

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6290

To direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop a 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

SEPTEMBER 29, 2006

Mrs. LOWEY introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, 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 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Food Allergy and Ana-  
5 phylaxis Management Act of 2006”.

1 **SEC. 2. FINDINGS.**

2 Congress finds as follows:

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

6 (2) Peanut allergy doubled among students  
7 from 1997 to 2002.

8 (3) In a 2003 survey of 400 elementary school  
9 nurses, 37 percent reported having at least 10 stu-  
10 dents with severe food allergies and 62 percent re-  
11 ported having at least 5.

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

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

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

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

1           (8) Anaphylaxis, or anaphylactic shock, is a  
2 systemic allergic reaction that can kill within min-  
3 utes.

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

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

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

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

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

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

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

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

21 **SEC. 3. DEFINITIONS.**

22          In this Act:

23           (1) ESEA DEFINITIONS.—The terms “local  
24           educational agency”, “secondary school”, and “ele-  
25           mentary school” have the meanings given the terms

1 in section 9101 of the Elementary and Secondary  
2 Education Act of 1965 (20 U.S.C. 7801).

3 (2) SCHOOL.—The term “school” includes pub-  
4 lic—

5 (A) kindergartens;

6 (B) elementary schools; and

7 (C) secondary schools.

8 (3) SECRETARIES.—The term “Secretaries”  
9 means the Secretary of Health and Human Services,  
10 in consultation with the Secretary of Education.

11 **SEC. 4. ESTABLISHMENT OF FOOD ALLERGY AND ANAPHY-**  
12 **LAXIS MANAGEMENT POLICY.**

13 (a) ESTABLISHMENT.—Not later than 1 year after  
14 the date of enactment of this Act, the Secretaries shall—

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

18 (2) make such policy available to local edu-  
19 cational agencies and other interested individuals  
20 and entities.

21 (b) CONTENTS.—The policy developed by the Secre-  
22 taries under subsection (a) shall contain guidelines that  
23 address each of the following:

1           (1) Parental obligation to provide the school,  
2           prior to the start of every school year, with docu-  
3           mentation from the student’s physician or nurse—

4                   (A) supporting a diagnosis of food allergy  
5                   and anaphylaxis;

6                   (B) identifying any food to which the stu-  
7                   dent is allergic;

8                   (C) describing, if appropriate, any prior  
9                   history of anaphylaxis;

10                  (D) listing any medication prescribed for  
11                  the student for the treatment of anaphylaxis;

12                  (E) detailing emergency treatment proce-  
13                  dures in the event of a reaction;

14                  (F) listing the signs and symptoms of a re-  
15                  action;

16                  (G) assessing the student’s readiness for  
17                  self-administration of prescription medication;  
18                  and

19                  (H) providing a list of substitute meals  
20                  that may be offered by school food service per-  
21                  sonnel.

22           (2) The creation and maintenance of an indi-  
23           vidual health care plan tailored to the needs of each  
24           student with a documented risk for anaphylaxis, in-

1 including any procedures for the self-administration of  
2 medication by such students in instances where—

3 (A) the students are capable of self-admin-  
4 istering medication; and

5 (B) such administration is not prohibited  
6 by State law.

7 (3) Communication strategies between indi-  
8 vidual schools and local providers of emergency med-  
9 ical services, including appropriate instructions for  
10 emergency medical response.

11 (4) Strategies to reduce the risk of exposure to  
12 anaphylactic causative agents in classrooms and  
13 common school areas such as cafeterias.

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

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

20 (7) The authorization and training of school  
21 personnel to administer epinephrine when the school  
22 nurse is not immediately available.

23 (8) The timely accessibility of epinephrine by  
24 school personnel when the nurse is not immediately  
25 available.



1 such time, in such manner, and including such infor-  
2 mation as the Secretaries may reasonably require.

3 (2) CONTENTS.—Each application submitted  
4 under paragraph (1) shall include—

5 (A) a certification that the food allergy  
6 management guidelines contained in the policy  
7 described in section 4 have been adopted by the  
8 local educational agency;

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

12 (i) how the guidelines will be carried  
13 out at individual schools served by the  
14 local educational agency;

15 (ii) how the local educational agency  
16 will inform parents and students of the  
17 food allergy management guidelines in  
18 place;

19 (iii) how school nurses, teachers, ad-  
20 ministrators, and other school-based staff  
21 will be made aware of, and given training  
22 on, when applicable, the food allergy man-  
23 agement guidelines in place; and

24 (iv) any other activities that the Sec-  
25 retaries determine appropriate;

1           (C) a budget table that itemizes the  
2 amounts of grant funds received under this sec-  
3 tion that will be expended on various activities;

4           (D) a description of how adoption of the  
5 guidelines and implementation of grant activi-  
6 ties will be monitored; and

7           (E) an assurance that the local educational  
8 agency will provide such information and co-  
9 operate in any evaluation that the Secretaries  
10 may conduct under this section.

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

14           (1) Creation of systems and databases related  
15 to creation, storage, and maintenance of student  
16 records.

17           (2) Purchase of equipment or services, or both,  
18 related to the creation, storage, and maintenance of  
19 student records.

20           (3) In partnership with local health depart-  
21 ments, school nurse, teacher, and personnel training  
22 for food allergy management.

23           (4) Purchase and storage of limited medical  
24 supplies, including epinephrine and disposable wet  
25 wipes.

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

4           (6) Outreach to parents.

5           (7) Any other activities consistent with the  
6           guidelines contained in the policy described in sec-  
7           tion 4.

8           (d) DURATION OF AWARDS.—The Secretaries may  
9           award grants under this section for a period of not more  
10          than 2 years. Funding for the second year of the grant,  
11          where applicable, shall be contingent on successful review  
12          of the program by the Secretaries after the first year.

13          (e) MAXIMUM AMOUNT OF AWARDS.—A grant  
14          awarded under this section may not be made in an amount  
15          that is more than \$50,000.

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

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

25          (h) PROGRESS AND EVALUATIONS.—

1           (1) LESS THAN A 1 YEAR GRANT.—A local edu-  
2           cational agency that receives a grant under this sec-  
3           tion for a period of not more than 1 year shall pro-  
4           vide the Secretaries, at the completion of the grant  
5           period, with information on whether the agency suc-  
6           cessfully implemented the food allergy management  
7           guidelines contained in the policy described in sec-  
8           tion 4.

9           (2) GRANTS FOR A 1 TO 2 YEAR PERIOD.—A  
10          local educational agency that receives a grant under  
11          this section for a period of 1 to 2 years shall provide  
12          the Secretaries—

13                 (A) not later than 1 year after the agency  
14                 receives such grant, with information on the  
15                 progress made in implementing the food allergy  
16                 management guidelines contained in the policy  
17                 described in section 4; and

18                 (B) at the completion of the grant period,  
19                 with information on whether the agency suc-  
20                 cessfully implemented the food allergy manage-  
21                 ment guidelines contained in the policy de-  
22                 scribed in section 4.

23          (i) RULE OF CONSTRUCTION.—The food allergy man-  
24          agement guidelines contained in the policy described in

1 section 4 are voluntary but a condition of receiving grant  
2 funds under this section.

3 (j) SUPPLEMENT, NOT SUPPLANT.—Grant funds re-  
4 ceived under this section shall be used to supplement, and  
5 not supplant, non-Federal funds and any other Federal  
6 funds available to carry out the activities described in this  
7 section.

8 (k) AUTHORIZATION OF APPROPRIATIONS.—There is  
9 authorized to be appropriated to carry out this section  
10 \$30,000,000 for fiscal year 2007 and such sums as may  
11 be necessary for each of the 4 succeeding fiscal years.

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