Spring 2003

SCHOOL Governance & Leadership

Strengthening the vital alliance between school board & superintendent

Asthma Wellness
Keeping Children with Asthma in School and Learning

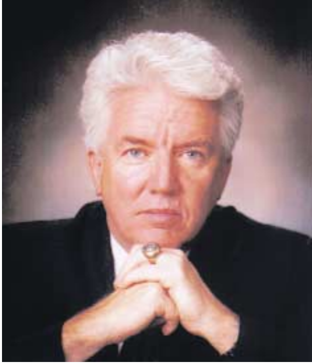
Liability & Litigation: A Legal Primer

Asthma & Indoor Air Quality (IAQ)

Asthma Management, Policies and Procedures

Dear Superintendents and School Boards,
Please excuse our nation's children.
They miss 14 million days of school each year because of asthma...

Straight talk



By Paul D. Houston

In School and Healthy: A Critical Component of Academic Success

School administrators know that numerous factors, from family support to language skills, academic readiness to physical health, affect a child's academic success. Children cannot learn if they are hungry. They cannot learn if their teeth hurt. Children also cannot learn if they cannot breathe.

Here's something that you may not know: asthma is this nation's most common chronic childhood disease, affecting more than five million school-aged children. Children miss an average of 14 million school days each year because of asthma. Talk about a negative impact on academic performance.

Children spend nearly 40 hours each week inside our nation's schools. It is critical that school leaders be proactive about developing policies and procedures that will keep children with asthma in the classroom and about improving the quality of the air our children breathe.

This growing problem prompted the American Association of School Administrators to undertake an effort to reduce the burden of asthma among children and youth. AASA has embarked on an ambitious five-year project, funded by the Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Division of Adolescent and School Health. Within these pages, you will read about the impact of asthma on learning and achievement and ascertain specific strategies to identify and address this issue in your school districts. You will also discover how to make the school environment safe for all children and to favorably position your district against litigation.

Asthma is literally a life or death situation. I know, because one of my best friends died of asthma. Public education lost one of its greatest leaders when asthma took the life of Dr. Richard Green, a former chancellor of the New York City Public Schools, during the height of his career. Now I'm dealing with this condition myself. I developed asthma as an adult; doctors tell me it has been triggered by the environment.

As superintendents or members of school boards, we know that we have an obligation to deliver every child an equal educational opportunity. We also understand our responsibility to care for every child by responding to complaints, addressing health hazards within the schools, foreseeing potential problems and advocating solutions. When kids needed better nutrition so that they could succeed, school administrators stepped forward to advocate that school districts provide free and reduced breakfast and lunch programs. Now it's time for us to advocate for improved indoor air quality and policies and programs to better serve our school children with asthma. If we truly want our children to succeed academically, then we'll work to remove all the barriers that prevent them from doing so. ■

Paul D. Houston is executive director of the American Association of School Administrators.

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A School Board Publication of the
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Centers for Disease Control and Prevention (CDC)

CDC has developed the National Asthma Control Program with the goals of reducing deaths, hospitalizations, emergency room visits, school or work days missed and limitations on activity due to asthma. CDC also supports the Americans Breathing Easier Program, which focuses on enabling schools to implement effective interventions, reducing classroom absences from asthma, and building partnerships with school districts and national associations.

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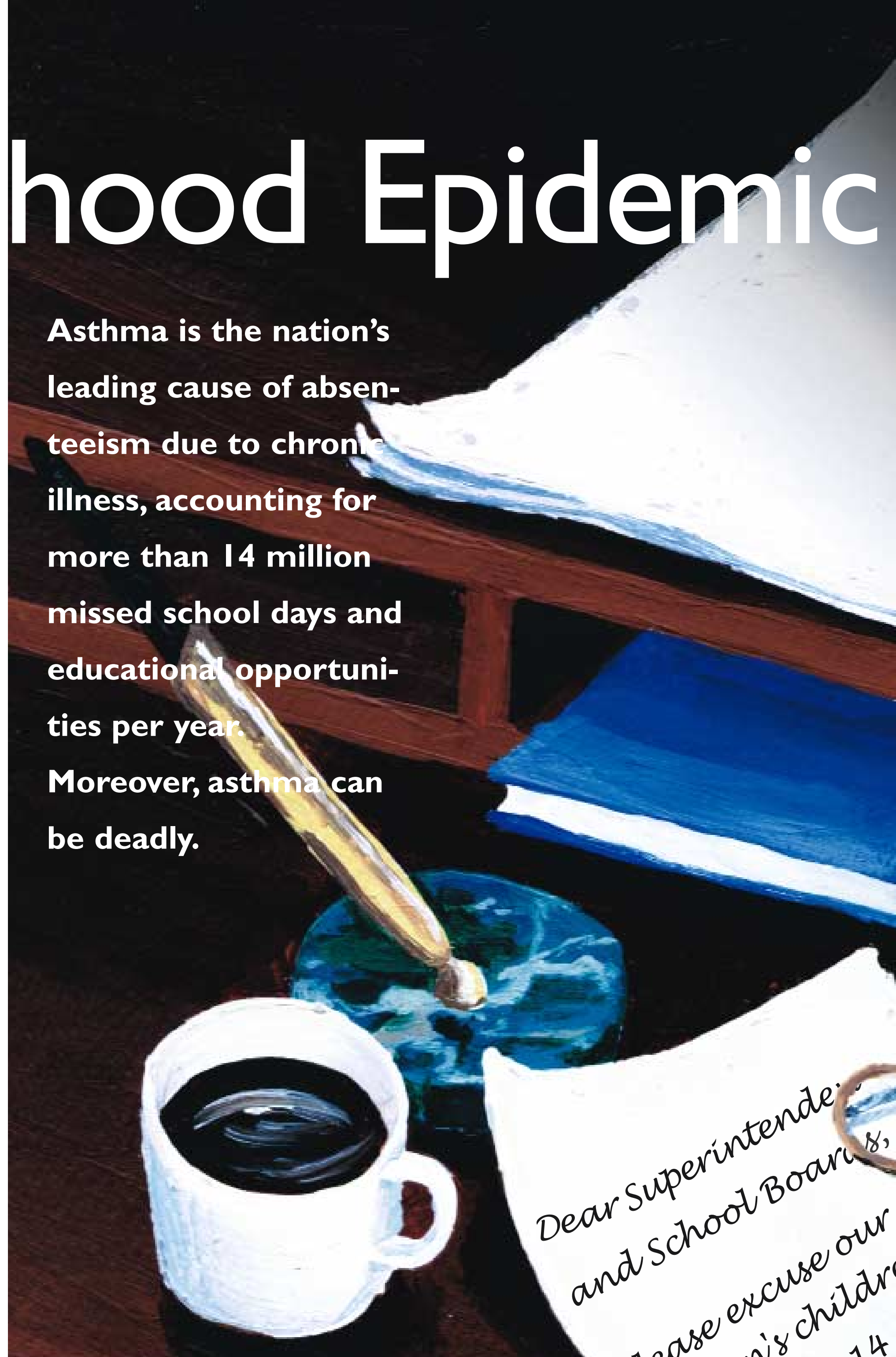
A Childhood Epidemic



Asthma is the nation's leading cause of absenteeism due to chronic illness, accounting for more than 14 million missed school days and educational opportunities per year. Moreover, asthma can be deadly.

Asthma is the most common chronic childhood illness in the United States today. Both the number of children diagnosed with asthma and the severity of asthma has increased rapidly in recent years. Indeed, asthma has reached epidemic proportions—affecting more than five million children of school age. Asthma is the leading cause of school absenteeism due to chronic illness, accounting for more than 14 million missed school days per year.

This is a serious situation, concurs Dr. Beverly Hall, superintendent of the Atlanta (GA) Public Schools. "A significant number of days lost due to absences from school negatively impacts time on educational tasks and academic performance," Hall points out.

Consider:

- Nearly one in 13 school-aged children has asthma (NCHS, 1999). The cost in school days and missed educational opportunities is estimated at 14 million days per year (Mannino et al, 2002).

- In 1998, 3.8 million children under age 18 suffered an asthma episode or attack (ALA, 2002).

- The estimated cost of treating asthma in those under 18 is $3.2 million per year (Weiss, Sullivan and Lytle, 2000).

- Between 1980 and 1996, the prevalence of asthma increased 45 percent among children ages 5-14 (Weiss, Sullivan and Lytle, 2000).

- Many districts have witnessed this increase first hand. In the Minneapolis Public Schools, asthma affects an average of 11 percent of their 49,000 students. In the Houston Independent School System, not only has there been an increase in the number of students with asthma, but also an increase in the severity of the asthma.

- Asthma is the third leading cause of hospitalization in

children under 15 years of age (Popovic, 2001). The impact is more classroom time lost.

- The burden of asthma is disproportionately borne by poor and minority children. For example, compared to white children, black children are three times more likely to be hospitalized and four times more likely to die from asthma (Akinbami and Schoendorf, 2002).

- The number of children dying from asthma has increased almost threefold during the past two decades, from 93 in 1979 to 266 in 1996 (CDC, 2002a).

It is important for school leaders to address asthma in a coordinated and proactive way. Schools can improve the lives of children with asthma by ensuring the health of each child and by improving the “health” of the school’s buildings and grounds. School policies and procedures that address these issues also protect school districts from potential litigation.

Why School Leaders Are Concerned about Students with Asthma

1. **Asthma can be deadly.** An asthma “attack” or episode can quickly escalate and may result in death without prompt medical attention.

2. **Most asthma episodes can be prevented.** By combining a reduction of environmental asthma “triggers” in the school’s internal environment with increased asthma awareness and proper medical management, most asthma episodes can be prevented. Good communication between parents, the child’s physician and school staff is also vital to successful asthma prevention. The result is a better learning environment.

3. **Healthy children learn better.** Asthma affects a child’s performance. Asthma can disrupt sleep, ability to concentrate, memory, and participation and can cause disruption to learning through repeated trips from the classroom to the school nurse to access medication (up to four times a day for some children.) Many school districts do not have absentee data isolating asthma as a reason, but many can identify individual cases like the one cited by Cedar Rapids Supt. Dr. Lewis Finch: “A student in one of our middle schools had missed 33 days of school due to asthma by March of last school year and was failing all but one class as a result.”

4. **There are legal requirements that affect how schools deal with students and staff who have asthma.** Federal laws (Individuals with Disabilities Education Act [IDEA] of 1997 and Section 504 of the Rehabilitation Act of 1973) require that schools both promote the health, development and achievement of students with asthma, where the disease interferes with their learning, and remove “disability barriers” (e.g., poor indoor air quality) that impede health, participation and achievement. The law requires schools and parents to work together as partners to develop and implement health plans to protect the welfare of the child. ■

Asthma Management, Policies and Procedures

What School System Leaders Can Do

The CDC has identified six strategies for addressing asthma as part of a coordinated school health program (CDC, 2002b). Note that every strategy may not be feasible for your district. AASA encourages superintendents and board members to join with staff, students and community members to prioritize the strategies based on your needs and the needs of your students. If your district is just beginning to address this health issue, focus initially on children whose asthma seems poorly managed as indicated by frequent absences, trips to the school nurse, emergency room visits and hospitalizations.

1. Establish management and support systems for asthma-friendly schools. Identify your district's needs, designate a health coordinator, and develop written policies and procedures for asthma education and management. The National Asthma Education and Prevention Program (NAEPP) suggests that school districts develop and implement district-wide guidelines and protocols applicable to chronic illnesses generally and specific protocols for asthma and other common chronic illnesses of students. Dr. Howard Taras, medical consultant with the San Diego schools and chair of the American Academy of Pediatrics (AAP) Committee on School Health agrees. "My recommendation is generally that we address all chronic illnesses that cause children to be absent. Let's not make asthma the disease *du jour*."

2. Provide appropriate school health and mental health services for students with asthma. Make sure students with asthma have an asthma action plan developed by a physician and provided to the district by parents, ensure safe and immediate access to prescribed medications, and use standard emergency protocols for students in respiratory distress. If you need to send a letter to a physician regarding an asthma action plan, you can use the model "Dear Doctor" letter provided by the American Academy of Pediatrics (see page 12). In spite of the common practice of maintaining zero-tolerance drug policies in schools, limiting student access to life-saving asthma medications is a dangerous decision. In Houston ISD, students are allowed to carry their own inhalers if the physician says it is necessary; thus the physician makes the medical decision about student responsibility. Dr. Don Kussmaul, superintendent of the Dubuque (IA) Schools Unit 119, points out that if a child needs an inhaler, it is much more useful in his or her pocket than at home or in the office.

3. Provide asthma education and awareness programs for students and school staff. Ensure that students with asthma receive education on basic management and emergency response and provide school staff and parents with the same

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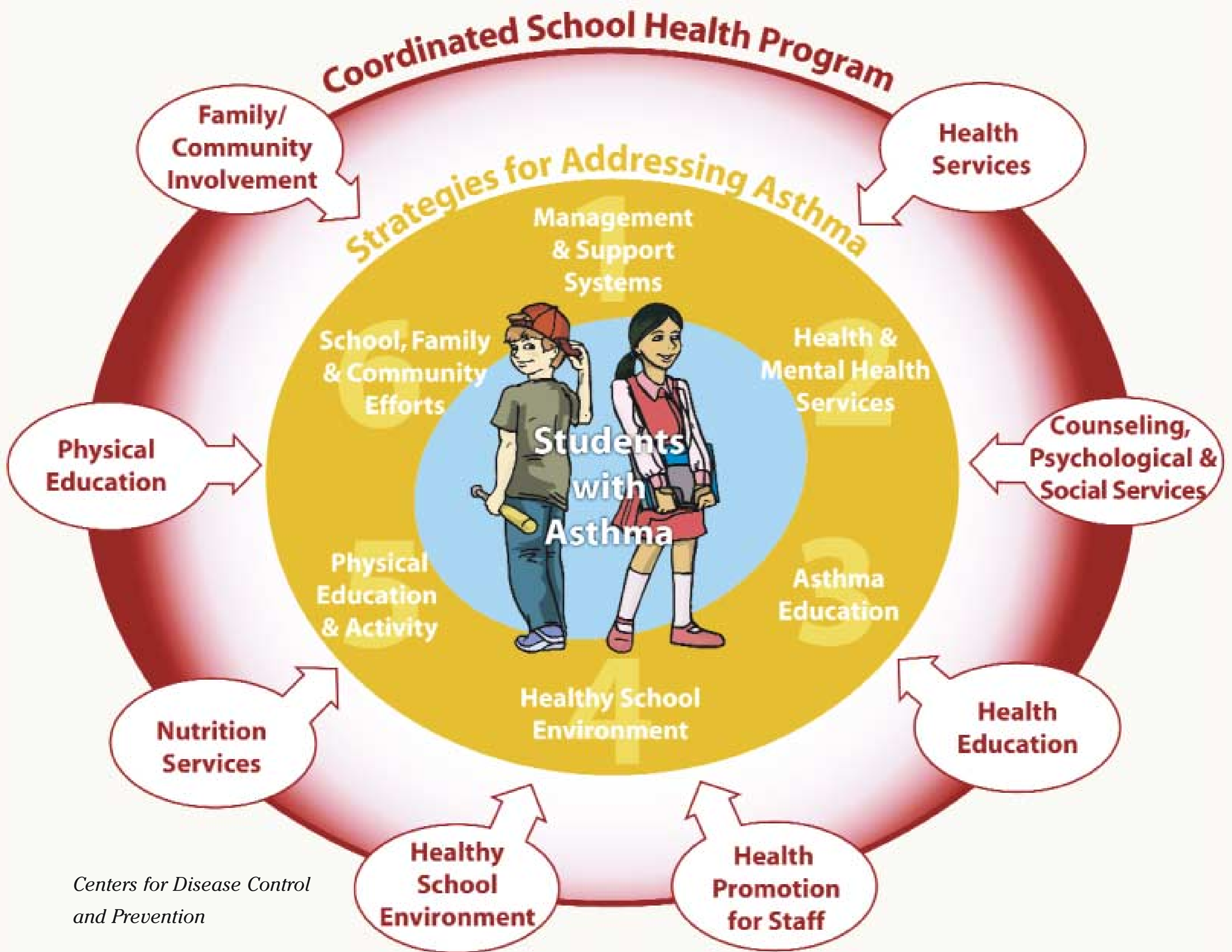
Individual Student Asthma Action Plans

Every student with asthma needs to have an "asthma action plan" on file with the school nurse—this is the key to asthma planning at school. The action plan, completed by the child's physician, describes:

- Medication(s) taken—what, when, how, and possible side effects
- Whether the child needs to carry his/her medications at all times
- Any specific allergies, and their symptoms
- Triggers for asthma symptoms
- When to take a peak flow measurement & what measurements indicate trouble
- What symptoms indicate a potential emergency
- What steps to take in the event of an emergency
- Parent and physician contact information & phone numbers
- Specific instructions regarding environmental conditions, e.g., child participation in field trips on high ozone days



Centers for Disease Control and Prevention

What *is* Asthma?

Asthma is a chronic (long-term) lung condition that causes repeated acute episodes (or “attacks”) characterized by breathing problems such as:

- wheezing,
- coughing,
- chest tightness or pain,
- shortness of breath, and
- lack of energy.

These symptoms are due to inflammation and tightening of the airways in the respiratory system. Asthma attacks can be mild, moderate or life threatening.

It is not known precisely what causes asthma, but the constant state of inflammation in the airways of children with asthma makes them very sensitive to one or more environmental allergens or “triggers” that cause further inflammation. Triggers can include dust mites, secondhand smoke, mold, animal dander, or pollution, as well as cold air, exercise, respiratory infections, flu and colds.

What sets off asthma in one part of the country may not be a problem at all in another. For instance, in the Shenandoah Valley where the Frederick County (VA) school district is located, newcomers are rarely happy to learn about the Valley Syndrome. “This is a glorious place to live,” says Supt. William Dean, “but there are lots of oaks and maples and pines that give off allergens. We also have the agribusinesses, especially spraying of pesticides on apple and peach trees. People who have never had allergies or asthma before often move here and get them. The valley syndrome is hard on respiratory systems.”

In Houston, the hot, muggy climate leads to a recurring problem with molds, according to Mattye Glass, director of Health and Medical Services in the Houston ISD, who notes that last year’s severe flooding exacerbated the situation immensely. Along the Mississippi, where East Dubuque Unit 119 school district is located, giant oaks add to a mold problem each year.

Currently there is no cure for asthma. However, asthma management with medication and avoiding exposure to known environmental triggers as much as possible allows those with asthma to lead normal, productive lives. ■

AASA and NSBA at Work

American Association of School Administrators (AASA)

With support from the Centers for Disease Control and Prevention (CDC), National Center for Chronic Disease Prevention and Health Promotion (NCCD-PHP), Division of Adolescent and School Health (DASH), AASA has begun a five year project to reduce the burden of asthma among youth. This effort to help school leaders take positive action for asthma wellness includes: helping the CDC develop a national strategy; identifying school and community barriers, resources and best practices; creating a set of “Powerful Practices” and sharing these and other resources with school leaders through a variety of dissemination vehicles. For information on Powerful Practices, call 703-875-0759 or e-mail tbrown@aasa.org. And through a cooperative agreement with the Environmental Protection Agency (EPA), AASA is also working to help schools adopt voluntary programs that identify, monitor, and eliminate hazards to good indoor air quality (IAQ). The IAQ Tools for Schools Action Kit was developed to help school leaders assess potential problem areas within their buildings. Checklists are included for school staff to begin initial steps to a common sense approach that does not have to be costly. For more information and a free kit, call 703-875-0731, eplater@aasa.org.

National School Boards Association (NSBA)

The National School Boards (NSBA), through its School Health Programs Department, makes available information on asthma prevention and management. A "101" packet on Asthma in Schools, which contains facts about asthma, articles about best practices and policies, and references to additional sources of information, is available at no charge. In addition, more customized and comprehensive searches of the NSBA School Health Resource Database can be requested. The School Health Programs Web site provides links to other Internet-based resources relevant to schools addressing asthma. NSBA's services can be accessed on the Internet at http://www.nsba.org/schoolhealth, by e-mail at schoolhealth@nsba.org, by telephone at 703-838-6722, and via fax at 703-548-5516. ■

Examples of Local School District Action

Cedar Rapids Community School District (IA)

The Cedar Rapids (IA) Community School District has participated in the Linn County Asthma Reduction Coalition since its inception in 2000. Last year the Coalition received a grant from Wellmark to implement a PAMPER (Partners for Asthma Management, Planning, and Educational Resources) program. PAMPER comprises eight National Heart Lung Blood Institute educational sessions in the home and/or school setting, with the district's school nurses providing at least two of these visits at school for each child involved. Sessions reviewed symptoms and early warning signs, use of medications and peak flow meter, and developed and implemented the school asthma action plan and emergency plan. Participants were students with asthma who had been hospitalized, or required emergency room visits, or multiple visits to their healthcare providers for asthma in the previous six months. Superintendent Dr. Lewis Finch says that between 2001 and 2002 absences from school or daycare had decreased from 126 to 55 for participants of the PAMPER project.

Minneapolis Public Schools

The Minneapolis Public Schools (MPS), in partnership with the health care community, launched a three-year asthma pilot initiative in eight schools that was so successful in its first year that it was expanded to all elementary and middle schools in the second year. Working with the Healthy Learners Board, a partnership of 30 public and private health care providers and community organizations, the MPS has been successful in reducing asthma symptoms and absenteeism for students who visited the student health offices and received enhanced asthma care there, according to Supt. Dr. Carol Johnson. "We have seen improved attendance, a better job on the part of students to monitor their asthma situation, and better parent response to school needs," Dr. Johnson notes.

"In the Minneapolis Public Schools, we know that some of our students miss class because of asthma or other respiratory illnesses. When students are not in class, they are not engaged and miss valuable learning time," said Johnson. "If this collaboration with families, schools and community clinics can be successful at reducing the absenteeism of students with asthma, then we know these students will perform better academically. Attendance is the key to student achievement."

Evaluation of the pilot program showed that students in the pilot schools began visiting the health office more for prevention and education than for asthma distress. Moreover, at the seven area clinics, the use and sharing of written Asthma Action Plans increased tenfold. "The increase in personalized asthma plans is an important reflection of communication between schools, families and health care providers," Johnson points out.

New York City Community School District 8 (Bronx, NY)

Hospitalization rates for children with asthma in Community School District 8's PS 140 decreased significantly (by 31.3 per cent) following initiation of a collaborative program. (The Bronx has the highest asthma mortality rate in NYC across all age groups and leads the city in asthma hospitalization rates for children age 0-14).

The school district, whose superintendent is Dr. Betty A. Rosa, joined in a partnership with the health department's Childhood Asthma Initiative and the Harlem Lung Center to mobilize the health care community and provide educational information to families and caregivers. The initiative included extensive data collection and analysis, development of an Asthma Action Plan for each student identified with asthma, implementation of family education workshops, and increased collaboration with health care providers.

Central to this effort is the recognition that families, uncertain of housing, struggling with poverty (84 percent of the children attending PS 140 are eligible for the Federal free lunch program) and lacking sufficient information, can become confused and overwhelmed when faced with asthma issues. Aimed with information and clear messages of support from the school system and the community, the same families can become effective advocates for their children's health and education.

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Asthma & Indoor Air Quality (IAQ)

Children are especially vulnerable to the adverse health effects of indoor pollutants and allergens—more so than adults. Students with asthma are particularly at risk (GAO, 1995).

Some of the indoor allergens that aggravate asthma are secondhand tobacco smoke, mold, dust mites, cockroaches, animal dander, cleaning supplies and chemicals, pesticides, perfumes and paint.

The EPA has launched a national public education and prevention campaign targeting asthma. They provide information on indoor triggers and on actions that can be taken at school or home to reduce exposure. To speak with a national specialist, call 800-315-8096. At the request of the EPA, the National Academy of Sciences Institute of Medicine issued a report on the role of indoor air quality in the growing asthma epidemic. The report, "Clearing the Air: Asthma and Indoor Air Exposures," confirmed that indoor pollutants are an important contributor to the asthma problem (National Academy of Sciences, 2002).

Asthma-friendly IAQ steps include:

- Improving ventilation—throughout the buildings but especially in laboratories and art rooms
- Removing sources of allergens—mold, residue from cockroaches and other pests, animal dander, etc.
- Ensuring proper maintenance of heating and air conditioning systems
- Installing HEPA filters—which trap very small particles
- Planning for ongoing improvement of the indoor environment—e.g., removal of carpet

Poor IAQ exacerbates serious health problems like asthma attacks. Recent research from the EPA shows that poor IAQ reduces ability in mental tasks that require concentration, calculation, or memory (EPA, 2000).

Financing Improved IAQ

The expense and effort required to prevent most IAQ problems is much less than the expense and effort required to resolve problems after they develop. (EPA, 2000)

"Anytime we have dollars available for maintenance issues, we try to channel some toward taking carpet out or replacing carpet… We regularly monitor the air quality, using a computer driven system."

—Dr. William Dean, superintendent, Frederick County, VA

While many IAQ solutions are low-cost or require no additional direct cost to schools, some big budget improvements such as repairs to large systems like roofs, flooring, windows, lighting, or ventilation cannot be avoided. Possible funding sources are:

- The school budget—the capital budget, the operating budget, money from grants, rebates, or fundraisers.
- Linking IAQ improvements to energy-efficiency upgrades—particularly upgrades to the heating, ventilating, and cooling (HVAC) systems.
- Third-party financing and tax-exempt lease-purchase agreements.
- Individuals with Disabilities Education Act (IDEA) grants

"We just passed a $25 million code compliance bond and a $22.5 million Building and Technology bond. We put in a Med-Assist System as part of the latter. It tracks air intake, preventive maintenance, etc. for the whole system. This allows us to find problems before they happen. We use IAQ in a partnership with our insurance company. It's a pretty decent program."

—Dr. Michael Frechette, superintendent, Norwich (CT) Public School

The EPA's IAQ *Tools for Schools* is an excellent, results-oriented tool. With support from EPA, AASA offers an internet presentation for school leaders on financing good indoor air quality. Call 703-875-0731 for more information. ■

Q&A with Dr. Beverly Hall, Superintendent, Atlanta Public Schools

Q. How asthma-friendly is your district?

A. Effective teamwork between school nurses, staff, students, families and health care providers facilitate the district's efforts to create a supportive asthma friendly environment.

Q. What are some of your Best Practices that might be shared with other districts?

A. The district's "best practices" include ongoing annual collaborative community-based partnerships with pediatric health care providers to host on-site health fairs and educational sessions to teach staff, students and parents about asthma.

Q. What prompted your district to address this issue?

A. The city of Atlanta experiences many "high ozone" days annually, which adversely affect students diagnosed with asthma and exacerbates their symptoms. The high ozone days require precautionary measures regarding outdoor activities involving student diagnosed with asthma.

Q. Are students in your district allowed to carry their inhalers and use as needed?

A. Students in the Atlanta Public Schools are allowed to carry their asthma inhalers and use as needed per written physician prescribed medication administration orders. Physicians are requested to document that their client has received asthma education regarding the safe self administration of prescribed medication. School nurses assess student's asthma knowledge and ability to safely self-medicate per written physician medication administration orders. The State of Georgia also passed legislation during the 2002 session authorizing the self administration of prescribed asthma medication by students diagnosed with asthma.

Q. Are there policies for allowing students to play outside or participate in physical education activities on high ozone/pollution/allergen days?

A. While the district does not have policies to specifically address outdoor activities during high ozone days or participation in physical education activities, such activities are restricted on indicated days. Physicians provide specific instructions regarding participation in physical education activities and precautions required for high ozone days.

Sample "Dear Doctor" Letter

Dear ____________________ (name or provider)

Asthma may be affecting your patient's school performance.

We are writing about your patient, ______________________________ Date of Birth: __________

The following information is being provided for your information and records.

- ❑ Missed ___ days in _____ period of time, possibly due to asthma.
- ❑ Is not complying with asthma medication at school or the treatment plan you have provided.
- ❑ Is not participating in P.E. because of symptoms related to asthma.
- ❑ Visits school health office frequently because of symptoms related to asthma.
- ❑ Has required emergency management of asthma (e.g.: 911, ER referral).
- ❑ Our history and observations reveal that this student's asthma severity has changed (see chart).

	Days w/symptoms	**Nights w/symptoms**	**PEF variability**
Severe Persistent	Continual	Frequent	> 30%
Moderate Persistent	Daily	> 4 per month	> 30%
Mild Persistent	> 2 per week	3-4 per month	20-30%
Mild Intermittent	< 2 per week	< 2 per month	< 20%

The family was asked to schedule an appointment with you. Parents have provided permission for us to exchange information (attached or shown below).

Please help with the following, either before or after the patient's next appointment:

- ❑ Please send us an "Asthma Action Plan" (attached form) so we can assist with your management plan.
- ❑ Student has no Peak Flow Meter. Please prescribe one so that we may better assist with management.
- ❑ Please prescribe a "Spacer." This student's technique with MDI was observed and is not adequate.
- ❑ Requires an additional MDI ________ (medication name) at school for optimal availability/safety.
- ❑ Please reassess this child and his/her current medical regimen. (See symptoms/severity above.)
- ❑ Other: ____

Please reach us if there are questions or concerns. Thank you!

______________________________ ______________________________

District Medical Consultant School Nurse (Printed and signature)

____________ ____________ ____________ ____________

School Phone Fax Best days/time

I permit my child's doctor (named above) to communicate with school staff regarding my child's asthma.
Parent's signature ______________________________________ Date __________

Source: American Academy of Pediatrics

Asthma Management, Policies & Procedures

Continued from page 6

type of information. Make sure that physical education teachers and coaches have adequate training—can they help prevent an asthma attack and redirect student activities without stopping a child's participation?

4. Provide a safe and healthy school environment to reduce asthma triggers. Ensure a smoke-free environment at all district-sponsored activities, on all district-owned properties and any form of school transportation. Promote good indoor air quality by reducing or eliminating allergens and irritants. Although school districts have no control over the quality of the air outdoors, there are questions that can provide you with some policy guidance: Does the district have a policy limiting students' outdoor activity on high ozone, high pollution, high pollen and extremely cold days? What is the procedure regarding field trips scheduled on such days? Have you considered equipping staff members on student field trips with cellular phones or other communication devices in case of asthma emergencies?

5. Provide opportunities for safe, enjoyable physical activity. Encourage full participation in physical activities when students are well, provide modified activities as indicated by the action plan, 504 Plan or IEP, as appropriate, and ensure that students have access to medications before activity. With proper management, children with asthma can walk to school, participate fully in school activities and potentially become a top athlete. Jackie Joyner-Kersee and Greg Louganis have asthma, and at least one in six athletes representing the United States at the 1996 Olympic Games had a history of asthma (*J Allergy Clin Immunol* 2000; Vol. 106, No. 2: 260-266).

Jackie Joyner-Kersee accepts thanks after speaking to children with asthma at Parks Middle School in Atlanta.

6. Coordinate school, family and community efforts to better manage asthma symptoms and reduce school absences among students with asthma. Obtain written permission for school health staff and physicians to share student health information. It is important to work with local communities to educate families about asthma symptoms to help reduce student absences. Proactive leadership by superintendents and boards can create a coordinated, supportive environment for children with asthma. By working together, and with other school district staff, families and the community, the impact of asthma on students can be lessened. ■

Examples *Continued from page 9*

Frederick County (VA) Public Schools

"We only have 11,000 students but a significant number of them report having asthma, says Frederick County Supt. Dr. William Dean. "When you take a look at what asthma does to a youngster, those kinds of episodes can't help but erode school performance. It's uncomfortable, and it's frightening for them. That has to affect their performance." "I would consider us asthma friendly," he continues. "Our school nurses keep a confidential list—it's shared with teachers on a need-to-know basis. We ask for principal input yearly. On an annual basis we send out physical forms and ask for an update on each child's status. Each of our schools has at least one peak flow meter. Also, we're a non-smoking school system. It's not allowed even on the grounds."

Dr. Dean points out that whenever there are dollars available for maintenance issues, the school board tries to channel some toward taking carpet out or replacing carpet. Maintenance, such as replacing filters, is strictly done. "We are careful to ensure that there is a change of air throughout the system," he notes "I've been in situations where the only air change occurred when students opened the doors. We regularly monitor the air quality, using a computer driven system. We haven't had any major incidents, but perhaps because that is because we are so careful about the air quality in the first place." ■

Liability & Litigation

A Legal Primer

School Responsibilities

Under the Individuals with Disabilities Education Act (IDEA) of 1997, schools are required to promote the health, development, and achievement of students with asthma. Asthma is classed as a disability under the "Health Impaired" category of IDEA, if it adversely affects a child's educational performance or interferes with learning.

Schools are also required to remove "disability barriers" under Section 504 of the Rehabilitation Act ("504"). This law prohibits discrimination against those with disabilities in education or employment. While having asthma is not considered a disability in itself, school conditions (such as poor IAQ) may be considered "disability barriers" which bar equal access for those with asthma. Schools are obliged to inform parents and students whom to contact if they perceive discriminatory situations, conditions, practices or policies within the school. Further, "504" requires schools to follow certain procedures to protect the rights of parents, students, and school staff, and to ensure that decisions made regarding a child's needs, and their implementation, are fair and appropriate. It stipulates that schools and parents should act as partners in the planning and decision making involved in the child's welfare.

Both IDEA and "504" outline student evaluation procedures and stipulate the creation of individual health plans—an Individualized Education Plan (IEP) and a "504" accommodation plan, respectively. In addition to a student's asthma-related information, these plans include environmental modifications, physical education planning, and provision for studies during asthma-related absences from school. "504" ensures access to federally funded services for any handicapped person; IDEA provides funds to help schools serve these students when specific requirements are followed (IDEA grants.)

Maurice Watson, an attorney with Blackwell Sanders Peper Martin of Kansas City, MO, and a specialist in education law, notes that in disability cases the courts increasingly look at the severity of the impairment. Thus, if the asthma can be reasonably managed by medication, he continues, that individual might no longer have protection under IDEA and other federal statutes. "The court might say there is no "need" for further accommodation.

Twenty-one states currently have statewide policies or laws giving

On the other hand, parents might respond that if there was higher compliance with IAQ, the child could use less medication."

A school's best protection against liability is having policies and procedures in place and being proactive. In the event of a lawsuit against the school district, it is important to be able to demonstrate that a school maintained its duty of care to students and staff by responding to complaints, dealing with problems (establishing or disproving causation between, for example, poor IAQ and health complaints), and foreseeing potential problems.

Know the Law

In 1996, a court found the school's principal, guidance counselor, and the Orleans Parish school board negligent in the death of an 18-year old New Orleans schoolgirl, according to a report in the May 29, 1996, issue of *Education Week*. Catrina Lewis died when a call to 911 was delayed because of efforts by the school counselor to contact her mother, as directed by the principal. Lewis alerted a school security guard when her inhaler was ineffectual in controlling her asthma attack. The guard immediately contacted the school principal who said that the girl's mother had to be called (in his testimony he said he did not mean for her to be called first, but to be contacted about the situation.) The school counselor tried unsuccessfully to reach Lewis' mother, and after 34 minutes it was the girl's younger sister who eventually called 911.

The judge found that the principal and counselor violated a state law stating that school officials have a duty to provide emergency medical care when a student requests it, and found the school board negligent in both failing to provide adequate training for its employees, and in failing to have a clear policy on medical emergencies. The judge ordered the insurance companies for the two school officials to pay $1.4 million in damages to Ms. Lewis' mother and two sisters, and the school board to pay $200,000.

In 2002, a California jury unanimously awarded $9 million in damages (later reduced to $2.225 million on appeal) to a mother after the death of her 11-year old son from an asthma attack at school. The school district was found guilty of negligence for failing to warn parents of an unwritten school policy that would have allowed the boy to carry an inhaler with him. Due to a written school policy stating that all medications must be stored in a specific place at the school, Phillip Gonzalez and his mother understood that he was not permitted to carry his inhaler. The school district contended that the regulation did not preclude a student from carrying necessary medication if certified necessary by a physician. However, in her testimony, Phillip's mother pointed out that the physician's authorization form supplied by the school does not have a space for a doctor to indicate that the student should carry and/or administer his or her own medication. The court ruled that the district was liable for negligence due to the fact that the policy requiring medications to be stored at school was written but the exception was not (*Health and Health Care,* 2002.) Twenty-one states currently have statewide policies or laws giving students the right to carry and use asthma inhalers at school.

Legal checklist

- Know the law and be proactive in following it.
- Ensure you have policies in place to avert medical emergencies and clear emergency plans to deal with life-threatening situations.
- Inform parents of procedures for reporting complaints about health or environmental issues.
- Respond to all questions or complaints—including those from teachers—promptly and effectively.

Some Uncertainties

Attorney Maurice Watson points out that in terms of air quality issues, schools are not covered by Occupational Safety Health Administration (OSHA) standards, and it is uncertain what the legal obligations might be in the future.

Mold in schools is emerging as a big problem for school districts. Many schools across the country have been closed for days, weeks and in some cases permanently, due to mold. And dozens of lawsuits have been filed already by teachers. The whole school district pays in such cases: students often have to be accommodated on other campuses, repairs are expensive and public (especially if the school is closed down), and someone may have to foot the illness compensation bill. ■

students the right to carry and use asthma inhalers at school

Resources

Resources

Allergy & Asthma Network Mothers of Asthmatics (AANMA)
www.aanma.org, 1-800-878-4403. Information on community awareness programs.

American Academy of Allergy, Asthma, and Immunology
www.aaaai.org, 1-800-822-2762. Physician referral directory, information on allergies and asthma for consumers and health professionals.

American Academy of Pediatrics
www.aap.org/, 1-847-434-4000. Information, resources, and publications on asthma; descriptions of grant projects.

American Association of School Administrators (AASA) Asthma Initiative.
www.aasa.org/issues_and_insights/safety/asthma.htm, 703-875-0759. *Powerful Practices for Asthma Wellness, IAQ Tools for Schools*

American Lung Association
www.lungusa.org, 1-800-LUNG-USA. Comprehensive information on the prevention, diagnosis, management and treatment of asthma.

Centers for Disease Control and Prevention
www.cdc.gov/nceh/airpollution/asthma/default.htm, 1-888-232-6789. Information and statistical data on asthma; coordinated school health programs.

Environmental Protection Agency
www.epa.gov/iaq/asthma/resources.html. 1-800-438-4318. Resources on asthma and indoor air quality.

National Association of School Nurses
www.nasn.org, 1-877-627-6476. Asthma education program for school nurses.

National Education Association Health Information Network
www.asthmaandschools.org, 800-718-8387. Information on asthma for teachers and administrators

National Heart, Lung and Blood Institute
www.nhlbi.nih.gov/about/naepp, 301-496-4236. Outlines diagnosis and management practices. Includes information for schools on asthma.

STARBRIGHT Foundation
www.starbright.org, 310- 479-1212. Asthma CD-ROM for schools.

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Strengthening the vital alliance between school board & superintendent

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