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**Dogs4Diabetics**

**Brief Summary of Legal Rights of Students with Diabetes**

**Introduction:** This document is intended to provide guidance to parents of Dogs4Diabetics’ (D4D) student clients who want to request that their children’s schools allow their children to use their trained diabetic-alert dogs as an accommodation. This document briefly outlines the legal rights of students with diabetes. The objective of this guidance is to provide a general background of the legal rights of students with diabetes, so that D4D’s student clients who want to use their trained diabetic-alert dogs at school have a basic understanding of their legal rights and their school’s obligations with respect to those rights.

D4D is providing this information as a courtesy to its clients and for general information only. This information should not be construed to be formal legal advice. Clients should seek advice from a lawyer for any specific questions or assistance in requesting an accommodation from their school or in appealing a denial of such a request.

**Overview**: As an individual with a disability, your child has certain legal rights. These rights are very briefly outlined in this document. For an excellent and detailed summary of your

child’s legal rights, we refer you to “Legal Rights of Students with Diabetes” (a publication of the American Diabetes Association, available at <http://www.diabetes.org/advocacy-and->legalresources/attorneymaterials/legalrights.jsp).

**The Federal Antidiscrimination Laws**:

**Americans with Disabilities Act (ADA)**: The ADA is a federal law that prohibits discrimination against individuals with disabilities. It applies to all public schools and to private schools that are not controlled by religious organizations.

**Section 504 of the Rehabilitation Act (Section 504)**: Section 504 is a federal law that prohibits recipients of federal funds from discriminating against individuals with disabilities. It applies to any school, public or private, that receives federal funding.

**Individuals with Disabilities Education Act (IDEA)**: The IDEA is a federal law that provides funds to states for use in providing special education and related services to children with disabilities. A student is covered by the IDEA if the student’s disability affects his or her ability to learn and causes the student to need special education services.

**State Laws**: In addition to federal laws, state laws can also provide additional protection to students with diabetes.

For example, California’s antidiscrimination statutes prohibit any programs or activities funded

by the State from discriminating against individuals on the basis of disability. California also has special laws specific to diabetes care tasks in public schools.

**Other protections**: Contract law and tort law may also impose obligations on schools to accommodate students with diabetes. The extent of the protections that contract law or tort law would provide to students with diabetes would vary on a case-by-case basis, depending upon the school’s policies and procedures and the specific factual circumstances involved.

**Is my child’s school covered?**

**Public Schools** are subject to both Section 504 and the ADA. The IDEA may also apply if your child’s diabetes affects his or her ability to learn (see below).

**Private Schools that receive federal funding** are subject to Section 504, and also

to the ADA unless the school is operated by a religious entity. The IDEA may also apply if your child’s diabetes affects his or her ability to learn.

**Private Schools that do not receive federal funding** are subject to the ADA unless the school is operated by a religious entity.

**Private Schools that are operated by a religious entity and do not receive federal funding** are not subject to the ADA, Section 504, or the IDEA. Such schools may be subject to contract or tort liability if they discriminate against students with diabetes.

**Is my child covered?**

**Section 504 and ADA**: Students are covered by Section 504 and the ADA if they have a physical or mental impairment that substantially limits one or more major life

activities. Type 1, insulin-dependent diabetes would qualify your child as an individual with a disability under Section 504 and the ADA.

**Americans with Disabilities Act Amendments Act (ADAAA)**: The ADAAA impacts both Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. Specifically, the ADAAA now makes clear that people with conditions such as diabetes are protected from discrimination on the basis of their conditions, regardless of any “mitigating measures” that may help manage the condition. Therefore, the availability of “mitigating measures,” such as insulin, no longer has any relevance in whether a person is covered by Section 504 or the ADA.

**IDEA**: As stated above, a student is only covered by the IDEA if the student’s disability affects his or her ability to learn and causes the student to need special education services. Therefore, not all students covered by the ADA and Section 504 are covered by the IDEA.