

Supplemental Information

Selected State Statutes

A growing number of states have adopted statutes that specifically relate to diabetes care tasks in schools. A selection of these statutes is provided below. Current versions of these statutes and recently adopted legislation in other states should be consulted. The Association maintains a list of state laws relating to school diabetes care on its website at <http://www.diabetes.org/living-with-diabetes/parents-and-kids/diabetes-care-at-school/legal-protections/state-laws-and-policies.html>.

Other statutes or regulations relevant to diabetes care in schools may exist in areas such as the administration of medications in schools, the delegation of health care responsibilities, immunity, and other matters relevant to diabetes care.

Arizona

Ariz. Rev. Stat. § 15-344.01 (2008)

- School districts or charter schools may create diabetes care plans for students
- If the school district adopts a diabetes care policy, students must be permitted to self-administer diabetes care if they are able and to carry their diabetes supplies.
- Training developed by ADA, CA Department of Education, and others.
- Two or more non-medical school staff may be designated as volunteer diabetes care assistants and trained to administer glucagon in an emergency.
- School district and charter school personnel are immune from liability for actions taken to adopt diabetes care policies and for actions taken in good faith compliance with these policies.

California

Cal Ed Code § 49414.5 (2003)

- Authorizes school district to provide voluntary emergency training (hypoglycemia/glucagon) to school personnel (note: “authorizes”, does not “require”).
- School nurse or designated personnel, in the absence of a school nurse, may administer glucagon.
- Training developed by ADA, CA Department of Education, and others.
- Training components must include recognition and treatment of hypoglycemia, glucagon administration, basic emergency follow up procedures (911), training by health care professional.
- Permits students who are able to do so to provide self-care anywhere, anytime upon authorization of parent and health care provider.
- Notification requirements if non-nurse administers glucagon.

Cal. Bus. & Prof Code § 2058(b) (1997)

- Provides that: “Nothing in [the ‘Medicine’ Chapter of the Business & Professions Code] shall be construed to prohibit obtaining a blood specimen by skin puncture

for the purpose of performing blood glucose testing for the purposes of monitoring a minor child in accordance with paragraph (6) of subdivision (b) of Section 1241.”

Cal. Bus. & Prof. Code § 1241(b)(6) (1997)

- Provides standards for blood glucose testing for the purposes of monitoring a minor child diagnosed with diabetes. Cal. Bus. & Prof. Code § 1241(c) provides for the registration of places where blood glucose testing is performed.

Connecticut

Conn. Gen. Stat. § 10-220j (2004)

- School board may not prohibit self administration of blood glucose checks by students who are capable of self-checking with physician authorization (note: language does not specify location of blood glucose checks).

Florida

Fla. Stat. § 1006.062(4)(c), (d) (2003)

- Non-medical assistive personnel who are trained and supervised by a registered nurse or physician may administer blood glucose checks or emergency injectable medication.

Hawaii

Haw. Rev. Stat. § 302A-1164 (2005)

- Allows glucagon administration by trained volunteer non-medical school personnel.

Indiana

Indiana Code § 34-30-14 (1998)

- Provides immunity for the good faith administration of medications (specifically including injectable insulin and blood glucose testing) by a school administrator, teacher, or other school employee designated by the school administrator, after consultation with the school nurse. Requires that an unlicensed school employee administering injectable insulin or performing glucose tests receive training. Provides that a school and school board are not liable for civil damages as a result of a student’s self-administration of medication for a chronic disease or medical condition.

Indiana Code § 20-34-5-1 through 20-34-5-18 (2007)

- For each student with diabetes, requires that a diabetes management and treatment plan be prepared by the treating health care provider and parents, and requires that the plan be implemented during school hours or at a school related activity.
- The diabetes management and treatment plan must identify the health care services student will receive and specify the student’s ability to manage his or her diabetes.

- For each student with diabetes, the school nurse must develop an individualized health plan which incorporates the services required to be provided in the diabetes management and treatment plan.
- Permits school employees who volunteer to be designated as volunteer health aides and to perform diabetes care tasks for students, including administering insulin and glucagon. Volunteer health aides serve under the supervision of the principal and school nurse and must have access, in person or by telephone, to the school nurse. Volunteer health aides may be trained by a health care professional with expertise in diabetes or by a school nurse.
- School districts must seek out school employees to become volunteer health aides and must take all steps to ensure that adequate numbers of volunteer health aides are trained, but may not penalize any school employee for refusing to be a volunteer health aide.
- School assignments may not be restricted based on the need to provide diabetes care.
- Authorizes the state department of education to develop training programs for school nurses and for volunteer health aides.
- Where authorized by a student's diabetes management and treatment plan, a student shall be permitted to care for his or her diabetes, including testing blood glucose, self-administering insulin and glucagon, and carrying all needed diabetes supplies.
- Requires the school, with the consent of the parent, to provide information to school employees responsible for transporting the student about how to respond to diabetes-related emergencies.

Kentucky

Ky. Rev. Stat. § 158.838 (2005)

- Public, private, and parochial schools must have one trained employee on duty during the school day who has been trained to administer glucagon
- Immunity for school district and school employees.

Massachusetts

Mass. Gen. Laws ch. 71, § 54B (2004)

- School districts cannot prohibit students from possessing blood glucose meters to administer self-checks and insulin delivery supplies. (Note: Does not specify locations where self-care may occur).

Montana

Mont. Code Ann. § 20-5-412 (2004)

- Parent/guardian may designate an adult to be trained to administer glucagon to a student.

Nebraska

Neb. Rev. Stat. Ann. § 79-225 (2008)

- Public, private and parochial schools must, upon written authorization by the parent and physician, permit students to self-manage their diabetes pursuant to a diabetes management plan developed by the school in consultation with the physician.
- The diabetes management plan shall permit the student to self-manage his or her diabetes in the classroom or at any school location, during school and school-related activities, or in a private location specified by the plan.
- The school may revoke permission to self-manage diabetes for a student who endangers himself, her self or others through misuse of diabetes supplies.
- Schools and their employees are immune from liability from any injury arising from a student's self-management.

New Jersey

2009 N. J. Laws ch. 131 (2008 Bill AB 267, enacted October 1, 2009)

- Requires the development of an individualized health care plan for students with diabetes
- Permits trained school staff to administer glucagon when a school nurse is not present.
- Ensures that students can independently manage their diabetes anywhere, anytime in the school setting with parent and clinician authorization.
- Requires school district to inform bus drivers of the student's diabetes, how to treat hypoglycemia, and who to call for help.
- School employees are immune from liability for any injury arising from actions taken pursuant to this act, excepting willful misconduct, gross negligence and recklessness.,

North Carolina

N.C. Gen. Stat. § 115C-12 (31) (2002)

- State Board of Education is required to adopt and disseminate guidelines for the development and implementation of individual diabetes care plans.
- Recommended that guidelines development be based upon American Diabetes Association school position statement.
- Individual diabetes care plans must include information about staff responsibilities, emergency care plan, allowable actions, self-care.
- Requires local school boards to implement guidelines.
- Requires local school boards to provide information and staff development to school personnel to support and assist students with diabetes.

Oklahoma

70 Okla. Stat. § 1210.196.1 through 1210.196.8 (2007)

- Requires that a diabetes medical management plan be developed for each student who needs diabetes care provided at school by the student's personal health care team (including the principal and school nurse).
- Permits school employees who volunteer to be designated as volunteer diabetes care assistants and to perform diabetes care tasks for students, including administering insulin and glucagon.
- School districts must seek out school employees to become volunteer diabetes care assistants and must take all steps to ensure that school nurses or volunteer diabetes care assistants are trained and available to provide care to a student with diabetes. School districts may not penalize any school employee for refusing to be a volunteer diabetes care assistants.
- School assignments may not be restricted based on the unavailability of personnel to provide diabetes care.
- School nurses and volunteer diabetes care assistants must at all times have access to a physician.
- Requires the state Department of Health to develop guidelines for the training of volunteer diabetes care assistants.
- Volunteer diabetes care assistants shall be trained by a school nurse or a person designated by the state Department of Health with training in diabetes.
- Requires the school, with the consent of the parent, to provide information to school employees responsible for transporting the student about how to respond to diabetes-related emergencies.
- Where authorized by a student's diabetes medical management plan, a student shall be permitted to care for his or her diabetes, including testing blood glucose, self-administering insulin and glucagon, and carrying all needed diabetes supplies.
- School employees are not liable for actions taken in accordance with a student's diabetes medical management plan, and school nurses are not liable for actions of volunteer diabetes care assistants.

Oregon

Or. Rev. Stat. §§ 433.800 to 433.830) (1997)

- Allows administration of glucagon by trained non-medical personnel.
- Establishes training protocol and components.
- Immunity clause for trained personnel and schools.

Rhode Island

R. I. Gen. Laws § 16-21-28.1 through 16-21-28.6 (2008)

- A parent or guardian may authorize school staff, when there is no nurse available, to provide glucagon to a student in the event of severe hypoglycemia at school or school-sponsored activities

- The staff will be trained by a doctor or nurse, but a school nurse shall not be required to provide the training.
- The training and supervision of staff authorized to administer glucagon shall meet standards created by the Rhode Island Department of Health in conjunction with the American Diabetes Association and the Rhode Island Chapter of the American Academy of Pediatrics.
- The parent or legal guardian shall provide the school with a diabetes management plan or physician's order detailing the care and assistance needed by the student, including glucagon administration.
- Staff and the local education authority are immune from civil damages related to diabetes care unless there is gross negligence or willful or wanton conduct.

South Carolina

S.C. Code Ann. § 59-63-80 (2005)

- Allows self-monitoring and self-treatment (including administration of medications) for all children with special needs in accordance with individualized health care plan.

Tennessee

Tenn. Code Ann. § 49-5-415 (2004, 2006)

- Authorizes glucagon administration by voluntary trained school personnel.
- Training to be “arranged” through TN Dept. of Health or TN Dept. of Education.
- School may (not must) permit voluntary trained non-medical school personnel to “assist” students with diabetes care in the absence of a school nurse.
- Development of medical management plan.
- Guidelines for diabetes care developed by Dept. of Ed and Dept Health.
- Guidelines must include recognition and treatment of hypoglycemia and hyperglycemia, understanding individualized health plan, performance of blood glucose monitoring and ketone checks.
- Specifically excludes insulin administration by non-medical personnel.
- Requires all school nurses to be educated in diabetes care and to have knowledge of the guidelines.
- Students shall be permitted to perform blood glucose checks, administer insulin, treat hypoglycemia and hyperglycemia, and otherwise provide self-care in any area of the school or school grounds and at any school-related activity, and shall be permitted to self-carry all necessary diabetes supplies, including sharps.
- Sharps may be stored in a secure but accessible location, including on the student's person. Disposal of sharps in accordance with Tennessee Department of Labor and Workforce Development Division of Occupational Safety and Health regulations.
- No restriction on school choice.
- Immunity clause for school nurse, trained non-medical school employee, board of education.

Texas

Tex. Health & Safety Code § 168.001-168.011 (2005)

- Requires diabetes management and treatment plan (DMTP) to be developed for each student with diabetes. Individualized health plan (IHP) is then developed by school with input from parent, principal, school nurse, and teachers.
- Principal to seek school employees who are not health care professionals to serve as “unlicensed diabetes care assistants” (UDCA).
- Principal to make sure at least one UDCA if a full time nurse is assigned to school.
- Principal to make sure at least three UDCA's if full time nurse is not assigned to school.
- Texas Diabetes Council to develop guidelines.
- Self-management permitted in accordance with individualized health care plan.

Utah

Utah Code Ann. §§ 53A-11-603, 53A-11-604 (2006)

- Requires a public school, when requested by parents, to train school personnel who volunteer to be trained in the administration of glucagon in an emergency.
- Within a reasonable time after receiving a request, school must train at least two volunteers to administer glucagon, with training provided by a school nurse or another qualified medical professional.
- School must assist in, and may not obstruct, efforts to find school personnel to volunteer to administer glucagon.
- Provides trained school personnel with the authority to administer glucagon in an emergency where a licensed health care professional is not available, and immunity from liability for actions taken in good faith, and establishes training standards for the administration of glucagon.
- Schools must permit students to possess and self-administer diabetes medications with the authorization of the parent and the student's health care provider.

Virginia

Va. Code Ann. §§ 22.1-274, 8.01-225, 54.1-2901, 54.1-3001, 54.1-3408 (1999)

- School board must ensure that at every school attended by a student diabetes have at least two employees trained in insulin and glucagon administration.
- Permits insulin and glucagon administration by trained non-medical personnel in the absence of school nurse.
- Requires the development of training guidelines for insulin and glucagon administration by the VA Board of Medicine and Dept. of Education.
- Immunity for school employee and school board.
- No penalty for school employee refusal to be trained in insulin and glucagon administration.

Washington

Wash. Rev. Code Ann. § 28A.210.330 (2005)

- School districts must develop individual health plans for students with diabetes.
- School districts must develop policies for students with diabetes that must include self-care and carrying equipment and supplies when appropriate, access to food, water, bathroom (among other items).
- Allows trained volunteer “parent-designated adult” to provide diabetes care.
- Training by health care professional or expert in diabetes care selected by parent.
- School districts must designate a health care professional to coordinate student’s care to develop in-service training for all school districts on symptoms, treatment and monitoring of students with diabetes.
- Immunity clause for school district, employee, parent-designated adult.

West Virginia

W. Va. Code Ann. §§ 18-2K-1 through 18-2K-4 (2006)

- State Board of Education is required to adopt and disseminate guidelines for the development and implementation of individual diabetes care plans.
- Recommended that guidelines development be based upon American Diabetes Association school position statement.
- Individual diabetes care plans must include information about staff responsibilities, emergency care plan, allowable actions, self-care.
- Requires local school boards to implement guidelines.
- Requires local school boards to provide information and staff development to school personnel to support and assist students with diabetes.

Wisconsin

Wis. Stat. § 118.29(2)(a)(2r) (2001)

- School employees who are not health care professionals may administer glucagon.

Selected Cases

This section contains summaries of many of the cases and administrative decisions addressing the rights of students with diabetes in the school setting. All cases and administrative decisions related to diabetes and published in the Individuals with Disabilities Education Law Reporter or another readily available source are included. Cases or administrative decisions which are not published or which do not specifically relate to students with diabetes generally are not listed here.

Abington Sch. Dist., Case No. 812, 28 IDELR 890 (Pa. Appellate Officer 1998)

A personal aide was not required to be furnished to assure compliance with placement accommodations for child with diabetes and mental retardation because of parental distrust that school would provide accommodations. However, hearing officer recommended that state compliance officer incorporate the requirement if required accommodations were not provided.

B. M. v. Bd. of Educ. of Scott County, 2008 U.S. Dist. Lexis 66645 (E. D. Ky. 2008)

Court grants summary judgment against nine-year-old student with type 1 diabetes. Parent requested that school staff administer insulin because child could not self-administer, but district refused and suggested transferring the student to another school with a nurse. School refused to hire a nurse due to the cost and declined to train unlicensed staff because it believed state nursing regulations did not allow lay people to administer simple injections. Parent elected to make arrangements to provide insulin at school, and later moved, so that the student transferred to a different school. Parent brought claims seeking damages under 504, ADA, section 1983 and state law. Court declined to dismiss for failure to exhaust administrative remedies, finding that plaintiff did not request specialized educational services, but rather assistance with medication, and thus the claim did not fall under IDEA. Court dismissed all of plaintiff's claims, stating that the defendant's initial proposed accommodation, transfer to a school with a nurse, was objectively reasonable because students do not have a right to attend a particular school and plaintiff failed to substantiate her claim that the travel time to the new school would be unduly long or that attending the school would otherwise impact education. Court found that it was reasonable to refuse to hire a nurse and to refuse to train unlicensed personnel at the child's school because of liability concerns (because of the school's belief that it would violate state law). Finally, the court found that the district could not be liable for damages because it had not shown deliberate indifference to the child's needs.

Brown v. Metropolitan Sch. Dist. of Lawrence Township, 945 F. Supp. 1202 (S.D. Ind. 1996), *adopting magistrate's judgment*, 1996 U.S. Dist. LEXIS 17101, 25 IDELR 393 (S.D. Ind. 1996)

In the absence of a relationship between a student's diabetes and misconduct, the student may be expelled for misconduct otherwise warranting expulsion. The fourth grade student threatened other students with an instrument containing a knife. The medical evidence did not establish that her disability caused or contributed to the misconduct.

Bradley County (TN) School Dist., Complaint No. 04-04-1247, 43 IDELR 44 (OCR 2004)

OCR held that district provided a kindergarten student with diabetes an appropriate Section 504 plan and a medically safe environment. The 504 plan was implemented when the student's began school even though it was still officially in draft form. The plan could be implemented even though the parent objected and refused to sign it. The plan provided for 5-10 persons trained in diabetes care and in assisting the student with his insulin pump. OCR found that the number of staff persons trained was sufficient. Neither the ADA nor Section 504 required the district to assign a full-time aide to the student if adequate personnel were trained.

Calcasieu Parish (LA) Sch. Bd., Complaint No. 06041354, 44 IDELR 49 (OCR 2005)

Parent alleged that there was no trained person at school to give her daughter, a first grader with type 1 diabetes, insulin. Although the physician's orders authorized insulin administration by unlicensed personnel, OCR concluded that state board of nursing policy prohibited delegation of insulin. The school offered to transfer the child to a nearby school with a full time nurse, and OCR indicated that was reasonable. The parent opted to administer insulin to the child herself, and therefore OCR found no violation of Section 504. Finally, the parent alleged that district policy required parents of students using insulin to attend field trips. OCR held that field trips are part of the academic program and suggesting that denying a child access to them denies access to education. The district agreed to adopt a policy stating that insulin can be a related service that may be needed on field trips and to provide for insulin administration even if the parent is unable to go (how it will do this with nurses isn't specified). Finally, any past failure of the district to evaluate the child for Section 504 was moot because the daughter had eventually been evaluated and found eligible.

Canterbury (IN) School, Complaint 05-03-1235 (OCR 2003)

OCR did not have jurisdiction to investigate complaint alleging discrimination against student with diabetes brought against private school that did not receive federal financial assistance. Complaint was referred to the U.S. Department of Justice that has jurisdiction over Title III of the Americans with Disabilities Act.

Clovis (CA) Unified Sch. Dist., Complaint No. 09-08-1395, 52 IDELR 167 (OCR 2009)

OCR found that a district discriminated students with diabetes and other disabilities in its practices concerning medical care during field trips and extracurricular activities. A parent complained that the district refused to provide any trained staff to meet the needs of her child with diabetes during an overnight field trip. She was asked to attend the field trip, at her own expense, and later was pressured to sign a release permitting care to be provided by another parent chaperone (who was not comfortable serving in this role). During its investigation OCR Found that other parents and students in the districts had experienced similar problems. The district was in violation of 504 because it conditioned access to field trips and extracurricular activities for students with disabilities on parents accepting additional burdens and

expenses which were not asked of parents of non-disabled children. OCR entered into a resolution agreement with the district to address these issues.

Community (IL) Unit Sch. Dist. #300, Complaint No. 05-98-1039, 30 IDELR 148 (OCR 1998)

Student who was on soccer team failed to establish that misconduct, including threat made to coach, was caused by hypoglycemia. Accordingly, suspension from team and separate removal from National Honor Society did not constitute discrimination.

Conejo Valley (CA) Unified Sch. Dist., Complaint No. 09-93-1002, 20 IDELR 1276 (OCR 1993)

The school district violated Section 504 and the ADA where it failed to make an individual determination of the student's needs and, instead, proposed placement options dictated solely by a district policy prohibiting non-licensed personnel from giving injections. The student was six years old and had Down Syndrome and diabetes. Alternative placements were considered because of the child's inability to reliably detect early warning symptoms. Rejected placements included home instruction, an assignment to a class for students with communication impairments located near a hospital, placement in a school outside the district where a full-time nurse is available, and assignment of an instructional aide to be accompany the student but without authority to give emergency injections. Each was rejected because they were based on the district's refusal to allow non-licensed personnel to administer injections rather than the individual needs of the student. The OCR also found that even if home instruction would have been proper, a daily limit of one hour of service without regard to the individual needs of the student was discriminatory.

Denton (TX) Indep. Sch. Dist., Complaint No. 06-07-1334, 50 IDELR 200 (OCR 2007)

OCR found that a district did not discriminate against a student with type 1 diabetes when it refused to permit him to attend a class field trip. The student, who had been diagnosed less than two weeks before, was approved to go on the trip on the understanding that the parent would attend and provide any needed care. The parent notified the school the night before the trip that he was unable to attend, and the district was not able to secure an individual with knowledge of diabetes care to attend on such short notice. The school declined to permit the student to attend without a trained adult present because the student was experiencing significant fluctuations in blood glucose levels, and OCR held this was reasonable. OCR also held that the district did not have any information to suggest that the student was a child with a disability, despite the fact that the parent had provided the district with the student's medical orders and the recently diagnosed student was experiencing significant fluctuations in blood glucose levels.

East Allen (IN) County Schs., Complaint No. 05-02-1163, 38 IDELR 75 (OCR 2002)

OCR rejected a claim alleging the district failed to provide appropriate diabetes care training to school personnel. Each of the student's teachers received training as

specified in the student's Section 504 plan, and, as part of this training, the parent provided specific information about the student's condition. The training called for in the 504 plan included information on how the student's insulin pump functioned, how her diabetes affected her, the signs of high and low blood glucose levels, and appropriate treatment in a medical emergency. Personnel who supervised the student at lunch were trained on calculating and balancing carbohydrates and insulin. OCR also held the student was not penalized for missing a class because of her diabetes. She made up the missed work and received an "A" in the course. Finally, OCR held was permitted to deny the parent's request for a due process hearing because the request did not dispute the appropriateness of the student's identification, evaluation or placement. Disagreements about the implementation of a 504 plan could be addressed through district grievance procedures or through an OCR complaint.

Eastmont (WA) School Dist. No. 206, Complaint No. 10-05-1030, 44 IDELR 258 (OCR 2005)

A parent alleged that the district discriminated against her son, a kindergartner with type 1 diabetes, by refusing to administer insulin, failing to communicate with the parents about blood glucose levels, failing to adequately monitor snacks, and failing to give the parent notice of procedural rights. OCR found the first three allegations to be without merit based on the facts presented. The parent stated that she had been told by district personnel not to request insulin administration because it could not be provided. However, according to the district, if requested the school nurse could administer insulin, but the parent had never requested this and none of the documentation provided by the parent or the child's doctor indicated a need for insulin during the school day. As to the allegations about lack of communication and improper monitoring of snacks, OCR found that, while there were occasional problems, they were addressed, and in general communication was frequent and the paraprofessional assigned to assist the student full time monitored snacks and performed other needed care. The district did violate Section 504 by not giving proper notice of procedural rights, and entered into an agreement with OCR to resolve this issue.

Elizabeth S. v. Gilhool, EHLR 558:461 (M.D. Pa. 1987)

In order to attend school safely and productively, a child with diabetes' blood sugar level must be monitored and provision made for insulin injections, snacks during the course of the school day, the management of any medical emergencies which may arise, and perhaps for modification in scheduling and activities.

Elkhart (IN) Community Sch. Corp., Complaint No. 05-00-1026, 34 IDELR 13 (OCR 2000)

School entered into a resolution agreement to address parent's complaint about provision of services to students with diabetes. The parent alleged that the school failed to provide her child with appropriate services during a camping trip, failed to develop an appropriate individual plan to meet her known health needs, and failing to protect her privacy. The agreement required the district to follow the Section 504 process to provide appropriate aids and services, and to notify parents of their

availability. The agreement also required the district to ensure the privacy of medical information.

Eureka (CA) City School Dist., Complaint No. 09-95-1020, 23 IDELR 238 (OCR 1995)

Student with diabetes could be disciplined where there was a reasonable belief that he intentionally caused a teacher to fall into a swimming pool.

Fayette County (GA) School Dist., Complaint No. 04-05-1037, 44 IDELR 221 (OCR 2005)

OCR found the district did not discriminate against a 14-year-old student with type 1 diabetes. The parent claimed the district refused to state in the student's Section 504 plan that it would automatically excuse him from absences due to medical needs. The district agreed to evaluate each absence individually and to excuse those for which he provided a doctor's note, OCR found this policy to be reasonable. Further, the district's policy of exempting students with no more than five absences, excused or unexcused, from final exams was facially neutral and did not violate Section 504.

Fayette County (KY) School Dist., Complaint No. 03-05-1061, 45 IDELR 67 (OCR 2005)

The mother of a 12 year old child with type 1 diabetes alleged that the district failed to evaluate the child for eligibility under Section 504. The child had been experiencing depression and behavioral problems, and after transferring into the district he attempted suicide and was admitted to a psychiatric hospital. When he returned to school, an individualized health care plan was put into place providing for school staff to monitor the student while he tested blood glucose and administered insulin, and for school staff to administer glucagon, although the details of how these treatments were not specified. The student's father later asked that the student be evaluated for Section 504 eligibility, but school staff refused on the grounds that there was no reason for an evaluation if the school was meeting the student's medical and educational needs. OCR found the district had violated Section 504 by not referring the student for evaluation. OCR stated that "while some students with diabetes may be adequately served under an individualized health care plan," the district was aware of particular circumstances regarding this student that justified referral for evaluation. These circumstances included the student's recent move, his depression and his attempted suicide. The school agreed to take steps to ensure the child was properly evaluated to resolve the complaint.

Gardner v. Uniondale Pub. Sch. Dist., 2008 U.S. Dist. Lexis 84496 (E.D.N.Y. 2008)

Court grants motion to dismiss against plaintiff who has a daughter with type 1 diabetes. A substitute teacher's denied the student immediate access to the bathroom, even though this was included in her 504 plan; and the parent also complained of harassment related to diabetes by teachers and loss of class time because teachers sent her to the nurse's office excessively. Plaintiff brought claims under IDEA and Section 504, as well as state law claims. Court held that administrative exhaustion was required despite plaintiff's claim for monetary damages, because plaintiff's claim centered on denial of FAPE which could have been remedied through the administrative process. Court held that remedies related

to denial of educational services and FAPE are available under IDEA, and so the student must exhaust the IDEA administrative process..

Gasconade County (MO) R-I Sch. Dist., Complaint No. 07-91-1061, 18 IDELR 313 (OCR 1991)

District did not discriminate by imposing three day suspension on student with diabetes. The district affirmed principal's decision to suspend the student for cursing at a teacher after weighing the medical evidence of a possible insulin reaction submitted by the parent against the testimony of the principal, who observed no symptoms of an insulin reaction in the student on the day of the incident.

Gettysburg Area School District, Case 1984/02-03 (Pa. State Educational Agency 2003)

Where specific needs so require, teachers and staff with a student outside school buildings are required to be trained to recognize child's problems relating to his diabetes and have a walkie-talkie to provide direct communication with a trained medical professional, such as the school nurse.

Half Hollow Hills (NY) Central School Dist., Complaint No. 02-04-1136, 44 IDELR 131 (OCR 2005)

The parent of a student with type 1 diabetes alleged that the district denied her child FAPE by failing to provide a nurse to provide care during field trips and extracurricular activities. OCR found that, while the district had failed to provide care during certain after-school activities during the prior school year, this was no longer the case. OCR also found no violation in the district's failure to provide coverage for field trips. The student was able to attend four of five field trips during the school year with either a nurse or parent present. For the fifth field trip, the district made reasonable efforts under the circumstances to locate a substitute nurse to cover for the regular nurse, who was unavailable, and when these proved unsuccessful the district offered to have a trained paraprofessional who worked with other children with diabetes in the district attend with the child, but the parent refused.

Hamilton Heights (IN) Sch. Corp., Complaint No. 05-02-1048, 37 IDELR 130 (OCR 2002)

Rejecting or finding resolved various allegations with regard to child with diabetes. Nurse's misreading of student's carbohydrate count resulted in a slight increase in the amount of insulin taken, but nurse followed appropriate protocol to address lower blood glucose level. Staff was provided proper method to administer glucose gel and tablets to child. Cafeteria manager corrected carbohydrate count to provide "as prepared" rather than "as purchased." All teachers were required to sign off on Section 504 plan. Retaliation claim was rejected where volunteer services were terminated because parent of child with diabetes made excessive visits to nurse's clinic at school where her children were not enrolled. Finally, Section 504 rights were to be included in student/parent handbooks.

Henderson County (NC) Pub. Schs., Complaint No. 11-00-1008, 34 IDELR 43 (OCR 2000)

To resolve a complaint by parents of a student with diabetes, district agreed to provide proper training to its faculty and staff on how to recognize signs and symptoms of hypoglycemia and hyperglycemia. Training would be provided by a registered nurse, and if possible a certified diabetic educator, to the entire faculty and staff at the student's school. The district also agreed to have at least three full-time staff trained in the use of an insulin pump, and to provide at least one person trained to operate the pump to accompany the student to school-sponsored events off campus. The parents alleged that the district failed to provide for the administration of insulin and glucagon and for other diabetes-related services.

Hernando (FL) County Sch., Complaint No. 04-98-1412, 31 IDELR 89 (OCR 1999)

School did not discriminate against student with diabetes by failing to promote him to seventh grade. The student's performance was not hampered by any failure of the school to accommodate the student's needs. Instead, the school declined to promote him based on the failure of the student to master the subject matter as evidenced by the student's failing five classes and receipt of poor grades in two other classes.

Houghton Lake (MI) Community Schs., Complaint No. 15-05-1050, 45 IDELR 199 (OCR 2005)

OCR found that a district did not violate Section 504 when it prohibited a student with type 1 diabetes from playing basketball because of a facially neutral attendance policy. The student had a medical appointment related to diabetes which required him to miss the entire school day, and the district had a policy that students could not participate in extracurricular activities on days when they were absent. The school refused to alter the policy even though the absence was related to diabetes, and OCR found this was not a violation because the policy was applied to all students regardless of disability.

Huntsville City (AL) Sch. Dist., Complaint No. 04-96-1096, 25 IDELR 70 (OCR 1996)

OCR held that a district policy requiring glucose meters to remain in the office, and requiring students with diabetes to come to the office to use the meters, was not discriminatory. Exceptions were made for a student who provided medical documentation that she was required to have her glucose meter with her at all times.

In re School Admin. Dist. #25, Case No. 93.114, 20 IDELR 1316 (Me. State Educational Agency 1994)

Parents may not select diabetes care providers. Schools are entitled to make the selection, although schools should make a selection which offers the best chance of success for the student. Also finding that parents are required to provide diabetes supplies, but schools may be expected to provide appropriate backup supplies such as glucose tablets.

In re: Student with a Disability, Complaint No. 0607-14, 48 IDELR 146 (N. M. State Educational Agency 2007)

Parent of student with type 2 diabetes treated with insulin, along with asthma, depression and post-traumatic stress disorder, requested a due process hearing challenging the school district's failure to timely develop an IEP and to provide needed aids and services. Hearing officer first held that district had violated IDEA by failing to evaluate the student and develop an IEP for more than a year after a psychologist's report put it on notice that the student might need special education services due to psychological issues, and ordered the district to provide compensatory education as a remedy. Also, the IEP, when it was developed, was procedurally deficient because it failed to contain information about the student's diabetes and other medical conditions, and the IEP team failed to consult with any health care professional or other person knowledgeable about the student's conditions and what services they would require. The parent was unable to prove that these procedural violations led to any denial of FAPE, largely because it appeared that many of the student's frequent absences were not related to her medical conditions. However, the hearing officer did order the district to develop an individualized health plan and to revise the student's IEP in consultation with a person knowledgeable about the student's conditions..

Irvine (CA) Unified Sch. Dist., Complaint No. 09-93-1043, 19 IDELR 883 (OCR 1993)

A school subject to Section 504 and the Americans with Disabilities Act may not provide significant assistance to any agency, organization, or individual that discriminates on the basis of disability. This includes a PTA providing an after-school program that discriminated against a student with diabetes.

Irvine (CA) Unified Sch. Dist., Complaint No. 09-94-1251, 23 IDELR 1144 (OCR 1995)

Discrimination found where school failed to individually evaluate whether ten-year-old student with diabetes could perform blood glucose testing in classroom and, instead, applied uniform rule that testing was to be conducted outside the classroom. Approving protocol for dealing with "treats" at class parties involving advance notice to parent so that insulin amounts could be adjusted and rejecting retaliation claim where protocol was not followed on one occasion where a parent failed to provide advance notice to school. Also rejecting retaliation complaint where student with diabetes was kept out of school until lesions cleared up consistent with the way other students were treated under similar circumstances.

Irvine (CA) Unified Sch. Dist., No. 0613, 23 IDELR 1077 (FERPA Office 1996)

Family Educational Rights and Privacy Act requires written consent to disclosure of education records to student's physician in the absence of an actual health and safety emergency.

Jay School Corp., 39 IDELR 202 (Indiana State Education Agency 2003)

A state appellate panel affirmed a district's decision to discipline a student for behavior problems. The student also had autism spectrum disorder and communication disorder, which qualified him for services under IDEA. The panel found that the student's diabetes did not qualify him for services under IDEA because medical evidence did not support the parent's claim that blood glucose fluctuations affected his behavior. While blood glucose fluctuations can affect behavior, there was no medical evidence that this student's diabetes had caused his behavior problems.

Jamestown Area (PA) Sch. Dist., Complaint No. 03-02-1117, 37 IDELR 260 (OCR 2002)

District agreed to resolve parent's complaint that the district refused to administer her son necessary medication, refused him needed snacks in the classroom and on the school bus, searched him for snacks in front of his class, denied him lunch and segregated him from other students during lunch, and refused him necessary bathroom privileges. The district reached an agreement with the parent to resolve these issues. It agreed to develop an appropriate Section 504 plan for the student, and to implement a procedure to designate a back-up person to the school nurse for the administration of glucagon. Additionally, the district agreed to inform the school bus company that it was required to permit the student to eat snacks on the bus.

Kiski (PA) Area Sch. Dist., Complaint No. 03-07-1258, 109 LRP 32695 (OCR 2008)

School district denied a student FAPE by failing to provide at least one full-time staff person to be physically present at the school each day to provide diabetes care. The student, a sixth grader with type 1 diabetes, had a 504 plan that specified that two people at the school were trained to provide diabetes care during the school day, the principal and school nurse. However, the school nurse was required to be at other schools during part of the school day, and the principal was not always present and eventually left the school permanently. The school asserted that the trained diabetes personnel did not need to be at the school so long as they were nearby and that the nurse was always within 15 minutes of the school. The school had two additional individuals trained to give glucagon in an emergency only, which OCR found insufficient, because the student also needed assistance with blood glucose monitoring and insulin. Specifically, OCR stated that “[r]egardless of the language in the [plan], the District was required to have at least one trained individual, capable of monitoring the Student's condition and administering the necessary treatment, scheduled to be physically present in the Student's school building at all times throughout the school day.”

Lee County (FL) School Dist., Complaint No. 04-06-1178, 47 IDELR 18 (OCR 2006)

School district violated Section 504 in several respects due to a lack of appropriate training for school personnel and a lack of sensitivity to a young student's diabetes. Parent first alleged that school personnel lacked adequate training and knowledge of the provisions of student's 504 plan, which resulted in student being permitted to walk to the clinic unsupervised when she felt weak, student being required to

complete tests when she did not feel well, and clinic staff being unable to properly give the student insulin injections and being impatient when her diabetes affected her ability to concentrate. While there were factual disagreements about whether some of the alleged incidents had actually happened, OCR found that training of school personnel had been insufficient, in part because the school nurse lacked current diabetes knowledge. The school had already replaced the school nurse with one who was more knowledgeable about diabetes, and as part of a resolution agreement agreed to provide diabetes training to all school personnel responsible for the child. The parent also alleged that the school had failed to monitor the care that the student was provided, resulting in multiple medication errors and poor documentation. OCR found that this allegation was supported by the evidence and the school agreed in a resolution agreement to institute a system to document what doses were being given and to communicate regularly with the parent. Finally, OCR found that evidence supported the parent's allegation that the school had created a hostile environment for her and her daughter, based on multiple insensitive comments, regular medication errors, and a lack of response to numerous parent complaints.

Lee County (FL) School Dist., Complaint No. 04-06-1300, 46 IDELR 228 (OCR 2006)

OCR closed complaint against school district regarding district's failure to develop an appropriate 504 plan, failure to provide a backup plan for providing care when school nurses were not available, and failure to train school personnel based on actions the district had taken while the complaint was pending. OCR found that the district had developed a 504 plan addressing, snacks, meals, bathroom breaks, water, blood glucose testing, and emergency care. The district had also developed a backup plan, and OCR found that those allegations from the complaint were no longer appropriate for investigation. As to the parent's allegations regarding training, OCR found that the steps the district had agreed to take as part of its resolution agreement in a prior OCR complaint addressed this issue and made further investigation unnecessary.

Lisbon School Dept., 33 IDELR 172 (Me. State Educational Agency 2000)

Student, age six, with type 1 diabetes, was not disabled under IDEA where student did not demonstrate a need for special educational services. Although student with diabetes was clearly disabled, the student's educational needs were best met through the appropriate implementation of a Section 504 accommodation plan. Further, the appropriate means to address the student's special medical needs in the school setting was through ensuring necessary accommodations and modifications.

Loudoun County (VA) Public Schools, Complaint Nos. 11-99-1003, 11-99-1064, 11-99-1069 (1999)

Parents filed complaints against the District for its refusal to administer glucagon. District and OCR entered into a resolution agreement that requires the District to train at least three school personnel at each school attended by a student with diabetes in diabetes care tasks including blood glucose monitoring, insulin

administration, and glucagon administration and requires District to provide a trained adult at field trips and extracurricular activities where a student with diabetes is a participant.

Maine Sch. Admin. Dist. #25, Complaint No. 01-93-1170, 20 IDELR 1354 (OCR 1993)

School did not retaliate against student by supposedly discontinuing sodas and snacks. School could expect parents to provide sodas and snacks, although it provided storage and refrigerator space. Also, a school may select backup items, such as milk and cookies, rather than soda as student might prefer.

Millington (MI) Cmty. Schs., Complaint No. 15-07-1057, 49 IDELR 232 (OCR 2007)

OCR found no evidence that district had failed to implement student's 504 plan by not ensuring that he checked his blood glucose levels. The 504 plan called for an individual to be trained to supervise the student's diabetes care, including blood glucose testing and insulin pump operation. When a substitute paraprofessional was assigned to provide care on two days, parent alleged that she did not receive any training and failed to have the student check his blood glucose. However, the district produced evidence that, while the substitute received no training, she was given written instructions on the student's diabetes care needs. The substitute said that she reminded the student to check his blood glucose levels, and the parent had no evidence to refute this statement. Therefore, OCR found there was insufficient evidence of a violation.

Monterey Peninsula Sch. Dist., Case No. SN02-02753, 38 IDELR 223 (Cal. St. Educational Agency 2003)

State hearing officer rejected parent's attempt to require district to replace school nurse assigned to provide diabetes care for the student. While the parent claimed she no longer trusted the nurse, the parent did not dispute that the nurse was qualified. The parent provided no convincing evidence that the nurse provided inadequate care, and the hearing officer held the district was not required to replace school personnel who were providing appropriate care.

Moreno Valley (CA) Unified Sch. Dist., Complaint No. 09-95-1032, 22 IDELR 902 (OCR 1995):

Although school may not inflexibly implement a policy prohibiting student possession of an unauthorized beeper, student with diabetes was not entitled to carry beeper where no medical condition required that student carry a beeper.

New York City (NY) Bd. of Educ., Complaint No. 02-89-1128, 16 EHLR 455 (OCR 1989)

Student with diabetes may not be excluded from participating in field trips or required to take examinations in a separate room because of bladder control and flatulence problems unless determined appropriate through an evaluation. Because no evaluation was conducted, Section 504 was violated.

North Kitsap (WA) Sch. Dist. No. 400, Complaint No. 10-99-1230, 33 IDELR 109 (OCR 1999)

OCR rejected parents' claims that the district nurse would not administer glucagon to a 13-year-old student with diabetes. The student's 504 plan provided for glucagon kits in various locations throughout the school, and authorized nurses to administer glucagon if necessary. Also, teachers were trained on handling hypoglycemia, and district nurses could be paged in an emergency. The parents did not trust the district to implement the plan, but produced no evidence that the district would not implement the 504 plan, and there was no evidence that any services had been denied.)

North Lawrence (IN) Community Schs., Complaint No. 05-02-1235, 38 IDELR 194 (OCR 2002)

Resolution agreement addressed parent's complaint that district failed to provide appropriate education for student with diabetes. The parents alleged that the student was denied the use of the drinking fountain on several occasions, despite the school's knowledge of his increased water needs. The parties agreed to permit the student to maintain a bottle on his desk to access water as needed and to minimize interruptions in his daily schedule. OCR rejected the parent's allegations that the student had been improperly denied permission to use the restroom, because the student's health care plan failed to specifically address unlimited access to the restroom.

Nyack (NY) Unified School Dist., Complaint No. 02-04-1065, 43 IDELR 169 (OCR 2004)

School agreed to resolve complaint that student with diabetes had been excluded from a class trip. The evidence was disputed, but suggested that the district had excluded the student from the trip because of concerns about her diabetes and the lack of medical staff and supplies on the trip and had refused to allow her to go unless accompanied by her mother. OCR found that the district regarded the student as disabled because of its concerns about her diabetes even though the student had not been identified as disabled and did not have a 504 plan.

Onslow County (NC) Public Schs., Complaint 11-02-1035, 37 IDELR 161 (OCR 2002)

Resolution agreement addressed complaint that district failed to develop and implement proper health care plans to address student's diabetes-related needs. Parent alleged that district failed to develop a policy for the administration of insulin and/or glucagon, failed to provide an adequate number of trained staff to administer insulin and glucagon; and refused to allow a student to carry his insulin kit at school. In resolution, the district agreed to designate and train at least two full-time authorized diabetes care providers for each school attended by students with diabetes, to train all staff who were responsible for immediate custodial care of students with diabetes, to train those bus drivers responsible for students with diabetes. The agreement required the district to maintain a location in each school to provide privacy for student diabetes care.

Palm Beach County (FL) Sch. Dist., Complaint No. 04-08-1368, 52 IDELR 109 (OCR 2009)

A school district did not violate Section 504 by refusing to permit a kindergarten student with diabetes from being accompanied by a private aide who provided diabetes care to the student. The parent wanted the aide to accompany the child, but the district refused because it believed it was prepared to meet the student's needs. OCR found that the district adopted a 504 plan designed to meet the student's needs, trained numerous staff members to check the student's blood glucose levels and provide other care. The parent (who did not respond to OCR's attempts to investigate the complaint) produced no evidence that the plan was either inadequate or not being implemented.

Papillion – La Vista (NE) Pub. Schs., Complaint No. 07-07-1124, 51 IDELR 195 (OCR 2008)

OCR found that a district had violated the rights of students with type 1 diabetes by failing to evaluate them for eligibility under Section 504. After a parent complained that her child had not been evaluated, OCR reviewed the records of all students with diabetes in the district and found no evidence they had actually been evaluated. The district claimed that it evaluated all students to determine whether they had a verified disability and whether that disability rendered them unable to access the general education curriculum. However, OCR found no evidence that this process was followed, and even if it was, the standards it set were too high (in requiring that the student be unable to access the general curriculum). To resolve the issue, the district agreed to evaluate all students with diabetes for 504 eligibility using the correct standards. The parent also alleged that the district did not provide a nurse to give diabetes care during summer school. OCR rejected this allegation because the parent had worked out a satisfactory arrangement with the district for her child, and there was no evidence that any other summer school students needed a nurse present.

Perry (OH) Public Sch. Dist., Case No. 15-03-1148, 41 IDELR 72 (OCR 2003)

OCR rejected a complaint that a student with type 1 diabetes was rejected from membership in the National Honor Society because of her diabetes, and held in stead that the rejection was because she did not meet the society's eligibility criteria. The district waived the society's eligibility criteria related to attendance because of absences related to diabetes. However, the student was ultimately rejected because she did not actively participate in any extracurricular activities, another eligibility requirement, and this failure was not related to her diabetes. OCR also concluded that the tutoring and other accommodations provided to the student were adequate.

Prince George's County (MD) Schools, Complaint No. 03-02-1258, 39 IDELR 103 (OCR 2003)

A policy that prohibits health services staff (nurses, etc.) from giving injectable medications to students with diabetes, even if needed and even in emergency situations could have the effect of denying needed services to students with disabilities.

Renton (WA) Sch. Dist., Complaint No. 10-93-1079, 21 IDELR 859 (OCR 1994)

OCR held that district provided nine-year-old student with diabetes, Down Syndrome, a speech impairment with appropriate diabetes monitoring. OCR found that the district conducted diabetes training for staff and hired an aide to monitor the student's diabetes and assist him with his snack schedule, and held that these services were sufficient.

Rock Hill (OH) Local Schs., Complaint No. 15-02-1034, 37 IDELR 222 (OCR 2002)

OCR rejected parent's claim that the district refused to provide related aids and services to a student with diabetes. District staff initially volunteered to administer insulin and glucagon, but the parent did not trust the staff to administer shots properly. The parent also failed to provide the requested prescription or other written instructions from a physician on how and when to administer insulin and glucagon. The district provided OCR with written assurances that, with appropriate written instructions from a medical doctor, it would provide medication, including injections, to students who require such services. The parent also alleged that the student was not given snacks in the same manner as other students. When treats were provided to students, the teacher would give the student's treat to her parent on those occasions when the student's blood glucose level was high. This was a legitimate nondiscriminatory reason that did not violate Section 504. Finally, OCR rejected the parent's claim that the district retaliated against her by making a referral for medical neglect, because it was not clear who had made the referral and there were good faith concerns about the student's health and medical needs.

San Diego (CA) City Unified School Dist., Complaint No. 09-04-1150, 44 IDELR 135 (OCR 2005)

District denied FAPE to a student with diabetes by failing to timely evaluate him for Section 504 eligibility. The middle school student has type 1 diabetes and had an individualized student healthcare plan (IHP) in place to provide for his health care needs while at school. However, he experienced behavioral problems at school which his parents believed resulted from high blood glucose levels. As a result, the parent requested a Section 504 evaluation. The district responded to this request by telling the parent that Section 504 was only available to students who were limited in learning, and that administrators did not believe the student's diabetes limited any major life activities. Eventually, after the district had expelled the student for discipline problems, a hearing was held where the district determined that the student's behavioral problems were a manifestation of his disability. OCR found that erroneous assumptions about Section 504 eligibility and about proper procedures led to an unreasonable delay in conducting a 504 evaluation. OCR stated that students can be eligible under Section 504 even if not limited in learning, and that the student's IHP was not an adequate substitute for a Section 504 plan adopted in accordance with proper procedures. As part of a resolution agreement, the district agreed to provide training to staff, including specific examples of how the Section 504 process applies to students with diabetes.

Santa Ana (CA) Unified Sch. Dist., Complaint No. 09-92-1185, 19 IDELR 501 (OCR 1992)

Students with disabilities, including diabetes, who are to be suspended for a long term (i.e., in excess of ten days) or expelled are required under Section 504 and the Americans with Disabilities Act to be evaluated and provided the same due process rights as students under IDEA. This includes a determination of whether misconduct is a manifestation of a disability or whether the child's placement remains appropriate.

Santa Maria-Bonita (CA) Sch. Dist., Complaint No. 09-97-1449, 30 IDELR 547 (OCR 1998)

District refused to allow self-monitoring of blood glucose in the classroom and prohibited the carrying of sharps to class. After the complaint was filed, the school district agreed to allow the students to carry their diabetes supplies, including sharps, to class and permitting them to conduct blood glucose tests while in class. The district further agreed to develop a policy to assess the needs of students with diabetes on an individual basis.

Seattle (WA) Pub. Sch., Complaint No. 10-98-1264, 31 IDELR 193 (OCR 1999)

OCR ruled that a two-week exclusion from school of a student with diabetes to evaluate her requirements following a seizure did not violate Section 504. The student had an individualized health care plan, but after her hospitalization for the seizure, the principal asked that the student be removed from school until updated medical information was received and a new health care plan were put in place. Following consultation with the student's physician, the district placed her at a new school where a nurse⁴ was available five days per week. OCR concluded that the student's changed health status required a significant change in her health care plan and school assignment.

Seminole County (FL) School District, Complaint No. 04-00-1346 (2000)

District and OCR entered into a resolution agreement that requires the District to train at least three school personnel at each school attended by a student with diabetes in diabetes care tasks including blood glucose monitoring, insulin administration, and glucagon administration and requires District to provide a trained adult at field trips and extracurricular activities where a student with diabetes is a participant.

Sierra Vista (AZ) Unified Sch. Dist., Complaint No. 08-99-1039, 31 IDELR 169 (OCR 1999)

Complaint resolution reached where parent alleged that district discriminated against student because staff failed to send the child to the nurse's office at specified times for a blood glucose test. The parties reached an agreement to resolve the issue, and therefore asked OCR to dismiss the complaint.

Springboro (OH) Community City Sch. Dist., Complaint No. 15-02-1194, 39 IDELR 41 (OCR 2003)

District and OCR entered into resolution agreement to address complaint by parents of second grade student with type 1 diabetes. The parents withdrew their son from the district claiming the district failed to address their concerns about implementation of the Section 504 plan. The district did not allow the student to self-test in the classroom, school personnel were not properly trained in blood glucose monitoring or the administration of medication, and the school had no emergency plan for the student. The district also failed to provide nutritional information about lunches and snacks. The district agreed that blood glucose monitoring, administration of medication, and relaxation of snack policies were “related aids and services” under Section 504, and agreed that the 504 team would consider the appropriateness of these accommodations should the student be re-enrolled in the district.

Sumner County (TN) Sch. Dist., Complaint No. 04-01-1122, 36 IDELR 136 (OCR 2001)

Middle school student could be suspended for violating school district policy prohibiting carrying prescription or nonprescription drugs, including supplies for diabetes. Student could also be barred from school dance for this and other misconduct. The policy provided that younger students were to provide supplies to teachers and were to be kept in a locker accessible to all the student’s teachers. The policy did allow high school students to carry supplies. The appropriateness of the policy was not questioned.

Sycamore (OH) Community City Sch. Dist., Complaint No. 15-01-1188, 36 IDELR 245 (OCR 2002)

An agreement resolving allegations that a school district failed to provide adequate services to children with disabilities required that the district omit any language from its procedures or notices suggesting that certain categories of students (including students with diabetes) were ineligible for services. The school was also required to omit any language in notices that suggested that parents must first follow an internal grievance or complaint procedure or any other procedures established by the district before requesting a due process hearing.

Union County (SC) Sch. Dist., Complaint No. 04-00-1420, 34 IDELR 210 (OCR 2000)

School district did not violate Section 504 where there was a delay in administering insulin to a student with diabetes caused by inadequate information on a physician’s form and not by any inaction by the district. School district appropriately contacts the student’s parents for assistance and asked school nurse to confirm that the dosage recommended by the parent was appropriate.

Valle Lindo (CA) Elem. Sch. Dist., Complaint No. 09-06-1079, 47 IDELR 170 (OCR 2006)

OCR found insufficient evidence that a district had violated Section 504 by failing to administer insulin to a kindergarten student with diabetes. For the 2004-2005 school

year, the district required the parent to come to school to administer insulin until school staff could be trained. Although school staff members were trained in early September, the parent continued to come to school to administer insulin for the remainder of the school year, and claimed that the district required her to do so. The district stated that the parent chose to come to school, and the following school year school staff began administered insulin to the student. Stating that a “miscommunication” had resulted in the parent coming to school the prior year, and relying on the fact that the district was currently administering insulin to the child, OCR found no violation of Section 504. OCR also concluded that the parent’s allegation of retaliation failed because there was no evidence that the district had called immigration officials after the complaint was filed, as the parent alleged.

Waterbury (CT) Sch. Dist., Complaint No. 01-07-1280, 51 IDELR 198 (OCR 2008)

OCR found numerous violations of Section 504 by a district in its attempts to serve a student with type 1 diabetes and a hearing impairment. The student had been placed by the district at a private school for the deaf, and OCR first found that the district was responsible for ensuring that the student received FAPE at the private school, and that her FAPE rights had been violated during a school field trip when her parent was not given sufficient notice of the trip so that meals and snacks could be adjusted, and because no trained personnel were available during the trip to administer glucagon or provide other diabetes care. OCR also found that the district violated 504 because aides who were responsible for providing diabetes care at the private school routinely removed the student from class for extended periods so her blood glucose levels could be tested and treated in the school office, contrary to the provisions in the student’s 504plan. After the parent became dissatisfied with the diabetes care being provided at the private school, she withdrew the child and returned her to public school. OCR found that the district violated 504 by failing to provide educational services in the eight day period it took to place the child in public school, and by not training her transportation providers in diabetes care. The school agreed to address the violations through a resolution agreement.

Wayne-Westland (MI) Community Schs., Complaint No. 15-00-1130, 35 IDELR 14 (OCR 2000)

Addressing a complaint that it failed to administer insulin to an eight year old student with diabetes, the district stated it would provide a nurse or trained staff member to do so in accordance with detailed instructions as to the student's need for insulin and/or glucagon during the school day provided by the student's physician. The agreement required the district to administer the student's insulin until her Section 504 team determines she has acquired the skill and comfort level for self-administration. A district nurse would administer glucagon in emergency situations with the specific written order of the student's physician.

Wells (ME) Pub. Schs., Complaint No. 01-01-1227, 36 IDELR 244 (OCR 2002)

School was entitled to require supervised access to testing supplies including glucometer in view of student’s “low average general cognitive skills with specific processing deficits in auditory concentration and memory” and inability to

appropriately evaluate meter readings and take appropriate action should it be warranted.

Westwood (NJ) Reg'l Sch. Dist., Complaint No. 02-06-1363, 49 IDELR 78 (OCR 2007)

OCR found that district had not violated Section 504 by denying student the ability to participate in field trips. Although parent claimed she had been told that district would not permit her child with diabetes to attend field trips unless an individual was available to administer glucagon, OCR found that the school district's policy was that such an individual (either the school nurse or a parent) would attend the field trip, and if no one was available the trip would be rescheduled for a time when a parent or nurse was available. OCR found this policy did not violate Section 504, and also noted that the student had attended the only field trip during the preceding school year (with a school nurse attending).

Yuba City (CA) Unified Sch. Dist., Complaint No. 09-94-1170, 22 IDELR 1148 (OCR 1995)

The parent of a student with diabetes, vision deficiency, and other conditions alleged that the district failed to adequately identify and evaluate her son's disabilities and did not obtain sufficient information to enable it to provide the care necessary to allow the student to attend school. OCR found that the school district violated Section 504 and the Americans with Disabilities Act where it failed to obtain a sufficient medical assessment of the student prior to making a placement decision.

Sample Letters and Forms

Request for Evaluation and Accommodations

Introduction

This form may be used as a template by a parent to initially request accommodations for a student with diabetes. Like all of the forms in this section, it must be adjusted and customized to the needs and circumstances of the student.

Form

[Name and Address of School Superintendent, Principal, or Section 504 Coordinator.]

Dear _____:

Please be advised that I am the parent of [name], whose date of birth is [date]. I am submitting this request to obtain accommodations under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. My child attends [school], is currently in [grade], and has type ___ diabetes.

As a result of my child's diabetes, she is required to monitor blood glucose levels, take insulin, eat snacks, and have access to the restroom during the school day. She also needs access to emergency care, including administration of glucagon in case of a very low blood glucose (sugar) level. This is necessary to manage her diabetes and avoid high or low blood glucose levels. If not managed, her health, concentration, and ability to do school work may be affected. Failure to respond to high or low blood glucose levels can be life threatening.

Because of my daughter's condition, I am seeking for her appropriate accommodations. Among others, she should be permitted to carry and use testing supplies, snacks, water, and insulin as needed, and there must always be trained adults present at school and school-related activities who can provide needed emergency care..

Enclosed is a letter from my daughter's physician confirming her diagnosis of diabetes. Also provided is the Diabetes Medical Management Plan developed for my daughter. I am seeking a Section 504 Plan to implement the Diabetes Medical Management Plan.

Because of the immediate and chronic needs my daughter has, I ask that you promptly consider this request. My daughter is available for any further evaluation you may need. Also, I am prepared to meet at your earliest convenience to discuss her situation.

Thank you for your consideration.

Very truly yours,

[Address and telephone number]

Diabetes Medical Management Plan

Introduction

A Diabetes Medical Management Plan outlines a student's specific health care needs as determined by his or her personal health care team (see Questions 7.1, 7.6). This is a sample plan developed by the American Diabetes Association and the Disability Rights Education & Defense Fund. The most current version of this form may be accessed and downloaded from: <http://www.diabetes.org/living-with-diabetes/parents-and-kids/diabetes-care-at-school/written-care-plans/diabetes-medical-management.html>. Some schools or states have their own model plans. As an example, Florida has available a general diabetes care plan (available at: http://www.diabetes.org/assets/pdfs/state-school-laws/fl_diabcareplan020303.pdf) and one for those using pumps (available at: http://www.diabetes.org/assets/pdfs/state-school-laws/fl_dcp_pump.pdf). Where available, school or state forms should be used if all issues relevant to the child are addressed.

Diabetes Medical Management Plan

Date of Plan: _____

Diabetes Medical Management Plan

This plan should be completed by the student's personal health care team and parents/guardian. It should be reviewed with relevant school staff and copies should be kept in a place that is easily accessed by the school nurse, trained diabetes personnel, and other authorized personnel.

Effective Dates: _____

Student's Name: _____

Date of Birth: _____ Date of Diabetes Diagnosis: _____

Grade: _____ Homeroom Teacher: _____

Physical Condition: Diabetes type 1 Diabetes type 2

Contact Information

Mother/Guardian: _____

Address: _____

Telephone: Home _____ Work _____ Cell _____

Father/Guardian: _____

Address: _____

Telephone: Home _____ Work _____ Cell _____

Student's Doctor/Health Care Provider:

Name: _____

Address: _____

Telephone: _____ Emergency Number: _____

Other Emergency Contacts:

Name: _____

Relationship: _____

Telephone: Home _____ Work _____ Cell _____

Notify parents/guardian or emergency contact in the following situations: _____

Blood Glucose Monitoring

Target range for blood glucose is 70-150 70-180 Other _____

Usual times to check blood glucose _____

Times to do extra blood glucose checks (*check all that apply*)

before exercise

after exercise

when student exhibits symptoms of hyperglycemia

when student exhibits symptoms of hypoglycemia
 other (explain): _____

Can student perform own blood glucose checks? Yes No

Exceptions: _____

Type of blood glucose meter student uses: _____

Insulin

Usual Lunchtime Dose

Base dose of Humalog/Novolog /Regular insulin at lunch (circle type of rapid-/short-acting insulin used) is _____ units or does flexible dosing using _____ units/ _____ grams carbohydrate.

Use of other insulin at lunch: (circle type of insulin used): intermediate/NPH/lente _____ units or basal/Lantus/Ultralente _____ units.

Insulin Correction Doses

Parental authorization should be obtained before administering a correction dose for high blood glucose levels. Yes No

_____ units if blood glucose is _____ to _____ mg/dl
_____ units if blood glucose is _____ to _____ mg/dl
_____ units if blood glucose is _____ to _____ mg/dl
_____ units if blood glucose is _____ to _____ mg/dl
_____ units if blood glucose is _____ to _____ mg/dl

Can student give own injections? Yes No

Can student determine correct amount of insulin? Yes No

Can student draw correct dose of insulin? Yes No

_____ Parents are authorized to adjust the insulin dosage under the following circumstances:

For Students with Insulin Pumps

Type of pump: _____ Basal rates: _____ 12 am to _____
_____ to _____
_____ to _____

Type of insulin in pump: _____

Type of infusion set: _____

Insulin/carbohydrate ratio: _____ Correction factor: _____

Student Pump Abilities/Skills:

Needs Assistance

Count carbohydrates Yes No

Bolus correct amount for carbohydrates consumed Yes No

Calculate and administer corrective bolus Yes No

- Calculate and set basal profiles Yes No
- Calculate and set temporary basal rate Yes No
- Disconnect pump Yes No
- Reconnect pump at infusion set Yes No
- Prepare reservoir and tubing Yes No
- Insert infusion set Yes No
- Troubleshoot alarms and malfunctions Yes No

For Students Taking Oral Diabetes Medications

Type of medication: _____ Timing: _____

Other medications: _____ Timing: _____

Meals and Snacks Eaten at School

Is student independent in carbohydrate calculations and management? Yes No

<i>Meal/Snack</i>	<i>Time</i>	<i>Food content/amount</i>
Breakfast	_____	_____
Mid-morning snack	_____	_____
Lunch	_____	_____
Mid-afternoon snack	_____	_____
Dinner	_____	_____

Snack before exercise? Yes No

Snack after exercise? Yes No

Other times to give snacks and content/amount:

Preferred snack foods:

Foods to avoid, if any:

Instructions for when food is provided to the class (e.g., as part of a class party or food sampling event):

Exercise and Sports

A fast-acting carbohydrate such as _____ should be available at the site of exercise or sports.

Restrictions on activity, if any: _____ student should not exercise if blood glucose level is below _____ mg/dl or above _____ mg/dl or if moderate to large urine ketones are present.

Hypoglycemia (Low Blood Sugar)

Legal Rights of Students with Diabetes

_____	_____	_____
Student's Parent/Guardian	Date	
_____	_____	_____
Student's Parent/Guardian	Date	

Section 504 Plan

Introduction:

A Section 504 Plan sets out an agreement for making sure a student with diabetes has the same access to educational opportunities as do other students. This is a sample plan developed by the American Diabetes Association and the Disability Rights Education & Defense Fund. The most current version of this form may be accessed and downloaded from: <http://www.diabetes.org/living-with-diabetes/parents-and-kids/diabetes-care-at-school/written-care-plans/section-504-plan.html>. **Not all parts of this Section 504 Plan will apply to all children; parents and schools should select the elements of the plan that are appropriate tot the individual child. Some students will need additional services and accommodations that have not been included in this model plan.**

Other forms of Section 504 Plans may be used for guidance. Some schools and states have developed model forms, among them those provided in materials referenced in the State Specific Resources section. Still other forms are provided on the Children with Diabetes web site at <http://www.childrenwithdiabetes.com/504>. What is important is to provide an individualized plan that meets the needs of the child.

More information on developing a Section 504 plan, or other written accommodation plan, can be found in Part 7.

MODEL 504 PLAN FOR A STUDENT WITH DIABETES

[NOTE: This model 504 Plan lists a broad range of services and accommodations that might be needed by a child with diabetes in school. The plan should be individualized to meet the needs, abilities, and medical condition of each student and should *include only those items in the model that are relevant to that student*. Some students will need additional services and accommodations that have not been included in this model plan.]



Section 504 Plan for _____

School _____

School Year: _____

_____	_____	_____	_____
Student's Name	Birth Date	Grade	type __ diabetes Disability

Homeroom Teacher: _____

Bus Number: _____

OBJECTIVES/GOALS OF THIS PLAN

Diabetes can cause blood glucose (sugar) levels to be too high or too low, both of which affect the student's ability to learn as well as seriously endangering the student's health both immediately and in the long term. The goal of this plan is to provide the special education and/or related aids and services needed to maintain blood glucose within this student's target range, and to respond appropriately to levels outside of this range in accordance with the instructions provided by the student's personal health care team.

REFERENCES

- School accommodations, diabetes care, and other services set out by this Plan will be consistent with the information and protocols contained in the National Diabetes Education Program *Helping the Student with Diabetes Succeed: A Guide for School Personnel*, June 2003.

DEFINITIONS USED IN THIS PLAN

1. ***Diabetes Medical Management Plan (DMMP):*** A plan that describes the diabetes care regimen and identifies the health care needs of a student with diabetes. This plan is developed and approved by the student’s personal health care team and family. Schools must do outreach to the parents and child’s health care provider if a DMMP is not submitted by the family [**Note: School districts may have other names for the plan. If so, substitute the appropriate terminology throughout.**]
2. ***Quick Reference Emergency Plan:*** A plan that provides school personnel with essential information on how to recognize and treat hypoglycemia and hyperglycemia.
3. ***Trained Diabetes Personnel (TDP):*** Non-medical school personnel who have been identified by the school nurse, school administrator, and parent who are willing to be trained in basic diabetes knowledge and have received training coordinated by the school nurse in diabetes care, including the performance of blood glucose monitoring, insulin and glucagon administration, recognition and treatment of hypoglycemia and hyperglycemia, and performance of ketone checks, and who will perform these diabetes care tasks in the absence of a school nurse.

1. PROVISION OF DIABETES CARE

- 1.1 At least _____ staff members will receive training to be Trained Diabetes Personnel (TDP), and either a school nurse or TDP will be available at the site where the student is **at all times** during school hours, during extracurricular activities, and on school sponsored field trips to provide diabetes care in accordance with this Plan and as directed in the DMMP, including performing or overseeing administration of insulin or other diabetes medications (which, for pump users includes programming and troubleshooting the student’s insulin pump), blood glucose monitoring, ketone checks, and responding to hyperglycemia and hypoglycemia including administering glucagon.
- 1.2 Any staff member who is not a TDP and who has primary care for the student at any time during school hours, extracurricular activities, or during field trips shall receive training that will include a general overview of diabetes and typical health care needs of a student with diabetes, recognition of high and low blood glucose levels, and how and when to immediately contact either a school nurse or a TDP.
- 1.3 Any bus driver who transports the student must be informed of symptoms of high or low blood glucose levels and provided with a copy the student’s Quick Reference Emergency Plan and be prepared to act in accordance with that Plan.

2. TRAINED DIABETES PERSONNEL

The following school staff members will be trained to become TDPs by _____(date):

3. STUDENT'S LEVEL OF SELF-CARE AND LOCATION OF SUPPLIES AND EQUIPMENT

3.1 As stated in the attached DMMP:

(a)The student is able to perform the following diabetes care tasks without help or supervision:

and the student will be permitted to provide this self-care at any time and in any location at the school, at field trips, at sites of extracurricular activities, and on school buses.

(b) The student needs assistance or supervision with the following diabetes health care tasks:

(c) The student needs a school nurse or TDP to perform the following diabetes care tasks:

3.2 The student will be permitted to carry the following diabetes supplies and equipment with him/her at all times and in all locations:

3.3 Diabetes supplies and equipment that are not kept on the student and additional supplies and will be kept at:

3.4 Parent is responsible for providing diabetes supplies and food to meet the needs of the student as prescribed in the DMMP.

4. SNACKS AND MEALS

- 4.1 The school nurse or TDP, if school nurse is not available, will work with the student and his/her parents/guardians to coordinate a meal and snack schedule in accordance with the attached DMMP that will coincide with the schedule of classmates to the closest extent possible. The student shall eat lunch at the same time each day, or earlier if experiencing hypoglycemia. The student shall have enough time to finish lunch. A snack and quick-acting source of glucose must always be immediately available to the student.
- 4.2 The attached DMMP sets out the regular time(s) for snacks, what constitutes a snack, and when the student should have additional snacks. The student will be permitted to eat a snack no matter where the student is.
- 4.3 The parent/guardian will supply snacks needed in addition to or instead of any snacks supplied to all students.
- 4.4 The parent/guardian will provide carbohydrate content information for snacks and meals brought from home.
- 4.5 The school nurse or TDP will ensure that the student takes snacks and meals at the specified time(s) each day.
- 4.6 Adjustments to snack and meal times will be permitted in response to changes in schedule upon request of parent/guardian.

5. EXERCISE AND PHYSICAL ACTIVITY

- 5.1 The student shall be permitted to participate fully in physical education classes and team sports except as set out in the student's DMMP.
- 5.2 Physical education instructors and sports coaches must have a copy of the emergency action plan and be able to recognize and assist with the treatment of low blood glucose levels.
- 5.3 Responsible school staff members will make sure that the student's blood glucose meter, a quick-acting source of glucose, and water is always available at the site of physical education class and team sports practices and games.

6. WATER AND BATHROOM ACCESS

- 6.1 The student shall be permitted to have immediate access to water by keeping a water bottle in the student's possession and at the student's desk, and by permitting the student to use the drinking fountain without restriction.
- 6.2 The student shall be permitted to use the bathroom without restriction.

7. CHECKING BLOOD GLUCOSE LEVELS, INSULIN AND MEDICATION ADMINISTRATION, AND TREATING HIGH OR LOW BLOOD GLUCOSE LEVELS

- 7.1 The student's level of self care is set out in section 3 above including which tasks the student can do by himself/herself and which must be done with the assistance of, or wholly by, either a school nurse or a TDP.
- 7.2 Blood glucose monitoring will be done at the times designated in the student's DMMP, whenever the student feels her/his blood glucose level may be high or low, or when symptoms of high or low blood glucose levels are observed.
- 7.3 Insulin and/or other diabetes medication will be administered at the times and through the means (e.g., syringe, pen or pump) designated in the student's DMMP for both scheduled doses and doses needed to correct for high blood glucose levels.
- 7.4 The student shall be provided with privacy for blood glucose monitoring and insulin administration if the student desires.
- 7.5 The student's usual symptoms of high and low blood glucose levels and how to respond to these levels are set out in the attached DMMP.
- 7.6 When the student asks for assistance or any staff member believes the student is showing signs of high or low blood glucose levels, the staff member will immediately seek assistance from the school nurse or TDP while making sure an adult stays with the student at all times. Never send a student with actual -- or suspected -- high or low blood glucose levels anywhere alone.
- 7.7 Any staff member who finds the student unconscious will immediately contact the school office. The office will immediately do the following in the order listed:
 1. **Contact the school nurse or a TDP (if the school nurse is not on site and immediately available) who will confirm the blood glucose level with a monitor and immediately administer glucagon (glucagon should be administered if no monitor is available);**
 2. **Call 911 (office staff will do this without waiting for the school nurse or TDP to administer glucagon); and**
 3. **Contact the student's parent/guardian and physician at the emergency numbers provided below.**
- 7.8 School staff including physical education instructors and coaches will provide a safe location for the storage of the student's insulin pump if the student chooses not to wear it during physical activity or any other activity.

8. FIELD TRIPS AND EXTRACURRICULAR ACTIVITIES

- 8.1 The student will be permitted to participate in all school-sponsored field trips and extracurricular activities (such as sports, clubs, and enrichment programs) without restriction and with all of the accommodations and modifications, including necessary supervision by identified school personnel, set out in this Plan. The student's parent/guardian will not be required to accompany the student on field trips or any other school activity.

- 8.2 The school nurse or TDP will be available on site at all school-sponsored field trips and extracurricular activities, will provide all usual aspects of diabetes care (including, but not limited to, blood glucose monitoring, responding to hyperglycemia and hypoglycemia, providing snacks and access to water and the bathroom, and administering insulin and glucagon), and will make sure that the student's diabetes supplies travel with the student.

9. TESTS AND CLASSROOM WORK

- 9.1 If the student is affected by high or low blood glucose levels at the time of regular testing, the student will be permitted to take the test at another time without penalty.
- 9.2 If the student needs to take breaks to use the water fountain or bathroom, check blood glucose, or to treat hypoglycemia or hyperglycemia during a test or other activity, the student will be given extra time to finish the test or other activity without penalty.
- 9.3 The student shall be given instruction to help him/her make up any classroom instruction missed due to diabetes care without penalty.
- 9.4 The student shall not be penalized for absences required for medical appointments and/or for illness. The parent will provide documentation from the treating health care professional if otherwise required by school policy.

10. COMMUNICATION

- 10.1 The school nurse, TDP, and other staff will keep the student's diabetes confidential, except to the extent that the student decides to openly communicate about it with others.
- 10.2 Encouragement is essential. The student be treated in a way that encourages the student to eat snacks on time, and to progress toward self-care with his/her diabetes management skills.
- 10.3 The teacher, school nurse or TDP will provide reasonable notice to parent/guardian when there will be a change in planned activities such as exercise, playground time, field trips, parties, or lunch schedule, so that the lunch, snack plan, and insulin dosage can be adjusted accordingly.
- 10.4 Each substitute teacher and substitute school nurse will be provided with written instructions regarding the student's diabetes care and a list of all school nurses and TDP at the school.

11. EMERGENCY EVACUATION AND SHELTER-IN-PLACE

- 11.1 In the event of emergency evacuation or shelter-in-place situation, the student's 504 Plan and DMMP will remain in full force and effect.
- 11.2 The school nurse or TDP will provide diabetes care to the student as outlined by this Plan and the student's DMMP, will be responsible for transporting the student's diabetes supplies, and equipment, will attempt to establish contact with the student's parents/guardians and provide updates, and will and receive information from parents/guardians regarding the student's diabetes care.

13. PARENTAL NOTIFICATION

13.1 NOTIFY PARENTS/GUARDIANS IMMEDIATELY IN THE FOLLOWING SITUATIONS:

- Symptoms of severe low blood sugar such as continuous crying, extreme tiredness, seizure, or loss of consciousness.
- The student's blood glucose test results are below _____ or are below _____ 15 minutes after consuming juice or glucose tablets.
- Symptoms of severe high blood sugar such as frequent urination, presence of ketones, vomiting or blood glucose level above _____.
- The student refuses to eat or take insulin injection or bolus.
- Any injury.
- Insulin pump malfunctions cannot be remedied.
- **Other:** _____

13.2 EMERGENCY CONTACT INSTRUCTIONS

Call parent/guardian at numbers listed below. If unable to reach parent/guardian, call the other emergency contacts or student's health care providers listed below.

EMERGENCY CONTACTS:

_____ Parent's/Guardian's Name Number	_____ Home Phone Number	_____ Work Phone Number	_____ Cell	_____ Phone
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_____ Parent's/Guardian's Name Number	_____ Home Phone Number	_____ Work Phone Number	_____ Cell	_____ Phone
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Other emergency contacts:

Name Home Phone Number Work Phone Number Cell Phone
Number

Name Home Phone Number Work Phone Number Cell Phone
Number

Student's Health Care Provider(s):

Name Phone Number

Name Phone Number

This Plan shall be reviewed and amended at the beginning of each school year or more often if necessary.

Approved and received:

Parent/Guardian Date

Approved and received:

School Administrator and Title Date

School Nurse Date

Letter Objecting to Elements of Section 504 Plan

Introduction

School officials may propose a Section 504 Plan with features that are acceptable and others that are not. It is important to advise school officials what features of the plan are objectionable and what would be acceptable. This is a sample letter than may be used as a template when writing to school officials.

Form

[Name and Address of School Superintendent, Principal, or Section 504 Coordinator.]

Dear _____:

Thank you for meeting with me on [date] regarding my child, [name]. Since that time, I have reviewed carefully the proposed Section 504 Plan which has been developed to accommodate her type ___ diabetes.

There are a number of aspects of the Plan as presented about which I have objections or concerns. My purpose in this letter is to outline these objections or concerns so that we can work together to develop a plan that fully meets my child's needs.

The proposed plan provides [describe]. This proposal is of concern because [state objection or concern]. I feel that instead she should be accommodated by [describe accommodation]. This would be appropriate because [state why proposed accommodation is reasonable and appropriate].

[Repeat as to each objection.]

I request that the proposal be reviewed and reconsidered in light of these objections or concerns. Please contact me at [provide contact information] so that we can set up a time to discuss these objections or concerns further.

Thank you for your consideration.

Very truly yours,

[Address]
[Telephone Numbers]

Sample OCR Complaint Resolution Agreement

Introduction

On the following pages are four examples of settlement agreements that the U.S. Department of Education's Office for Civil Rights (OCR) has reached with school districts alleged to have failed to provide adequate diabetes care to students. They provide examples of what OCR has found appropriate in past situations and can be used as a guide when requesting accommodations and services from school officials or when requesting relief in an OCR complaint. These agreements are only examples; other agreements reached by OCR are discussed throughout this notebook and may also be consulted.

Resolution Agreement Loudoun County Public Schools (1999)

Loudoun County Public Schools (District) enters this Agreement to resolve Office for Civil Rights (OCR) Complaint Nos. 11-99-1003, 11-99-1064 and 11-99-1069.

A. GENERAL PROVISIONS

1. This Agreement does not constitute an admission by the District of any violation of Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, or any other law enforced by OCR.
2. Full implementation of this Agreement by the District resolves the allegations in OCR Complaint Nos. 11-99-1003, 11-99-1064 and 11-99-1069.

B. DEFINITIONS

1. ***Authorized Diabetes Care Provider (ADCP) training*** – training that is either developed by the American Diabetes Association (ADA) or, once the Board of Nursing develops Guidelines, training that is consistent with these Guidelines, either of which training provides instruction in caring for individuals with diabetes, and which includes instruction in: the unassisted administration of glucagon and insulin shots and recording of results; ability to understand physician instructions concerning drug dosage, frequency, and manner of administration; Virginia Board of Pharmacy regulations concerning drug storage, security and recordkeeping; symptoms of hypoglycemia and hyperglycemia, the time within which glucagon or insulin shots are to be administered to prevent adverse consequences; performing fingerstick blood glucose testing and monitoring and recording the results of that testing and monitoring, and the appropriate steps to take when glucose level results are outside of the target ranges indicated in the student's Health Care Plan.
2. ***Adequate diabetes care*** – care of students with diabetes by individuals who have successfully completed ADCP training.
3. ***Authorized Diabetes Care Provider (ADCP)*** – an individual who has successfully completed ADCP training.
4. ***Assistive diabetes care*** – care of students with diabetes by individuals who have successfully completed DCAP training.
5. ***Bus Driver Diabetes Care Provider (BDDCP) training*** – training authorized by the District that provides instruction in: recognizing the symptoms indicating that there is a need for care for a student with diabetes, symptoms of hypoglycemia and hyperglycemia, and appropriate steps to take when glucagon levels are creating emergency conditions as described in the student's physician's order.
6. ***Diabetes Care Assistant Provider (DCAP) training*** – training authorized by the District that provides instruction in: recognizing the symptoms that there is a need for adequate care for a student with diabetes, proper methods for referring students who require adequate care to an ADCP, recommended schedules and menus for meals and snacks, and recommended frequency of and activities in exercise periods.

7. ***Diabetes Care Assistant Provider (DCAP)*** – an individual who has successfully completed DCAP training.
8. ***Health Care Plan*** – a plan developed under Section 504 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans With Disabilities Act of 1990 (Title II) and, as appropriate, the Individuals With Disabilities Education Act that identifies the needs of -- and services to be provided to -- a student with diabetes who has a medical order, which plan is developed by the participants and approved by the student's treating physician.
9. ***Regular School Hours*** – All school hours during which scheduled school classes take place.

C. SUBSTANTIVE PROVISIONS

1. Effective immediately, the District will:
 - a. Designate at least three full-time ADCPs on staff in each school attended by one or more students with a Health Care Plan to provide these students with adequate diabetes care.
 - b. Designate additional ADCPs as needed to provide students with Health Care Plans with adequate diabetes care.
 - c. Provide an ADCP at each school attended by one or more students with a Health Care Plan during all regular school hours that a student with a Health Care Plan is on the premises.
 - d. Provide an ADCP for each school-sponsored field trip in which a student with a Health Care Plan participates.
 - e. Provide an ADCP for each school-sponsored extracurricular activity or program -- and for each educational extracurricular activity or program that receives significant assistance from the District -- in which a student with a Health Care Plan is a direct participant, but not when that student is an observer or an audience member.
 - f. Complete BDDCP training for all District full- and part-time bus drivers, or provide an ADCP on board a District bus at any time that a student with a Health Care Plan is being transported on that bus and the bus driver has not completed BDDCP training.
 - g. Provide or arrange for the provision of DCAP training for all District staff (except ADCPs) who have responsibility for the immediate custodial supervision or care of students with Health Care Plans.
 - h. Maintain a location in each school attended by one or more students with a Health Care Plan to provide privacy during the care and testing of those students.
2. By October 31, 1999, the District will:
 - a. Complete the DCAP training referenced above in paragraph C.1.g.
 - b. Send a letter to the parents of all District students with diabetes of which the District is aware notifying them of the District's current policies and practices on the care of students with diabetes who have a medical order.
 - c. Develop and implement a Health Care Plan for each District student with diabetes who has a medical order when required by Section 504 or Title II. Each plan will

provide those services required by Section 504 and Title II. For example, each plan will, when appropriate, permit the student to: see school ADCPs or medical personnel upon request; eat snacks or drink beverages to prevent hypoglycemia; miss school without consequences for appointments to monitor the student's diabetes management; be excused to use a restroom, as necessary. District staff may take into account any previous abuse of these permitted activities in determining whether to grant future requests.

3. The District will provide or arrange for the provision of ongoing ADCP and DCAP training to maintain an adequate staff of ADCPs and DCAPs.

D. REPORTING PROVISIONS

By January 1, 2000, the District will provide OCR with a report containing:

1. A listing of each school at which ADCPs have been assigned and the number of ADCPs assigned to each school. If any school has yet to be assigned ADCPs, that school must be identified and an explanation of the reason no assignment has been made, together with the District's plans to make these assignments.
2. Descriptions of and all materials related to the provision of ADCP and DCAP training, and the names and titles of the individuals who provided the training.
3. A certification that the District has developed and implemented a Health Care Plan for every District student with diabetes that has a medical order or, if not, why not.
4. A sample of the letter the District sent to the parents of all District students with diabetes of which the District was aware pursuant to subsection C.2.b, above, and a certification that the District sent these letters to all of these parents or, if not, why not.

By: _____
Dr. Edgar Hartrick III
Superintendent
Loudoun County Public Schools

_____ Date _____

Resolution Agreement Buchanan County Public Schools (2003)

Buchanan County Public Schools (the Division) makes these commitments to resolve Office for Civil Rights (OCR) Complaint No. 11-03-1051.

A. GENERAL PROVISIONS

1. This Commitment to Resolve (Commitment) does not constitute an admission by the Division of any violation of Section 504 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans With Disabilities Act of 1990 (Title II), or any other law enforced by OCR.
2. Full implementation of this Commitment by the Division resolves the allegations in OCR Complaint No. 11-03-1051.

B. DEFINITIONS

1. **Adequate diabetes care** – care of students with diabetes by individuals who have successfully completed ADCP training.
2. **Authorized Diabetes Care Provider (ADCP) training** – training that is either developed by the American Diabetes Association (ADA) or complies with Commonwealth of Virginia Board of Nursing Guidelines, which training provides instruction in caring for individuals with diabetes, and which includes instruction in: administering (without assistance) glucagon and insulin shots and recording results; operating an insulin pump; understanding physician instructions concerning drug dosage, frequency, and manner of administration; Commonwealth of Virginia Board of Pharmacy regulations concerning drug storage, security and recordkeeping; symptoms of hypoglycemia and hyperglycemia; the time within which glucagon or insulin shots are to be administered to prevent adverse consequences; performing fingerstick blood glucose testing and monitoring and recording the results of that testing and monitoring; and the appropriate steps to take when glucose level results are outside of the target ranges indicated in the student's Health Care Plan.
3. **Authorized Diabetes Care Provider (ADCP)** – an individual who has successfully completed ADCP training.
4. **Bus Driver Diabetes Care Provider (BDDCP) training** – training authorized by the Division that provides instruction in: recognizing the symptoms indicating that there is a need for care for a student with diabetes, symptoms of hypoglycemia and hyperglycemia, and appropriate steps to take when glucose levels are creating emergency conditions as described in the student's medical order.
5. **Bus Driver Diabetes Care Provider (BDDCP)** – an individual who has successfully completed BDDCP training.
6. **Diabetes Care Assistant Provider (DCAP) training** – training authorized by the Division that provides instruction in: recognizing the symptoms that there is a need for adequate care for a student with diabetes, proper methods for referring students who require adequate care to an ADCP, recommended schedules and menus for meals and snacks, and recommended frequency of and activities in exercise periods.

7. **Diabetes Care Assistant Provider (DCAP)** – an individual who has successfully completed DCAP training.
8. **Health Care Plan** – a plan developed under Section 504, Title II and, as appropriate, the Individuals With Disabilities Education Act, that identifies the needs of -- and services to be provided to -- a student with diabetes who has a medical order, which plan is developed by individuals who are responsible for implementing the plan.
9. **Regular School Hours** – All school hours during which scheduled academic classes take place.

C. SUBSTANTIVE PROVISIONS

1. By September 30, 2003, and continuously thereafter, the Division will:
 - a. Complete ADCP training for sufficient numbers of Division staff to comply with this Commitment;
 - b. Designate at least two full-time ADCPs (one to be “on-duty” and one to serve as a back-up) on staff in each school attended by one or more students with a Health Care Plan to provide these students with adequate diabetes care;
 - c. Designate additional ADCPs as needed to provide students with Health Care Plans with adequate diabetes care;
 - d. Complete DCAP training for all Division staff (except ADCPs and BDDCPs) who are or may be responsible for the immediate custodial supervision or care of students with Health Care Plans;
 - e. Complete BDDCP training for all Division staff who are or may be responsible for transporting Division students to or from school or school-sponsored field trips or extracurricular activities;
 - f. Maintain a location in each school attended by one or more students with a Health Care Plan to provide privacy during the diabetes-related care and testing of those students;
 - g. Ensure the presence of at least one ADCP at each school attended by one or more students with a Health Care Plan during all regular school hours that a student with a Health Care Plan is on the premises;
 - h. Upon reasonable advance request by the parent or guardian of a student with a Health Care Plan, provide an ADCP for each school-sponsored field trip in which such a student participates;
 - i. Upon reasonable advance request by the parent or guardian of a student with a Health Care Plan, provide an ADCP for each school-sponsored extracurricular activity or program -- and for each extracurricular activity or program that receives significant assistance from the Division -- in which such a student is a direct participant, but not when that student is solely an observer or an audience member;
 - j. Provide a BDDCP or a DCAP on board a Division bus at any time that a student with a Health Care Plan is being transported on that bus;
 - k. Ensure that all immediate custodial supervision or care of each student with a Health Care Plan be provided by a DCAP or ADCP;

- l. Provide or arrange for timely, ongoing ADCP, DCAP and BDDCP training necessary to meet the requirements of this Commitment; and
 - m. By the first day of each school year, send a letter to the parents of all Division students with diabetes of which the Division is aware notifying them of the Division's current policies and practices on the care of students with diabetes who have a medical order.
2. By September 5, 2003, the Division will develop and implement a Health Care Plan for each Division student with diabetes who has a medical order when required by Section 504 or Title II. Each plan will provide those services required by Section 504 and Title II. For example, each plan will, when appropriate, permit a student to: see school ADCPs or medical personnel upon request; self-test, self-treat and self-monitor in the classroom and during all school sponsored activities, field trips and programs; eat snacks and drink beverages to prevent hypoglycemia; miss school without consequences for diabetes-related care, provided the absence is medically documented; and be excused to use a restroom, as necessary. Division staff will evaluate each student requesting to self-test in the classroom, taking into consideration each student's age, capabilities, willingness to self-test, maturity level and experience with self-testing. Division staff may take into account any previous abuse of these permitted activities in determining whether to grant future requests.

D. REPORTING PROVISIONS

1. By October 31, 2003, the Division will provide OCR with a report on its compliance with Subsection C.1. of this Commitment containing:
 - a. With respect to each paragraph of Subsection C.1., a certificate of compliance with that paragraph;
 - b. Descriptions of -- and all materials related to -- the ADCP, DCAP and BDDCP training provided to Division staff, and the names, titles and telephone numbers of the individuals who provided the training;
 - c. A listing of each school for which sufficient ADCPs have been designated and the number of ADCPs designated for each school;
 - d. A listing of each school at which the Division maintains a location to provide privacy during the diabetes-related care and testing of students with Health Care Plans, and a description of each such location; and
 - e. A sample of the signed letter the Division sent to the parents of all Division students with diabetes of which the Division was aware pursuant to Paragraph C.1.m. of this Commitment, and a certification that the Division sent these letters to all of these parents.
2. By September 30, 2003, the Division will provide OCR with a report on its compliance with Subsection C.2. of this Commitment containing a certification that the Division has developed and implemented a Health Care Plan for every Division student with diabetes that has a medical order.
3. If the Division is not able to meet any of the dates in Section C, it will submit an explanation of why compliance was not achieved and a timetable for achieving compliance. Despite any failure to timely comply with Section C, the Division shall

nevertheless submit its reports to OCR by the dates set out in Subsections D1 and D2, as appropriate.

By: _____ Date _____
Mr. Tommy P. Justus
Superintendent
Buchanan County Public Schools

Resolution Agreement Puyallup School District No. 3 (2002)

I. INTRODUCTION

To resolve the allegations contained in a complaint filed with the Office for Civil Rights (OCR), OCR Reference No. 10021104, Puyallup School District No. 3 (district) enters into this Voluntary Resolution Agreement.

II. GENERAL PROVISIONS

- A. This agreement will become effective upon the district's receipt of notice from OCR that the actions agreed to by the district, when fully implemented, will resolve the allegations raised in the above-referenced case.
- B. This agreement represents a voluntary approach to address and resolve only the complaint allegation in OCR reference No. 10021104. This agreement does not constitute an admission by the district of any violation of section 504 of the Rehabilitation Act of 1973 (Section 504), title II of the Americans with Disabilities Act of 1990 (Title II), or any other law. By accepting the agreement, OCR finds that the agreed upon actions are sufficient, when implemented, to resolve the complaint allegations.

III. SUBSTANTIVE COMMITMENTS

- A. By August 30, 2002, the district will revise, with input from the student's parent, the student's individual health care plan to address his specific diabetes-related needs at school, consistent with the requirements of Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 CFR 104.33 and 104.35(c). The revised plan will be implemented at the beginning of the 2002-2003 school year. The plan, at a minimum, will address the following:
 - 1. the specifics of the student's medical needs so that all parties understand: the nature and severity of the student's diabetes, the purpose and necessity of monitoring the student's glucose levels and administering medication, and the schedule and location for glucose testing and medication administration;
 - 2. procedures for all school staff likely to work with the student for handling medical emergencies;
 - 3. procedures for the student's health and medical needs during field trips, participation in any other extracurricular activities, or when a nurse is not present at the school;
 - 4. procedures to ensure that the student's individual health plan and emergency medical plan are fully implemented by substitute teachers and substitute health care staff;
 - 5. designate individuals responsible for each aspect of the student's individual health plan, and the person with the overall responsibility for ensuring that the student's individual health plan is consistently implemented by these individuals;

- training for those individuals designated to monitor the student's glucose levels and administer any medication to the student; and
6. training for all teachers and other school staff, including bus drivers and recess attendants, that interact with the student during the school day to ensure that they are familiar with the student's disability and diabetes-related needs.
- B. The district will ensure that a qualified person, with expertise in juvenile diabetes treatment and familiarity with the student's individual diabetes-related needs and individual health care plan, provides the training referenced at III.A.6. and 7., above.
1. By September 3, 2002, the district will provide the training referenced in III.A. 6., above. The student's regular education teacher will be included in this training.
 2. By September 18, 2002, the district will provide the school staff training referenced in III.A.7., above.

IV. REPORTING PROVISIONS

By September 30, 2002, the district will provide OCR with a report that will include:

- A. A copy the student's revised individual health care plan, developed in accordance with paragraph III.A., above; the names and titles of the persons who participated in revising the student's health care plan; notes of discussion during the meeting; and the name and title of the designee responsible for the daily implementation of the student's health care plan pursuant to III.A.5.
- B. Documentation that the training of school staff was provided pursuant to III.B., above. The documentation will include the name, title, and qualifications of the person who provided the trainings, the names and titles of staff who attended the trainings, copies of any materials disseminated to staff for the trainings, and the date and location where the trainings occurred.

Signed:

Dr. Susan E. Gorley, Superintendent
Puyallup School District No. 3

Date

Resolution Agreement Wayne-Westland Community School Dist. (2000)

The Wayne Westland Community School District (the District) voluntarily, and without making any admission of liability, submits the following agreement to the U.S. Department of Education, Office for Civil Rights (OCR), to resolve OCR complaint #15-00-1130 and to ensure the District's compliance with Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 with respect to this complaint; accordingly, the District agrees to take the following actions.

1. If the parents submit to the District a signed and completed medical Authorization Form and Physician's Order, which includes detailed instructions as to the student's need for insulin and/or glucagon during the school day, the District will reconvene the student's Section 504/Individualized Health Care Team within five business days of receipt of this information. The purpose of this meeting will be to amend the student's Individualized Health Care Plan (IHCP) and/or Emergency Health Care Plan (EHCP) to include the following provisions:

a. that insulin will be administered to the student by a District nurse or trained District staff member in accordance with the specific written order of the student's physician referenced above;

b. that the District will administer the student's insulin until such time as the student, who is currently eight years of age, is determined by the Section 504/Individualized Health Care Team, including the student's parents and physician, to have acquired the skill and comfort level to self-administer her insulin medication; and

c. that glucagon will be administered to the student by a District nurse, as needed in emergency situations, in accordance with the specific written order of the student's physician referenced above.

2. If the information received by the parents and/or student's physician is inadequate, the District will promptly contact the student's physician and parents in writing to specify what additional information is necessary to reconvene the Section 504/Individualized Health Care Team and implement the actions outlined in paragraph #1 above.

3. The District will designate in the student's IHCP and/or EHCP one District nurse or trained staff person to be primarily responsible for the administration of insulin and glucagon to the student and at least one District nurse or trained staff person to serve as a back-up in the event the primary designee is unavailable.

4. By November 15, 2000, the District will submit documentation to OCR showing implementation of paragraphs #1-3 above.

California Legal Advisory

This legal advisory was issued in August 2007 by the California Department of education as part of the settlement of *K.C., et al. v. O'Connell, et al.*, a lawsuit filed by the American Diabetes Association and four individual plaintiffs to address the lack of adequate diabetes care being provided in California public schools. While the advisory was issued in California, it discusses federal law provisions which are applicable across the country and should have persuasive effect outside of California. One portion of this Legal Advisory is currently the subject of litigation in California state court regarding whether non-licensed school personnel may administer insulin to students under California state law, and whether federal law requires that they be allowed to do so when there is no other way to meet the requirements of Section 504 and IDEA. Check the Association's web site at <http://www.diabetes.org/living-with-diabetes/know-your-rights/for-lawyers/education-for-lawyers/ada-settles-california-lawsuit.html> for updates on the status of this litigation, which is currently on appeal.

LEGAL ADVISORY ON RIGHTS OF STUDENTS WITH DIABETES IN CALIFORNIA'S K-12 PUBLIC SCHOOLS

Pursuant to the recent Settlement Agreement in *K.C. et al. v. Jack O'Connell, et al.*, Case No. C-05-4077 MMC, in the United States District Court for the Northern District of California, the California Department of Education (CDE) has agreed to remind all California school districts and charter schools of the following important legal rights involving students with diabetes who have been determined to be eligible for services under either the Individuals with Disabilities Education Act (IDEA) and related California law or Section 504 of the Rehabilitation Act of 1973 (Section 504) and related California law.

The CDE notes that this is a complex area of the law. Every effort has been made to be clear and concise in providing this advisory.

I. The Applicability of Two Federal Anti-Discrimination Statutes (Section 504 and the ADA) to those Public School Students with Diabetes Who Require Diabetes Health Related Services While Attending K-12 Schools in California.

Two federal anti-discrimination statutes, Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 (ADA), together establish rights for eligible students with diabetes in California's public schools. Together, they serve to protect such students from discrimination based upon their disability including the right to receive a free appropriate public education (FAPE). The two statutory schemes are treated synonymously. (*Wong v. Regents of University of California*, 192 F.3d 807, 816 n. 26.) Hence, in this Legal Advisory, Section 504 will mean both Section 504 as well as the ADA unless otherwise noted.

A. Eligibility

In general, a student will be determined to have a disability under Section 504 if he/she has a mental or physical impairment that substantially limits one or more major life activities, such as eating, breathing, caring for oneself, performing manual tasks, hearing, speaking, walking, and learning. (See 34 CFR sec. 104.4, subs. (j), (k), and (i).) Accordingly, learning is not the only major life activity that must be considered when determining eligibility under Section 504. (*Rock Hill (OH) Local Schools*, 37 IDELR 222 (OCR 2002).)

The Ninth Circuit Court of Appeals recently determined that diabetes is a “physical impairment” and then addressed whether that impairment substantially limited a major life activity under the facts of that case. (*Fraser v. Goodale*, 342 F.3d 1032 (9th Cir. 2003).) In finding that the plaintiff had presented evidence that she was substantially limited in eating, the court noted that the plaintiff was required to be vigilant about testing blood glucose levels and adjusting food intake, insulin and physical activity accordingly. *Id.* at 1040-1041.

Fluctuations in blood glucose levels can impact concentration and comprehension, as well as have significant and potentially life-threatening short and long term health implications. “Helping the Student with Diabetes Succeed- A Guide for School Personnel” U.S. Department of Health and Human Services (2003) at 1 (available at <http://www.cde.ca.gov/ls/he/hn/diabetesmgmt.asp>). To avoid these fluctuations in blood glucose levels, students with diabetes must be vigilant about balancing food consumption, exercise, and administration of medication. For these reasons, the Office for Civil Rights of the United States Department of Education (OCR) has found that students with diabetes to be “disabled” under Section 504. (See *Bement (IL) Community Unit School District #5*, 14 EHLR 353:383 (OCR 1989) (holding that a student with diabetes is disabled under Section 504 when she required close monitoring of her diet, behavior, and activities at all times in order for her to be able to attend school); *Irvine (CA) Unified Sch. Dist.*, 19 IDELR 883, 884 (OCR 1993) (determining that the student with type 1 diabetes was a "disabled person" as defined by the regulation implementing Section 504).

B. 504 Plans

Once a local education agency (LEA) determines that a student is entitled to Section 504 protections, this includes the provision of a free appropriate public education. (34 CFR sec. 104.35.) Services, and accommodations are determined through the 504 planning process, and documented in a 504 plan. *Henderson County (NC) Pub. Schs.*, 34 IDELR 43, 44 (OCR 2000) (voluntary resolution agreement reached to develop Section 504 plan providing for a broad range of diabetes-related aids and services, including training staff to monitor blood glucose, count carbohydrates, manage student's insulin pump, and establish procedures for the provision of appropriate emergency services); *Prince George's County (MD) Schools*, 39 IDELR 103, 104 (OCR 2003) (district required to develop a Section 504 Plan tailored to the individual needs of a student with type 1 diabetes).

Academic modifications may be necessary whether or not the major life activity of “learning” is affected. A student with diabetes may need to have his/her curriculum adapted in a variety of ways such as changes in physical education instruction, in the regular school day schedule (such as breaks required to test for and treat abnormal blood sugar levels), in additional breaks or other time modifications during tests, and in the regular schedule for eating, drinking and toileting. These accommodations should be documented in the 504 plan. Decisions about what health care services a student will receive, including treatment while at school, such as the timing and dosage of insulin to be administered, usually are based on the treating physician's written orders. (See Cal. Ed. Code sec. 49423.) In rare circumstances, the 504 team will question the doctor's treatment plan as being outside standards of care and will seek a second opinion at school district expense. (See section of this advisory discussing IDEA entitled *Related Services as Including Management/Administration of Insulin and Other Diabetes Care Tasks for Children With the Disability of OHI* below.)

C. Individualized Inquiries Required; Blanket Policies Prohibited

An LEA may not have a blanket policy or general practice that insulin or glucagon administration, or other diabetes-related health care services, will only be provided by district personnel at one school in the district or will always require removal from the classroom in order to receive diabetes related health care services. For example, in *Christopher S. v. Stanislaus County Office of Educ.*, 384 F.3d 1205, 1212 (9th Cir. 2004), the Ninth Circuit Court of Appeals noted that OCR has repeatedly held that blanket policies that preclude individual evaluation of a particular child's educational and health related services needs violate Section 504. (See also *Conejo Valley (CA) Unified Sch. Dist.*, 20 IDELR (LRP) 1276, 1280 (OCR 1993) (district violated Section 504 by failing to perform an evaluation that was individualized by proposing changes in placement based upon a generalized district policy regarding who could perform injections without regard to student's individual education needs); *Irvine (CA) Unified Sch. Dist.*, 23 IDELR 1144, 1146 (OCR 1995) (district's "unwritten policy" prohibiting blood glucose testing in classroom violated 34 CFR sec. 104.35(c)(3) requiring that a team of persons give careful consideration to all of the information available and makes determinations based upon the individual needs of the disabled student).) See further discussion below in the section of this advisory discussing IDEA entitled *Related Services May Include Management/Administration of Insulin and Other Diabetes Care Tasks for Children With the Disability of OHI*. In addition, a school or district may not require the parent or guardian to waive any rights or agree to any particular placement or related services as a condition of administering medications or assisting a student in the administration of medication at school. (*Berlin Brothersvalley (PA.) School Dist.*, EHLR 353:124 (OCR 1988) (district policy of giving school officials discretion in whether to administer needed medication and conditioning the provision of services required by Section 504 or IDEA on parents signing a waiver of liability is prohibited). See further discussion below in the section of this advisory discussing IDEA entitled *School Placement Decisions*.

D. FAPE Under Section 504

Pursuant to 34 CFR section 104.33, school districts must provide a free appropriate public education (FAPE) to all students with disabilities in public elementary and secondary schools. Under Section 504, "appropriate education" means "the provision of regular *or* special education and related aids and services that (i) are designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met and (ii) are based upon adherence to procedures that satisfy the requirements of 34 CFR sections 104.34, 104.35, and 104.36." (34 CFR section 104.33 (b)(emphasis added).)

The OCR has applied the FAPE obligation broadly to ensure nondiscrimination by providing individual accommodations that provide each disabled student with a FAPE. The requirement to provide FAPE under Section 504 has been applied in the context of the administration of medication in general and diabetes-based related services in particular. (See *Conejo Valley (CA) Unified Sch. Dist.*, *supra*; *Irvine (CA) Unified Sch. Dist.*, *supra*; and *Prince George's County (MD) Schools*, *supra*.) See also, Chapter 4 of *Compliance With The Americans With Disabilities Act: A Self-Evaluation Guide for Public Elementary and Secondary Schools*, Office for Civil Rights Department of Education, United States of America (1995) available at: <http://www.dlrp.org/html/publications/schools/general/guidcont.html> (last visited March 30, 2007) "Unlike the requirement to provide auxiliary aids in contexts other than FAPE ... the obligation to provide related aids and services necessary to the provision of FAPE is not subject to the limitations regarding undue financial and administrative burdens or fundamental alteration of the program." *Id.* at 73.

II. California's Anti-Discrimination Statutes and Students with Diabetes Who Require Diabetes Health Related Services During the Day In Order to Safely Attend K-12 Schools in California

California's anti-discrimination statutes prohibit discrimination on the basis of disability under any program or activity funded directly by the State. (Cal. Gov. Code sec. 11135(a).) "Disability" means any mental or physical disability as defined by Government Code section 12926. (Cal. Gov. Code sec. 11135(d)(1).) "Physical disability" is defined in Government Code section 12926(k)(1) and (2). It affords broader coverage than Section 504 because it requires a "limitation" rather than a "substantial limitation" of a major life activity. (Cal. Gov. Code secs. 12926(k)(1)(B); 12926.1(c), (d)(2); see generally *Colmenares v. Braemar Country Club, Inc.* (2003) 29 Cal.4th 1019, 1022-1032.)

In addition, whether a physical disability limits a major life activity under California's statutory scheme must "be determined without regard to mitigating measures such as medications...." (Cal. Gov. Code sec. 12926(k)(1)(B)(i).) This provision has made the Supreme Court's holding in *Sutton v. United Airlines*, 527 U.S. 471 (1999), which required consideration of such mitigating measures inapplicable under California law. Furthermore, section 12926(k)(2) of the Government Code provides that all students with diabetes who require special education or related services (*i.e.*, health-related services) are protected by state anti-discrimination laws.

Government Code section 11135 incorporates the rights under the ADA and thus Section 504. (See Gov. Code sec. 11135(b) and 42 USC sec. 12133; 28 CFR sec. 35.103(a)). Therefore, the discussion above regarding Section 504 and students with diabetes is applicable under the broad definitions of physical disability in California.

III. The IDEA and Students With Diabetes Who Require Diabetes Health Related Services During the Day In Order to Safely Attend K-12 Schools in California.

The primary purpose of the IDEA is "to ensure that all children with disabilities have available to them a free appropriate public education (FAPE) that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living." (20 USC secs. 1400(d)(1)(A), 1401(a).) California law sets the same standard for educating individuals with exceptional needs as the reauthorized IDEA. (Cal. Ed. Code secs. 56000, 56363(a).)

A. Eligibility

The IDEA requires LEAs to conduct "child find" activities to ensure that children with diabetes are identified, located, and evaluated. (20 USC sec. 1412(a)(3).) Under the IDEA, a child with diabetes is evaluated for eligibility under one of the 13 categories of disability, including the disability of "other health impaired" (OHI). (20 USC sec. 1401(3)(A); 34 CFR sec. 300.8; Cal. Ed. Code sec. 56026; Cal. Code Regs., Tit. 5, sec. 3030.) The reauthorized IDEA defines "child with a disability" in the following way:

The term "child with a disability" means a child --

- (i) with ... other health impairments and
- (ii) who, by reason thereof, needs special education and related services. (20 USC sec. 1401(3)(A).)

The term "other health impairments" (OHI) is further defined in the recently promulgated regulations as follows:

(c) *Definitions of disability terms.* The terms used in this definition of a child with a disability are defined as follows:

- (9) *Other health impairment* means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the education environment, that --
 - (i) is due to chronic or acute health problems such as diabetes ... and
 - (ii) adversely affects a child's educational performance.

Hence, an individualized education program (IEP) team can determine that a child with diabetes is eligible under the disability of OHI because high or low blood glucose levels can cause symptoms giving him/her limited strength, limited alertness, and creating chronic or acute health problems that adversely affect the student's educational performance. (See "Helping the Student with Diabetes Succeed -- A Guide for School Personnel" ("NDEP Guide") U.S. Department of Health and Human Services, 2003) available *via* CDE's web site at <http://www.cde.ca.gov/ls/he/hn/diabetesmgmt.asp>. Fluctuations in blood glucose levels may have an adverse effect on education in a variety of ways, including the effect on concentration, comprehension, and energy levels. It should be noted that the IEP team "must make an individual determination as to whether, notwithstanding the child's progress in a course or grade, he or she needs or continues to need special education and related services." (34 CFR sec. 300.101(c).)

B. Special Education Defined

The IDEA defines "special education" as meaning "specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including --

(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(B) instruction in physical education." (20 USC section 1401(29).)

"Specially designed instruction" means "adapting, as appropriate to the needs of the eligible child under this part, the content, methodology, or delivery or instruction (i) to address the unique needs of the child that result from the child's disability and (ii) to ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children." (34 CFR sec. 300.39(b)(3).)

For example, an IEP team could determine that a child who meets the criteria for eligibility under the category of OHI based upon chronic or acute health problems arising from diabetes would need to have his/her curriculum adapted in ways such as changes in the physical education instruction, in the regular school day schedule (such as various breaks required by abnormal blood sugar levels involving medical treatment), in allowed time for taking tests, in the regular schedule for eating, drinking and toileting, in assignment due dates, and in various other academic adaptations.

C. Individualized Education Program

Determinations about eligibility, special education and related services under the IDEA and relevant state statutes are made generally by the child's Individualized Education Program (IEP) team. (See generally Cal. Ed. Code secs. 56340-56347.) Such determinations are always based upon the unique needs of the individual child.

The term "individualized education program" (IEP) means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with 20 USC section 1414(d). As a part of each IEP, there must be "a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child...." (20 USC sec. 1414(d)(1)(A)(i)(IV)) in school and in extracurricular and other nonacademic activities. The 2006 implementing regulations are located at 34 CFR sections 300.320 through 300.328.

D. Related Services May Include Management/Administration of Insulin and Other Diabetes Care Tasks for Children With the Disability of OHI

In general, the reauthorized IDEA includes "school nurse services" as a "related service." (20 USC sec. 1401(26).) The statutory definition was expanded in the regulations to

include school health services. (34 CFR sec. 300.34.) California's definition of designated instruction and services/related services is located in Education Code section 56363 and is synonymous with related services in the reauthorized IDEA in 20 USC section 1401(26). California's designated instruction services thus do not deviate from the federal related services.

If a child needs both special education and health services, then, as determined by the child's IEP team, school nurse/health services should be made available to a child with the eligible disability of OHI as documented in the student's IEP. Services related to an OHI-eligible child's diabetes health care needs at school, including those involving the management and administration of insulin, are covered under the IDEA as nursing and health services rather than excluded from coverage as medical services requiring a physician to provide them. (See *Clovis Unified School Dist. v. Office of Administrative Hearings*, 903 F.3d 635, 641-643 (9th Cir. 1990) discussing and applying *Irving Independent School District v. Tatro*, 468 U.S. 883 (1984).)

In California, by statute both a written statement from the child's physician as well as a written statement from the child's parent are required before either a school nurse or other designated school personnel may assist the child with the administration of medication. (Cal. Ed. Code sec. 49423.) Hence, decisions about what health care services a student will receive, including treatment while at school, such as the timing and dosage of insulin to be administered usually are based on the treating physician's written orders. (See Cal. Ed. Code sec. 49423.) In rare circumstances the IEP team will question the doctor's treatment plan as being outside the standard of care and then request clarification from the treating physician or a second opinion with the consent of the parent, at the district's expense. (See 34 CFR sec. 300.300; *Shelby S. ex rel. Kathleen T. v. Conroe Independent School Dist.*, 454 F.3d 450, 454-455 (5th Cir. 2006) (school district authorized to compel medical examination over parent objection and necessity demonstrated).) In addition, the IEP team is responsible for determining educational modifications. (See, *Special Education Defined*, above).

E. Individualized Inquiries Required; Blanket Policies Prohibited

As with Section 504 determinations discussed above in Part I.C., decisions by IEP teams must be based upon individualized inquiries. The IDEA and its implementing regulations are premised upon the fact that each child is "unique" (20 USC sec. 1400(d)(1)(A)) and must receive an "individualized education program" (20 USC sec. 1401(14); see generally *Porter v. Board of Trustees of Manhattan Beach Unified School Dist.*, 307 F.3d 1064, 1066 (9th Cir. 2002) quoting *Bd. of Educ. v. Rowley*, 458 U.S. 176, 188-189 (1982) ("right to public education for students with disabilities 'consists of educational instruction specially designed to meet the unique needs of the handicapped child, supported by such services as are necessary to permit the child 'to benefit' from the instruction").) As a consequence, decisions about a specific child's eligibility for services under the IDEA must not be based upon the generalized or "blanket" policies of a local education agency rather than the unique needs of the individual child. (See Part I.C., *supra*.) Therefore, policies that restrict the availability of health related services across-

the-board would be out of compliance with the mandate to individualize decisions about special education and related services needs.

F. School Placement Decisions

School placement decisions may not be based upon the unwillingness of a district to provide needed related services to a child with OHI-diabetes disability at the school that the child would otherwise attend. A district may not require the parent to waive any rights, hold the district harmless, or agree to any particular placement or related services as a condition of administering medication or assisting a student in the administration of medication at school. (See Comment to IDEA regulations at p. 46587 (federal register) involving 34 CFR sec. 300.116(c): "Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled.....Public agenciesmust not make placement decisions based on a public agency's needs or available resources, including budgetary considerations and the ability of the public agency to hire and recruit qualified staff;" see also *Berlin Brothersvalley (PA.) School Dist.*, EHLR 353:124 (OCR 1988) (blanket waiver of liability as condition to provision of medical services prohibited). For example, a district may not have a blanket policy or general practice that insulin or glucagon administration or other diabetes-related health care service are only going to be provided by district personnel at one school in the district, or that a child will always need to be removed from the classroom in order to receive diabetes related health care services. An IEP developed in the legally-required manner, which takes into account all of the relevant medical and education factors under the IDEA for each disabled child, is the only way to ensure that such a student receives an individualized determination of what constitutes FAPE under the IDEA and relevant state statutes.

G. Administrative Procedures; Financial Burden Not a Defense

A parent of a child with the disability of OHI or an organization can file an administrative complaint with the CDE alleging that a school district is violating the IDEA or relevant state statutes by failing to identify, evaluate, or provide a FAPE to a student with diabetes or a group of students with diabetes, including challenging a district policy or practice that restricts the provision of related health services to students eligible for such services under the IDEA. (34 CFR secs. 300.151-300.153; Calif. Code Regs., Tit. 5, secs. 4600-4671.)

In the alternative, a parent who disagrees with the IEP decision regarding identification, evaluation, or the provision of FAPE and related services can file for an impartial due process hearing with the Office of Administrative Hearings. (20 USC sec. 1415 (e)-(i).) An OAH judge can order that the applicable required related school health services be provided by the district, including the administration of insulin during the school day. (20 USC sec. 1415(f)(3)(E).) Financial burden is not a valid defense available to the LEA under the *Garret F.* case. (*Cedar Rapids v. Garret F.*, 526 U.S. 66, 75, fn. 6, 78-79 (1999) (district required to fund related school health services under 34 CFR sec.

300.13(a) where necessary in order to provide student with meaningful access to public school).)

IV. Who May Administer Insulin in California to Students with Diabetes As a Related Service Under Section 504 and the IDEA

A. California Law

It is the position of the CDE that the Business and Professions Code section 2725(b)(2) and the California Code of Regulations, Title 5, section 604 authorize the following types of persons to administer insulin in California's public schools pursuant to a Section 504 Plan or an IEP:

1. self administration, with authorization of the student's licensed health care provide and parent/guardian;
2. school nurse or school physician employed by the LEA;
3. appropriately licensed school employee (*i.e.*, a registered nurse or a licensed vocational nurse) who is supervised by a school physician, school nurse, or other appropriate individual;
4. contracted registered nurse or licensed vocational nurse from a private agency or registry, or by contract with a public health nurse employed by the local county health department;
5. parent/guardian who so elect;
6. parent/guardian designee, if parent/guardian so elects, who shall be a volunteer who is not an employee of the LEA; and
7. unlicensed voluntary school employee with appropriate training, but only in emergencies as defined by Section 2727(d) of the Business and Professions Code (epidemics or public disasters).¹

B. Federal Law

As noted above in Parts I and III, federal law under Section 504 and the IDEA provides that the administration of insulin can be determined to be a related service that must be provided to a student pursuant to a Section 504 Plan or an IEP in order to ensure FAPE. CDE has recognized in the regulations which implement Education Code section 49423 regarding the administration of medication to students during the school day that they did

¹ In such emergency cases, an unlicensed voluntary school employee should have been trained to at least the standards specified by the American Diabetes Association's training slides entitled "Diabetes Care Tasks At School: What Key Personnel Need to know: Insulin Administration" available at <http://diabetes.org/advocacy-and-legalresources/discrimination/school/schooltraining.jsp>. Such a voluntary school employee should be regularly, and at least quarterly, supervised by a school nurse, physician, or other appropriate individual under contract with the LEA, providing the training, and with emergency communication access to the same school nurse or physician. Documentation of training, ongoing supervision, and annual written verification of competency are strongly recommended, and such documentation should be annually submitted to the LEA employing the unlicensed person by the school nurse or physician.

not affect "in any way" either the content or implementation of a student's Section 504 Plan or IEP. (Calif. Code Regs., Tit. 5, section 610(d).) Further, CDE's Program Advisory (required by Section 611 of the regulations) recognized that students' rights under Section 504 and the IDEA are distinct from state legal requirements. (See <http://www.cde.ca.gov/ls/he/hn/medadvisory.asp>.)

C. Reconciliation of State and Federal Law

The difficult issue in this area is reconciling state and federal requirements. Clearly the first set of personnel who are authorized to administer insulin pursuant to a Section 504 Plan or an IEP are those persons who are expressly so authorized under California law, as set forth in Part IV.A, *supra*. The question is what should occur when no expressly authorized school personnel are available.

In CDE's view, the list cannot be taken as exhaustive because LEAs must also meet federal requirements -- even if the personnel expressly authorized by California are not available. In practical terms, this means that the methodology followed by some LEAs of training unlicensed school employees to administer insulin during the school day to a student whose Section 504 Plan or IEP so requires it is a valid practice pursuant to federal law. If the LEA determines that insulin administration by the types of persons listed in categories 2-4 are not available or feasible, then unlicensed school employees with appropriate training would be authorized under federal law to administer insulin in accordance with the student's Section 504 Plan or IEP. What is not valid is for an LEA to adopt a general policy or practice that a Section 504 Plan or IEP need not be developed or followed because the LEA is not able to comply with the student's federal rights based upon the express provisions of state law. When federal and state laws are reconciled, it is clear that it is unlawful for an LEA to have a general practice or policy that asserts that it need not comply with the IDEA or Section 504 rights of a student to have insulin administered at school simply because a licensed professional is unavailable. In such situations, federal rights take precedence over strict adherence to state law so that the educational and health needs of the student protected by the Section 504 Plan or IEP are met.

V. Monitoring and Compliance by CDE

A. IDEA

Under the IDEA, the CDE monitors compliance with federal and state special education statutes and regulations with its Quality Assurance Process (QAP). That process is characterized by the gathering and evaluating of data in order to identify districts and areas within districts to aid in the inquiry, evaluation, and review of compliance issues. This enables the LEA and the CDE to develop corrective action plans, program improvement goals, and provide technical assistance to improve services to special education students throughout California.

Pursuant to the *K.C. Settlement Agreement*, the CDE has agreed to modify its QAP monitoring instruments and process to include special evaluation items related to students with the disability of OHI with chronic or acute health problems arising from diabetes.

The CDE also assures compliance under the IDEA by maintaining an administrative complaints system as required by federal regulation. (See 34 CFR sections 300.151-300.153.) Under 34 CFR section 300.153(a), a complainant can be either an organization or an individual who files a signed written complaint alleging any violation concerning identification, evaluation, placement, or the provision of a FAPE in the least restrictive environment including the provision related services. For example, a complaint may allege policies and/or practices that violated the child's right to receive an individualized assessment or eligibility and/or the provision of diabetes related health care services pursuant to the IEP process and/or any dispute arising out of the IEP process.

The required elements of a complaint are set forth in 34 CFR section 300.153(b). Of particular note is the requirement that a complaint alleging child-specific issues must contain the name and address of the residence of the child (34 CFR sec. 300.153(b)(4)(a).) Complaints of a systemic nature under the IDEA do not need to identify the individual student by name, although they still must provide facts of the alleged violation that are sufficient for the CDE or the district to conduct an effective investigation, and they must be signed.

B. Section 504/State Statutes

As required by the Uniform Complaints Procedure, CDE's Office of Equal Opportunity will continue to accept and investigate complaints pursuant to Section 504 and Government Code section 11135 which are filed by an organization or a student with a disability that alleges individual or systemic discrimination arising from an alleged non-compliant policy or practice or the failure to provide diabetes-related health services, reasonable accommodations or modifications to the student's educational program. (See Chapter 5.1, the Uniform Complaint Procedures (Sections 4600-4670) and Chapter 5.3, involving Nondiscrimination and Educational Equity, Sections 4900-4965.)

VI. Impartial Due Process Hearings

Parents who disagree with a school district's decisions regarding their child's eligibility and/or placement under the IDEA also have a federal right to request a due process mediation and/or hearing. (20 USC sec. 1415.) Procedural rights to an impartial hearing provided by the local district if a parent disagrees with a Section 504 team decision are also required by federal law. (34 CFR sec. 104.36.)

VII. Resources

CDE recommends that local education agencies and SELPAs use the following documents as guidelines for compliance: "Program Advisory on Medication Administration." (California State Board of Education, 2005) available *via* CDE's Web

site at <http://www.cde.ca.gov/ls/he/hn/mediadvisory.asp>; "Sample Section 504 Plan" and "Diabetes Medical Management Plan" ("DMMP"), both available at <http://www.diabetes.org/living-with-diabetes/parents-and-kids/diabetes-care-at-school/written-care-plans/> and "Helping the Student with Diabetes Succeed -- A Guide for School Personnel" ("NDEP Guide") U.S. Department of Health and Human Services, 2003) available via CDE's website at <http://www.cde.ca.gov/ls/he/hn/diabetesmgmt.asp>.

**Checklist: Who May Administer Insulin in California's Schools
Pursuant to An IEP or a Section 504 Plan**

Business and Professions Code section 2725(b)(2) and the California Code of Regulations, Title 5, section 604 authorize the following types of persons to administer insulin in California's public schools pursuant to a Section 504 Plan or an IEP:

1. self administration, with authorization of the student's licensed health care provide and parent/guardian;
2. school nurse or school physician employed by the LEA;
3. appropriately licensed school employee (*i.e.*, a registered nurse or a licensed vocational nurse) who is supervised by a school physician, school nurse, or other appropriate individual;
4. contracted registered nurse or licensed vocational nurse from a private agency or registry, or by contract with a public health nurse employed by the local county health department;
5. parent/guardian who so elect;
6. parent/guardian designee, if parent/guardian so elects, who shall be a volunteer who is not an employee of the LEA; and
7. unlicensed voluntary school employee with appropriate training, but only in emergencies as defined by Section 2727(d) of the Business and Professions Code (epidemics or public disasters).²

When no expressly authorized person is available under categories 2-4, *supra*, federal law -- the Section 504 Plan or the IEP -- must still be honored and implemented. Thus, a category #8 is available under federal law:

8. voluntary school employee who is unlicensed but who has been adequately trained to administer insulin pursuant to the student's treating physician's orders as required by the Section 504 Plan or the IEP.

² In such emergency cases, an unlicensed voluntary school employee should have been trained to at least the standards specified by the American Diabetes Association's training slides entitled "Diabetes Care Tasks At School: What Key Personnel Need to know: Insulin Administration" available at <http://diabetes.org/advocacy-and-legalresources/discrimination/school/schooltraining.jsp>. Such a voluntary school employee should be regularly, and at least quarterly, supervised by a school nurse, physician, or other appropriate individual under contract with the LEA, providing the training, and with emergency communication access to the same school nurse or physician. Documentation of training, ongoing supervision, and annual written verification of competency are strongly recommended, and such documentation should be annually submitted to the LEA employing the unlicensed person by the school nurse or physician.

General Resources

American Academy of Pediatrics Guidelines for the Administration of Medications in School, available at <http://aappolicy.aappublications.org/cgi/content/full/pediatrics;112/3/697?fulltext=school>

American Diabetes Association school advocacy resources, available at: <http://www.diabetes.org/living-with-diabetes/parents-and-kids/diabetes-care-at-school/>

American Diabetes Association resources for attorneys, available at: <http://www.diabetes.org/living-with-diabetes/know-your-rights/for-lawyers/>

American Diabetes Association, Diabetes Care Tasks at School: What Key Personnel Need to Know, available at: <http://www.diabetes.org/living-with-diabetes/parents-and-kids/diabetes-care-at-school/school-staff-trainings/diabetes-care-tasks.html>

American Diabetes Association, *Position Statement: Diabetes Care in the School and Day Care Setting*, Diabetes Care 32:S68-S72 (2009), available at http://care.diabetesjournals.org/content/32/Supplement_1/S68

American Diabetes Association, *Becoming a Diabetes Advocate in the Schools*, available at: <http://www.diabetes.org/assets/pdfs/schools/becomingdiabetesadvocateschools.pdf>

American Diabetes Association & School Health Coalition's statement on *Chronic Illness: Guidance for Families, Schools, and Students*, available at http://www.diabetes.org/assets/pdfs/schools/studentchronillness_guidfamschools.pdf

Children with Diabetes, www.childrenwithdiabetes.com

Council of Parent Attorneys and Advocates, <http://www.copaa.net>

Disability Rights Education and Defense Fund, <http://www.dredf.org>

National Disability Rights Network, <http://www.napas.org>

National Dissemination Center for Children & Youth With Disabilities, <http://www.nichcy.org>

National Institutes of Health and the Centers for Disease Control and Prevention, *Helping the Student with Diabetes Succeed: A Guide for School Personnel* (June 2003), published by the, available at: http://www.ndep.nih.gov/media/Youth_NDEPSchoolGuide.pdf

Rapp, James A., "Students with Diabetes in Schools", *Inquiry & Analysis* (National School Board Association, Council of School Attorneys), June 2005

U.S. Department of Agriculture Food and Nutrition Service, *Accommodating Children with Special Dietary Needs in the School Nutrition Programs: Guidance for School Food Service Staff*, available at: www.fns.usda.gov/cnd/Guidance/special_dietary_needs.pdf

U.S. Dept. of Education, Office for Civil Rights, *The Civil Rights of Students with Hidden Disabilities under Section 504 of the Rehabilitation Act of 1973*, available at: <http://www.ed.gov/about/offices/list/ocr/docs/hq5269.html?exp=0>

U.S. Dept. of Education, Office for Civil Rights, *Frequently Asked Questions About Section 504 and the Education of Children with Disabilities*, available at: <http://www.ed.gov/about/offices/list/ocr/504faq.html>

U.S. Dept. of Education, Office for Civil Rights, *OCR Case Resolution and Investigation Manual*, available at: <http://www.ed.gov/about/offices/list/ocr/docs/ocrcrm.html>

U.S. Dept. of Education, Office for Civil Rights, *Sutton Investigative Guidance: Consideration of "Mitigating Measures" in OCR Disability Cases*, available at: <http://www.diabetes.org/assets/pdfs/know-your-rights/for-lawyers/education/atty-sutton-investigative-guidance.pdf>

Wrightslaw, <http://www.wrightslaw.com>

State Specific Resources

A number of state specific resources are accessible from the American Diabetes Association's website at <http://www.diabetes.org/living-with-diabetes/parents-and-kids/diabetes-care-at-school/legal-protections/state-laws-and-policies.html>.

Selected state resources include:

Arizona

Guidelines for the Care of Children with Diabetes in Arizona Schools, published by the Arizona Department of Education, available at <http://www.ade.state.az.us/health-safety/health-nursing/GM/DiabetesGuidelinesADA.pdf>

California

Information on American Diabetes Association litigation involving California Department of Education (*K.C., et al., v. O'Connell, et al.* and *American Nurses Association, et. al. v. O'Connell, et. al.*), available at <http://www.diabetes.org/living-with-diabetes/know-your-rights/for-lawyers/education-for-lawyers/ada-settles-california-lawsuit.html>

Glucagon Training Standards for School Personnel: Providing Emergency Medical Assistance to Pupils with Diabetes, published by the California Diabetes Program, available at http://www.diabetes.org/assets/pdfs/state-school-laws/ca_glucagontrainingstds.pdf

Colorado

Rules and Regulations Regarding the Delegation of Nursing Tasks, published by the Colorado Board of Nursing, available at <http://www.dora.state.co.us/NURSING/rules/ChapterXIII.pdf>

Colorado Kids with Diabetes Care and Prevention Collaborative, <http://www.coloradokidswithdiabetes.org/>

Florida

Nursing Guidelines for the Delegation of Care for Students with Diabetes in Florida Schools, published by the Florida Department of Health, available at: <http://www.doh.state.fl.us/Family/school/reports/DiabetesGuidelines2003.pdf>.

Georgia

School Health Nurse Resource Manual, published by the Georgia Department of Education, available at: http://www.doe.k12.ga.us/DMGetDocument.aspx/nurse_manual.pdf?p=4BE1EECF99CD364EA5554055463F1FBB77B0B70FE0CF5942E12E123FE4810FFF55BC103AB8DEE33A5B5D482EB106BE0F9&Type=D.

Illinois

Diabetes in Schools: A Resource Manual for School Health Personnel, published by the Illinois Department of Human Services, available at: <http://www.dhs.state.il.us/OneNetLibrary/27894/documents/CHP/CAH/School%20Health/diabetes.pdf>.

Recommended Guidelines for Medication Administration in Schools, published by the Illinois Department of Human Services and the Illinois State Board of Education (September 2000), available at: http://www.isbe.state.il.us/spec-ed/pdfs/medication_administration.pdf.

Kentucky

Health Services Reference Guide, published by the Kentucky Department of Education, available at: <http://www.education.ky.gov/KDE/Administrative+Resources/Coordinated+School+Health/Health+Services/HSRG+Table+of+Contents.htm>.

Maine

Maine Guidelines for Schools: Tools for Schools Who Have Students with Diabetes, published by the Maine Department of Health and Human Services, available at http://www.maine.gov/dhhs/bohdcfh/dcp/documents/MEGuidelines_final.pdf

Maryland

Management of Students with Diabetes Mellitus in Schools, Maryland State School Health Services Guideline, available at http://www.diabetes.org/assets/pdfs/state-school-laws/md_diabmanagementguidelines.pdf

Massachusetts

Massachusetts Department of Public Health, *Guidelines for the Care of Students with Diabetes and Their Self Management in the School Setting*, available at http://www.diabetes.org/assets/pdfs/state-school-laws/ma_guidelinefordiabetescareinschool2008.pdf

Michigan

Model Policy and Guidelines for Administering Medications to Pupils at School, published by the Michigan Department of Education, available at: http://www.michigan.gov/documents/REGITEMVIID_50046_7.pdf.

Minnesota

Minnesota Guidelines for Medication Administration in Schools, published by the Minnesota Department of Health, available at: <http://www.health.state.mn.us/divs/cfh/shs/pubs/medadmin/schoolmedadmin.pdf>.

Missouri

Diabetes Management in the School Setting: A Resource Guide for School Health Nurses, published by the Missouri Department of Health and Senior Services, available at: <http://www.dhss.mo.gov/diabetes/Dschool.html>.

Montana

Children with Diabetes: A Resource Guide for Schools, published by the Montana Department of Public Health and Human Services, available at: <http://www.dphhs.mt.gov/PHSD/Diabetes/pdf/srmpages.pdf> and supplemented at: <http://www.dphhs.mt.gov/PHSD/Diabetes/pdf/srminserts.pdf>.

Nevada

Program Nevada Diabetes Association for Children and Adults Recommendations for Management of Children with Diabetes in Schools, published by the Nevada Diabetes Association for Children and Adults, available at <http://www.diabetesnv.org/newsite/File/School%20Guide.pdf>

New Jersey

Guidelines for the Care of Students With Diabetes in the School Setting, published by the New Jersey Department of Education, Task Force on Diabetes in School, available at: <http://www.state.nj.us/njded/edsupport/diabetes/diabetes.pdf>.

New York

Diabetes in Children: A Resource Guide for Families and Schools, published by the New York State Department of Health, available at <http://www.health.state.ny.us/publications/0944.pdf>.

North Carolina

Diabetes Care in Public Schools training curriculum, available at <http://www.nchealthyschools.org/docs/school/tools/diabetesfinalreport.pdf>

Oregon

Oregon Revised School Health Services Manual, published by the Oregon Department of Education, available at <http://www.ode.state.or.us/groups/supportstaff/hklb/schoolnurses/hlthmanual.aspx>

Training Protocol, Emergency Glucagon Providers, published by the Oregon Department of Human services, available at http://www.diabetes.org/assets/pdfs/state-school-laws/or_glucagontraining-protocol-0808.pdf

Rhode Island

Rules and Regulations for School Health Programs, published by the Rhode Island Department of Elementary and Secondary Education, available at http://www.rules.state.ri.us/rules/released/pdf/DOH/DOH_3592.pdf

Tennessee

Section 504 Manual: A Comprehensive Manual for Tennessee Educators on Section 504 of the Rehabilitation Act of 1973 (PDF), <http://www.tennessee.gov/education/speced/doc/sesection504man.pdf>

Texas

Guidelines for the Care of Students with Diabetes in the School Setting Web Site, provided by the Texas Department of State Health Services at: <http://www.dshs.state.tx.us/diabetes/dcschool.shtm>.

Guidelines for Training School Employees Who Are Not Licensed Healthcare Professionals to Implement House Bill 984 (79th Legislature) Related to the Care of Elementary and Secondary School Students with Diabetes, published by the Texas Diabetes Council, available at: <http://www.dshs.state.tx.us/diabetes/PDF/HB984.pdf>.

Vermont

Recommendations for Management of Diabetes for Children in School, published by the Vermont Department of Health, Diabetes Control Program, available at: <http://www.healthvermont.gov/prevent/diabetes/SchoolDiabetesManual.pdf>.

Virginia

Guidelines for Training of Public School Employees in the Administration of Insulin and Glucagon, published by the Virginia Board of Nursing, available at <http://www.dhp.virginia.gov/nursing/guidelines/90-36.doc>

Washington

Guidelines for Care of Students with Diabetes, published by the Washington State Task Force for Students with Diabetes, available at: <http://www.k12.wa.us/HealthServices/DiabetesCare.aspx>.

West Virginia

Guidelines for Determining Acts That May Be Delegated or Assigned By Licensed Nurses (2001), published by the W. Va. Board of Examiners of Registered Professional Nurses, available at: <http://www.lpnboard.state.wv.us/scope.pdf>.

Wisconsin

Children with Diabetes: A Resource Guide for Wisconsin Schools and Families, published by the Wisconsin Department of Health and Family Services, available at: <http://dhs.wisconsin.gov/health/diabetes/PDFs/ChildrensRG.pdf>.