



MEMBER ALERT – AB 2009
AUTOMATED EXTERNAL DEFIBRILLATORS (AED)
IN SCHOOLS
DECEMBER 2018

September 21, 2019, Governor Brown signed AB 2009, which adds Sections 35179.4 and 35179.6 to the Education Code, relating to interscholastic athletic programs.

Section 35179.4 – If a school district or charter school that elects to offer any interscholastic athletic program, the governing board of the school district or the governing body of the charter school shall ensure that there is a written action plan in place that describes the location and procedures to be followed in the event of sudden cardiac arrest and other medical emergencies related to the athletic program’s activities or events. The written emergency action plan shall be posted in compliance with the most recent pertinent guidelines of the National Federation of State High School Associations.

Section 35179.6 -

- (a) For purposes of this section, an “AED” is an automated external defibrillator.
- (b) Commencing July 1, 2019, if a school district or charter school elects to offer any interscholastic athletic program, the school district or the charter school shall acquire at least one AED for each school within the school district or the charter school. The school district or the charter school is encouraged to ensure that the AED or AEDs are available for the purpose of rendering emergency care or treatment within a recommended three to five minutes of sudden cardiac arrest to pupils, spectators, and any other individuals in attendance at the athletic program’s on campus activities or events and shall ensure that the AED or AEDs are available to athletic trainers and coaches and authorized persons at these activities or events.**
- (c) Subdivision (b) of Section 49417 shall apply for the purposes of determining whether an employee of a school district is liable for any civil damages resulting from his or her use, attempted use, or nonuse of an AED in the rendering of emergency care or treatment pursuant to this section.
- (d) Subdivision (c) of Section 49417 shall apply for the purposes of determining whether a public school or school district is liable for any civil damages resulting from any act or omission in the rendering of emergency care or treatment pursuant to this section.
- (e) Except as provided in subdivision (g), if an employee of a charter school complies with Section 1714.21 of the Civil Code in rendering emergency care or treatment through the use, attempted use, or nonuse of an AED at the scene of an emergency, the employee shall not be liable for any civil damages resulting from any act or omission in the rendering of the emergency care or treatment.
- (f) Except as provided in subdivision (g), if a charter school complies with the requirements of Section 1797.196 of the Health and Safety Code, the charter school shall be covered by Section 1714.21 of the Civil Code and shall not be liable for any civil damages resulting from any act or omission in the rendering of the emergency care or treatment.
- (g) Subdivisions (e) and (f) do not apply in the case of personal injury or wrongful death that results from gross negligence or willful or wanton misconduct on the part of the person who uses, attempts to use, or fails to use an AED to render emergency care or treatment.

- (h) In order to ensure public safety, each school district or charter school that elects to offer any interscholastic athletic program shall ensure that its AED or AEDs are maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer, the American Heart Association, or the American Red Cross, and according to any applicable rules and regulations set forth by the governmental authority under the federal Food and Drug Administration and any other applicable state and federal authority.
- (i) This section does not alter the requirements of Section 1797.196 of the Health and Safety Code.

Current law: SB 658 provides immunity to civil liability for the following:

- (a) Any person who, in good faith and not for compensation, renders emergency care or treatment by the use of an AED at the scene of an emergency (we'll call this person a "described user").
- (b) A person or entity who provides CPR and AED training to a described user.
- (c) A person or entity that acquires an AED for such emergency use by a described user, if the acquirer has complied with subdivision (b) of Section 1797.196 of the Health and Safety Code.
- (d) Any physician and surgeon or other health care professional that is involved in the selection, placement, or installation of an AED later used by a described user.

According to section 1797.196, immunity for the acquiring person or entity requires:

- (a) Compliance with all regulations governing the placement of an AED.
- (b) Notifying an agent of the local EMS agency of the existence, location, and type of AED acquired.
- (c) Maintaining and testing the AED according to the manufacturer's operation and maintenance guidelines.
- (d) Testing the AED at least biannually and after each use.
- (e) Inspecting all AEDs on the premises at least every 90 days for potential issues related to operability of the device.
- (f) Keeping records of the maintenance and testing required by the statute to demonstrate compliance.

When an AED is placed in a K-12 school, section 1797.196 imposes the following requirements:

- (a) The principal shall ensure that the school administrators and staff annually receive information that describes:
 - 1. sudden cardiac arrest,
 - 2. the school's emergency response plan,
 - 3. the proper use of an AED,
 - 4. and the location of all AED units on the campus
- (b) The principal shall also ensure that instructions, in no less than 14-point type, on how to use the AED are posted next to every AED.

According to section 1797.196, immunity for an owner of any other building where an AED is installed (presumably including COE and school district buildings other than K-12 schools) requires the building owner do all of the following:

- (a) At least once a year, notify workers or other users of the building as to the location of the AED units and provide information about who such persons can contact if they want to voluntarily take AED or CPR training.
- (b) At least once a year, offer a demonstration to at least one person associated with the building so that the person can be walked through how to use an AED properly in an emergency. The building owner may arrange for the demonstration or partner with a nonprofit organization to do so.
- (c) Next to the AED, post instructions, in no less than 14-point type, on how to use the AED.