

Fact Sheet – Diabetes, Discrimination, and Public Places and Government Programs

1. What is this fact sheet for?

People with diabetes often wonder whether they will be allowed to bring diabetes supplies into places like theaters, stadiums, and courthouses. Individuals with diabetes worry about travelling with diabetes supplies and carrying their supplies through airport security. These concerns leave individuals with diabetes wondering whether they will have a chance to fully participate in private and government programs. People with diabetes have the right to participate fully in our society without sacrificing their health, medical safety, or facing discrimination because of misunderstandings, fears, and stereotypes about diabetes.

Federal laws prohibit most public places and programs—whether operated by private companies, non-profit organizations, or the government—from discriminating against people with diabetes. This fact sheet explains your rights related to your diabetes when you are in public places or using public programs.

2. Am I protected from discrimination?

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

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

Individuals with diabetes are almost always “substantially limited” in “the major life activity of endocrine system function.” This is another way of saying that diabetes causes problems in a person’s endocrine system. As a result, individuals with diabetes are almost always considered individuals with a disability under federal law and are protected from discrimination by these laws.

For more information on discrimination generally, including the definition of disability and establishing coverage under federal law, see www.diabetes.org/discrimination.

3. What are public accommodations?

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

- Hotels and restaurants
- Theaters and stadiums
- Convention centers
- Stores
- Doctor’s offices and hospitals
- Train stations and airports
- Museums, libraries, zoos, and amusement parks
- Private schools, from nursery school to graduate school

- Private nursing homes, domestic violence shelters, and other social service centers
- Gyms, health clubs, and golf courses
- Private day care centers

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

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

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

5. What anti-discrimination laws protect me?

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

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

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

In addition, some states may have state or local laws that protect individuals with disabilities against discrimination.

6. Are any public accommodations or government programs are not covered by these laws?

Private membership clubs and religious organizations are not covered by Title III of the ADA. For example, a country club or a religious camp may not be subject to these laws. However, in certain circumstances, clubs or religious organizations must still comply with anti-discrimination laws. For example, a golf club that—in addition to maintaining its own screening process for permanent members—operates a hotel that is fully open to members of the public at large must not discriminate against people with disabilities. A religious university that receives federal research grants would be covered under Section 504 of the Rehabilitation Act.

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

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

Yes, under these laws, private and public programs must make reasonable changes to their policies and procedures to make sure that individuals with disabilities are not treated unfairly. However, if a program can show that making a change would create an “undue burden” or would create a “fundamental alteration” to the program, then they may not be required to make that change. This basically means that if a program can show that the change requested by a person with a disability would be so expensive or so hard to make, or if the change would cause the program to entirely change the way it operates, then the law might not require the program to make that particular modification or change.

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

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

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

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

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

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

10. **How can I get help if I am experiencing discrimination?**

If you need help, call us at 1-800-DIABETES (342-2383) and ask how you can speak with an American Diabetes Association legal advocate. These legal advocates are lawyers who specialize in diabetes discrimination issues. They will help you understand the law and your rights. A legal advocate will provide strategies for you to stand up for your rights, give you tools to use to advocate for yourself, help you negotiate an agreement, guide you through the legal process, or, if necessary, help you find a lawyer to take your case.

Many free resources are available in a packet that you can receive by calling 1-800-DIABETES (342-2383).

Important Note: This document describing the legal rights of individuals with diabetes is for your general information and review only. It is not a substitute for the advice of legal counsel.

