administrative unit of residence, and district of residence*)

CROSS REFS: JLCDC*-R: Authorizing Private Health-Care Specialists to Provide Medically Necessary Treatment in School Settings