

## 9. Who Should Provide Diabetes Care to Students?

**D**eciding who will provide diabetes care in the school setting is an important part of the process of developing an accommodation plan. Often, the best care providers are the students themselves; by their teenage years most students with diabetes are quite self-reliant in providing for their own care. However, even the most self-reliant and independent student will need help in the event of a diabetes emergency. Other students, because of age, developmental level, or inexperience, will need help from school staff. This Part first discusses accommodations that may be needed to allow self-care, including when and where students may perform care tasks and whether students may carry diabetes supplies. Next, the need for school personnel to provide care is discussed, including how personnel should be trained.

### 9.1 Should students with diabetes be permitted to perform diabetes self-care tasks at school?

Where the student has the appropriate skills and maturity to perform self-care, the student should be permitted to do so. The parent should consent to self-care by the student, and the physician's orders should authorize the particular kinds of self-care the student can perform. Some students may be able to perform some care tasks independently but not others; this decision should be individualized and made by the parents and physician. In order to provide self-care, students will generally also need the ability to carry some diabetes supplies with them (see Question 9.9).

#### Notes

Common self-care tasks that students perform include monitoring blood glucose levels and treating high or low blood glucose levels using insulin or a fast-acting source of glucose. School districts should allow those students who are able to self-monitor blood glucose levels, rather than requiring all care to be provided by school staff. *See Bigborn (WY) Sch. Dist. #2*, Complaint No. 08-13-1165, 61 IDELR 236 (OCR 2013) (after complaint, district and parent agreed on new 504 plan that permitted student to self-monitor).

But where the treating physician's orders do not clearly permit the student to self-treat, the district may not violate 504 by refusing to allow this. *See C.T.L. v. Ashland Sch. Dist.*, 743 F. 3d 524, 531 (7<sup>th</sup> Cir. 2014) (where original treating orders had been ambiguous as to whether student was allowed to self-treat hypoglycemia with fast-acting glucose, and where school had permitted this once orders were revised, there was no 504 violation for an incident where student had not been allowed to self-treat prior to the revision of the orders).

## 9.2 Should diabetes self-care happen in the classroom or where activities take place?

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Students must be allowed to perform diabetes self-care in the classroom (or at other locations where school activities occur) where the child's individual evaluation shows this is appropriate. It is inappropriate to require these students to go to another location, such as the school nurse's office, school clinic, or an administrator's office, when care can safely and quickly be performed in the classroom. Common self-care tasks that occur in the classroom are blood glucose monitoring, administering insulin, treating hypoglycemia, eating snacks, and drinking water. It is important that self-care be performed in the classroom when possible for the student's health and safety, and also to minimize the amount of instructional time that students must miss while traveling to another location to perform routine self-care.

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### Notes

School officials must consider whether concerns they may have about self-care can be accommodated in some way. If, for example, self-care is thought to create disruption to the classroom, school officials are "required to consider whether, through repetition, through education and training or by other adjustments, the disruption could be minimized." *Irvine (CA) Unified Sch. Dist.*, Complaint No. 09-94-1251, 23 IDELR 1144 (OCR 1995). Any perceived disruption must be weighed against the right of students with disabilities to be educated with non-disabled students to the maximum extent appropriate. *Irvine (CA) Unified Sch. Dist.*, Complaint No. 09-94-1251, 23 IDELR 1144 (OCR 1995).

A frequent issue involving classroom self-care is blood glucose monitoring. A student's 504 plan or IEP should specify that care may be performed in the classroom or wherever the student is on campus. *See Rudyard (MI) Area Schs.*, Complaint No. 15-14-1177, 115 LRP 10469 (OCR 2014) (district would be required to address at 504 team meeting "when and where the Student can test and treat his glucose and ketone levels, which should be accessible in terms of time and location so the Student's daily schedule will not be unduly disrupted"); *Ferndale (PA) Area Sch. Dist.*, Complaint No. 03-13-1053, 113 LRP 28080 (OCR 2013) (after parent complained student's 504 plan was revised to permit her to perform care anywhere at school); *Sandusky (OH) City Sch. Dist.*, Complaint No. 15-08-1062, 108 LRP 66797 (OCR 2008) (after parent complained that teacher would not allow third grade student to monitor his blood glucose in the classroom but instead required him to go to the school office multiple times per day, OCR required school to convene a 504 meeting to address this and other diabetes care issues and noted that the district had made decisions based on administrative convenience and preference rather than the needs of the student).

In *Shelby County (TN) Sch. Dist.*, Complaint No. 04-07-1412, 108 LRP 68122 (OCR 2008), a student with type 1 diabetes, missed significant class time because all blood glucose testing had to be done in the school nurse's office. After school district officials were shown materials from the American Diabetes Association demonstrating that blood glucose testing in the classroom was safe and recommended, they agreed that testing could be performed in the classroom while she was in class (and in the nurse's office when she visited there between classes or on the way to lunch). And in *Bloomfield Township Bd. of Educ.*, Complaint No. EDS 10165-06 2007-11586, 109 LRP 35236 (N.J. State Educational Agency 2008), a school district was required to permit a high school student with type 1 diabetes and Down's Syndrome to monitor his blood glucose levels in the classroom and to keep his testing supplies on his person during the school day. The district required the student to come to the nurse's office, and miss class time, several times per day for testing. The state hearing officer determined that on the spot testing was medically necessary for the student to

minimize any harmful consequences of hypoglycemia or hyperglycemia, and rejected the district's arguments that the testing would be unsafe or disruptive as unsupported by evidence. *See also Rock Hill (OH) Local Schs.*, Complaint No. 15-05-1181, 106 LRP 35138 (OCR 2005) (school required student to come to the nurse's office to monitor blood glucose and administer insulin until new medical information was received from the parent and treating physician).

According to OCR, once school officials become aware of a child's need to have blood glucose monitoring during school hours and the child's parents or guardians maintain that monitoring could and should take place in the classroom, the school must ensure that a decision is made by a group of knowledgeable persons, using current information, and fully and carefully considering the matter. *Irvine (CA) Unified Sch. Dist.*, Complaint No. 09-94-1251, 23 IDELR 1144 (OCR 1995). The individualized assessment required with respect to each student requesting to self-check in the classroom should take into consideration all relevant factors. These might include, for example, each student's age, capabilities, willingness to self-test, maturity level and experience with self-monitoring. *Buchanan County (VA) Pub. Schs.*, Case No. 11-03-1051, 103 LRP 56159 (OCR 2003) (resolution agreement).

### **9.3 Are blood glucose testing and the presence of sharps (e.g., lancets and syringes) in the classroom safe?**

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Yes. Medical professionals confirm that blood glucose monitoring, insulin administration, and sharps are safe in the classroom. There is no risk of transmitting disease or blood-borne pathogens through conducting diabetes care tasks in the classroom. It is the position of the American Diabetes Association that self-care, including blood glucose testing and insulin administration, can safely and effectively be performed by many students in the classroom, and that safety concerns do not justify prohibiting self-care in class.

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In *Bloomfield Township Bd. Of Educ.*, Complaint No. EDS 10165-06 2007-11586, 109 LRP 35236 (NJ State Educational Agency 2008), a state hearing officer rejected a district's argument that blood glucose testing in the classroom was unsafe for a high school student with type 1 diabetes and Downs syndrome. The officer credited evidence that the American Diabetes Association supported blood glucose testing in the classroom as safe and effective.

While the Office for Civil Rights recognizes that health and safety concerns and disruption in the classroom are matters of importance and may be considered, decisions about whether to allow testing in the classroom must be based on an individualized assessment rather than blanket rules. A fixed rule based on such matters "expressed using generalized expectations rather than based on an assessment and evaluation of the needs of the specific disabled student and the requirement to ensure that services are administered in the most integrated setting appropriate to the needs of the individual with disabilities" is prohibited. *Irvine (CA) Unified Sch. Dist.*, Complaint No. 09-94-1251, 23 IDELR 1144 (OCR 1995).

#### **9.4 Does the Occupational Safety and Health Act (OSHA) prohibit blood glucose monitoring and sharps (e.g., lancets and syringes) in the classroom?**

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No. The Occupational Safety and Health Act is sometimes raised as a reason for denying students the opportunity to perform diabetes self-care in the classroom or at other locations. However, no OSHA rule prohibits blood glucose monitoring, insulin administration, or the presence of sharps in the classroom.

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OSHA actually applies only to private employees – not students. 29 U.S.C. §§ 652(5), 654. Even if OSHA guidelines did apply, they do not preclude self-care. The guidelines, along with any other relevant considerations, are to be considered as part of individualized evaluation and assessment of the child's needs. *Irvine (CA) Unified Sch. Dist.*, Complaint No. 09-94-1251, 23 IDELR 1144 (OCR 1995). The American Diabetes Association is unaware of any situation where such guidelines have been found to support a prohibition against self-care in the classroom or other school locations.

#### **9.5 What measures should be taken to make certain syringes, lancets, or blood glucose monitoring materials are properly disposed of?**

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Most schools will have proper containers for students to dispose of sharps and other medical waste materials. Other schools may work out individual agreements for students to retain sharps and testing materials and take them home for disposal at the end of the day. The procedure to be used should be specified in the student's accommodation plan, and students should be made aware of the importance of proper disposal of sharps.

#### **9.6 Should students with diabetes be permitted to leave class whenever necessary for diabetes care?**

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A student's Section 504 Plan or other written education plan should address the circumstances under which the student is allowed to leave class. A plan should allow students to leave class for diabetes care if they wish to do so. When allowing the child to leave is appropriate will depend on why the child is leaving, whether he or she is able to perform self-care tasks, and whether he or she needs to be accompanied when leaving. In no circumstances should a child be permitted to leave the classroom unaccompanied during an emergency situation (see Question 9.7).

#### **Notes**

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In *Davenport (LA) Community Sch. Dist.*, Complaint No. 05-10-1132, 59 IDELR 112 (OCR 2012), the school convened an IEP meeting in which the student's plan was modified to permit her to leave class in order to perform diabetes care, even if no staff escort was available. OCR determined that this response was adequate, and that the parent could not identify any adverse consequences to the student after this plan was implemented. *See also Farmington (MN) Sch. Dist. #192*, Complaint No. 05-08-1235, 109 LRP 31151 (OCR 2009) (resolution agreement permitted student to go to the nurse's office at lunch to test her blood glucose levels, and at any other time when she felt it necessary).

## 9.7 Is it sometimes appropriate to require students to go to the school nurse's office or other location for diabetes care?

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Some children (usually those who are younger or less mature) are unable or unwilling to perform self-care tasks independently or require supervision or assistance when doing so. In these cases, it may be appropriate to require that students go to the school nurse's office or clinic or another place in the school for diabetes care. However, this decision only may be made as part of the individualized evaluation and assessment of the child; schools may not have a blanket policy requiring all students to go to a certain location for diabetes care.

### Notes

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Any requirement that a student go to the nurse's office or another location for diabetes care should be clearly spelled out in the 504 plan or other accommodation plan and should be based on the needs of the child rather than the convenience of school staff. It is also important that students not be forced to miss unnecessary instruction time while waiting for care. In *Waterbury (CT) Sch. Dist.*, Complaint No. 01-07-1280, 51 IDELR 198 (OCR 2008), a school violated Section 504 when it required a student to go to the office to test her blood glucose levels and receive diabetes care. The student's 504 plan stated that she could test and receive care in any location, and there were aides available in the classroom who could provide care. OCR found that the student was required to go to the office because the care providers were unfamiliar with the 504 plan and found it more convenient to send the student to the office, not because of any evaluation of the child's needs. The student was required to go to the office every time she needed to test blood glucose levels, and had to wait there while any levels that were out of range were treated. She missed an average of 45 minutes per day of class time, and OCR found that this violated 504. See also *American School for the Deaf (CT)*, Complaint No. 01-07-1268, 108 LRP 58193 (OCR 2008) (similar); *Moore (OK) Pub. Schs.*, Complaint No. 07-11-1234, 112 LRP 37770 (OCR 2012) (resolution agreement required blood glucose monitoring to take place in the classroom). *But see Lowell (MA) Pub. Schs.*, Complaint No. 01-13-123, 63 IDELR 171 (OCR 2014) (district policy requiring medications to be kept in a locked cabinet in the office, and thus preventing the administration of medication in the classroom, was neutral and nondiscriminatory on its face, and parent presented no evidence that any student had been denied access to any medication because of the policy).

A student should never be required to go alone to the school nurse's office or clinic when an emergency situation exists, such as hypoglycemia or other circumstances where a student's health might be at risk while in route. Where diabetes-related symptoms exist, a specific person should be responsible for getting the child to the nurse's office or clinic. *Casa Grande (AZ) Elementary Sch. Dist.*, Complaint No. 08-11-1082, 112 LRP 15697 (OCR 2011) (district violated 504 on at least one occasion by sending student unaccompanied to the nurse's office when experiencing low blood glucose symptoms, even though his IEP required that she be escorted in such situations); *Schaffer (CA) Union Elementary Sch. Dist.*, Complaint No. 09-06-1412, 107 LRP 61308 (OCR 2007) (district violated 504 by sending student to nurse's office accompanied by another student, where student's plan required him to be accompanied by an adult); *Lee County (FL) Sch. Dist.*, Complaint No. 04-06-1178, 47 IDELR 18 (OCR 2006) (student's 504 plan provided that she should not be permitted to walk alone to the school clinic when she was weak or not feeling well); *Abington Sch. Dist.*, Case No. 812, 28 IDELR 890 (Pa. State Educational Agency 1998) (noting importance of requirement that student be accompanied by another person).

But if the plan does not specifically require the student to be accompanied in these situations, there may be no violation. In *Ardmore (OK) Pub. Schs.*, Complaint No. 07-06-1016, 106 LRP 59000 (OCR 2006), the student on several occasions experienced symptoms of hypoglycemia but did not have snacks to treat the low; she was therefore sent to the nurse's office for care but sometimes did not go there. On one occasion the parents became upset when the student was allowed to go get her lunch unaccompanied while she was feeling low. After this incident, the school modified the student's IEP to require her to be accompanied whenever she left class. OCR found that the school had responded adequately to the situation by convening an IEP meeting and revising the plan after concerns were raised, but had not violated IDEA prior to the meeting because the plan did not require the child to be accompanied when leaving class. *See also Le Center Indep. Sch. Dist.*, Complaint No. 2236, 109 LRP 32528 (Minn. State Educational Agency 2006) (no violation where district failed to send someone to escort the student to the nurse's office for blood glucose monitoring, because the student's plan only required an escort when the student was experiencing low blood glucose levels).

If a child's Section 504 Plan provides that the student is to go to the nurse's office, school clinic, or other location, teachers need to ensure that the student goes to this location when necessary (even if the student forgets to go). *Sierra Vista (AZ) Unified Sch. Dist.*, Complaint No. 08-99-1039, 31 IDELR 169 (OCR 1999) (complaint resolution reached where staff failed to send child to nurse's office at specified times for a blood glucose check).

## **9.8 Should students be permitted to carry and eat food at any time and any place during school?**

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Students should be permitted to carry and eat snacks at any time and any place during school if it is determined that this accommodation is needed. See Question 9.2. Snacks are important in diabetes management for many students, and many students will benefit from having immediate access to them to more easily manage diabetes and more quickly treat hypoglycemia.

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Snacks are important because diabetes care requires a continual balance of insulin, nutrition, and physical activity. Many forms of insulin do not work at a steady rate, and hypoglycemia can be frequent between meals. To avoid hypoglycemia, many students with diabetes regularly need a snack several times a day. A snack also may be needed at unexpected times. Therefore, students must have food readily available at all times. More information on snacks and nutrition is available in *Helping the Student with Diabetes Succeed: A Guide for School Personnel* (June 2003) (see Question 1.5), at pp. 23-24. A student's accommodation plan can permit the student, where appropriate, to eat snacks and drink beverages to treat and prevent hypoglycemia. *See Davenport (LA) Community Sch. Dist.*, Complaint No. 05-10-1132, 59 IDELR 112 (OCR 2012) (district modified student's plan to allow juice and snacks to be kept in the classroom); *Loudoun County (VA) Pub. Schs.*, Complaint Nos. 11-99-1003, 11-99-1064, 11-99-1069, 102 LRP 3258 (OCR 1999) (resolution agreement required school to allow access to food and drink).

### **9.9 Should students be permitted to carry diabetes testing supplies and test at any time and any place during school?**

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With parent/guardian and health care team consent, students with diabetes should be allowed to carry testing supplies where they demonstrate sufficient maturity and responsibility. Although general rules may serve as a guide, an individual determination should be made as to whether a student will carry testing supplies.

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The Diabetes Medical Management Plan for a student with diabetes may specify that the student be allowed to carry testing supplies, such as a glucose meter, test strips, and lancets, at all times where medically necessary. This is the case even where a school has a general policy requiring that all medications be housed in an administrative or nursing office. *Huntsville City (AL) Sch. Dist.*, Complaint No. 04-96-1096, 25 IDELR 70 (OCR 1996) (district made exception for student with diabetes after student’s physician verified that it was medically necessary for her to have her glucose meter with her at all times). See Question 13.3 (discussing the possibility that students may be disciplined for carrying medications or supplies based on laws or policies designed to prevent drug use in schools).

Schools should develop a policy to address the needs of students who must monitor their blood glucose levels during the school day. *Palm Beach County (FL) Sch. Dist.*, Complaint No. 04-02-1275, 38 IDELR 105 (OCR 2002) (school committed to develop and publish policy). Such a policy must take into consideration the student’s level of maturity, capabilities, and responsibility. School policies vary as to which students may carry supplies. See, e.g., *Sumner County (TN) Sch. Dist.*, Complaint No. 04-01-1122, 36 IDELR 136 (OCR 2001) (district did not permit middle school student to carry diabetes supplies but did allow high school students to do so; appropriateness of policy not questioned); *Santa Maria-Bonita (CA) Sch. Dist.*, Complaint No. 09-97-1449, 30 IDELR 547 (OCR 1998) (sixth grader and eighth grader permitted to possess testing kit, including sharps, in classroom and perform regular testing as needed and at designated times in classroom).

A student’s use of a glucose meter might be restricted where circumstances establish that the student is not capable of using the meter unsupervised or acting on the results. See, e.g., *Wells (ME) Pub. Schs.*, Complaint No. 01-01-1227, 36 IDELR 244 (OCR 2002) (supervised access to testing supplies appropriate in view of student’s “low average general cognitive skills with specific processing deficits in auditory concentration and memory.”)

### **9.10 May the student’s written education plan require that a child’s parent go to school to provide diabetes care?**

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Schools are obligated to provide services to students with diabetes, and may not require a student’s parent or guardian to assume this obligation. Parents or guardians may not be required to provide services at school, but a child’s parents or guardians and school officials may agree that the parent or guardian will do so.

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According to the Office for Civil Rights, “under normal circumstances, it is not appropriate for a school district to require a student’s parent or guardian to come to school to provide medication that is a related service that the student needs during the school day in order to participate in the District’s programs and services.” *Rock Hill (OH) Local Schs.*,

Complaint No. 15-02-1034, 37 IDELR 222 (OCR 2002). As discussed in Question 8.1, administration of medication and other diabetes care tasks is generally a service that schools are required to provide. OCR also cautions that schools may not condition the provision of nonacademic services on a parent's attendance or provision of a surrogate. *OCR Senior Staff Memorandum*, 17 EHRLR 1233 (OCR 1990) (Guidance on the Application of Section 504 to Noneducational Programs of Recipients of Federal Financial Assistance). In *Academy of Waterford (MI)*, Complaint No. 15-11-1181, 112 LRP 15747 (OCR 2011), OCR found that a school violated 504 by requiring family members to give insulin to a student when school staff were not available. Only one paraprofessional was trained to administer insulin to the student, so the school asked the parent who should administer insulin when that individual was not available. The only choices the school offered the parent were to designate an adult family member to come to school and give insulin or to have the student's sister, who also attended the school, give insulin. The parent chose to have the sister give the insulin, but OCR found that requiring the parent to make this choice violated 504 because it was the school's responsibility to provide care. And in *North Thurston Sch. Dist.*, Complaint No. 2012-SE-0084, 113 LRP 31234 (Wash. State Educational Agency 2013), a state hearing officer found that a district had violated 504 by requiring the parents of a first grader with type 1 diabetes to come to school each day to administer insulin. When the parents informed the district during the summer that they wanted district staff to provide insulin to their child, the district took no steps to arrange training for staff until the beginning of school, and instead required parents to come to school for nearly two months while the school delayed in arranging for care.

Neither Section 504 nor the ADA precludes parents or guardians and schools from agreeing that parents or guardians will provide services. Schools, for example, may agree to this where a parent or guardian insists that he or she provide medication. *Rock Hill (OH) Local Schs.*, Complaint No. 15-02-1034, 37 IDELR 222 (OCR 2002). *See also Valle Lindo (CA) Elem. Sch. Dist.*, Complaint No. 09-06-1079, 47 IDELR 170 (OCR 2006) (parents and district agreed that parent would come to school to administer insulin temporarily until district staff were trained; even though a "miscommunication" subsequently led parent to believe she was still required to come to school long after staff were trained, no 504 violation because school did eventually assign staff to administer insulin to the student). Parents can, however, later decide they no longer wish to provide care. *See North Thurston Sch. Dist.*, Complaint No. 2012-SE-0084, 113 LRP 31234 (Wash. State Educational Agency 2013) (parent had agreed to provide care during student's kindergarten year, but then communicated to district that they were no longer willing to do so for child's first grade year; district violated 504 by making no arrangements for staff to be trained and instead continuing to require parents to provide care).

### **9.11 Must students with diabetes be provided a one-on-one aide?**

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Although each child's situation must be evaluated individually, providing a one-on-one aide for a child with diabetes is generally not necessary to provide routine diabetes care, unless the student has other disabilities that require a personal aide. It is usually sufficient for teachers and other school personnel to be familiar with the needs of a child with diabetes and able to provide or obtain prompt care when necessary.

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Where a child with diabetes has appropriate accommodations that may be provided without the need of a personal health aide, a school is not obligated to provide one. *See Bradley County (TN) Sch. Dist.*, Complaint No. 04-04-1247, 43 IDELR 44 (OCR 2004)

“Neither the ADA nor the Section 504 regulation requires that the District employ or assign a full-time nurse or aide to diabetic students, as long as the District maintains a sufficient number of trained staff persons to provide the related aids and services to students with diabetes.” In *Palm Beach County (FL) Sch. Dist.*, Complaint No. 04-08-1368, 52 IDELR 109 (OCR 2009), OCR found that a district did not violate section 504 when it refused to allow a private aide to attend to the student’s care throughout the day. The school had trained six employees, including the school nurse, cafeteria manager and employees who would attend the student during extracurricular activities in diabetes care such as testing blood glucose levels, and OCR found this to be adequate. There are, however, circumstances where an aide has been found to be appropriate. See, e.g., *Monterey Peninsula Sch. Dist.*, Case No. SN02-02753, 38 IDELR 223 (Cal. State Educational Agency 2003) (noting that student with diabetes who used pump while in fifth grade had one-on-one health aide apparently because of the student’s inability to independently monitor blood glucose levels). This might not always be a full time aide, of course. *Northwestern (OH) Local Schs.*, Complaint No. 15-03-1202, 41 IDELR 273 (OCR 2004) (Section 504 team provided for a part-time but not full time aide).

Generalized apprehension over whether the school staff will provide proper monitoring or assistance in the absence of an aide does not warrant assignment of an aide. *Abington Sch. Dist.*, Case No. 812, 28 IDELR 890 (Pa. State Educational Agency 1998). However, if it is subsequently determined that the accommodations are not being provided, it may be appropriate to require a one-on-one aide to assure compliance. *Abington Sch. Dist.*, Case No. 812, 28 IDELR 890 (Pa. State Educational Agency 1998) (declining to order personal aide, but recommending that state compliance officer incorporate the requirement if required accommodations for child with diabetes and mental retardation were not provided).

A school which assigns an aide to accompany the student with diabetes must make certain that the aide is able to meet the individual needs of the student. Providing an aide who has no authority to provide emergency injections, for example, may not be an appropriate accommodation where emergency response needs exist. *Conejo Valley (CA) Unified Sch. Dist.*, Complaint No. 09-93-1002, 20 IDELR 1276 (OCR 1993).

### **9.12 Should the teachers of students with diabetes or staff who work with or supervise the student receive training or instruction regarding diabetes?**

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Yes. While the level of instruction may vary depending on the position or role of the teacher or staff, all school personnel having regular contact with a student with diabetes should be trained to recognize problems relating to diabetes and know who to contact when problems arise. A few school staff members should receive training in specific diabetes care tasks in order to assist students who cannot self-manage these tasks and to provide needed emergency care to any student with diabetes.

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Teachers and staff who are in contact with a student with diabetes should be trained. Different levels of training may be appropriate depending on the level of responsibility the individual will have for the student’s care. Basic training for all staff that interact regularly with the student should include information about diabetes and instructions on the signs and symptoms of hypoglycemia and hyperglycemia and what should be done when these situations are encountered. If the individual will not be responsible for performing routine or emergency diabetes care tasks, he or she should be told who is responsible for providing that care and how they can be contacted. See *Cobb County (GA) Sch. Dist.*, Complaint No. 04-13-

1990, 114 LRP 32419 (OCR 2014) (expressing concern that district had failed to train student's cheerleading coaches on her diabetes or provide copies of the 504 plan, even though the plan referenced her care needs during cheerleading; coaches, like teachers, needed to be trained).

Some schools provide basic training to all school staff. *Henderson County (NC) Pub. Schs.*, Complaint No. 11-00-1008, 34 IDELR 43 (OCR 2000); *Loudoun County (VA) Pub. Schs.*, Complaint Nos. 11-99-1003, 11-99-1064, 11-99-1069, 102 LRP 3258 (OCR 1999). Others may train only those with responsibility for the student during the school day. *District of Columbia (DC) Pub. Schs.*, Complaint No. 11-12-1133, 112 LRP 50236 (OCR 2012) (resolution agreement required training of all personnel with immediate custodial supervision of a child and to those responsible for student transportation); *Moore (OK) Pub. Schs.*, Complaint No. 07-11-1234, 112 LRP 37770 (OCR 2012) (resolution agreement required to ensure training was provided to teachers and other staff supervising the student at school or during school-sponsored activities); *Springdale (AR) Sch. Dist.*, Complaint No. 06-08-1349, 109 LRP 4346 (OCR 2008) (resolution agreement called for training of volleyball coaches, principal, assistant principal, and the student's teachers in recognizing symptoms of hypoglycemia and in administering glucagon). The "staff needs to be trained to recognize problems relating to [a child's] diabetes, as they are truly the first line of defense against problems." Indeed, "[t]hey are the ones who can prevent problems or at least mitigate the extent of the severity of the problem" that might result if prompt action is not taken. *Gettysburg Area School District*, Case 1984/02-03, 103 LRP 9599 (Pa. State Educational Agency 2003). Basic diabetes education for other students may also be a good idea and is the practice at some schools. *Santa Maria-Bonita (CA) Sch. Dist.*, Complaint No. 09-97-1449, 30 IDELR 547 (OCR 1998) (providing for training of all students in classes with students with diabetes).

More detailed training is needed for those staff members who will directly perform diabetes care tasks and should include areas such as insulin administration, glucagon administration, blood glucose monitoring, and carbohydrate counting for meals and snacks. For example, where a child uses an insulin pump, it is important that some staff be trained on the use of the pump and be available to assist when needed. *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 an insulin pump and also have a trained individual to accompany the student to school-sponsored events off campus). Arrangements should also be made to instruct substitute teachers or care providers on the student's care, although a full training program for substitute staff is not necessary. See *Stafford County (VA) Pub. Schs.*, Complaint No. 11-12-1071, 60 IDELR 51 (OCR 2012) (no evidence of 504 violation for failing to train substitute teachers in basic diabetes care; substitutes were notified of the identity of students with diabetes and were given information about symptoms of hypoglycemia and hyperglycemia); *Millington (MI) Community Schs.*, Complaint No. 15-07-1057, 49 IDELR 232 (OCR 2007) (finding no Section 504 violation in care provided by substitute paraprofessional where district had given substitute written instructions on the student's care and parent could not refute district's evidence that all needed care had been given). Parents should be made aware of which staff members will be providing care. See *Rudyard (MI) Area Schs.*, Complaint No. 15-14-1177, 115 LRP 10469 (OCR 2014) (district would discuss at the 504 team meeting with parents "the names, contact information, and specific responsibilities of each District staff person responsible for providing adequate diabetes care to the Student.")

Several OCR decisions have described in some detail a training program which OCR indicated was adequate and appropriate. In *Bradley County (TN) Sch. Dist.*, Complaint No. 04-04-1247, 43 IDELR 44 (OCR 2004), the district designated school personnel as primary and

secondary care providers, who were trained by the school nurse in collaboration with the student's parent. All providers were trained in diabetes care management and basic diabetes knowledge. In addition, primary care providers (the student's classroom teacher and teaching assistant) "received additional instruction in the signs and symptoms of hypoglycemia and hyperglycemia, the offsets of the highs and lows of blood sugar, glucose testing, monitoring glucose checks performed by the Student and recording the results and understanding the action(s) that needs to be taken for specific blood sugar readings." Ten school staff members were trained to assist the student with insulin pump administration and monitoring. *See also Palm Beach County (FL) Sch. Dist.*, Complaint No. 04-08-1368, 52 IDELR 109 (OCR 2009) (district trained 16 staff members in diabetes care for a kindergartner, including monitoring blood glucose levels, recognizing symptoms of hypoglycemia and hyperglycemia, and treating hypoglycemia with glucose gel or glucagon, and district also trained backup personnel for times when the school nurse was not available to provide care).

In *Lee County (FL) Sch. Dist.*, Complaint No. 04-06-1178, 47 IDELR 18 (OCR 2006), OCR addressed allegations that a district had failed to adequately train teachers, classroom aides and clinic staff in how to properly manage a student's diabetes and in implementing the student's 504 plan. For example, the parent presented evidence that teachers and aides allowed the student to walk unaccompanied to the clinic when she felt weak and pressured her to complete tests when she did not feel well (both contradicting provisions of the student's 504 plan), and that the school nurse and clinic staff had difficulty in properly selecting injection sites for the student and made medication errors. Based on this evidence and the fact that the school nurse, who was responsible for training staff, lacked current diabetes training herself, OCR concluded that the district had failed to provide adequate training. The school resolved the complaint by hiring a new school nurse who was a certified diabetes instructor and agreeing to provide training to "all teachers, administrators, support staff and clinic personnel at the School regarding the care of students with diabetes." *See also Wake County (NC) Pub. Sch. Sys.*, Complaint No. 11-09-1001, 53 IDELR 129 (OCR 2009) (district agreed to provide additional training to classroom teacher and part time teaching assistant in diabetes care after parent raised concerns that the assistant was not fully knowledgeable about diabetes).

Trained personnel should also have access (through radio, telephone or other means) to medical personnel such as the school nurse, and to information on emergency procedures. *See, e.g., North Kitsap (WA) Sch. Dist. No. 400*, Complaint No. 10-99-1230, 33 IDELR 109 (OCR 1999) (student's PE teacher carried a 2-way radio so that the main office could be immediately contacted in the event of an emergency). Another helpful practice is providing a summary of the student's emergency plan on the back of radios or mobile phones. *See, e.g., East Allen (IN) County Schs.*, Complaint No. 05-02-1163, 38 IDELR 75 (OCR 2002) (abbreviated version used contained emergency telephone numbers, described symptoms of low and high blood glucose levels, and indicated what actions to take if levels were too high or too low).

There are many resources available to schools to provide training for teachers and staff. A good starting point is the publication *Helping the Student with Diabetes Succeed: A Guide for School Personnel* (see Question 1.5). The Association has also developed *Diabetes Care Tasks at School: What Key Personnel Need to Know*, a series of training modules that can be used to train school personnel and which are available online (see Question 1.5). Schools frequently agree to provide training that meets the recommendations of the American Diabetes Association. *Henderson County (NC) Pub. Schs.*, Complaint No. 11-00-1008, 34 IDELR 43 (OCR 2000).

### **9.13 May the school nurse or other trained diabetes personnel be permitted to administer insulin upon the direction of a parent?**

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Insulin must be prescribed by a student’s physician, and directions on how to administer insulin should ordinarily come from the physician. Nevertheless, parents or guardians are usually well-versed in their child’s care and can provide input, guidance, and explanations of the physician’s directions. A physician can authorize a parent’s or guardian’s adjustment of insulin dosages in a student’s Diabetes Medical Management Plan, and this is often a good idea.

#### **Notes**

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In *C.T.L. v. Ashland Sch. Dist.*, 743 F. 3d 524 (7<sup>th</sup> Cir. 2014), the parents of a child with diabetes claimed that the school district had violated Section 504 by refusing to permit them to give instructions to school personnel on the child’s insulin dosages. The court found that the physician’s orders were ambiguous as to whether parental adjustment was permitted. While the orders stated that the parents were authorized to adjust the dose at any time, they also stated that the child’s bolus calculator should be used for all dose calculations. The court held that the district’s refusal to permit the parents to give direction on dosage adjustments was not unreasonable, given the ambiguity in the physician’s orders and the school nurse’s belief that state law did not permit nurses or other school staff to take dosage directions from parents.

### **9.14 Are parents entitled to select a diabetes care provider or require a school to replace the school-selected provider?**

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No. Schools have the authority to select the individual who will provide care to a student with diabetes. Parents or guardians are not entitled to require that a specific provider be selected or that a designated provider be replaced or changed. However, parents or guardians are entitled to make such a request and detail their concerns.

#### **Notes**

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It is well established that so long as a school provides a child with a disability with an appropriate education, the methodology (including the selection of personnel), is left to the school’s discretion. *Board of Educ. v. Rowley*, 458 U.S. 176, 200, 208 (1982). Accordingly, a parent or guardian of a student with diabetes generally has no “veto power” over the district’s personnel selection even where there are supposed communication problems or an “erosion of trust.” *Monterey Peninsula Sch. Dist.*, Case No. SN02-02753, 38 IDELR 223 (Cal. State Educational Agency 2003) (also observing that there was no evidence that the student failed to effectively communicate with or did not trust the assigned nurse). Stated otherwise, “a student and his parents simply do not have the right to dictate to a school who should provide services to the student” and, instead, “[t]hat decision is the prerogative of the school.” *In re School Admin. Dist. #25*, Case No. 93.114, 20 IDELR 1316 (Me. State Educational Agency 1994). *Cf. Palm Beach County (FL) Sch. Dist.*, Complaint No. 04-08-1368, 52 IDELR 109 (OCR 2009) (school was under no obligation to allow a private aide to accompany a student with diabetes to school to check blood glucose levels where the school had adequate trained personnel available to meet the child’s needs).

The diabetes care provider selected by the school must be qualified to provide the services to the child. *Monterey Peninsula Sch. Dist.*, Case No. SN02-02753, 38 IDELR 223 (Cal.

St. Educational Agency 2003); *Lee County (FL) School Dist.*, Complaint No. 04-06-1178, 47 IDELR 18 (OCR 2006) (district had violated Section 504 because school nurse lacked current training in diabetes and nurse and clinic staff had made numerous medication errors in caring for student). Further, in exercising its prerogative, the school “needs to make the best match possible” and “[i]f there is a high probability of failure with one service provider (even if that probability is based on an antipathy by the student or parent/guardian to a particular teacher), the School will want to make a selection which offers the best chance of success for the student.” *In re School Admin. Dist. #25*, Case No. 93.114, 20 IDELR 1316 (Me. State Educational Agency 1994).

Where there are concerns about the qualifications of personnel providing care or about the care being provided, it is often a good idea to institute procedures for increased monitoring of staff performance and communication with the parent. For example, in *Lee County (FL) School Dist.*, Complaint No. 04-06-1178, 47 IDELR 18 (OCR 2006), because of medication errors and lack of diabetes knowledge by clinic staff, the district agreed to contact the parent daily before giving the student insulin to verify dosage, and to maintain a log for the student and designate a person responsible for monitoring compliance.

### **9.15 Should school personnel be required to contact parents when a student's blood glucose levels are out of range or for other routine diabetes care?**

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With the increasing availability of cell phones and other technology, it has become more feasible for school personnel to contact parents to report a child's blood glucose level and other information about the child's diabetes on a daily basis, and even to get parental approval or instructions before providing care. While school personnel should be able to implement a child's DMMP without regular daily contact with the parents, and some parents may not want such routine contact, it is sometimes written into Section 504 plans. Where required by the plan, a district may violate section 504 if needed communication does not happen.

### **Notes**

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In *Casa Grande (AZ) Elementary Sch. Dist.*, Complaint No. 08-11-1082, 112 LRP 15697 (OCR 2011), OCR found that a district had violated Section 504 by failing to contact a parent whenever the student's blood glucose levels were out of range. While the IEP clearly required this contact, review of the schools' logs showed that in most cases the contact was not made. OCR found a 504 violation even though the student had received adequate care and had suffered no adverse consequences from the failure to contact the parents. *See also Middletown (OH) City Sch. Dist.*, Complaint No. 15-10-1005, 110 LRP 59013 (OCR 2010) (while 504 plan required parents to be contacted when blood glucose was out of range, OCR reviewed records and identified only one day when the parents should have been contacted but contact may not have occurred, and therefore found no violation); *Waterbury (CT) Bd. Of Educ.*, Complaint No. 01-10-1074, 111 LRP 1772 (OCR 2010) (resolution agreement required school to implement provision of 504 plan requiring parent contact when blood glucose levels were too low); *Farmington (MN) Sch. Dist. #192*, Complaint No. 05-08-1235, 109 LRP 31151 (OCR 2009) (resolution agreement required parents to be notified every time student's blood glucose levels were out of range when tested in the nurse's office);