

11. What Academic Modifications Should Be Provided?

Supplementary aids, services and modifications to the school's academic program may be required in order to allow students with diabetes to participate in the regular educational environment. For example, students may need to take additional breaks during standardized tests or may need to have diabetes-related absences excused. These accommodations should also be documented in a Section 504 Plan or other written education plan.

11.1 Under Section 504 and the Americans with Disabilities Act, what obligation does a school have to provide supplementary aids and services to students with diabetes in the academic program?

Schools may not discriminate against students with disabilities in academic programs and therefore must provide academic accommodations to students who need them because of diabetes.

Notes

Section 504 regulations require that the school “place a handicapped person in the regular educational environment operated by the recipient unless it is demonstrated by the recipient that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily.” 34 C.F.R. § 104.34(a). This requires that supplementary aids and services be allowed to students with diabetes.

11.2 Should schools allow alternate times for academic tests and exams if blood glucose levels are significantly out of target range?

Yes. Students who experience high or low blood glucose levels at school should not be penalized academically because of the incident. These students should not be required to take tests when their academic performance would be significantly impaired because of diabetes-related problems. If it is clear that a student is significantly out of his or her target range, the student should be allowed an alternate time to take academic tests or exams just as a student would in case of illness.

Notes

It is important for educators to recognize that both hyperglycemia and hypoglycemia affect cognitive performance. Studies confirm this although the impact is often individualized and varied. *See, e.g.,* Cox DJ, Kovatchev BP, Gonder-Frederick LA, Summers KH, McCall A, Grimm KJ, Clarke WL: *Relationships Between Hyperglycemia and Cognitive Performance Among Adults With Type 1 and Type 2 Diabetes*, *Diabetes Care* 28: 71-77 (2005) (and articles cited therein). A student's deviation from a usual standard of work should alert teachers that performance may well be impacted. An academic test given to a student

experiencing severe hyperglycemia or hypoglycemia will not reflect the student's true knowledge level.

11.3 Should students have access to diabetes supplies, snacks, water, and the restroom, during the administration of standardized or other tests?

Yes. Students should have access to supplies, snacks, water, and the restroom if necessary to treat the student's diabetes throughout the school day, including during academic or standardized tests. See Questions 8.15, 9.8.

11.4 Are students with diabetes entitled to extra time to complete standardized or similar tests?

Students with disabilities may be entitled to certain accommodations in order to have an equal opportunity to complete standardized or similar tests. Students with diabetes generally need two types of accommodations: permission to keep diabetes care supplies with them and modifications to the testing schedule. While these accommodations are usually very basic, they must be requested far in advance to avoid any test-day problems.

Many standardized tests have very strict requirements concerning what may be brought into the testing room. Therefore, students must review test policies and request any modifications to these policies far in advance. Students must ensure that they will have access to their blood glucose testing supplies; snacks and drinks to treat hypoglycemia and hyperglycemia; and their insulin pump and continuous blood glucose meter, if applicable.

While most students with diabetes will not need additional time to take these tests, some students may need to take extra breaks to treat symptoms of hypoglycemia or perform other diabetes care tasks and will need to have their test times adjusted to cover these breaks.

Notes

Students are required to take a variety of standardized or similar tests. These include state standardized tests such as minimum competency tests, sometimes referred to as "high stakes" exams. Under Title II of the ADA, state and local agencies must not discriminate against otherwise qualified test takers. College-bound students also typically take standardized tests such as the SAT and ACT. Under Title III of the ADA, private testing agencies must not discriminate against otherwise qualified test takers.

Where accommodations are required on standardized or similar tests, they should be requested in advance. Information may be obtained about accommodations on the web sites for the SAT and AP (<https://www.collegeboard.org/>) and the ACT (<http://www.actstudent.org/regist/disab/>). School officials should be consulted regarding accommodations on state or school required tests.

Most students with diabetes will not require additional time to work on a test solely due to diabetes. However, one accommodation often requested by students is an adjustment in the time to take a test to compensate for breaks needed to manage diabetes. This adjustment does not increase the overall time a student has to work on the test, but provides additional breaks if needed to perform diabetes care tasks.

11.5 Are teachers required to provide students with instruction missed due to absence to care for diabetes or an illness that is exacerbated because of diabetes?

Students who miss school because of diabetes should not be penalized academically for these absences. These students should be provided assistance in making up assignments, including tutoring. Such accommodations, if needed, should be specified in the student's written accommodations plan. At a minimum, students with diabetes should be provided the same level of assistance as is provided as a matter of policy or practice to non-disabled students who are ill.

Notes

Arrangements should be made to provide the student with make-up work for time missed due to diabetes. In *Opelika (AL) City Sch. Dist.*, Complaint No. 04-09-1182, 111 LRP 47376 (OCR 2011), a district violated Section 504 when it failed to permit a student to make up work needed due to frequent diabetes-related absences. The district failed to send make up assignments to the student, as required by the 504 plan, and later told the student that he would be unable to make up missed work and would have to repeat a grade. See also *Stafford County (VA) Pub. Schs.*, Complaint No. 11-12-1071, 60 IDELR 51 (OCR 2012) (despite parent complaint that 504 plan should have specifically required makeup work to be sent home each day, OCR found plan adequate where it stated that student could make up work without penalty, and the district had an adequate system for getting make up work to the student).

Other services or modifications may also be needed to ensure the child has full educational opportunity. If a student is required to be out of class for diabetes care, even briefly, school officials must consider whether modifications or additional aids and services are necessary to accommodate the absence. This might include, for example, counseling to reduce the amount of time the student spends away from the instructional environment. *Irvine (CA) Unified Sch. Dist.*, Complaint No. 09-94-1251, 23 IDELR 1144 (OCR 1995).

11.6 May a student with diabetes be subject to academic or other penalties for an absence or tardiness related to diabetes care needs?

Students with diabetes may not be penalized educationally for absences required for medical appointments or because of illness. In some circumstances, students may be excluded from participation in extracurricular activities due to diabetes-related absences, pursuant to an attendance policy that applies to all students.

Notes

Diabetes may result in a student being absent or tardy. Where it is due to a student's diabetes, the absence or tardiness should be excused. A 504 plan should specify that the student will not suffer adverse consequences because of such absences or tardies. See *Mercer County (WV) Pub. Schs.*, Complaint No. 03-07-1199, 108 LRP 17698 (OCR 2007) (district violated 504 by not exempting a student from a policy allowing students to be exempted from final exams if they had fewer than a given number of absences; although 504 plan contained a provision that student would be excluded from this policy for absences related to diabetes, district subsequently required her to take the exams rather than implementing

the 504 plan as written); *Loudoun County (VA) Pub. Schs.*, Complaint Nos. 11-99-1003, 11-99-1064, 11-99-1069, 102 LRP 3258 (OCR 1999) (providing that accommodation plans would, where appropriate, permit a student to “miss school without consequences for appointments to monitor the student’s diabetes management.”) *Cf. Grenada (MS) Sch. Dist.*, Complaint No. 06-12-1005, 61 IDELR 54 (OCR 2012) (district violated 504 by marking student tardy on multiple occasions when his special education bus was late; district resolved the issue by removing the tardies).

The student or the student’s parent or guardian may be required to confirm that the reason for the absence or tardiness was diabetes. *Fayette County (GA) Sch. Dist.*, Complaint No. 04-05-1037, 44 IDELR 221 (OCR 2005) (district was not required to automatically excuse absences related to diabetes care; district agreed to evaluate each absence individually and to excuse those for which a doctor’s note was provided, and OCR found this policy to be reasonable); *Prince George’s County (MD) Schs.*, Complaint No. 03991098, 33 IDELR 70 (OCR 1999) (commitment to resolve complaint included obligation to mark student “tardy excused” if tardiness was result of diabetes and written note from parents stating the reason for the tardiness is provided to the school). *See also Loch v. Bd. of Educ. of Edwardsville Community Sch. Dist.*, 327 Fed. Appx. 647, 651 (7th Cir. 2009) (child was ineligible for IDEA services because parents could not show that student’s excessive absences were due to diabetes; student’s treating physician stated that where diabetes was under good control there was no reason for extensive absences, and court concluded that student simply “quit going to school.”)

Where absences are not properly documented or not due to diabetes, a student may still be penalized for failing to comply with attendance policies. In *Bismarck (ND) 1 Pub. Schs.*, Complaint No. 05-06-1285, 107 LRP 42139 (OCR 2006), a student enrolled in a district summer school program, but accumulated too many absences to receive credit for the course. Some absences were related to diabetes, but others were due to the flu (either set of absences would have been enough to exceed the absence limit). The parent requested that the district modify its attendance policy, but OCR found that the policy had been applied to the student just as it would have been to a nondisabled student. The fact that absences were diabetes-related did not affect this holding because the student did not have a 504 plan that might have provided for excused absences (he attended a private school during the school year) and because no medical documentation that the absences were diabetes-related was provided.

In extreme cases, school officials may initiate truancy proceedings against students who have experienced significant absences due to diabetes or other conditions. However, it is generally inappropriate (and unhelpful) to treat diabetes-related absences as truancy, and failing to evaluate whether these absences result from a disability could violate section 504. *See Hamilton (OH) Local Sch. Dist.*, Complaint No. 15-10-1123, 58 IDELR 82 (OCR 2011) (district violated 504 when it referred a student with absences related to chronic hypoglycemia and migraines for truancy proceedings, and reassigned her to an online program, rather than evaluate the student for 504 eligibility); *but see Le Center (MN) Pub. Sch. Dist.*, Complaint No. 05-06-1057, 107 LRP 2185 (OCR 2006) (district did not violate 504 by sending a letter indicating that a student had many unexcused absences and might have to be reported to child welfare authorities; the district was required by law to send the letter after a number of absences and had sent similar letters to students without disabilities).

While diabetes-related absences should be excused, OCR held in one case that students may be penalized based on facially neutral attendance policies governing participation in extracurricular activities. *Houghton Lake (MI) Community Schs.*, Complaint No. 15-05-1050, 45 IDELR 199 (OCR 2005) (student could be excluded from playing in basketball game because he missed school that day due to a doctor’s appointment).

11.7 Where a student with diabetes has received appropriate academic accommodations, may the school treat the student's academic deficiencies as it does those of other students?

Students with diabetes are entitled to academic accommodations. Where appropriate accommodations are provided, academic measures and sanctions may be imposed upon such students as would be applied to any other student. So long as accommodations are provided, students with diabetes can be required to meet the same academic standards and requirements as non-disabled students.

Notes

If a student with diabetes fails to satisfactorily perform in school the student may be denied promotion. In one example, *Hernando (FL) County Schs.*, Complaint No. 04-98-1412, 31 IDELR 89 (OCR 1999), a student who had diabetes was held back in sixth grade after failing five classes and receiving grades of "C" and "D" in two other classes. The student was intellectually within the average range, but had some processing weaknesses and exhibited behaviors that affected learning. The student also had 36 unexcused absences, apparently failed to turn in homework assignments, and did not have his student planner signed by a parent. Although school officials had considered holding the student back previously, they acceded to parental insistence that he be promoted. A Section 504 accommodation plan was not challenged as being inadequate. The plan included adjustments in the arrangement of the classroom, assignments, and responses to positively re-enforce student behavior, presentation of lessons, personal organization skills, and test-taking skills. The plan also allowed for make-up work after prolonged absences. A discrimination claim made after the school declined to promote him was rejected. According to OCR, the school properly declined to promote the student based on the failure of the student to master the subject matter. It concluded that the student was not hampered by a failure of the school to accommodate his needs.

11.8 Must the requirements for academic honors or other recognition programs be modified to take into account a student's diabetes?

Many schools recognize academic excellence through awards, honor societies or other means. While students may be excused from certain recognition requirements that are impacted by their diabetes (e.g., attendance requirements), these students must meet the other requirements of these programs that are not impacted by diabetes.

Notes

Schools may not discriminate against persons with disabilities in the application of criteria for honors or other recognition programs. See *Hornstine v. Moorestown Board of Educ.*, 263 F. Supp. 2d 887 (D. N.J. 2003) (restraining order granted against school district preventing it from changing policies on determining who would be valedictorian when policies were clearly designed to prevent student with chronic fatigue syndrome from becoming valedictorian because of unfounded concerns about the fairness of her grades). However, students with disabilities must meet the academic and other requirements of these programs unless prevented from doing so by their disability. For example, in one case a student with diabetes was denied admission to the National Honor Society and claimed that

her rejection was because of disability-related absences. The school waived the NHS's school attendance requirement because of the student's disability, but found that she had not met the requirement for participation in an extracurricular activity and that her lack of participation was not related to her disability. OCR therefore found no violation of Section 504. *Perry (OH) Public Sch. Dist.*, Complaint No. 15-03-1148, 41 IDELR 72 (OCR 2003).