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## Fact Sheet: Rights of School Employees During COVID-19

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The information contained below is meant as general information about federal law and is not legal advice. If you have questions about how the law applies to you, or about your rights under state law, contact an attorney licensed in your state. Resources to find attorneys who practice in this area are at the end of this document. Please note: If you have a question about your own COVID-19 risk level, you should consult with your treating physician.

### Rights of School Employees

- The Americans with Disabilities Act is a federal anti-discrimination law that protects employees with disabilities from discrimination.
  - Diabetes meets the definition of a disability under the Americans with Disabilities Act because it substantially limits the functioning of the endocrine system
  - The Americans with Disabilities Act covers employers with 15 or more employees as well as state and local government employers
- Covered employers must provide reasonable accommodations to people with diabetes so that they can manage their health and perform their jobs.
  - For diabetes *generally*, some examples of reasonable accommodations are:
    - Breaks to manage diabetes (treat a low, take medication, etc.)
    - Schedule leave for diabetes-related doctor's appointments or due to diabetes-related illness
    - Removal of marginal job functions
    - Re-assignment to another position
  - Reasonable accommodations to address *COVID-19*, like all accommodations, are highly job-specific.
  - For *school employees*, reasonable accommodations to consider include:
    - Reassignment to a class/grade/building where students are required to wear masks
    - Reassignment to a class that is being taught fully or partially remotely or other alternate arrangements that permit remote teaching
    - Relocation to a classroom that allows windows and/or doors to be open to increase ventilation when weather permits
    - Permission to teach outdoors when weather permits
    - Requesting that plexiglass barriers be installed around staff desks
    - Removal of marginal functions that involve higher transmission risk (such as lunchroom duty)
    - Leave of absence

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- An employer does not have to provide a reasonable accommodation if it would be an undue hardship on the employer (e.g., too difficult or costly). If more than one reasonable accommodation would be effective, an employer may choose which accommodation(s) to provide.
  - Once a request for reasonable accommodations is made, an employer cannot unilaterally deny or ignore the request. The employer must engage in a discussion called an “interactive process” to discuss the accommodations.
  - For example, if an employee has been successfully teleworking throughout the pandemic, this is evidence that continuing to do so may still be a reasonable accommodation, unless something has since changed about the school’s teaching environment. As schools move from fully remote to hybrid or other teaching arrangements, and possibly back again, these changes will factor into whether telework is a reasonable accommodation depending on the type of learning students are doing at that time and whether there are reassignment options for other types of learning that offer reduced risk of in-person transmission of the virus. A principal or supervisor’s general preference is unlikely to be a persuasive reason to rescind telework if nothing has changed about the school’s learning arrangement.
- You may have a right to medical leave under the Americans with Disabilities Act or Family and Medical Leave Act (FMLA). Learn more [here](#).
- Typically, if an employer takes an “adverse action” against a person with diabetes—termination, demotion, suspension, etc.—because of that person’s diabetes, this could be illegal discrimination.
  - There are some exceptions to this. For example, an employer may take such actions:
    - If the employee is unable to do the essential functions of the job even with reasonable accommodations
    - If the employee is a direct threat to himself or herself or to others and this threat cannot be reduced or eliminated with reasonable accommodations.
  - Learn more about what to do if you have faced an adverse action [here](#).

### **Practical Advocacy**

1. Teacher’s unions can be a good place to start to gain information and guidance about navigating accommodations and returning to school in the pandemic, including what specific options have been considered and are still actively being considered. This information is helpful in identifying and requesting reasonable accommodations. The union should also be able to advise and potentially assist employees in seeking a reasonable accommodation.

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2. Schools may ask for a doctor's note in support of a request for accommodations. This is allowed. The letter should confirm the employee has diabetes and needs the accommodation(s). **During COVID-19, it is incredibly important that doctors specifically address the need for accommodation due to diabetes during this pandemic.** The American Diabetes Association® (ADA) provides a sample letter for doctors to help with this, available [here](#).

### Additional Resources

The ADA has a variety of additional resources for employees to use in self-advocacy. They include:

- A **letter from the ADA to employers** that discusses some of the high-risk factors and complications that can arise for people with diabetes who contract COVID-19. This may be helpful to provide to your employer if you are having trouble getting a letter from your doctor.
- A **COVID-19 FAQ for workers**. We regularly update this FAQ as we learn more about the pandemic.
- For future resources, be sure to visit our **Know Your Rights COVID-19 webpage**.
- For other information concerning COVID-19, please visit [diabetes.org/coronavirus](https://diabetes.org/coronavirus).
- In addition, the U.S. Equal Employment Opportunity Commission, the federal agency that enforces anti-discrimination laws relating to employment, issued a guidance called **What You Should Know about the ADA, the Rehabilitation Act, and COVID-19. It includes questions and answers specific to COVID-19.**

### Finding an Attorney

If you wish to consult with an attorney about your circumstances, you might try finding one using the following resources:

- Your state's protection and advocacy office, a program offered in every state to provide free legal assistance to individuals with disabilities. Find your state's office by using the dropdown box on [this page](#).
- If you are in need of assistance with a work-related discrimination issue, connect with an attorney through the **National Employment Lawyer's Association**.
- Your local state bar association legal referral program
- A local, private attorney