

Federal Laws and Diabetes Management at School

by Shereen Arent, JD and Francine Ratner Kaufman, MD

In previous articles in *School Nurse News*, health care professionals have explained the necessity for students with diabetes to manage their disease during the many hours they spend at school and school-related activities, and how effective diabetes management can be translated into the school setting. The twin goals of effective diabetes management are for students with diabetes to be medically safe and for them to have the same educational opportunities as their peers.

The purpose of this article is to explain the federal laws applicable to students with diabetes. These laws are useful for students, families, and school personnel, especially school nurses, as a team works together to develop the optimal diabetes management plan that meets the needs of everyone involved. In addition, this article gives information on how a school can fulfill its federal obligations by providing the needed aids and services to assure a safe and productive educational environment for the student with diabetes.

Federal Protection for Students with Diabetes

Federal laws provide important protections to children with diabetes at school. Three laws, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, and the Individuals with Disabilities Education Act, work to ensure students have an equal opportunity to participate and succeed at school. A fourth law, the Family Education Rights and Privacy Act, governs privacy issues at school. These laws must be followed regardless of the provisions of state or local laws or policies.

Depending upon a child's medical condition and the type of school he or she attends,

one or more of these laws apply to almost every student with diabetes. Generally speaking, public schools are held to a higher legal standard than private schools. Public schools are required to identify students with disabilities. They must provide qualifying students with a free appropriate public education that includes the related aids and services students with diabetes need to enable them to be educated alongside their peers who do not have disabilities. Administering insulin and glucagon, providing assistance in checking blood glucose levels, and allowing the student to eat snacks in school are a few examples of related aids and services that schools may need to provide for a particular student with diabetes.

It is important to emphasize that providing needed care only during school hours or on school grounds does not fulfill a school's obligations under federal law. Rather, students with diabetes must be afforded an equal opportunity to participate in academic, nonacademic, and extracurricular activities. Thus, provision must be made to have needed diabetes supplies and needed assistance available at school, on field trips, and during extracurricular activities ranging from after school clubs to traveling sports teams.

Section 504 of the Rehabilitation Act of 1973 (Section 504)

Section 504 is a civil rights law that prohibits recipients of federal funds from discriminating against individuals on the basis of disability. It applies to all public schools and to private schools that receive federal money. Schools generally accept that children with diabetes are covered by Section 504, and there are no reported cases of a child with diabetes being found ineligible for protection under this law. Section 504

provides protection even for children with diabetes who are not having any academic difficulties at school.

Americans with Disabilities Act (ADA)

The ADA is another civil rights law that protects students with disabilities. As with Section 504, children with diabetes have been found to be covered by this law. In addition to public school students, this law protects all students in private schools, unless the school is run by a religious entity. The obligations of public schools to children with disabilities are generally the same as under Section 504.

Individuals with Disabilities Education Act (IDEA)

IDEA is the federal law that funds special education services for children with disabilities. To qualify under IDEA, a student's diabetes must impair his or her ability to learn so that the student requires special education. This may occur if a child frequently experiences hypoglycemia or hyperglycemia at school that significantly affects the student's ability to concentrate or if the student misses a great deal of instruction time because of diabetes complications. IDEA may also apply if the student has other disabilities in addition to diabetes. Some children with diabetes have been found to be covered by IDEA; others have not.

Family Education Rights and Privacy Act (FERPA)

FERPA protects students' privacy in a number of areas. While it is important for schools to recognize and abide by the protections offered by this law, it is also the case that basic information about a student's

diabetes must often be shared with a variety of school personnel in order for a student with diabetes to be safe, especially in the case of younger children or for any child in case of a diabetes emergency. Parents and school officials can talk about, and work out, privacy concerns in the course of developing the education plans discussed below.

The Importance of Written Plans

Appropriate written plans that are in compliance with federal law should be developed by the student, his or her family, the student's personal healthcare providers, the school nurse, and other school personnel. Such plans ensure that each of the key players knows what is expected of him or her. Ideally, these expectations should be committed to writing in the form of two signed documents: (1) a diabetes medical management plan that sets out the student's diabetes care regimen at school; and (2) a 504 Plan, individualized education program, or other education plan that explains in what ways the usual school routine needs to be altered for that particular student. These documents are in addition to nursing care plans, often developed by the school nurse, but is outside of the scope of this article. These documents should be finalized before the school year begins or as soon as possible after diagnosis, and should be updated as needed whenever the student's diabetes management needs at school change. Written plans have proven to be immeasurably helpful in ensuring consistent care and avoiding disruption to either the student or the classroom.

Diabetes Medical Management Plan

A diabetes medical management plan (DMMP) is a document developed by the family and the student's personal health care team. The plan sets out the basic medical needs that the student has at school and how those needs will be met. The term "diabetes medical management plan" is not a legal term of art found in a particular law. The document could be called a "health care plan," a "physician's order," a "medical plan," or any of a number of other names. The plan must be tailored to the medical needs of that specific child, as treatment regimens vary greatly, and should include specific information with

regard to monitoring of blood glucose; insulin; meals and snacks; treatment of hypoglycemia and hyperglycemia; and exercise and sports. A sample plan is included in *Helping the Student with Diabetes Succeed: A Guide for School Personnel*, a comprehensive guide on diabetes management published by the National Diabetes Education Program.

504 Plan/Individualized Education Program (IEP)

In addition to the medical issues covered in a healthcare plan, there are other modifications that students with diabetes need. For example, students with diabetes must be permitted to eat whenever and wherever they need to in order to avoid hypoglycemia, even if other students are not allowed to eat (e.g., in class, on the school bus, or during physical education). They need to be able to participate safely in athletics and other extracurricular activities and to go on field trips. They may need academic accommodations for occasions when they experience hypoglycemia or hyperglycemia while taking a test. There is a long list of accommodations that individual students might need, but because diabetes affects each student differently, such a list must always be tailored to the needs of the individual student.

Ideally, a written educational plan is developed jointly by the student's family, school nurse, and other involved school personnel, with advice from the student's healthcare team as needed. The plan can be developed pursuant to Section 504, in which case it is usually called a 504 Plan, or pursuant to IDEA, in which case it is referred to as an individualized education program, or IEP. The plan also can be done informally, that is, not pursuant to any law. A major advantage of putting this information into a 504 Plan or an IEP, as opposed to an unofficial document, is that the family and the school have access to dispute resolution procedures should any problems arise. In addition, IDEA sets out a specific process for developing and revising an IEP.

Conclusion

The federal laws discussed in this article have been implemented successfully for students with diabetes in many schools

across the country. However, some families of students with diabetes and some school personnel are apprehensive of the federal laws that apply to students with diabetes. Families may be reluctant to invoke the protections of these laws out of fear of antagonizing school officials or because they do not want their child to be labeled as having a "disability". School nurses can play a key role in eliminating stigma and assuring parents and school officials that working out a plan of action in compliance with federal law ahead of time is in the best interest of both families and school personnel. Such plans will result in the least possible disruption to school activities and school personnel, and the best possible care for the student with diabetes. In this way, federal legal protections can further the common goal of protecting the health and educational opportunity of all students with diabetes. 🍀

RESOURCES

American Diabetes Association: Care of Children with Diabetes in the School and Day Care Setting (Position Statement). *Diabetes Care* 27 (Suppl. 1):S122-128, 2004.

National Diabetes Education Program, *Helping the Student with Diabetes Succeed: A Guide for School Personnel*, Section 4: Federal Laws, pp 55-58, available at: http://ndep.nih.gov/diabetes/pubs/Youth_NDEPSchoolGuide.pdf.

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, implementing regulations at 35 CFR Part 104.

Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. 12134 et seq., implementing regulations at 28 CFR Part 35.

Individuals with Disabilities Education Act, 20 U.S.C. 111 et seq., implementing regulations at 34 CFR Part 300.

Family Education Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, implement regulations at 34 CFR Part 99.

ABOUT THE AUTHORS

Shereen Arent, JD is the National Director of Legal Advocacy at the American Diabetes Association. The Association's mission is to prevent and cure diabetes, and to improve the lives of all people affected by diabetes. In this position, Ms. Arent coordinates a nationwide campaign to eliminate discrimination against people with diabetes in employment, education, and throughout their lives through the use of educational initiatives, federal and state litigation, legislation, and regulatory reform.

Francine Ratner Kaufman, MD is Professor of Pediatrics at the Keck School of Medicine of the University of Southern California; Head, Center for Diabetes, Endocrinology and Metabolism at Childrens Hospital Los Angeles; and Study Chair for the NIH-funded STOPP-T2 grants evaluating treatment and prevention strategies for type 2 diabetes in youth. She is the former president of the American Diabetes Association.