

7. How Should Needed Services and Accommodations Be Documented?

While accommodations for students with diabetes can be handled informally by schools with parent/guardian and physician authorizations and directions, written plans outlining each student's diabetes management and needed accommodations are highly recommended. As discussed further below, most students with diabetes should have two separate planning documents. One (often called the Diabetes Medical Management Plan) lays out the student's treatment regimen, while the other (often called a Section 504 Plan) outlines how the needed diabetes care will be provided at school. This Part discusses the development and contents of both types of plans.

7.1 What types of documents should be prepared regarding accommodations for students with diabetes?

Accommodating students with diabetes requires an assessment both of the health care needs of the student and of how those needs will be met in the school setting. It is helpful to develop two different types of documents to specify the services a student with diabetes will be provided. Typically, these documents are known as a Diabetes Medical Management Plan (DMMP) and a Section 504 Plan, although schools may use different names for one or both of them. Most students with diabetes should have both documents, and they are described below.

An individualized medical plan, developed by the student's personal health care team (including the treating physician) and family, contains the prescribed diabetes health care regimen tailored for that student. For example, this plan would include the times at which insulin should be given and the proper dose to be given for a specified blood glucose value. While this plan is often called a DMMP, it can also be known by other names (such as a diabetes care plan or health care plan). See Question 7.6 for more information on the plan's contents.

An education plan explains what accommodations, education aids, and services are needed for each student with diabetes in order to ensure the child is safe at school and receives the proper treatment that is outlined in the DMMP or other health care plan. Depending on the law under which the student is covered and the preferences of the school, this plan can be known as a Section 504 plan, Individualized Education Program (IEP), or by another name. See Question 7.7 for more information on the plan's contents.

Together, these two plans provide the school and the parents or guardians with a comprehensive picture of the student's health care needs and how those needs will be met at school. While this information can be combined into one document, it is better to keep treatment information in a separate health care plan like a DMMP. Separate documents make clear that it is the responsibility of the treating physician and parents/guardians, rather than the school, to decide on the treatment regimen appropriate for the child. This

approach also ensures that the school has the most up-to-date and accurate information on the student's health care needs when making accommodation decisions.

Notes

In addition to DMMPs and written accommodation plans such as Section 504 plans, advocates should also be familiar with the concept of Individualized Health Care Plans (IHPs). These documents are typically developed by school nurses to describe how care will be provided, and are analogous to nursing care plans developed in other health care settings. See National Association of School Nurses, Position Statement on *Individualized Health Care Plans* (November 2003), available at <http://www.nasn.org/Default.aspx?tabid=226>. Although they may be developed in collaboration with parents/guardians or treating physicians, often they are internal documents that are not shown to parents. It is important that an IHP accurately reflect the treatment called for in a student's DMMP. Where a student with diabetes is eligible for services under Section 504, an IHP is not in and of itself an adequate substitute for a properly developed Section 504 plan. See *Fayette County (KY) School Dist.*, Complaint No. 03-05-1061, 45 IDELR 67 (OCR 2005) (even though student was receiving some health care services under an IHP, district was required to evaluate him for eligibility under Section 504); *San Diego (CA) City Unified School Dist.*, Complaint No. 09-04-1150, 44 IDELR 135 (OCR 2005) (student's ISHP was not an adequate substitute for a Section 504 plan adopted in accordance with proper procedures).

7.2 Are there differences in documentation depending on whether a student is covered by Section 504, the Americans with Disabilities Act, or the Individuals with Disabilities Education Act?

Yes. The documentation required under Section 504 and the IDEA differs. Children covered by IDEA are required to have a written individualized education program (or IEP). On the other hand, a written plan is not necessary to comply with Section 504 (or the ADA), but schools can (and sometimes do) use IEPs developed using the IDEA process to comply with these laws. Even where an IEP is not developed, most schools will develop a written Section 504 Plan describing the accommodations to be provided to students with diabetes and other disabilities covered by Section 504.

Notes

As discussed at Questions 4.4-4.7, most students with diabetes are covered by Section 504 and the ADA while some, but not all, may be covered by IDEA. It is important to understand the documentation required by each of these laws.

The IDEA contains extensive requirements about what must be documented in a student's accommodation plan. Under the IDEA, each child with a disability must have developed a written "individualized education program" or IEP. See 20 U.S.C. § 1414(d). Among other requirements, the IEP must provide: a statement of the child's present levels of academic achievement and functional performance; a statement of measurable annual goals, both academic and functional; a description of how the child's progress toward meeting the annual goals will be measured and reported; a statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child; an explanation of the extent to which the child will not participate with non-disabled children in the regular class and in school activities;

and a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state or district-wide assessments. The IEP is developed after an evaluation by an IEP Team following detailed procedures and requirements.

While Section 504 sets standards for how evaluations of a student's service and placement needs should be evaluated, it does not require that services be specified in a written plan. 34 C.F.R. § 104.35. If a school does develop a written accommodation plan, it can use the IDEA process of developing an IEP to comply with Section 504's evaluation requirements, but it is also free to adopt less detailed procedures. 34 C.F.R. § 104.33(b)(2). In fact, much of the information described above which must be in an IEP is not necessary in a plan for a student who needs only related services for diabetes care.

7.3 Do students with diabetes always require a written Section 504 or accommodations plan?

No. School officials and teachers often make accommodations for students, including those with disabilities such as diabetes, without a written plan. However, a written plan is desirable, and it is recommended that one be developed for each student with diabetes covered by Section 504. One benefit of a written plan is that it formally identifies the child as having a disability that entitles him or her to services under Section 504 or another anti-discrimination law. A written plan also assures parents/guardians and school personnel that everyone involved with diabetes care knows what his or her role is and what accommodations will be provided. Whether a written plan is critical, nonetheless, depends very much on how diabetes care is handled with respect to a child.

Notes

OCR has held, in a case not related to diabetes, that Section 504 allows schools to attempt school-based interventions and/or modifications prior to conducting a formal evaluation of a child. If these interventions and/or modifications are successful, a school is not obligated to evaluate a student or develop a written accommodation plan. *See Karnes City (TX) ISD*, Complaint No. 06-98-1180, 31 IDELR 64 (OCR 1999). While such "interventions" might be appropriate as an alternative to Section 504 services for certain other disabilities (such as dyslexia, the condition at issue in *Karnes City*), it would be inappropriate for a school to attempt "interventions" for a student with diabetes short of what is medically required by the student's treating physician. In addition, at the request of the parents or guardians of the child, school officials should evaluate the student.

7.4 Who prepares the Section 504 or accommodations plan?

It is the responsibility of school officials to prepare a written education plan. This plan should take into account the health care needs of the child and should be based on the Diabetes Medical Management Plan for the child, if one has been prepared. Of course, the parents or guardians of the student may make whatever proposals for the plan they consider appropriate, and it is often helpful for them to prepare and present a proposed plan to the district. The district may adopt this plan or may use it as an aid in drafting the final plan.

7.5 Who should sign the Section 504 or accommodations plan?

Since there is no requirement that a Section 504 plan be in writing (see Question 7.2), there is no requirement that it be signed by any particular person. Ideally a school official authorized to bind the school (such as the 504 coordinator) and the parents or guardian of the student with diabetes will sign the education plan. However, parents need not sign the plan, and it can be implemented even if the parents object and refuse to sign it.

Notes

OCR has held that there is no requirement that parents or guardians sign a 504 Plan. *See Bradley County (TN) School Dist.*, Complaint No. 04-04-1247, 43 IDELR 44 (OCR 2004) (school did not violate Section 504 by implementing plan where a group of knowledgeable individuals developed and signed the plan, even though parent disagreed with the plan and refused to sign it). While such a plan can be implemented over a parent or guardian's objections, the parent or guardian has the right to challenge the adequacy of the plan through informal or formal procedures. See Part 14 for a discussion of how disputes about the content of plans can be resolved.

Some schools have all of a child's teachers sign the accommodations plan so that it is clear they are aware of the plan. Schools may also take other steps to ensure that all teachers are aware of their obligations under the plan. *Hamilton Heights (IN) Sch. Corp.*, Complaint No. 05-02-1048, 37 IDELR 130 (OCR 2002) (teachers ultimately signed plan or at least received instructions regarding diabetes). This is a good idea to ensure that a student's teachers are all well-informed as to their responsibilities under the plan.

An individualized education program (or IEP) under the Individuals with Disabilities Education Act is required to be written and signed by the members of the IEP Team. Parents or guardians also sign the IEP if they approve it.

7.6 What should be included in the Diabetes Medical Management Plan?

The American Diabetes Association suggests that a DMMP or other medical plan address the specific health care needs of a child and provide specific instructions for each of the following:

- Blood glucose monitoring, including frequency and circumstances.
- Insulin administration, including doses/injection times prescribed for specific blood glucose values and the storage of insulin.
- Meals and snacks, including food content, amounts, and timing.
- Symptoms and treatment of hypoglycemia (low blood glucose), including the administration of glucagon, if authorized by the student's treating physician.
- Symptoms and treatment of hyperglycemia (high blood glucose).
- Testing for ketones and appropriate actions to take for abnormal ketone levels.

Of course, in any specific situation, other information may be appropriate. This listing is not exhaustive.

Notes

The suggested list is taken from a Position Statement of the American Diabetes Association, *Diabetes Care in the School and Day Care Setting*, Diabetes Care 29:SS49-S55 (2006). Other suggestions can be found in the OCR complaint resolution agreements included in the Supplemental Information section.

7.7 What should be included in a Section 504 or other accommodation plan?

An accommodation plan should include information about how the student's diabetes will be managed at school, based on the treatment regimen outlined in the Diabetes Medical Management Plan. The plan should specify what accommodations and modification in school policies will be allowed to provide diabetes care, who will provide diabetes care tasks, and who is responsible for supervising the provision of care. Some things that are fundamental to most plans are:

- When and where insulin will be administered.
- Who will administer insulin.
- Who is responsible for monitoring the student for possible signs of hypoglycemia or hyperglycemia.
- Who will administer glucagon in emergency situations.
- How care will be provided on field trips, during extracurricular activities, and on the school bus.
- Access to food, water and restrooms.
- How medications and syringes will be stored and disposed of at school.
- The circumstances under which parents/guardians and the child's treating physician will be contacted regarding care issues.

As necessary the accommodation plan should also address other issues besides diabetes health care, such as the need for academic modifications:

- Alternate time to take academic exams if blood glucose levels are out of target range.
- No penalty for diabetes-related absences or tardiness.
- Reasonable time to make up missed assignments and exams.
- Opportunity to receive missed classroom instruction.
- Access to water, bathroom, supplies, health care upon request.
- Full-participation in all school-sponsored activities such as field trips and extracurricular events.

Notes

Other suggestions for things to include can be found in the sample accommodation plan found in the Supplemental Information section (and in the other resources referenced in the introduction to that plan).

One example from a complaint resolution provides:

Each plan will provide those services required by Section 504 and Title II [of the ADA]. For example, each plan will, when appropriate, permit a student to: see school ADCPs [or 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.

Buchanan County (VA) Public Schs., Case No. 11-03-1051 (OCR 2003).

It is important that the 504 plan or other accommodation plan contain specific instructions about what diabetes care services will be provided and how and when they will be provided. Failure to specify these details may make it difficult for parents to enforce their rights to needed services. For example, in *Lee County (FL) School Dist.*, Complaint No. 04-06-1178, 47 IDELR 18 (OCR 2006), the parents and the school nurse disagreed about how often the insulin cartridge in the student's insulin pen should be changed. OCR found that, since the issue was not addressed in the student's 504 plan, the district had not violated Section 504 by failing to change the insulin cartridge when requested. OCR suggested that the 504 team be reconvened to address this issue.

7.8 Should school nurse services be specified?

Services to be provided by the school nurse or other trained personnel should be included in a child's accommodations plan. If the child has an individualized education program (or IEP) it is particularly important to incorporate reference to school nurse services to be provided.

Notes

Where a child has an individualized education program (or IEP) detailed mention of school nurse services is important. School health services have always been considered a "related service" under regulations implementing the Individuals with Disabilities Education Act. 34 C.F.R. § 300.34(a) (term "related services" also includes "school health services and school nurse services"). The Individuals with Disabilities Education Improvement Act of 2004 amended the IDEA to specifically provide that such services are included. However, IDEA provides that "related services" includes "school nurse services designed to enable a child with a disability to receive a free appropriate public education as described in the individualized education program of the child." 20 U.S.C. § 1401(26)(A). Because the "as described" language does not modify other services included in the definition, the change suggests that it may be necessary to be more specific with respect to school nurse services to be furnished the child under the IEP.

7.9 What are the time limitations for developing a plan?

No specific time limits are prescribed under Section 504 or the Americans with Disabilities Act. Schools must, however, plan for and implement accommodations within a reasonable period of time. The Individuals with Disabilities Education Act, on the other hand, contains specific time limitations for the development of an Individualized Education Program (IEP), which can provide a helpful standard for determining a reasonable timetable even for students covered only by Section 504 or the ADA.

Notes

While written plans are not required to be developed within any given period of time under Section 504 and the ADA, schools must accommodate students with diabetes within a reasonable period of time. Just what is reasonable depends on the facts and circumstances.

Where the Office for Civil Rights reaches an Agreement to resolve a complaint, 45 school days is often fixed as the time to evaluate the specific areas of the student's academic and nonacademic needs, obtain all necessary medical evaluations regarding the student's disability-related needs, carefully consider all medication evaluations, review academic accommodations, and develop an accommodation plan for the student. The plan is expected to be implemented within 60 school days. *See, e.g., San Diego (CA) City Unified School Dist.*, Complaint No. 09-04-1150, 44 IDELR 135 (OCR 2005) (delay of 3-4 months in initiating evaluation unreasonable where it resulted from erroneous beliefs about Section 504 eligibility and procedures and where evaluation did not begin until after expulsion proceedings had been initiated against student for conduct related to his disability); *Evergreen (WA) School Dist. No. 114*, Complaint No. 10-00-1139, 36 IDELR 9 (OCR 2001) (setting schedule where claim submitted by student with diabetes). The Office for Civil Rights has concluded that a six month delay in evaluating a student is not timely. *Cabell County Sch. Dist.*, Docket No. 03-92-1062 (OCR 1992) (delay of six months in acting on parent notification of disability untimely; also, actual evaluation was delayed even longer and actual determination of eligibility for services followed more than a year later).

Every effort should be made to avoid delaying or interrupting a student's attendance at school. Where necessary to allow the evaluation of a student's needs and determination of appropriate accommodations, it has been held that a ten-day exclusion from school was not excessive. A change in a student's health care plan was considered after the student was treated in a hospital emergency room for a diabetes-related seizure. *Seattle (WA) Pub. Sch.*, Complaint No. 10-98-1264, 31 IDELR 193 (OCR 1999) (district found to have timely developed new health care plan upon notice that her school health needs had changed). If a student is excluded from school, it may be appropriate not only to accelerate the evaluation process but also provide compensatory education if the student suffers any deficit relating to the lapse in attendance. *Addison Sch. Dist.*, Complaint No. 02-01-1110 (OCR 2001) (where student was excluded from school, process placed under stricter time lines and consideration of compensatory education required); *Ware Pub. Schs.*, Complaint No. 01-00-1046 (OCR 2000) (resolution agreement required provision for in-school tutoring to assist student in making up missed class work).

The Individuals with Disabilities Education Act requires that written plans (IEPs) be developed within specified time limits. While not strictly applicable under Section 504 and the ADA, these limitations provide some guidance. Where an initial evaluation is requested by a parent or guardian, the evaluation process and determination of whether a child has a disability is to be completed within 60 calendar days of receiving parental consent for the evaluation. 20 U.S.C. § 1414(a)(1)(C). An IEP meeting must be held within 30 calendar days

of a determination that a child needs special education and related services. 34 C.F.R. § 300.323(c)(1). The IEP must then be implemented as soon as possible. 34 C.F.R. § 300.323(c)(2). These timelines are longer than would ordinarily be needed for students with diabetes; it is reasonable to expect that a meeting would be held within 30 calendar days after parents or guardians provide school officials the child's Diabetes Medical Management Plan.

Some schools characterize accommodation plans as “drafts” when initially developed, and begin implementing the plans before they are finalized. There is nothing wrong with describing a plan as a draft, provided the student is receiving appropriate services and accommodations. *See Bradley County (TN) School Dist.*, Complaint No. 04-04-1247, 43 IDELR 44 (OCR 2004) (no violation found where school had implemented a “draft” 504 plan at the beginning of the school year and had not finalized the plan until several weeks later).

Delay in developing a plan is not reason to deprive a child of an education. During the process, the child should not be denied meaningful access to school.

7.10 What should be done if the Section 504 or accommodations plan is not being followed?

If an agreed-upon accommodations plan is not being followed, advocates should begin by presenting concerns to the appropriate school official. If the plan continues to be ignored, complaint procedures should be considered.

Notes

When a plan is not being followed, sometimes it is simply the result of lower-level staff failing to recognize the importance of implementing the plan. *See, e.g., Northwestern (OH) Local Schs.*, Case No. 15-03-1202 (OCR 2004) (OCR dismissed complaint where school had already addressed failure to implement Section 504 Plan including, among other things, emphasizing to food service staff the importance of following the plan). Where this is the case, tactfully complaining to responsible school officials should lead to resolution of the problem. If problems persist, the formal and informal procedures discussed in Part 14 should be considered.