



New York State United Teachers

INFORMATION BULLETIN

Research and Educational Services

Field Services

AUTOMATED EXTERNAL DEFIBRILLATORS (AEDs) IN SCHOOLS

In May 2002, legislation was approved to require all public school districts, BOCES, county vocational education and extension boards, and charter schools, to provide and maintain on-site, in each instructional school facility, at least one functional automated external defibrillator (AED). An AED is a device that is used to restore a normal heartbeat in an individual who has experienced sudden cardiac arrest. The AED provides an electrical shock to the heart, which helps to restore a normal rhythm.

The legislation also requires public school officials and administrators responsible for such school facilities to ensure the presence of at least one staff person who is trained in the operation and use of an AED.

In August 2002, an amendment to the legislation was adopted that allowed school districts, BOCES, county vocational and extension boards, and charter schools that are unable to comply with the new law by September 1, 2002, to delay implementation until December 1, 2002.

GENERAL INFORMATION:

- ✓ What Does Education Law §917 Mandate?
- ✓ When must a district provide an Automated External Defibrillator and a trained staff person?
- ✓ What requirements must be met for a district to be a Public Access Defibrillator (PAD) provider?
- ✓ How many AEDs will districts need?
- ✓ Who will use the AEDs? Can our members be mandated? Should we be bargaining over this?

LIABILITY:

- ✓ What if something goes wrong during the use of an AED? What protections do our members have?

TRAINING

- ✓ Where can districts get training for staff who would use AEDs? Is there training for using pediatric AEDs? When should training be held?
- ✓ What should a district do to effectively plan and support a PAD program?

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GENERAL INFORMATION:

What Does Education Law §917 Require?

- Section 917 of Education Law requires all school districts to become Public Access Defibrillator providers in accordance with Public Health Law 3000-b. Prior to the passage of Section 917, school districts were encouraged to voluntarily become PAD providers.
- Under *Public Health Law 3000-b* all school districts, BOCES, county vocational education and extension boards, and charter schools must provide and maintain on-site, in each instructional school facility, at least one functional automated external defibrillator (AED) for use during emergencies. The legislation also requires public school officials and administrators responsible for such school facilities to ensure the presence of at least one staff person who is trained in the operation and use of an AED.
- Public access defibrillation programs allow trained lay people to use an automated type of defibrillator in combination with CPR. In 1998, Chapter 552 of Public Health Law was passed, authorizing Public Access Defibrillation to ensure greater public availability to AEDs.

When must a district provide an AED and a trained staff person?

- An AED must be available whenever public school facilities (including school districts, BOCES, county vocational education and extension or a charter school) are used for school sponsored or approved curricular or extracurricular activities and events, including athletic contests.
- A school sponsored athletic event means both extra class *intramural* activity of instruction, practice and competition for students in grades 4-12 and *interschool* competitive athletic events of instruction, practice or competition for students in grades 7-12 held at *any* location, even non-public school facilities.
- The International Consensus on Science, *Guidelines 2000 for Cardio-pulmonary Resuscitation and Emergency Cardiovascular Care* suggests that each instructional school facility should develop a plan that enables trained staff to respond to a victim's collapse within 4 to 5 minutes. (Source: Vol. 102, #8. American Heart Association. August 2000.)

What requirements must be met for a district to be a PAD provider?

Each PAD provider must:

- Give specific notification of intent to the local Regional Emergency Medical Services Council and the Department of Health (DOH). A link to the listing of regional councils can be found at <http://www.health.state.ny.us/nysdoh/ems/regional.htm>
- Identify a physician or hospital knowledgeable and experienced in emergency cardiac care to serve as "emergency health care provider (EHCP)" and participate in a collaborative agreement with the district.
- Select an approved training course for designated AED users.

- Develop a written collaborative agreement with the EHCP. The collaborative agreement must include at least the following:
 - written practice protocols for the use of the AED
 - written policies and procedures which:
 - * provide training requirements for AED users;
 - * ensure immediate calling of 911;
 - * ensure ready identification of the location of the AED units;
 - * provide for regular maintenance and checkout procedures of the AED unit(s) which meet or exceed manufacturers recommendations;
 - * detail documentation requirements; and
 - * define participation in a regionally approved quality improvement program.
- Provide written notice to 911 and/or the community equivalent ambulance dispatch entity of the availability of AED service at the organization's location.
- File a copy of the "[Notice of Intent to Provide PAD](#)" (DOH 4135) with the Regional Emergency Medical Services Council (REMSCO) in the area, along with a signed copy of the Collaborative Agreement with the EHCP.

How many AEDs will districts and BOCES need?

- Districts must consider: size and physical layout of the building, number and ages of individuals in the building, types and locations of athletic events, location of curricular and extracurricular events, and other design features that might be unique to the facility.
- Strategic placement and availability of AEDs, as well as trained staff, are critical to the school's PAD program.

Who will use the AEDs? Can our members be mandated? Should the local be bargaining over this?

As a general rule, the Taylor Law provides that the addition of a duty is mandatorily negotiable if the additional duty is not inherently part of the employee's existing duty description. On the other hand, if the additional work is inherently part of the employee's regular duties, the employer has no duty to negotiate the decision to require it. In either case, the employer has a duty to bargain the impact of the additional work assignment if the union demands impact bargaining. Therefore, those employees who are already required, as part of their regular duties, to provide emergency care response, can be required to perform AED use without negotiation of the decision. To the extent that the union is able to reach agreement with the employer that AED users will be identified as a result of voluntary participation, bargaining concerning the impact of the additional responsibility remains an option available to the union.

Issues appropriate for bargaining are:

- payment for training time if outside the normal working hours;
- reinforcement of liability protection under Education and Public Officers laws;
- clarification that training in AED use does not add this duty to the scope of a job title;
- ability to decline assignment;
- specification of use – when, on whom, for what events;

- on-call, overtime payments or stipends;
- clarification of district responsibility for maintenance and security of AEDs.

LIABILITY:

What if something goes wrong during the use of an AED? What protections do our members have?

Sections 3023 and 3811 of Education Law and Public Officers Law Section 18 require school districts and BOCES to “save harmless,” defend and indemnify employees in certain circumstances. Employees are protected from financial loss in negligence action and indemnified in any action, where such negligence or other action arises out of the performance of the employee’s duties and are within the scope of her/his employment.

In addition, if a person is trained voluntarily and without compensation and uses an AED, there is liability protection through state Public Health Law Section 3000. Section 3000 liability would not cover employees who are mandated to be AED users and/or who receive compensation (i.e. stipends). It would also not cover those employees whose job titles normally include emergency care response as part of their role. These employees, however, would have liability indemnification under Education Law sections 3023 and 3811 and under Public Officers Law Section 18.

Locals and staff are encouraged to meet with district administration to specify member duties regarding AED use and to clarify all issues of liability.

TRAINING

Where can districts get training for their AED users? Is there training for using pediatric AEDs? When should training be held?

- A list of contact information on approved training providers may be found at the following web site: <http://www.nyhealth.gov/nysdoh/ems/policy/09-03.htm>
- Currently there is no approved PAD training course for the use of pediatric-modified AEDs. The New York State Department of Health, Bureau of Emergency Medical Services, indicated that PAD training that includes Infant CPR, Child CPR, Adult AED, and manufacturer’s guidelines on the use of the defibrillator with children under the age of 8, would meet the requirements for PAD programs using an FDA approved pediatric-modified AED.
- Districts may use Safety/Risk Management CoSer No. 7470 to provide training, conduct building assessments, and conduct drills.
- Training should be held during the regular workday. If this is not possible, staff should be paid for their time attending the training during off-hours.

What should a district do to effectively plan and support a PAD program?

The State Education Department has identified the following elements as essential in the planning and support of a district’s public access defibrillation (PAD) program:

- A core emergency response team of trained personnel, including the school nurse, and a method to activate the team;

- A well-defined emergency plan that clearly states all policies and procedures relative to the use of an automatic electronic defibrillator (AED);
- Strategic placement and availability of the AED unit(s);
- A rapid and effective communication system, especially with regard to events held at remote locations;
- Initial training, periodic refresher sessions, and systematic retraining of appropriate staff in CPR, including the use of AEDs;
- Regular maintenance of the AED unit(s) according to the manufacturer's specifications
- Periodic testing and repair/replacement of non-functioning units;
- Reporting the use of an AED to the collaborating emergency health care provider, who in turn is required to report to the Regional Emergency Medical Services Council; and
- Physician oversight.

Attached is a set of recently revised questions and answers from the New York State Education Department. For more information visit the SED web site:

<http://www.p12.nysed.gov/sss/schoolhealth/schoolhealthservices/AEDs.html>.

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New York State Education Department
Questions and Answers Regarding
Implementation of Section 917
Automated External Defibrillators in Schools
Round 2

Note: for the purposes of this document LEA shall mean “a school district, a board of cooperative educational services, a county vocational education and extension board or a charter school” unless otherwise indicated.

DEFINITIONS

1. What is an instructional school facility?
 - An instructional school facility means a building or other facility (such as an athletic field) maintained by an LEA where instruction is provided to students pursuant to its curriculum.
2. What does “maintained” mean?
 - For the purposes of this legislation, maintained shall mean owned, leased or rented by the LEA. i.e. the legal responsibility of the LEA.
3. What is the difference between a school-sponsored and a school-approved event?
 - School-sponsored and school-approved curricular and/or extracurricular events/activities are all activities of the LEA associated with its instructional curriculum or otherwise offered to its students: for example, classroom instruction, school clubs, and athletics.
 - Activities related to the LEA that are NOT curricular in nature are excluded from this mandate: for example, Board meetings, PTA meetings, school-based management team meetings, etc.
 - Other activities sponsored by outside groups such as 4-H, Girl/Boy Scouts, Community Youth Groups including physical activity, etc. are not included in this mandate, even if the school process includes board or administrative approval.
4. What is the difference between curricular and extracurricular?
 - This legislation covers both curricular and extracurricular activities that are related to the LEA’s instructional program, including athletic contests and events. No distinction need be made.
5. What is the difference between an athletic contest and a competitive athletic event?
 - An athletic contest refers to a sports activity that takes place within a district.
 - A competitive athletic event refers to an athletic event that takes place between two or more districts or between a district and one or more non-public schools.
 - This legislation requires AED coverage for both athletic contests and competitive athletic events.
 - Athletic practices must also be covered.
6. What is the difference between ensure and assure?
 - For the purposes of this legislation, ensure and assure have the same meaning.

7. How is staff defined for the purposes of this law?

- Staff is defined as anyone responsible for rendering services related to the LEA’s curricular and/or extracurricular program, including those employed (paid for services, e.g. outside security personnel) and individuals who volunteer (e.g. assistant coaches, trainers, classroom aides, etc.)

APPLICATION

1. Where and when must AED coverage be provided by an LEA?

- AED coverage must be provided in all instructional school facilities used for school-sponsored or school-approved curricular or extracurricular events or activities and school-sponsored athletic contests and competitive athletic events.

2. Is the LEA responsible for providing AED coverage for children under 8 years/55 pounds who are involved in curricular or extracurricular activities in an upper elementary, middle or high school building?

- The regulation (CR 136.4) states that the LEA must provide AEDs “appropriate for the population reasonably anticipated to be served.”
- If children under 8 years/55 pounds are present in an upper elementary, middle or high school facility as a routine part of their instructional curriculum, i.e. daily or weekly, coverage must be provided.

The law applies to:

1. “Portable” buildings, such as those used during construction;

2. Athletic events at a non-public school or a community facility;

- A LEA must ensure that AED equipment and trained staff are provided when participating in a competitive athletic event (off-site) and supplement coverage if it believes that the AED capacity of the “home” district is inadequate.

3. Activities in which students are spread out over large distances, such as golf events, cross-country track, crew;

- The LEA should take reasonable steps to increase the likelihood that an AED will be available in the event of an emergency.
- A communication system and a mechanism for transporting the AED and a trained operator to the site of an emergency should be included as part of the LEA’s response plan.

4. An off-site building that is maintained by the LEA and used for curricular activity, regardless of the number of students involved (e.g. 20 - 30 students in an off-site environmental class);

5. Adult education classes, if part of the district’s instructional program;

6. Before and after school programs, if part of the LEA’s instructional program or otherwise offered to its students; and

7. Activities such as play rehearsals, debate club, etc. at the instructional school facility.

The Law DOES NOT APPLY to:

1. Buildings such as bus garages and administrative buildings that are used solely for non-instructional purposes (not used for curricular and/or extracurricular purposes);
2. Field trips [examples include class trips, travel abroad, short-term off-site trips to investigate subjects relevant to classroom instruction (environmental exploration at wet land, museum visit to learn about wars, trip to a botanical garden), a class walk to a park]; and
3. Non-school groups, community groups/activities.