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Federal Court Grants Preliminary Approval to Ground-Breaking Settlement That Will Ensure NYC Children with Diabetes Receive Appropriate Care in School

ARLINGTON, Va. (November 28, 2022) – A federal court today preliminarily approved a landmark settlement that will ensure children with diabetes in NYC receive the care they need to fully participate in school and school-related activities. This class action settlement resolves claims that New York City, the Department of Education, the Department of Health and Mental Hygiene, and the Office of School Health systemically failed to ensure that students with diabetes could attend school safely and have access to the same educational opportunities as their peers, in violation of the Americans with Disabilities Act (“ADA”), Section 504 of the Rehabilitation Act (“Section 504”), and the New York City Human Rights Law (“NYCHRL”).

Under the Settlement Agreement, Defendants will modify their policies, practices, and procedures related to: 1) planning to determine the needs of students with diabetes and how Defendants will meet those needs (called a “Section 504 Plan”); 2) providing care such that students with diabetes are not excluded or segregated from their classmates; and 3) training for staff and contractors (nurses, paraprofessionals, administrators, bus drivers and attendants, and teachers and other staff) and the provision of services during the school day and in afterschool activities. [Read the Settlement Agreement](#). These reforms include:

- The development and adoption of a template plan for students with diabetes, based on the American Diabetes Association® [Model 504 Plan](#), to guide schools in preparing to meet the needs of students with diabetes;
- Commitment that accommodations necessary to meet the needs of these students cannot be denied based on resources or available funding;
- New timelines related to how school staff will plan to meet the needs of students with diabetes, including meetings to develop Section 504 plans and ensuring students can attend school with all accommodations in place on their first day of school;
- Robust new training for nurses, paraprofessionals, teachers, administrators, bus drivers and attendants, and other school staff on how to care for a student with diabetes; and

- Changes to ensure appropriately trained staff are available so that students with diabetes can attend field trips, eat with their classmates, ride the bus, and participate in sports and afterschool activities, alongside other children.

The Settlement also provides for robust monitoring and reporting and the appointment of the American Diabetes Association as the Joint Expert, and Peter D. Blanck, Ph.D., J.D., as External Monitor, for a term of three school years. The settlement will apply to a class of students that have diabetes and are now or will in the future be enrolled in New York City Department of Education public schools. The class was certified by the Court on June 18, 2019. [Click here to read the Class Certification Notice.](#)

On November 22, 2022, United States District Judge Nina Gershon granted preliminary approval to the proposed settlement and set a date of April 19, 2023 for a Fairness Hearing. [Read the Order here.](#) The Parties will be sending a notice to ensure that members of the Class are aware of the Settlement and the upcoming Fairness Hearing. The Court must still grant Final Approval of the settlement following the Fairness Hearing before it takes effect. Previously, Judge Gershon granted Plaintiffs' motion for partial summary judgment as to the routine denial of access to field trips and bus transportation. [Read the Opinion and Order.](#)

“This extraordinary settlement will give NYC public school parents of students with diabetes the comfort and peace of mind in knowing their children will be safe at school as they receive care as prescribed by their child’s diabetes health care provider,” said Crystal Woodward, Director of the American Diabetes Association’s [Safe at School](#)[®] initiative. “The American Diabetes Association is hopeful this settlement with one of the largest school districts in the country will motivate other school districts to examine their diabetes policies and practices and also offer parents and advocates another tool to add to their diabetes advocacy toolkit.”

“So many families like mine had their lives changed when their child was diagnosed with diabetes,” said Yelena Ferrer, the parent of named Plaintiff M.F. “With this settlement, the transition at school will be easier, less stressful, and more fair for thousands of families like mine. I feel privileged to have been part of this amazing effort to vindicate my son's civil rights and ensure other kids with diabetes get the support they need.”

“I am glad to have been able to help bring changes that will ensure children with diabetes in all New York City’s public schools receive the care they need to attend school,” said Jennifer Fox, the parent of named Plaintiff I.F. “By establishing system-wide obligations and standards of care, this settlement will relieve parents who are short on time, resources, or privilege, of the substantial, often prohibitive, burden of having to individually advocate for their child.”

“This settlement will improve the educational opportunities of nearly 2,000 students and families in this city who have struggled to get what they need at school,” said Torie Atkinson, Staff Attorney at Disability Rights Advocates. “DRA is honored to represent these trailblazing clients to secure a

remarkable settlement that provides a model for other school districts to meet the needs of students with disabilities, particularly students with diabetes.”

“These reforms represent a sea-change for students with diabetes and their families. With these changes, children with diabetes will be safe as they equally participate with their classmates in school, on the bus, on field trips and in afterschool activities,” said Alan L. Yatvin, Partner at Weir Greenblatt Pierce LLP and longtime Association volunteer. “We appreciate the time, effort, and commitment to change for the benefit of these children and families, shown by the City of New York and DOE attorneys, leaders, staff and medical professionals, in reaching this point.”

This case was brought on November 2, 2018, in the United States District Court for the Eastern District of New York, by the American Diabetes Association (ADA), the nation’s leading diabetes organization, and three parents of students with diabetes (identified as M.F., M.R., and I.F.) who attend New York City public schools. Plaintiffs are represented by Disability Rights Advocates (“DRA”), the ADA, and Weir Greenblatt Piece LLP. Plaintiffs do not seek monetary damages. Rather, the lawsuit seeks an overhaul of the DOE’s systemic policies and practices governing the delivery of diabetes-related care to ensure that all students with diabetes receive appropriate care and can participate in all school programs.

About the American Diabetes Association

The American Diabetes Association (ADA) is the nation’s leading voluntary health organization fighting to bend the curve on the diabetes epidemic and help people living with diabetes thrive. For 82 years, the ADA has driven discovery and research to treat, manage, and prevent diabetes while working relentlessly for a cure. Through advocacy, program development, and education we aim to improve the quality of life for the over 133 million Americans living with diabetes or prediabetes. Diabetes has brought us together. What we do next will make us Connected for Life. To learn more or to get involved, visit us at diabetes.org or call 1-800-DIABETES (1-800-342-2383). Join the fight with us on Facebook ([American Diabetes Association](#)), Spanish Facebook ([Asociación Americana de la Diabetes](#)), LinkedIn ([American Diabetes Association](#)), Twitter ([@AmDiabetesAssn](#)), and Instagram ([@AmDiabetesAssn](#)).

About Disability Rights Advocates

Founded in 1993, Disability Rights Advocates (DRA) is the leading national nonprofit disability rights legal center. Its mission is to advance the rights, inclusion, and equity of people with disabilities through high-impact litigation, education, and advocacy. DRA is proud to have upheld the promise of the ADA since our inception. Thanks to DRA’s precedent-setting work, people with disabilities across the country have dramatically improved access to health care, employment, transportation, education, disaster preparedness planning, voting and housing. For more information, visit www.drlegal.org.

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News Release

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