

FACT SHEET: DIABETES, DISCRIMINATION, AND PUBLIC PLACES AND GOVERNMENT PROGRAMS

1. What is this fact sheet for?

People with diabetes often wonder whether they will be able to bring diabetes supplies into places like theaters, stadiums, and court houses, take their supplies through airport security, or fully participate in private and government programs. People with diabetes have the right to participate fully in our society without sacrificing their medical safety or facing discrimination because of misunderstandings, fears, and stereotypes about diabetes.

Federal laws prohibit most public places and programs—whether operated by private companies, non-profit organizations, or the government—from discriminating against people with diabetes.

This fact sheet explains your rights related to your diabetes when you are in public places or using public programs.

2. Am I protected from discrimination?

To be protected from discrimination under federal law, you need to show that you are a “qualified person with a disability.” The term “disability” has three definitions:

- a physical or mental impairment that substantially limits one or more of an individual’s major life activities;
- a record of such an impairment; or
- being regarded as having such an impairment

While diabetes is not automatically considered a disability, many people with diabetes are able to prove that they have a disability. For more information on discrimination generally, including the definition of disability and establishing coverage under federal law, see <http://www.diabetes.org/advocacy-and-legalresources/discrimination.jsp>.

3. What are public accommodations?

A public accommodation is a private entity that owns, operates, or leases to such a place of public accommodation. Here are some types of public accommodations:

- Hotels and restaurants
- Theaters and stadiums
- Convention centers
- Stores
- Doctor’s offices and hospitals
- Train stations and airports
- Museums, libraries, zoos, and amusement parks
- Private schools, from nursery school to graduate school
- Private day care centers
- Private nursing homes, domestic violence shelters, and other social service centers
- Gyms, health clubs, and golf courses

4. What are government programs, activities, and services?

These are programs, activities, and services run by a government entity, including state and local governments and their departments and agencies. Here are some examples:

- Public schools, from nursery school to graduate school
- After-School activities run by public schools
- Public nursing homes, domestic violence shelters, and other social service centers
- Police departments
- Court houses
- Public transportation agencies
- State licensing agencies
- Welfare, and vocational rehabilitation programs
- Child protective services
- Municipal sports leagues
- Voting facilities
- County and state hospitals

5. What anti-discrimination laws protect me?

The Americans with Disabilities Act (ADA) prohibits discrimination against qualified individuals on the basis of disability.

Under Title II of the ADA, state and local governments must provide you with services that are not any different from those they provide people without a disability. They must not screen out or exclude you because of your disability. They must modify their policies and provide reasonable accommodations as long as doing so does not pose an undue burden. For example, a court house should permit you to carry your diabetes supplies with you—this might be a modification of a general policy against allowing sharp objects and food.

Under Title III of the ADA, providers of public accommodations must provide you with services that are not any different from those they provide people without a disability. They must not screen out or exclude you because of your disability. They must modify their policies and provide reasonable accommodations as long as doing so does not pose an undue burden. For example, daycare centers, camps, and other recreational programs covered by the ADA cannot refuse to admit a child because he/she has diabetes, and may be required to provide certain services to a child with diabetes to enable the child to access the program.

The Rehabilitation Act of 1973 (Rehabilitation Act) prohibits recipients of federal funds from discriminating against individuals with disabilities. Under Section 504, private entities, such as private hospitals that receive funding from the Department of Health and Human Services, and public entities, such as public schools that receive funding from the Department of Education, are prohibited from discriminating on the basis of disability.

State and local anti-discrimination laws may provide additional protection.

6. Are any public accommodations or government programs exempt from these laws?

Private membership clubs and religious organizations are not covered by Title III of the ADA. For example, a country club or a religious school may be exempt. However, in certain circumstances, clubs or religious organizations must still comply with anti-discrimination laws. For example, a

golf club that—in addition to maintaining its own screening process for permanent members—operates a hotel that is fully open to members of the public at large must not discriminate against people with disabilities. A religious university that receives federal research grants would be covered under Section 504 of the Rehabilitation Act.

Because of the unique needs of the military, the Rehabilitation Act of 1973 provides more limited protections to individuals accessing military programs, activities, and services.

7. Are there any limits on the kinds of disability-related modifications required by the ADA and Rehabilitation Act?

Yes. These laws require public and private entities to make reasonable modifications in their policies, practices, and procedures to avoid discrimination on the basis of disability unless they can demonstrate that a modification would impose an undue burden or fundamental alteration to the program.

For example, while a college might be required to allow a student to store diabetes supplies in her dorm room, it would probably not be required to provide her with a nurse trained in diabetes care. The cost of a nurse would likely be an undue burden, and/or providing nursing services at a university would likely be a fundamental alteration of the program, because the purpose of the university is to provide a learning environment, not medical services.

8. Do the ADA and the Rehabilitation Act allow public accommodations and government programs to take safety factors into consideration in providing services to individuals with diabetes?

Yes, in limited circumstances. The ADA and the Rehabilitation Act provide that public accommodations and government programs, activities, and services may exclude an individual if that individual poses a direct threat to health or safety. However, the exclusion cannot be based on stereotypes or generalizations about the ability of persons with disabilities to participate in an activity.

For example, a policy preventing individuals with diabetes from obtaining a bus driver's license based on a generalized fear of diabetes would likely be found illegal. However, a specific individual who experiences repeated episodes of severe hypoglycemia may not be able to obtain a bus driver license because her hypoglycemia poses a direct threat.

9. What are some examples of modifications that should be provided to individuals with diabetes?

- Permission to bring diabetes care supplies, including syringes, lancets, and insulin through security checkpoints, including at airports and courthouses
- Breaks to check blood glucose levels, eat a snack, take medication, or use a restroom
- Rescheduling an examination if blood glucose levels are too high or too low
- Assistance with diabetes management for children in daycare centers, camps, and recreational programs

10. What can I do if I am facing discrimination by a public accommodation or government program?

If you think you are being discriminated against in a place of public accommodation or in a government program, activity, or service, call 1-800-DIABETES (1-800-342-2383) for additional information and to learn how you can speak with one of the Association's Legal Advocates.

If you are considering making a complaint, you must carefully research the requirements and procedures for your particular concern and meet all deadlines. For example, Title II complaints against government programs must normally be filed within 180 days from the date of the alleged discrimination.