

**The Legal Rights of Students**  
**From the Juvenile Diabetes Research Foundation**  
*(including notes from case law)*

## **8. What Diabetes Care Services and Accommodations Should Be Provided?**

Most students with diabetes will require some services and accommodations from the school in order to successfully manage the condition and participate fully in the educational program. Negotiations between advocates and schools will frequently focus on what diabetes care services the school is required to provide and how they will be provided. This Part begins with a discussion of the American Diabetes Association's position on diabetes care in schools and of key points in its model state legislation, and then addresses the crucial need for accommodation decisions to be based on the needs of the individual child, not on blanket rules. It then addresses issues surrounding what care must be provided, including insulin administration, emergency care, and meals and snacks. The question of who should provide care is discussed in more detail in Part 9.

### **8.1 May a school be required to provide diabetes health care services to a student with diabetes?**

Schools can be required to provide aids and services related to the health care needs of a student with a disability. Health services, such as those provided by a school nurse or other trained personnel, are services that the school can be required to provide under Section 504, the Americans with Disabilities Act (ADA) and the Individuals with Disabilities Education Act (IDEA). Schools are not required to provide "medical services", which are defined as services which must be provided by a physician (as opposed to a school nurse or other trained personnel). **Since diabetes care tasks such as insulin and glucagon administration can be provided by nurses or other personnel, they are not "medical services" under this definition.**

#### **Notes**

Section 504 provides that health services are included among those services that may be required to be provided to a student with a disability. 34 C.F.R. § 104.37(a)(2). The IDEA also states that school health services can be provided but does not require the provision of "medical services". See 20 U.S.C. § 1401(26). The Supreme Court has narrowly defined the scope of "medical services" that schools need not provide under IDEA. The Court has held that services that may be provided by a qualified school nurse or other qualified person are related services, which must be provided, rather than a medical service, which is not required. *Cedar Rapids Community Sch. Dist. v. Garret F.*, 526 U.S. 66, 119 S. Ct. 992, 143 L. Ed. 2d 154 (1999). Excluded medical services generally are those which must be provided by a licensed physician. Providing a supply of medication for a student is considered a medical service. See 34 C.F.R. Part 300, Attachment 1, Analysis of Comments and Changes, 64 Fed. Reg. 12540 (1999) (considering IDEA). However, while a district is therefore not required to provide medication, it may be required to provide the related service of administering the medication provided by the student or his or her parents or guardians. While Section 504 and the ADA do not provide for an explicit "medical services" exception, it is likely that medical services not required under IDEA would also not be required under these laws.

## **8.2 What is the position of the American Diabetes Association on the provision of diabetes care in the school setting?**

The views of the American Diabetes Association on diabetes care in the school setting are embodied in the Association's Position Statement on Diabetes Care in the School and Day Care Setting. This position statement emphasizes the need to assess the needs of each child individually and to provide appropriate care in the school based on the student's Diabetes Medical Management Plan (DMMP) or other health care plan. The Association opposes blanket rules that would exclude students with diabetes from participating in school activities or would restrict the services school personnel provide. Diabetes care should be provided in a way that encourages self-management of diabetes by the student whenever appropriate and which ensures that adequate numbers of trained personnel are available to protect the student's health and safety whenever the student is in school or participating in school-sponsored activities. The position statement contains a number of specific recommendations regarding diabetes care services to be provided at school. Many of these recommendations are incorporated into model legislation that the Association has developed regarding diabetes care in schools. Legislation based on this model has been passed in a number of states. Key features of the Association's model legislation are:

- Assuring that trained school personnel are available to provide routine and emergency diabetes care at school and school-related activities.
- Requiring development of diabetes care training guidelines by various government agencies and organizations and the training of school personnel.
- Permitting independent monitoring and treatment by students who are capable of doing so.
- Assuring that school choice is not restricted because of diabetes.
- Requiring development and implementation by the school of a Diabetes Medical Management Plan (DMMP) approved by the child's health care provider.

### **Notes**

The Position Statement is published at Diabetes Care, Volume 29, Suppl. 1, S43-49 (Jan.2006), and is available at [http://care.diabetesjournals.org/cgi/content/full/29/suppl\\_1/s49](http://care.diabetesjournals.org/cgi/content/full/29/suppl_1/s49).

## **8.3 Should all students with diabetes be provided with the same modifications or accommodations?**

No. Across-the-board, "one-size-fits-all" accommodation plans are not appropriate because they may not take into account each child's individual needs. Accommodations for students with diabetes are often similar, but diabetes affects each individual differently and it is essential that individual needs be considered. Every child is entitled to an individualized assessment.

## **Notes**

Section 504 requires the development of an individualized, appropriate educational program for each student with a disability. That program must be developed through a process that meets certain requirements. 34 C.F.R. §§ 104.34 (educational setting), 104.35 (evaluation and placement), and 104.36 (procedural safeguards). Title II of the Americans with Disabilities Act is similarly construed. 28 C.F.R. § 35.130(b). Because of this, under both Section 504 and the ADA, the individual needs of students must be considered. *Conejo Valley (CA) Unified Sch. Dist.*, Complaint No. 09-93-1002, 20 IDELR 1276 (OCR 1993) (home bound instruction for child with Down Syndrome and diabetes could not be limited to one hour per day without regard to student's individual needs). General policies applicable to all students with diabetes violate these requirements. See, e.g., *Irvine (CA) Unified Sch. Dist.*, Complaint No. 09-94-1251, 23 IDELR 1144 (OCR 1995) (rejecting rule prohibiting in-class blood glucose testing); *Conejo Valley (CA) Unified Sch. Dist.*, Complaint No. 09-93-1002, 20 IDELR 1276 (OCR 1993) (Section 504 and ADA violated where school failed to consider individual needs of student with diabetes and, instead, proposed options that were based on the district's refusal to allow non-licensed personnel to administer injections even in emergency situations).

### **8.4 Can schools apply blanket rules based on safety concerns?**

Blanket rules that do not take into account individual circumstances are not appropriate, even when safety concerns are raised to justify them. These concerns must be considered as part of the assessment of a child's individual needs.

## **Notes**

Students' needs must be assessed on an individual basis. See Question 8.3. Health and safety concerns may be considered, but only as part of the individualized determination. *Santa Maria-Bonita (CA) Sch. Dist.*, Complaint No. 09-97-1449, 30 IDELR 547 (OCR 1998) (school adopted agreement for individual assessment); *Irvine (CA) Unified Sch. Dist.*, Complaint No. 09-94-1251, 23 IDELR 1144 (OCR 1995) (issues arising from guidelines under the federal Occupational Safety and Health Act, the disruptiveness to the overall class caused by testing, and the safety of other students, must be considered as part of individualized evaluation).

### **8.5 May students with diabetes be assigned to a separate school other than the one they would attend if not disabled?**

It might be argued that diabetes care could be provided more efficiently to students if all students with diabetes attended one school. However, it is the Association's position that this unnecessarily and improperly segregates students with diabetes from their non-disabled peers. If a student requires accommodations and services, they should be furnished at the student's regular school. The typical accommodations required of students with diabetes may easily be provided at all schools. In addition, if a school district were to require a student to attend another school because services are not available at the student's regular school, it would need to provide many of these same services during transportation to and from this school. See Question 12.8.

## Notes

In determining a school placement, districts must consider a student's individual needs and may not make an assignment decision based purely on the student's need for diabetes related services. As the California Department of Education has stated, "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." California Department of Education, "Legal Advisory On Rights Of Students With Diabetes In California's K-12 Public Schools" (August 2007) (reprinted in the supplemental information section and available at <http://www.diabetes.org/uedocuments/cde-legal-advisory-rights-2007.pdf> at part I.C. See also *id.* at III.F ("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 policy prohibiting non-licensed individuals from giving students with diabetes injections may not be the exclusive controlling factor in making a placement, without consideration of the nature of the proposed placement in terms of curriculum, educational setting, opportunity to interact with non-disabled students, and other factors. *Conejo Valley(CA) Unified Sch. Dist.*, Complaint No. 09-93-1002, 20 IDELR 1276 (OCR 1993) (application of blanket policy in placement process violated Section 504 and ADA although several different options had been offered). The placement must be designed to meet the needs of the student. *McWhirt v. Williamson County Schs.*, 23 IDELR 509 (6th Cir. 1994) (although mother believed that she was the only person capable of handling her child's diabetes and, therefore, insisted that child be placed as close to home as possible, education needs require placement at another school and such placement was appropriate where there was no reason to believe the school personnel could not be trained to care for her).

Section 504, Title III of the Americans with Disabilities Act, and the Individuals with Disabilities Education Act require that students be educated with persons who are not disabled and in the least restrictive environment. 34 C.F.R. § 104.34 (Section 504); 42 U.S.C. § 12182(b)(1)(B), (C) (ADA), 20 U.S.C. § 1412(5) (IDEA). However, in cases involving disabilities other than diabetes, several courts have stated that this does not automatically mean that all students with disabilities end up being assigned to their neighborhood school. *A.W. v. Fairfax County Board of Education*, 372 F. 3d 674, 681 (4th Cir. 2004) (under IDEA, "least restrictive environment" requirement means only that students should not unreasonably be segregated from non-disabled students and does not mandate any particular school placement or override school discretion in student assignment decisions); *Urban v. Jefferson County School Dist. R-1*, 89 F. 3d 720 (10th Cir. 1996) (reaching a similar conclusion under IDEA, and holding that 504 and the ADA confer no more rights than IDEA in this regard). OCR has indicated that if a particular student's diabetes requires that a school nurse be available to provide services, it may be appropriate to assign a child to a school that has such services available rather than a school with only periodic coverage. *Seattle (WA) Pub. Sch.*, Complaint No. 10-98-1264, 31 IDELR 193 (OCR 1999) (assignment to school with a nurse on site daily approved for student with diabetes; unclear whether parent supported or opposed the requirement that care be provided by a nurse); *Calcasieu Parish (LA) Sch. Bd.*,

Complaint No. 06041354, 44 IDELR 49 (OCR 2005) (district's offer to transfer student to a school with a full time nurse was reasonable where state nursing regulations prohibited delegating insulin administration to unlicensed personnel and where the school the child attended had only a part time nurse).

### **8.6 What are typical examples of health care modifications or accommodations for students with diabetes?**

Examples of accommodations frequently requested include allowing blood glucose self monitoring and medication administration by students who are capable of doing it themselves (see Question 9.1), administration of blood glucose checks and medications such as insulin and glucagon by school personnel when assistance is needed (see Questions 8.9, 8.11), and modification of food and bathroom usage policies (see Questions 8.15-8.17).

#### **Notes**

Numerous cases and OCR agreements have discussed these kinds of health care accommodations. Several rather comprehensive agreements to resolve discrimination complaints exist and can serve as guides to the kinds of accommodations that many children with diabetes will need. For example, one agreement requires that each plan for a student with diabetes permit a student to: "see school ADCPs [Authorized Diabetes Care Providers] 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." *Onslow County (NC) Pub. Schs.*, Complaint No. 11-02-1035, 37 IDELR 161 (OCR 2002); *Loudoun County (VA) Pub. Schs.*, Complaint Nos. 11-99-1003, 11-99-1064, 11-99-1069 (OCR 1999). See also *Springboro (OH) Community City Sch. Dist.*, Complaint No. 15-02-1194, 39 IDELR 41 (OCR 2003) (blood glucose monitoring, relaxation of snack policies, providing food serving size and carbohydrate information, and administration of medication).

### **8.7 Must schools monitor a student's blood glucose levels?**

Monitoring of a child's blood glucose levels may be required if the child cannot monitor his or her levels independently. Younger students typically require assistance with taking blood glucose readings, reading and interpreting the results, and taking appropriate steps to respond to particular blood glucose values. Most older students, on the other hand, are capable of testing their blood glucose levels independently. Even for these students, monitoring may be required in emergency situations.

#### **Notes**

Since blood glucose monitoring is perceived as less complicated than administering insulin or other medications, it is often more readily provided by schools, and many cases and OCR decisions have included blood glucose monitoring as a needed service. *Elizabeth S. v. Gilhool*, EHLR 558:461 (M.D. Pa. 1987). *Legal Rights of Students with Diabetes* 56.

### **8.8 Are schools required to provide diabetes care supplies for students?**

No. Schools need not provide diabetes supplies to a student. Parents or guardians are required to provide glucose testing equipment, insulin, glucagon, snacks, and other supplies necessary for students. However, it is a good idea for a school to have certain backup supplies available.

#### **Notes**

Diabetes care supplies such as blood glucose monitoring equipment and medications are considered medical supplies, which districts are not required to provide or pay for as an accommodation. While schools are required in appropriate circumstances to administer needed medications where those medications are provided by the child's parents or guardians, schools are not required to provide medications or other items which are individually prescribed for the student, especially where those items are used by the student at home as well. *In re School Admin. Dist. #25*, Case No. 93.114, 20 IDELR 1316 (Maine Hearing Officer Decision 1994) (parents were to provide a supply of fast acting sugar as a medical supply). See Question 8.1 (medications are considered to be medical services schools are not obligated to provide).

Parents or guardians also may be expected to provide sodas or snacks if needed for diabetes care. *Maine Sch. Admin. Dist. #25*, Complaint No. 01-93-1170, 20 IDELR 1354 (OCR 1993) (school did not retaliate by expecting parents to buy or provide sodas to student with diabetes; school did provide storage and refrigerator space). Many schools wisely provide a backup source of some supplies, such as a glucose meter, snacks, and glucose tablets. The choice of backup supplies must meet the recommendations of the student's diabetes medical providers, but the source does not need to be exactly what the student or parent/guardian might prefer. *In re School Admin. Dist. #25*, Case No. 93.114, 20 IDELR 1316 (Maine Hearing Officer Decision 1994) (school expected to provide a backup supply of fast acting sugar; parent complaint about the choice rejected where they failed to respond to requests for student's preferences).

### **8.9 May a school prohibit the administration of insulin during the school day?**

No. Schools must provide for the administration of insulin to students with diabetes who need it. If a student needs insulin to be administered during the school day, such a policy would effectively exclude the student from school, by making it unsafe for him or her to attend.

#### **Notes**

While in the past many people had treatment regimens that required only one or two insulin shots a day (and therefore would not necessarily require administration during school hours), recent advances in the field of diabetes treatment have shown that a regimen including more frequent insulin dosages is much more effective at managing diabetes and avoiding long term complications. As a result, most students with diabetes require insulin administration during school hours. A student's need for insulin administration at school, including timing and amount of doses, should be specified in detail in the student's Diabetes Medical Management Plan or other medical plan. Where the need for insulin is not documented, a school may not be required to administer insulin. *Eastmont (WA) School Dist. No. 206*, Complaint No. 10-05-1030, 44 IDELR 258 (OCR 2005) (where no medical documentation indicated that student needed insulin to

be administered during the school day, district did not violate Section 504 by failing to administer it, even where parent claimed that she had been told by district officials not to request insulin because it would not be provided).

A policy that prohibits qualified staff from giving injectables to students with diabetes, even if needed and even in emergency situations, may have the effect of denying needed services to students with disabilities. *Prince George's (MD) County Schools*, Complaint No. 03-02-1258, 39 IDELR 103 (OCR 2003); *see also Amarillo Indep. Sch. Dist.*, Complaint No. 06-02-1181 (OCR 2002) (school agreed to administer medications, including insulin and/or glucagon).

If a student is able to self-administer insulin, no intervention or assistance from school personnel is necessary except in emergency situations. However, most younger children will not be capable of self-administering insulin and will require assistance, and some older students may continue to need assistance (particularly where other disabilities are involved that make self-administration difficult). Insulin should be administered to a student until such time as the student is able to self-administer. *Wayne-Westland (MI) Community Schs*, Complaint No. 15-00-1130, 35 IDELR 14 (OCR 2000) (complaint resolution provided that school would administer insulin to student who was eight years old until she acquired the skill and comfort level to self-administer insulin). Whether a student is able to self-administer insulin should be determined by the student's parents or guardians and physician in collaboration with school officials.

#### **8.10 Do accommodation needs differ for students using an insulin pump?**

Students using an insulin pump require accommodations just as do other children with diabetes. However, the accommodations might vary because of the pump. Assistance may be required to operate the pump and, so, trained diabetes personnel must be available to perform basic insulin pump operations such as changing infusion sets, changing batteries, and trouble-shooting alarms. There also may be times when the pump malfunctions and insulin injections must be used. Schools should also be responsible for securing and storing a student's insulin pump if a student disconnects it for physical education or for some other reason.

#### **Notes**

For an example of an OCR agreement addressing insulin pump issues, *see Henderson County (NC) Pub. Schs.*, Complaint No. 11-00-1008, 34 IDELR 43 (OCR 2000) (school agreed to train school personnel in the use of pump and also have an individual trained to operate the pump accompany the student to school-sponsored events off campus).

#### **8.11 Must a school be prepared to administer glucagon to students?**

Yes. Accommodation of students with diabetes requires that school personnel be prepared to administer glucagon to students if needed.

#### **Notes**

Glucagon cannot be self-administered; it is administered by injection when a person is

unconscious or semi-conscious due to severe hypoglycemia and cannot take glucose orally. Although a child may vomit, he or she is not injured from receiving glucagon when it is not actually required. For more information on glucagon, see Question 2.7. A life-threatening situation may result if glucagon is not administered promptly when circumstances warrant. It has therefore been held that a student with diabetes who is at risk of hypoglycemia must be placed where a nurse or other qualified individual is available on site to administer glucagon in case of any emergency. *Hawaii State Educational Agency*, Case No. 01-34 (Hawaii Dept. of Educ. 2001).

The administration of glucagon has been frequently addressed in resolutions of discrimination complaints. See, e.g., *Jamestown Area (PA) Sch. Dist.*, Complaint No. 03-02-1117, 37 IDELR 260 (OCR 2002) (school district agreement to implement a procedure including a designated back-up person for the school nurse to administer glucagon to student as needed); *Wayne-Westland (MI) Community Schs.*, Complaint No. 15-00-1130, 35 IDELR 14 (OCR 2000) (school agreed that glucagon would be administered to student by district nurse as needed in emergency situations); *Loudoun County (VA) Pub. Schs.*, Complaint Nos. 11-99-1003, 11-99-1064, 11-99-1069 (OCR 1999). A specific written order of the student's physician may be required before school personnel will agree to administer glucagon. *Wayne-Westland (MI) Community Schs.*, Complaint No. 15-00-1130, 35 IDELR 14 (OCR 2000).

### **8.12 Is a 911 call a substitute for providing diabetes care to students?**

No. It is the Association's position that failing to administer glucagon or provide other needed treatment while 911 is called unnecessarily delays needed health care and may result in death or serious brain damage. Normally, the proper response to an emergency situation is to call 911 and administer glucagon while waiting for emergency personnel to arrive.

#### **Notes**

The argument is sometimes made that there is no obligation to provide glucagon in cases of severe hypoglycemia because a call to 911 is sufficient. This argument is appealing for school districts because it would relieve them of the responsibility for planning for diabetes emergencies by shifting all of the responsibility onto local emergency services. However, the administration of glucagon is not an unanticipated situation, and districts need to have a plan in place to respond to such emergencies. Delay in administering glucagon for the time it takes emergency personnel to arrive could result in a child's death or cause serious brain damage. Given the unpredictability of emergency response times and the fact that school personnel can be successfully trained to administer glucagon immediately in an emergency situation, there is no justification for doing nothing while waiting for emergency personnel to arrive. In the related context of emergency treatment for a seizure disorder, it was held that calling 911 was not an appropriate response because there was no guarantee an ambulance would arrive within any particular time frame, despite the fact that a hospital was nearby. *Silsbee Independent School Dist.*, 25 IDELR 1023 (Tex. SEA 1997).

### **8.13 How should emergency evacuation procedures be modified to accommodate students with diabetes?**

Emergency procedures should consider the need for students to have medication, food, and diabetes supplies available to them wherever they happen to be within the school day. This may require school personnel to take steps to make sure that these items are available for a student. One way that this could be accomplished is to allow students who are mature enough to carry with them items needed for self-care (see Questions 8.14, 9.7-9.9), in addition to designating a school staff member who is responsible for securing and transporting supplies to an emergency evacuation site.

### **8.14 Should students carry glucagon kits during school?**

Students with diabetes should be allowed to carry glucagon. A student will not, of course, self-administer glucagon. However, carrying glucagon on the student's person will give trained personnel quick access should the need for it arise. In addition, it is preferable to store a back-up glucagon kit in the nurse's office, athletic trainer's kit, or some other location where school personnel will have easy access. Whether to carry glucagon is an individual decision, and many students with diabetes choose not to carry it.

### **8.15 Should students with diabetes be given unrestricted access to water and restrooms?**

Because of the increased need students with diabetes may have for water and for use of the restroom, a student's Section 504 Plan or other education plan may need to provide unrestricted access to these facilities.

#### **Notes**

Children with diabetes have an increased need for drinking water, when experiencing a high blood glucose level. For this reason, students with diabetes should have unrestricted access to water. This does not mean, however, that the student must be allowed to leave the classroom and go to a drinking fountain. To assure that the student stays on task and in order to minimize interruptions in the educational process, allowing the student to have bottled water in the classroom might be an equally appropriate accommodation. *North Lawrence (IN) Community Schs.*, Complaint No. 05-02-1235, 38 IDELR 194 (OCR 2002) (noting resolution of complaint).

Where greater amounts of water are consumed, a student with diabetes may also require frequent restroom breaks. See *Loudoun County (VA) Pub. Schs.*, Complaint Nos. 11-99-1003, 11-99-1064, 11-99-1069 (OCR 1999) (where appropriate, accommodation plans must provide for students to be excused to use the restroom).

### **8.16 Is the school required to provide a student with carbohydrate counts or other nutritional information?**

Nutrition management is essential for proper diabetes care. Carbohydrate information must be made available to individual students when needed. Where children are unable to properly calculate carbohydrates or portion sizes, the student may need assistance doing so.

## **Notes**

Carbohydrate counting is very important for many students with diabetes. Therefore, providing information on carbohydrates and serving sizes can be essential. *Hamilton Heights (IN) Sch. Corp.*, Complaint No. 05-02-1048, 37 IDELR 130 (OCR 2002). Most schools participate in the National School Lunch Program. This program is administered by the U.S. Department of Agriculture. The Department prohibits discrimination in programs that it administers. 7 C.F.R. § 15b. Discrimination is specifically prohibited in the National School Lunch Program and those with disabilities must be accommodated. 7 C.F.R. § 10.10(d). Accommodations may require substitutions to regular meals where that need is medically required. See 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: [http://www.fns.usda.gov/cnd/Guidance/special\\_dietary\\_needs.pdf](http://www.fns.usda.gov/cnd/Guidance/special_dietary_needs.pdf).

The National School Lunch Program also requires that nutrition of meals be analyzed. 7 C.F.R. § 10.10. Therefore, schools are required to have nutrition information available. Because of the need for carbohydrate information, food vendors often make this available to schools. It is important, however, for schools to make a clear distinction between “as prepared” and “as purchased” carbohydrate counts. Schools should provide students with diabetes information on the “as prepared” counts. *Hamilton Heights (IN) Sch. Corp.*, Complaint No. 05-02-1048, 37 IDELR 130 (OCR 2002) (school voluntarily corrected errors in mistakenly providing “as purchased” rather than “as prepared” carbohydrate information).

### **8.17 Should a student with diabetes be denied candy or “treats” given during school parties and activities or as part of a reward program?**

There are no forbidden foods for a student with diabetes. With advance planning and notice to parents or guardians so that insulin dosages may be adjusted, a student with diabetes may enjoy treats at school parties, activities, or programs.

## **Notes**

Despite misconceptions to the contrary, there are no forbidden foods for most students with diabetes. These students may eat candy or other treats provided they make appropriate adjustments in their diabetes care regimen. While making such adjustments can be difficult in the school setting, it is inappropriate to exclude these students from having candy or treats unless there is a valid health-related reason.

Children on the insulin pump may conveniently inject insulin (a bolus) where additional food is consumed. If a student is unable to calculate the insulin required for candy or treats, the school must be prepared to assist the student to do so.

If a child receives insulin injections, less flexibility exists in food consumption unless there is pre-planning. For this reason, schools should provide parents or guardians advance notice when there will be candy or treats at school. Under one such procedure established for a child on daily injections, the teacher sent a letter home at the beginning of the school year, notifying the parents in the child’s classroom that they are to inform the teacher at least two days in advance of bringing food treats to school.

When this happened, the procedure also required the teacher to call the parent of the child with diabetes. If the teacher was unable to reach the parent, or if the parent stated that the child's food schedule could not be rearranged that day, the child's treat was placed in the refrigerator until he could have it, usually the following day. *Irvine (CA) Unified Sch. Dist.*, Complaint No. 09-94-1251, 23 IDELR 1144 (OCR 1995) (finding procedure adequate and finding that neither Section 504 nor the ADA were violated where policy was not followed on one occasion where a parent brought treats without advance notice and, as a result, denied the child the treat).

A school may be required to monitor the provision of snacks to a student with diabetes. *Renton (WA) Sch. Dist.*, Complaint No. 10-93-1079, 21 IDELR 859 (OCR 1994) (monitoring of snacks provided for 9-year-old student with diabetes and other impairments). If a student's blood glucose level is high, a teacher may withhold food that might aggravate the high. This does not violate Section 504 or the ADA because there would be "a legitimate, nondiscriminatory reason (i.e., the nature of the student's disability and concern for the student's health and safety) for treating the student differently on these occasions." At these times, the teacher may offer to give the candy or "treat" to the parent or guardian so that the child may enjoy it when glucose levels are within the proper range. *Rock Hill (OH) Local Schs.*, Complaint No. 15-02-1034, 37 IDELR 222 (OCR 2002). Schools might consider making sugar-free candy available to students with diabetes. This may be appropriate, for example, where candy is given to students as part of a good behavior reward system. *Southern Lyon County U.S.D. #252*, Complaint No. 07-97-1022 (OCR 1997) (resolving complaint that student with diabetes was discriminated against by not allowing child to participate in teacher's reward system known as "Fun Friday Candy Party" by providing sugar-free candy to child).

### **8.18 Are schools required to have emergency response plans that address diabetes?**

State law may require that schools adopt emergency response plans. These laws may be specific to schools or apply more broadly to other public facilities, such as those providing recreational opportunities. Although these plans are often prompted by concern about cardiac emergencies, state laws may require that other health emergencies be addressed as well, including those relating to diabetes. Advocates for students with diabetes should consider whether these laws require emergency plans to address and make available emergency diabetes care.

#### **Notes**

The American Heart Association promotes legislation that require automated external defibrillators (AEDs) in public facilities. These laws, however, may not be restricted to cardiac emergencies and may require that more general emergency plans be adopted. The AHA's Medical Emergency Response Plan for Schools (available at [http://www.americanheart.org/downloadable/heart/1073488003519MERPS Reprint Article.pdf](http://www.americanheart.org/downloadable/heart/1073488003519MERPS_Reprint_Article.pdf)) is a broad public health initiative that supports state laws requiring schools (and often other public facilities) to be prepared to respond to life-threatening medical emergencies (such as diabetes and low blood glucose) in the first minutes before the arrival of emergency medical services. The AHA initiative urges that teachers, staff and even students be trained to deal with life-threatening emergencies, and that available First Aid Kits include a source of glucose.