Executive Summary

Protecting the health and safety of children and adolescents in schools (defined for the purposes of this report to include public educational institutions for children and adolescents in grades K-12) is an important part of any comprehensive education and public health plan. Through a coordinated school health program (CSHP) offering courses, services, policies, and programs designed to meet the health and safety needs of K-12 students, schools can ''provide a critical facility in which many agencies might work together to maintain the well-being of young people.''[1]

Laws and policies are important tools that can be used to improve the health and safety of children and adolescents in schools. Although some laws and policies might set limitations on health programs, laws and policies can provide education and public health leaders with valuable tools to promote programs and strategies that foster an environment in which children and adolescents can thrive and learn. Other agencies (such as environmental, zoning, food safety, mental health, justice, and law enforcement agencies) also may have legal tools that can be used to promote the health and safety of children and adolescents in schools. To date, however, no one has systematically identified the full range of relevant legal authorities pertinent to schools that may help shape the health of children and adolescents.

This report attempts to fill that gap by giving educators and public health professionals new access to information on laws and policies (as of April 2007) concerning the health of children and adolescents in schools. It is intended to help practitioners and policymakers in public health and education at the federal, state, and local levels enhance their knowledge of relevant laws and policies. This report does not attempt to document or tabulate each of the many and varied laws of all states. Nor does it attempt to provide an in-depth analysis of any particular federal, state, or local law or policy. Furthermore, the report does not recommend adoption of any particular law or policy or purport in any way to convey legal advice. Instead, the report provides an overview of the legal and policy landscape and should encourage readers to consider the potential for law and policy to contribute to students' health and safety. This potential may be best realized through partnerships between public health agencies, schools, and other organizations with complementary goals and policies. The target audiences are those federal, state, and local public health and education practitioners and policymakers who are dedicated to advancing the well-being of children and adolescents in school settings. Although the information in this report provides a useful introduction, readers should also consult with legal counsel and other experts who have in-depth understanding of the legal tools and policies relevant to a given community, state, or other jurisdiction.

The framework for this legal review is based on the eight-component model of school health programs introduced in 1987 by Allensworth and Kolbe.[2] This CSHP model has been embraced by state education agencies (SEAs) and local education agencies (LEAs) nationwide, supported by many national nongovernmental organizations that work in education and health, and championed by many as a means for advancing school health policies, instruction, and services for students and staff. CDC has advanced the implementation of this model through its funding to SEAs and uses the model's eight components as an organizing framework for its school health guidelines, surveillance systems, and recommendations for promising practices.

A CSHP is a planned, organized, and comprehensive set of courses, services, policies, and programs designed to meet the health and safety needs of students in grades K-12 and of school staff. All the eight components contribute to the health and well-being of students and are present to some extent in most schools. A successful and well-coordinated school health program is characterized by administrators, teachers, other professional staff, and school board members who view health protection and promotion as an essential part of the school's mission; a school health council composed of school, family, and community representatives to ensure a planning process for continuous health improvement; a school health coordinator responsible for organizing and managing the school health program; and school staff members who help plan and implement a full array of school health courses, services, policies, and programs.[3] Each of the eight components of the CSHP model is described below:[4]

1. *Health Education:* A planned, sequential K-12 curriculum that addresses the physical, mental, emotional,

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and social dimensions of health. The curriculum is designed to motivate and assist students to maintain and improve their health, prevent disease, and reduce health-related risk behaviors. It allows students to develop and demonstrate increasingly sophisticated health-related knowledge, attitudes, skills, and practices. The comprehensive health education curriculum includes a variety of topics such as personal health, family health, community health, consumer health, environmental health, sexuality education, mental and emotional health, injury prevention and safety, nutrition, prevention and control of disease, and substance use and abuse. Qualified trained teachers provide health education.

2. *Physical Education:* A planned, sequential K-12 curriculum that provides cognitive content and learning experiences in a variety of activity areas such as basic movement skills; physical fitness; rhythms and dance; games; team, dual, and individual sports; tumbling and gymnastics; and aquatics. Quality physical education should promote, through a variety of planned physical activities, each student's optimum physical, mental, emotional, and social development and should promote activities and sports that all students enjoy and can pursue throughout their lives. Qualified, trained teachers teach physical activity.
3. *Health Services:* Services provided for students to appraise, protect, and promote health. These services are designed to ensure access or referral to primary health care services or both, foster appropriate use of primary health care services, prevent and control communicable disease and other health problems, provide emergency care for illness or injury, promote and provide optimum sanitary conditions for a safe school facility and school environment, and provide educational and counseling opportunities for promoting and maintaining individual, family, and community health. Qualified professionals such as physicians, nurses, dentists, health educators, and other allied health personnel provide these services.
4. *Nutrition Services:* Access to a variety of nutritious and appealing meals that accommodate the health and nutrition needs of all students. School nutrition programs reflect the US Dietary Guidelines for Americans and other criteria to achieve nutrition integrity. The school nutrition services offer students a learning laboratory for classroom nutrition and health education and serve as a resource for linkages with nutrition-related community services. Qualified child nutrition professionals provide these services.
5. *Mental Health and Social Services:* Services provided to improve students' mental, emotional, and social health. These services include individual and group assessments, interventions, and referrals. Organizational assessment and consultation skills of counselors and psychologists contribute not only to the health of the students but also to the health of the school environment. Professionals such as certified school counselors, psychologists, and social workers provide these services.
6. *Healthy and Safe School Environment:* The physical and aesthetic surroundings and the psychosocial climate and culture of the school. Factors that influence the physical environment include the school building and the area surrounding it, any biological or chemical agents that are detrimental to health, and physical conditions such as temperature, noise, and lighting. The psychological environment includes the physical, emotional, and social conditions that affect the well-being of students and staff.
7. *Health Promotion for Staff:* Opportunities for school staff to improve their health status through activities such as health assessments, health education, and health-related fitness activities. These opportunities encourage school staff to pursue a healthy lifestyle that contributes to their improved health status, improved morale, and a greater personal commitment to the school's overall coordinated health program. This personal commitment often transfers into greater commitment to the health of students and creates positive role modeling. Health promotion activities have improved productivity, decreased absenteeism, and reduced health insurance costs.
8. *Family and Community Involvement:* An integrated school, parent, and community approach for enhancing the health and well-being of students. School health advisory councils, coalitions, and broadly based constituencies for school health can build support for school health program efforts. Schools actively solicit parent involvement and engage community resources and services to respond more effectively to the health-related needs of students.

The report begins with a brief overview of the role of laws in schools (see section II). The legal framework for education includes a complex network of federal, state, and local laws and regulations. Constitutional principles are central to this framework. They may affirm a right to education (at least at the state level) and other rights (eg, freedom of speech, bodily integrity, and informational privacy) that must be coupled with legitimate governmental interests in providing safe and healthy schools. Structural constitutional principles (eg, separation of powers and federalism) guide distributions of power among the three branches of government in the United States and define the roles of federal, state, and local governments in regulating education and its environment. Section II also briefly discusses key federal and state

statutory laws concerning issues of discrimination, disability rights, privacy, and educational programs, as well as concepts of civil liability and immunity for the acts of governmental agents in school settings.

Building on this overview, section III describes the legal framework for each component of the CSHP. Each section begins with a brief description of the core component. The intent of each section is to provide a review of how relevant laws and policies can influence the health of children and adolescents. Considerable detail may be provided for some key federal or state laws or programs. In other cases, summary statements of the effect of laws are set forth. As noted above, while specific examples of various state or local laws are featured in each section, comprehensive tables of laws are not included (though they may be referenced from other sources in the notes). Some sections feature discussions of findings from the School Health Policies and Programs Study 2006—which assessed school health policies and programs in grades K-12 at the state, district, and school levels[5]—or other relevant studies. Also, some portions of this report refer to data that predate the enactment of the federal No Child Left Behind Act (NCLB).

The subject matter contained within section III is diverse. *Health Education* (section III.A), for example, discusses legal requirements to provide health education to students, federal incentives that shape health education (eg, team nutrition networks, abstinence, and alcohol prevention education), and the role of National Health Education Standards. *Physical Education and Activity* (section III.B) addresses similar themes concerning physical education requirements, including the impact of the NCLB and the Carol M. White Physical Education Program (PEP). Legal requirements to provide health services to students are the focus of *Health Services* (section III.C). Testing, screening, and treatment for health conditions in schools are explored, as well as issues concerning parental and student consent requirements, the use of identifiable health data, and the financing of school health services under the law.

The focus of *Nutrition Services* (section III.D) is on the laws and policies underlying the provision of nutrition services to students in school. Federal, state, and local nutrition requirements are examined. Significant discussion centers on legal restrictions surrounding the sale and distribution of alternative foods (as part of school nutrition services), food and beverage advertising in schools, and zoning as a legal tool to limit student access to off-campus fast food. *Mental Health and Social Services* (section III.E) looks closely at the legal requirements to provide counseling, psychological, and social services to students, including standards for provision of such services by staff.

Healthy and Safe School Environment (section III.F) covers a wide range of laws and policies that govern schools. This section first discusses a series of tools for assessing a healthy school environment. It then explores health-related laws and policies that relate to the physical school environment (eg, asbestos, indoor radon, pesticides, lead contamination, unintentional injuries, and school bus and pedestrian safety). Additional areas of legal concern include violence in or around school grounds, substance abuse, and emergencies.

The role of law in protecting the health of school staff (eg, teachers, administrators, and custodians) is addressed in *Health Promotion for Staff* (section III.G). Testing, screening, and examinations of staff for health conditions related to their positions are driven by legal requirements. Also discussed are health promotion activities authorized or available for public school staff, such as wellness programs, Employee Assistance Programs (EAPs), and health insurance benefits. Finally, in *Family and Community Involvement* (section III.H), various legal requirements to facilitate family and community involvement in school health are presented. This includes a look at how school health councils and coalitions have led to greater opportunities for incorporating families and communities in setting school health policies.

Many legal and policy themes emerge from this review, including the following:

- *Integration of public health and education services.* Multiple examples in law and policy documented in this report demonstrate the close ties between public health and education services in many jurisdictions. School authorities are routinely asked to assist in public health programs; public health officials are expected to protect the health of children in school environments. These respective requirements can lead to legal complications in some cases (eg, sharing identifiable health data in education records pursuant to Family Educational Rights and Privacy Act and the Health Insurance Portability and Accountability Act of 1996 Privacy Rule). However, they can also lead to tremendous opportunities for accomplishing significant improvements in child and adolescent health.
- *Division of responsibilities.* Despite many examples of attempts to integrate public health and education services through law and policy, there remains considerable division of responsibilities among many governmental and private sector entities for the health of children and adolescents in schools. In many cases, these divisions are furthered by laws or policies that assign to one entity (eg, the state public health authority or the local superintendent of schools) the primary task of accomplishing stated health goals. Assigning responsibility to one entity without a concomitant duty to work closely with other entities or persons, however, can lead to difficulties.

When laws fail to reflect the need for accountability coupled with collaboration, improvements in child and adolescent health may not be fully realized. Laws at every level of government may be improved by specifically incorporating requirements for collaboration across multiple sectors. In support of local educational agencies' efforts to develop enhanced emergency response and crisis management plans, the federal Safe and Drug-Free Schools and Communities Act, for example, requires that plans address coordination with local law enforcement, public safety, public health, and mental health agencies.

- *National primacy.* Federal laws and policies governing student health may take primacy over state and local laws; however, in the absence of federal laws or policies, opportunities exist for the development of state or local laws and policies that promote child health and academic achievement. In many ways, federal laws defer to state and local governmental discretion. For example, federal grant programs like the PEP are implemented through state or local laws that distribute resources consistent with state and local priorities. In this way, national health objectives can support efforts to protect and enhance students' health.
- *State and local innovation.* State and local officials demonstrate in multiple ways their creativity in shaping legal and policy tools for better student health. Many state and local laws apply to areas of child and adolescent health in schools where federal laws or programs may not apply. Thus, for example, while the federal government does not attempt to regulate the placement of fast-food outlets near local schools, the City of Detroit has ordained that no such restaurants be located within 500 feet of an elementary school. Protecting children and adolescents from skin cancer is an important priority in California. This led the state to pass its ''sun safety'' bill requiring every school to allow the outdoor use of sun protective clothing or sunscreen during school without a physician's note or prescription. Vermont features a legal provision requiring the construction of schools that can be used as emergency shelters. These and other examples demonstrate the capacity of state and local public health and education leaders to improve child and adolescent health through innovative laws focused on school populations or environments.

As illustrated through these legal themes, education and public health officials, their legal counsel, and partners from other relevant agencies (eg, environment, zoning, food safety, mental health, justice, and law enforcement agencies) can benefit from a greater understanding of the contribution laws and policies can make to improve health for children and adolescents in the school setting. Legal and policy tools may help refine schools' role in *protecting* the health of children and adolescents in school environments, *motivating* them to choose healthy behaviors through policies that encourage improved health and safety, and *safeguarding* them from multifarious health threats.