



Epi-pen Fact Sheet

Introduction

- With the dramatic increase of students with severe allergies attending our schools, ETFO members are understandably concerned about the possibility of administering emergency procedures such as the Epi-Pen.
- It is important to note that the administration of the Epi-Pen could save a life, while failure to do so could result in serious illness or death. Therefore it is imperative that ETFO members be aware of their rights and responsibilities with regard to the administering of Epi-pens.

What can members reasonably insist upon before agreeing to administer the Epi-pen?

- The school board should provide members (including occasional teachers) with proper training and education in the use of the Epi-pen.
- The school board should implement a policy to restrict the presence of allergens that are likely to trigger an anaphylactic reaction.

The school board should educate everyone in the school community (i.e., educators, parents, staff and students) about the risks posed by anaphylaxis and how to recognize the symptoms of an anaphylactic reaction.

- The school board must ensure that Epi-pens are readily available to anyone who might be required to administer them in an emergency situation.
- ETFO members must be advised of which students in the school are susceptible to an anaphylactic reaction and which allergens are known for each student.

What practical considerations should ETFO members be aware of before they administer Epi-pens?

- The Epi-pen is very easy to administer.
- The Epi-pen does not pose a health risk to students, even if it is administered unnecessarily.
- The Epi-pen can be self-administered by a student but it should generally be done by or with the assistance of an adult because the onset of anaphylaxis can be debilitating.



- A teacher is protected from criminal liability by s. 216 of the *Criminal Code* if the Epi-pen is administered, even improperly, in cases of emergency.

Legal Obligations members have with regard to administering Epi-pens

I. Common law Expectation

- Educators have a common law duty of care to take all reasonable steps to ensure the safety of students. Failure to do so could result in a charge of negligence.

II. The Education Act

- The *Education Act*, s. 265(j), and Regulation 298, s. 20, require that principals and teachers ensure the safety of students.
- Courts have found that these duties include a positive duty to take steps that a reasonable parent would take to safeguard the health and safety of students. This is a much higher standard than would apply to the general public.

III. The Human Rights Code

- The *Human Rights Code* prohibits discrimination, including adverse effect discrimination which might result from a child's increased risk in the school environment. Failure to take steps to accommodate a child's susceptibility to anaphylaxis might be found to be discriminatory under the *Code*.

IV. Criminal Code

- A member might be the subject of a criminal investigation if the failure or refusal to administer an Epi-pen was considered criminally negligent or a failure to provide the necessities of life.

If you have any questions or concerns regarding members' rights and obligations, please contact your local president or call and speak with a Professional Relations Services staff at 1-888-838-3836 or 416-962-3836

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