



Access to Medically Necessary Treatment at School Policy Approved April 24, 2024

Thomas MacLaren School is committed to honoring families' private medical decisions while providing a learning environment free of disruption. The Thomas MacLaren School Access to Medically Necessary Treatment at School policy addresses how a student who has a prescription from a qualified health-care provider for medically necessary treatment receives such treatment in the school setting as required by applicable federal and state laws pursuant to its status as a publicly funded charter school. The provision of medically necessary treatment to qualified students by private health-care specialists must be done in accordance with this policy. If medically necessary treatment requires administration of prescription and/or nonprescription medications to students, such administration must be in accordance with applicable law and Thomas MacLaren School policy concerning the administration of medications to students. Thomas MacLaren School staff are directed to promulgate guidance and forms in support of implementing this policy.

Rights to Access

Colorado law provides these specific rights for students and families:

1. **Access medically necessary treatment in the school setting.** A parent/guardian may authorize access by a private health care specialist to school property to provide medically necessary treatment in accordance with the Board's policy and/or procedures on access, visitors to schools, and all other applicable law and policy.
2. **Access the school setting to observe student or collaborate with school personnel.** A parent/guardian may authorize access by a private health care specialist to school property to observe the student in the school setting and/or collaborate with school personnel regarding the student, without providing direct treatment, in accordance with the Board's policy and/or procedures on access, visitors to schools, and all other applicable law and policy.

As specified by the Colorado Legislature, these rights are intended to place no greater financial burden on the state's public schools, so Thomas MacLaren School is not responsible for payment for, or the supervision or provision of these private services. This policy does not create a right for any student, their parent/guardian, or their private health care specialist to demand access to any general or particular school location or to demand collaboration with school personnel outside of IDEA or Section 504 processes. Nothing in this policy will be construed to require Thomas MacLaren School to permit a third party to determine or provide special education or

related services in the school setting in a way that interferes with Thomas MacLaren School's obligations and/or authority under state or federal law.

Such rights may be limited or revoked as to specific individuals who violate Thomas MacLaren School's requirements or otherwise disrupt the learning environment.

Definitions

For purposes of this policy, the following definitions shall apply:

1. "Medically necessary treatment" means treatment recommended or ordered by a Colorado licensed health care provider acting within the scope of the health care provider's license.
2. "Private health care specialist" means a health care provider not employed by the school (Thomas MacLaren School) who is licensed, certified, or otherwise authorized to provide health care services in Colorado, including, but not limited to pediatric behavioral health treatment providers pursuant to the State Medical Assistance Program, autism service providers who provide treatment pursuant to C.R.S. § 10-16-104(1.4), and private duty nurse providers.
3. "Qualified health care provider" means a Colorado licensed health care provider acting within the scope of the health care provider's license.

Process for Medically Necessary Treatment in The School Setting

Medically necessary treatment may take place on school property only after all of the following steps have been completed:

1. Student's parent/guardian provides to the appropriate Head of School:
 - a request and consent for the medical treatment to be provided, with the name of the private health care specialist who will be providing the medically necessary treatment, describing the proposed treatment plan to take place in the school setting, and other pertinent information.
 - an acknowledgment of the parent/guardians' sole financial responsibility for the services and waiver of liability of Thomas MacLaren School for any supervision of and misconduct by the private health care specialist;
 - a copy of the student's prescription, recommendation or order from a qualified health care provider; and,
 - a *Release of Medical Information* authorizing the school to confer with the qualified health care provider to obtain follow-up information about the student's medical needs and the medically necessary treatment.
2. If either the parent or Thomas MacLaren School believe that the services could or should be provided by the school through an IEP or Section 504 plan, then the school will convene the appropriate team to consider the request. For any question of providing medically necessary treatment to be delivered at school as part of a 504 plan or IEP, the school will follow the existing Thomas MacLaren School IEP procedures for

determining needs, services, providers, and appropriate costs for students with an IEP/504 Plan.

3. The rights to access shall not be interpreted to require changes to Thomas MacLaren School or the school's master schedule, or to interfere with educational operations or Thomas MacLaren School providers' ability to complete their job duties and responsibilities. By accessing these services, the parent(s)/guardian(s) acknowledge and agree that the student may miss classroom instruction, special education and related services, and/or school activities while receiving medically necessary treatment.
4. Private health care specialist must do the following:
 - provide proof of licensure, certification or authorization to provide services;
 - provide a certificate(s) of liability and insurance coverage, including sexual misconduct, malpractice, and workers' compensation coverage that meets the limits applicable to other agencies and individuals who provide services in the school;
 - submit to a background check that corresponds to the expected presence in the school, including a fingerprinted background check. The individual may be disqualified from providing services on school property if the background check does not meet school standards for employment in the sole discretion of the school;
 - sign a Confidentiality Affidavit certifying compliance with the Family Educational Rights and Privacy Act (FERPA) and agreement not to intentionally acquire or share information pertaining to any student other than the qualifying student; and
 - sign an Assumption of Risk form waiving any and all claims against Thomas MacLaren School and its employees for any injury sustained in delivering private medically necessary treatment to student.

Notice and Appeal

Parents have a right to appeal the decision of the school concerning access to medically necessary treatment in the school setting to the Executive Director or designee. An appeal shall be submitted in writing within ten (10) school days of a decision the school. The decision of the Executive Director or designee will be final.

For students on IEPs who are referred to the IEP team for consideration, parents have procedural safeguards for appeals generally (see CDE parent rights document). Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 and Title II of the Americans with Disabilities Act also provide rights and protections to students to access certain forms of medically necessary treatment required by the student to have meaningful access to the benefits of a public education.

LEGAL REFS.:

20 U.S.C. §§ 1401-1415 (Individuals with Disabilities Education Act) 29 U.S.C. § 794 (Rehabilitation Act of 1973) 42 U.S.C. §1396 (requiring Colorado's Medicaid program to cover medically necessary treatment)

42 U.S.C. § 12101 (Americans with Disabilities Act)

C.R.S. § 22-20-121 (medically necessary treatment in school)

C.R.S. § 24-10-106.3 (Claire Davis School Safety Act)