



# POLICY DEVELOPMENT NEWS

## STUDENT HEALTH: THE MATTER OF MEDICATION

In this issue of Policy Development news, MSMA presents its revised sample policy JLCD, *Administration of Medication to Students*.

The immediate impetus for the revision was the Maine Legislature's 2016 enactment of L.D. 1556, Resolve Ch. 65, "*Resolve, Regarding Legislative Review of Portions of Chapter 40: Rule for Medication in Maine Schools, a Major Substantive Rule of the Department of Education*." Through this Act, the Legislature approved the rule changes that the Maine Department of Education (DOE) had drafted in response to the law enacted in 2013, *An Act to Establish Guidelines for the Stocking and Administration of Epinephrine Auto injectors in Schools*."

Codified as 20-A MRSA §6305, that Act provides that a school unit *may* authorize adoption of a collaborative practice agreement for the purposes of stocking and permitting the school nurse to administer an epinephrine pen to any student experiencing anaphylaxis during school or a school-sponsored activity. This can also be done by unlicensed personnel who have training in administration of medication when the school nurse is not present). The collaborative practice agreement is the mechanism for the Board to permit a physician licensed in Maine or a school health advisor as defined by Maine law) to prescribe an epinephrine auto injector and authorize the school nurse and trained unlicensed personnel to administer it to a student. We have included the definition of "collaborative practice agreement" and appropriate authorization language in the revised policy.

Revision of the policy to accommodate the change in law and Rule Chapter 40 offered the opportunity to address other common medication-related issues as well, such as administration of medication of over-the-counter medications pursuant to a standing order by the school physician.

We have included the policy in its entirety following this introduction, but it is also available in Word [here](#) for the convenience of board members and superintendents/designees.

It should be noted that the Rule still requires that schools develop procedures/protocols for medication administration on field trips and during off-campus activities if they are not already included in policy. Such protocols/procedures must be in compliance with the Department of Education's Procedure for Medication Administration on Field Trips. In 2001, the DOE published its "*Policy for Medication on Field Trips*," a document that was adopted as an agreement between the Board of Pharmacy, the Board of Nursing and the DOE. It is now included in the DOE's Maine School Health manual with the title "*Medication Administration on School Field Trips*." While the title is different, the content and the code (JLCD-E) remain the same. We have included it for reference following sample policy JLCD, but it may also be found [here](#), in Word.

Superintendents/designees who have questions about medication or other school health issues may want to contact the DOE's new School Nurse Consultant, Emily Poland ([emily.poland@maine.gov](mailto:emily.poland@maine.gov), 207-624-6688).

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\*MSMA REVISED SAMPLE POLICY\*

NEPN/NSBA Code: JLCD

## ADMINISTRATION OF MEDICATION TO STUDENTS

The Board discourages the administration of medication to students during the school day when other options exist, but recognizes that in some instances it may be necessary for a student to have medication administered to him/her while the student is in attendance at school. The school will not deny educational opportunities to students requiring the administration of medication in order to remain in attendance and participate in the educational program.

The intent of this policy is to promote the safe administration of medications to students by school personnel and to provide for authorization of student emergency self-administration of medication from asthma inhalers and epinephrine auto injectors.

This policy does not apply to medical marijuana, which is addressed in the Board's policy JLCDA, Medical Marijuana in Schools.

**[OPTIONAL: This policy also authorizes the adoption of a “collaborative practice agreement” for the purposes of stocking and administering of epinephrine auto injectors to any student during school or a school-sponsored activity under emergency circumstances involving anaphylaxis.]**

**[NOTE: Maine law permits school units to authorize the adoption of a “collaborative practice agreement” for the purposes of stocking and administering of epinephrine auto injectors to students during school or a school-sponsored activity under emergency circumstances involving anaphylaxis (20-A MRSA § 6305). This enables the school nurse and designated school personnel who have been trained to administer this medication in accordance with DOE Rule Chapter 40 and have been “authorized” to do so to administer epinephrine auto injectors to students who do not have a prescription.]**

The Board encourages collaboration between parents/guardians and the schools in matters involving student medication.

The Board disclaims any and all responsibility for the diagnosis, prescription of treatment, and administration of medication for any student, and for any injury arising from a student's self-administration of medication.

### I. DEFINITIONS

“Administration” means the provision of prescribed medication to a student according to the orders of a health care provider.

“Collaborative practice agreement” means a written and signed agreement between a physician licensed in Maine or a school health advisor, as defined in 20-A MRSA §6402-A, and a school nurse that provides for the prescription of epinephrine auto injectors by the physician or school health advisor and administration of epinephrine injectors by the school nurse or designated school personnel to students during school or a school-sponsored activity under emergency circumstances involving anaphylaxis.

“Health care provider” means a medical/health practitioner who has a current license in the State of Maine with a scope of practice that includes prescribing medication.

“Indirect supervision” means the supervision of an unlicensed school staff member when the school nurse or other health care provider is not physically available on site but immediately available by telephone.

“Medication” means prescribed drugs and medical devices that are controlled by the U.S. Food and Drug Administration and are ordered by a health care provider. It includes over-the-counter medications prescribed through a standing order by the school physician or prescribed by the student’s health care provider. For the purpose of this policy, “medication” does not include medical marijuana.

“Parent” means a natural or adoptive parent, a guardian, or a person acting as a parent of a child with legal responsibility for the child’s welfare.

“School nurse” means a registered professional nurse with Maine Department of Education certification for school nursing.

“Self-administration” is when the student administers medication independently to him/herself under indirect supervision of the school nurse.

“Unlicensed school personnel” are persons who do not have a professional license that allows them, within the scope of that license, to administer medication.

## II. ADMINISTRATION OF MEDICATION BY SCHOOL PERSONNEL

### A. Parental Request

In the event that no reasonable alternative exists, the parent/guardian may request in writing that medication be administered to the student during the school day. The written request must include an acknowledgement

and agreement that unlicensed personnel may administer the medication as per the health care provider's instructions. In addition, the request shall indicate that information regarding the student's medication may be shared with appropriate school personnel. Parents may provide the reason (diagnosis) requiring the administration of medication.

Requests shall be valid for the current school year only.

**B. Health Care Provider's Order**

All parental requests must be accompanied by a written order from the student's health care provider substantiating the fact that the administration of a particular medication during the school day is necessary for the student's health and attendance in school. Such order must include:

1. The student's name;
2. The name of the medication;
3. The dose;
4. The route of administration (e.g., tablets, liquid, drops); and
5. Time intervals for administration (e.g., every four hours, before meals);
6. Any special instructions; and
7. The name of the prescribing health care provider.

It is the responsibility of the school nurse to clarify any medication order that he/she believes to be inappropriate or ambiguous. In accordance with Department of Education Rule Chapter 40 § 2(B), the school nurse may decline to administer a medication if he/she believes such administration would jeopardize student safety. In this case, the school nurse must notify the parent, the student's health care provider and the school administrator (i.e., building principal or designated administrator).

**[NOTE: The paragraph immediately above is consistent with the rule. We suggest that if a medication order appears to be inappropriate or ambiguous, or if the school nurse declines to administer (or declines to allow administration by unlicensed staff) on the basis of student safety, or if the student's health care provider indicates that he/she does not want a medication administered by unlicensed personnel that a meeting or telephone conference be held involving the school nurse, the building administrator, the parent(s), and appropriate professionals to discuss alternative options for administration of medication to the student.]**

C. Renewal of Parent Permission Requests/Forms and Health Care Provider Orders

Written parental permission requests/forms and health care provider orders must be renewed at least annually. Health care provider orders must be renewed whenever there are changes in the order.

D. Delivery and Storage of Medication

The student's parents shall deliver any medication to be administered by school personnel to the school in its original container and properly labelled. In the event that this is not practical, the parent must contact the school to make alternate arrangements.

No more than a 20-day (one month) supply of medication shall be kept at school, excluding inhalers and epinephrine auto injectors. The parent is responsible for the replenishment of medication kept at school.

If the health care provider's order/prescription is for a medication regulated by Schedule II of the Controlled Substances Act (21 USC §812) (e.g., Ritalin and Adderall) no more than a **[one week] OR [\_\_\_\_\_]** supply shall be kept at school.

**[NOTE: The paragraph immediately above has been added as an attempt to discourage break-ins by individuals hoping to acquire prescription drugs for personal use or further distribution.]**

The parent is responsible for notifying the school of any changes in or discontinuation of a prescribed medication that is being administered to the student at school. The parent must remove any medication no longer required or that remains at the end of the school year.

The **[school nurse OR principal OR designated school official]** shall be responsible for developing and implementing procedures for the appropriate and secure storage of medications kept at school, and all medications shall be stored in accordance with this procedure.

E. Recordkeeping

School personnel and the student's parent shall account for all medication brought to school. The number of capsules, pills or tablets, and/or the volume of other medications brought to school shall be recorded.

School staff administering medication shall document each instance the medication is administered including the date, time, and dosage given.

The **[school nurse OR principal OR [other designee]]** shall maintain a record including the parent's request, physician's order, details of the specific medications (including dosage and timing of medication), and documentation of each instance the medication is administered.

Records shall be retained according to the current State schedules pertaining to student health records.

F. Confidentiality

To the extent legally permissible, staff members may be provided with such information regarding medication and its administration as may be in the best interest of the student.

G. Administration of Medication

Medication may be administered during the school day by licensed medical personnel acting within the scope of their licenses.

The school nurse, under the administrative supervision of the Superintendent, will provide direction and oversight for the administration of medication to students.

All unlicensed personnel (principals, teachers, education technicians, school secretaries, coaches, bus drivers, etc.) who administer medication must receive training before being authorized to do so.

Based upon the documentation of training and competency in the administration of medication, the school nurse will make recommendations to the Superintendent/designee pertaining to authorization of unlicensed persons to administer medication. Training that shall be acceptable for the purpose of authorization of unlicensed personnel is addressed under the section of this policy titled “Required Training of Unlicensed Personnel to Administer Medication.”

#### H. Administration of Medication During Off-Campus Field Trips and School-Sponsored Events

The school will accommodate students requiring administration of medication during field trips or school-sponsored events as follows:

The school nurse, principal, and, as appropriate, the school unit’s Section 504 Coordinator and/or IEP, will determine whether an individual student’s participation is contraindicated due to the unstable/fragile nature of his/her health condition, the distance from emergency care that may be required, and/or other extraordinary circumstances. The student’s parent and primary care provider will be consulted in making this determination. The decision will be made in compliance with applicable laws, including the IDEA, § 504 and the Americans with Disabilities Act (ADA).

The parent must provide the appropriate number of doses needed for the duration of the field trip or school-sponsored event.

When there are no contraindications to student participation, an appropriately trained staff member will be assigned to administer medication. The parent will be encouraged to accompany the student, if possible, to care for the student and administer medication.

All provisions of this policy shall apply to medications to be administered during off-campus field trips and school-sponsored events. As practicable, the DOE’s “Procedure for Medication Administration on School Field Trips” will be followed.

#### I. Student Self-Administration of Asthma Inhalers and Epinephrine Auto injectors

Students with allergies or asthma may be authorized by the building principal, in consultation with the school nurse, to possess and self-administer emergency medication from an epinephrine auto injector or asthma inhaler during the school day, during field trips, school-sponsored events, or while

on a school bus. The student shall be authorized to possess and self-administer medication from an epinephrine auto injector or asthma inhaler if the following conditions have been met.

1. The parent (or student, if 18 years of age or older) must request in writing authorization for the student to self-administer medication from an epinephrine auto injector or asthma inhaler.
2. The student must have the prior written approval of his/her primary health care provider and, if the student is under the age of 18, the prior written approval of his/her parent/guardian. The written notice from the student's primary care provider must specify the name and dosage of the medication, frequency with which it may be administered, and the circumstances that may warrant its use.
3. The student's parent/guardian must submit written verification to the school from the student's primary care provider confirming that the student has the knowledge and the skills to safely possess and use an epinephrine auto injector or asthma inhaler.
4. The school nurse shall evaluate the student's technique to ensure proper and effective use of an epinephrine auto injector or asthma inhaler taking into account the maturity and capability of the student and the circumstances under which the student will or may have to self-administer the medication.
5. The parent will be informed that the school cannot accurately monitor the frequency and appropriateness of use when the student self-administers medication, and that the school unit will not be responsible for any injury arising from the student's self-medication.

Authorization granted to a student to possess and self-administer medication from an epinephrine auto injector or asthma inhaler shall be valid for the current school year only and must be renewed annually.

A student's authorization to possess and self-administer medication from an epinephrine auto injector or asthma inhaler may be limited or revoked by the building principal after consultation with the school nurse and the student's parents if the student demonstrates inability to responsibly possess and self-administer such medication.



To the extent legally permissible, staff members may be provided with such information regarding the student's medication and the student's self-administration as may be in the best interest of the student.

Sharing, borrowing, or distribution of medication is prohibited. The student's authorization to self-administer medication may be revoked and the student may be subject to disciplinary consequences for violation of this policy.

J. Dispensation of Over-the-Counter Medications

With prior written parent permission, students may receive certain over the counter medications at school, e.g., Tylenol, Ibuprofen, Tums, cough drops, etc. pursuant to a standing order from the school physician/school health advisor.

**[NOTE: A standing order is an order written by the school physician for the entire population of students.]**

K. Required Training of Unlicensed Personnel to Administer Medication

Unlicensed school personnel who administer medication to students in a school setting (at school, on school transportation to or from school, on field trips, or during school-sponsored events) must be trained in the administration of medication before being authorized to carry out this responsibility. **[NOTE: "School setting" is a term used in Section 3(A) of Rule Chapter 40, but it is not specifically defined in statute or rule.]** Such training must be provided by a registered professional nurse or physician and include the components specified in Department of Education Rules Chapter 40 and other applicable Department of Education standards, recommendations, programs, and/or methodologies.

The trainer shall document the training and competency of unlicensed school personnel to administer medication. Based upon a review of the documentation of training and competency in the administration of medication, the school nurse will make recommendations to the Superintendent/designee pertaining to authorization of such unlicensed personnel pertaining to authorization to administer medication.

**[NOTE: While it is anticipated that most training will be done by the school nurse, there may be situations in which training is done by the school physician, Department of Education staff or others. Therefore, we have used the phrase "review of the documentation of training and**

**competency.” In order to ensure the competency of an unlicensed person to administer medication when training has been done by someone other than the school nurse, it may be appropriate for the school nurse to confirm the individual’s competency through direct observation before making a recommendation to the superintendent/designee in regard to authorization to administer medication.]**

Following the initial training, a training review and information update must be held at least annually for those unlicensed school personnel authorized to administer medication.

L. Delegation and Implementation

The Superintendent/designee shall be responsible for developing administrative procedures and/or protocols to implement or supplement this policy.

Such procedures/protocols shall include direction regarding:

1. Safe transport of medication to and from school;
2. Administration of medication during field trips and school-sponsored events;

**[NOTE: Section 3(D)(ii) of the rule expresses this as “medication administered on field trips and other off-campus activities that is in compliance with the Department of Education’s Procedure for Medication Administration on Field Trips.” This procedure refers to the document formerly titled “Policy for Medication Administration on Field Trips,” a document adopted October 29, 2001, as an agreement between the Board of Pharmacy, the Board of Nursing, and the Department of Education. This agreement was a response to licensing issues related to the transfer of medication from its original container to another. The procedure, with the same content, is now in the Maine School Health Manual, and can be accessed at <http://maine.gov/education/sh/contents/index.html>.]**

3. Accountability for medications, particularly those regulated by Schedule II of the Controlled Substances Act;
4. Proper storage of medication at school;

5. Training of appropriate staff on administration of emergency medications including the standards for the signs and symptoms of anaphylaxis and the use of epinephrine auto injectors for previously unknown severe allergies;
6. The procedure to follow in the event of a medication reaction;
7. Access to medications in case of a disaster;

**[NOTE: This means planning for access to life-sustaining medication during a school lockdown, removal of students to another location (bomb threat, for example) and other “disasters.” This could be addressed through the school unit’s Emergency Management Plan.]**

8. The process for documenting medications given and medication errors; and

**[NOTE: A “medication error” occurs when a medication is not administered as prescribed, e.g., not given to the correct student, at the correct time, in the dosage prescribed, by the correct route, or when the medication administered is not the correct medication.]**

9. The proper disposal of medications not retrieved by parents.

**[NOTE: Items 1 through 9 above reflect the list of required components that appears in the rule.]**

Legal Reference: 20-A M.R.S.A. §§ 254(5); 4009(4); 4502 (5)(N); 6305  
 Me. Dept. of Ed. Rule Ch. 40 (2016)  
 21 USC §801 et. seq. (Controlled Substances Act)  
 28 C.F.R. Part 35 (Americans with Disabilities Act of 1990)  
 34 C.F.R. Part 104 (Section 504 of the Rehabilitation Act of 1973)  
 34 C.F.R. Part 300 (Individuals with Disabilities Education Act)

Cross Reference: JLCD-E – Medication Administration on School Field Trips  
 (Me. DOE)  
 JLCDA – Medical Marijuana in Schools

Adopted: \_\_\_\_\_

NEPN/NSBA Code: JLCD-E

**Maine Department of Education**  
**MEDICATION ADMINISTRATION ON SCHOOL FIELD TRIPS**

1. Any unlicensed personnel administering medications must hold documentation of their training in the administration of medication, including personnel administering medication on a field trip.
2. There must be written permission from the parent/guardian providing consent to administer the medication in school and a written physician's order and/or an appropriately labeled, original medication container.
3. Either a standardized, preprinted medication label or preprinted envelope containing the information described below or medication in its original container will be used for students attending a field trip.
4. When using a preprinted label or preprinted envelope, the school nurse shall transfer the prescribed amount of medication needed for the field trip from the original medication container into the approved envelope and fill in the appropriate information on the envelope.
5. The envelope will be provided to the trained personnel for administration during the trip. The school nurse will provide a review of the medication and its administration to the trained personnel on an as needed basis. All trained personnel administering medication must understand what to do in an emergency.
6. The medication will be transported and stored in compliance with any special directions for the medication and will be secured as safely as possible.
7. The administration of medication on a field trip will duplicate as much as possible, the guidelines found in the "Guidelines for Training of Non-Licensed Personnel in Medication Administration." This will include consideration of student privacy and cleanliness of area where medications are administered.
8. Medication will be administered to the student to assure that the right student receives the right medication, with the right dose, at the right time, by the right route. The trained personnel administering the medication will double-check the student with the medication label and will double-check the dose. The medication will be given within 30 minutes either side of the prescribed time.

9. Each school district will develop a method of documenting medications administered on the field trip, recording any unexpected occurrences, and a method of returning any medication not administered.

The medication envelope or label will contain the following information:

1. Date to be administered.
2. Name of the student.
3. Name of the medication.
4. Dose to be given.
5. Time to be given.
6. Physician prescribing the medication.
7. Special directions.
8. Phone number of school nurse.
9. Emergency directions.

DATE ADOPTED: October 29, 2001 (By the Department of Education, Board of Pharmacy and Board of Nursing)

Adopted: \_\_\_\_\_

## **SCHOOL CLOSINGS AND CANCELLATIONS**

As the winter of 2016-2017 recedes into memory, it's not too late to look ahead to next year. Superintendents and many school board members are aware that DOE Rule Chapter 125 (the "Basic School Approval" standards) provides various options for making up time lost due to inclement weather or other emergency closures, subject to Board approval. However, there is an additional option, but it's one that requires the approval of both the Board and the Commissioner. This option provides for a one-hour extension of the school day for up to 25 days in a school year. If approved by the Commissioner, five one-hour extensions would be counted as an additional school day. On March 6, 2013, DOE Commissioner Robert Hasson issued Administrative Letter #6, "Rescheduling and Requesting Waivers for Storm Days," posted at <https://mainedoeneeds.net/2017/03/06/administrative-letter-rescheduling-and-requesting-waivers-for-storm-days/>. This option can be used only for the purpose of making up "storm days" or other emergency closures. Because a lost school day may have a greater impact on student learning than the addition of an hour of instruction that gets parceled out over multiple subject areas over the course of the school day, boards should consider the positive and negative aspects of taking advantage of this option.

MSMA has revised its sample policy EBCE, School closings and Cancellations; it follows this introduction and may also be accessed in Word [here](#).

Like the previous version of this policy, the revised sample states that when school is closed for the day or dismissed early, all after-school and evening school-sponsored activities and community use of school facilities will be cancelled or postponed. We have occasionally had questions as to whether the board can still hold its scheduled meeting if the weather and the roads clear. We leave this to the Board's discretion, but a more frequent practice is to reschedule for the following evening or the following week, with notice given to the media and posted on the school unit's website.

\*MSMA SAMPLE POLICY \*

NEPN/NSBA Code: EBCE

### SCHOOL CLOSINGS AND CANCELLATIONS

The Board authorizes the Superintendent to cancel or close school(s) for the day, delay opening, or dismiss school(s) early in the event of severe weather, hazardous travel conditions, or other emergencies which present threats to the safety of students and staff. Decisions to close school for the day should be made no later than 6:00 A.M.

When school is closed for the day or dismissed early, all after-school and evening school-sponsored activities and community use of school facilities will be cancelled or postponed.

Notice of closing or cancellation shall be given to students and parents by means of media announcements or by other appropriate means. Such notice shall be given sufficiently in advance of the school session in order to avoid confusion and inconvenience.

When school is in session, it remains the responsibility of parents to decide whether or not their children shall attend school under the existing conditions.

Storm days lost in excess of the number provided for in the school year calendar will be made up by conducting classes on the weekend, rescheduling or shortening scheduled vacation periods or postponing the close of the school year, as determined by the Board.

#### **[OPTIONAL]:**

If approved by the Board, the Superintendent may submit a plan to the Commissioner that would provide for a one-hour extension of the school day for up to 25 days in a school year. If approved by the Commissioner, five one-hour extensions would be counted as an additional school day. Extended days may be used only for the purpose of making up school days missed due to weather or other emergency closures.

Legal Reference: 20-A MRSA §4801(F)

Adopted: \_\_\_\_\_

## WORKING WITH YOUR SCHOOL ATTORNEY

Superintendents and board chairs occasionally ask for MSMA's guidance with unique or challenging problems that are best addressed with the assistance of legal counsel. In such situations MSMA staff are not hesitant in recommending consultation with the school unit's attorney. In the April 2017 issue of School law news, MSMA included an article written by Bruce Smith, Esq., of Drummond Woodsum, titled "*Working With the School Attorney*," which provides a general overview of how boards and school administrators can utilize the services of their school attorney more effectively.

MSMA also offers a sample policy that boards may wish to consider. It provides guidance for procurement of services and the typical areas in which legal assistance is most frequently sought. The sample policy follows this note, but can be accessed in Word [here](#).

\*MSMA SAMPLE POLICY\*

NEPN/NSBA Code: BDG

### SCHOOL ATTORNEY/LEGAL SERVICES

The Board recognizes that the increasing complexity of school unit operations frequently requires procurement of professional legal services. Therefore, the Board shall designate an attorney and/or law firm to provide such services on an ongoing basis. The school attorney(s) shall be admitted to practice law in Maine. The Board reserves the right to obtain legal services outside of its designated attorney/law firm as deemed appropriate.

A decision to seek legal advice or assistance on behalf of the school unit shall normally be made by the Superintendent or Board Chair in accordance with Board policy and when an obvious need exists. Such services may also be obtained as a consequence of a formal vote of the Board. **[NOTE: The Board may wish to specify the circumstances under which the Board Chair will request legal advice/assistance.]**

Legal services required by the school unit may include, but not be limited to:

- A. Providing general legal advice to the Board and/or administration;
- B. Assisting with labor negotiations;
- C. Assisting with personnel matters;
- D. Assisting with expulsions and other student disciplinary matters;
- E. Conduct and/or assist with pending or actual litigation involving the school unit;

- F. Other specialized legal services; and
- G. Attendance at Board meetings or other activities as appropriate.

Many types of legal services are considered routine and do not require specific Board approval. However, when the Superintendent concludes that the potential for significant legal expenditure exists or under other unusual circumstances, he/she shall inform the Board at an appropriate point in the process. The Board may take action on such matters as appropriate.

**[NOTE: Local School Boards and Superintendents may wish to discuss and identify what types of legal services are considered routine, when the Board expects to be notified of legal expenditures, and the circumstances which may warrant a Board vote.]**

Adopted: \_\_\_\_\_

**PLEASE NOTE** MSMA sample policies and other resource materials do not necessarily reflect official Association policy. They are not intended for verbatim replication. Sample policies should be used as a starting point for a board's policy development on specific topics. Rarely does one board's policy serve exactly to address the concerns and needs of all other school units. MSMA recommends a careful analysis of the need and purpose of any policy and a thorough consideration of the application and suitability to the individual school system. MSMA sample policies and other resource materials may not be considered as legal advice and are not intended as a substitute for the advice of a board's own legal counsel.