
Your Job and Your Rights: **Ensuring People with Diabetes are Treated Fairly at Work**

How the Law Protects Employees with Diabetes

Federal Anti-Discrimination Laws

The Americans with Disabilities Act covers private employers and labor unions with 15 or more employees as well as state and local governments. The Rehabilitation Act of 1973 covers most federal government and employers receiving federal money. The Congressional Accountability Act covers employees of Congress and most legislative branch agencies.

What the Laws Do

These laws protect people with disabilities from unfair treatment at work. Employers cannot treat you differently in hiring, firing, discipline, pay, promotion, job training, and fringe benefits just because you have diabetes. They cannot hold it against you if you ask for your rights.

Who is Covered

To get help from these laws, you must be a qualified individual with a disability. A disability is a physical or mental impairment that substantially limits one or more major life activities. Individuals with diabetes are considered to have a disability because their endocrine system, a major life activity that helps regulate bodily functions, is substantially limited. In other words, your endocrine system does not work correctly because it does not make and/or use insulin properly.

Applying for a Job

Employers may not ask questions likely to reveal disabilities before they make a job offer. However, employers can ask these questions after they make a job offer. For example, during your interview, you should not be asked if you have diabetes. It is legal to be asked to take a physical exam before you begin working, as long as all people hired for your position have to take a physical exam as well.

Doing the Job

You need to have the skills, experience, education, and other qualifications for the job. You must be able to do the essential job functions safely, with or without reasonable accommodations. Employers who refuse to employ any people with diabetes, or any people who use insulin to treat their diabetes, are most likely breaking the law.

continued

Your Job and Your Rights: Ensuring People with Diabetes are Treated Fairly at Work

The Family and Medical Leave Act (FMLA)

What the Law Does

The FMLA protects employees who miss work because of a serious health condition. You can take time off to care for your own condition or to care for a close family member. For example, parents can take leave if their child is newly diagnosed with diabetes, is hospitalized, or if there is a diabetes emergency at school. You may take up to 12 weeks of unpaid leave. You can take it all at once, in 12 back-to-back weeks, or in smaller chunks, for example, an hour at a time when needed. This is called intermittent leave.

Who is Covered

Diabetes qualifies as a serious health condition if it requires at least two visits a year to a health care provider. You must work for the same employer for 12 months and for at least 1,250 hours in those 12 months. The employer must have at least 50 employees within 75 miles of your worksite.

State Anti-Discrimination Laws

Most states have their own laws against disability discrimination. These laws and the state agencies that enforce them may provide you with extra protection and may cover smaller employers. So even if federal law is not enough, state law may protect your rights.

Reasonable Accommodations

Employers may need to make changes at the workplace to allow people with disabilities do their jobs and be treated fairly. These are called “reasonable accommodations.” Most people with diabetes only need small changes that cost the employer little or nothing. However, employers do not need to provide accommodations that cause them undue hardship.

Examples of common reasonable accommodations include:

- Breaks to check blood glucose (blood sugar) levels, eat a snack, take medicine, or go to the bathroom
- Permission to keep diabetes supplies and food nearby
- Leave for treatment, recovery, or training on managing your diabetes
- A different work schedule or a standard shift instead of a rotating shift
- For individuals with diabetic neuropathy (a nerve disorder caused by diabetes), permission to use chair or stool
- For individuals with diabetic retinopathy (a vision disorder caused by diabetes), large-screen computer monitors or other assistive devices

continued

Your Job and Your Rights: **Ensuring People with Diabetes are Treated Fairly at Work**

It is your responsibility to ask for accommodations. Although not required, it is best to make a written request for accommodations that:

1. Describes how your diabetes is a disability
2. Asks for the specific accommodations you need
3. Explains how these accommodations will help you continue to be a valuable employee

You should give this to your human resources department along with a letter from your doctor supporting your request. The American Diabetes Association® (ADA) can help. Find model letters and other resources at diabetes.org/jobaccommodations. You should also try to follow any policy your employer has for requesting accommodations.

What You Can Do

As soon as you think you are not being treated fairly, start writing everything down. Keep copies of all important documents, such as emails and letters from your employer, performance reviews, accommodations requests, and medical records. Get copies of general documents, such as your employee handbook or leave policy. Keep a log and write down everything that happens to you, including names and dates.

Discrimination Checklist

- Are you prevented from taking breaks at work to check your blood glucose levels, eat, and take insulin?
- Was your job offer rescinded when you said you had diabetes?
- Have you been told you can never have a certain job, like bus driver or police officer, because you use insulin?
- Do you have to have specific blood glucose levels to keep your job?

If you answered “yes” to any of these questions, or you are having similar problems, you may be experiencing unlawful discrimination because of your diabetes.

continued

Your Job and Your Rights: **Ensuring People with Diabetes are Treated Fairly at Work**

The Steps to Getting Fair Treatment

1. **Educate:** Diabetes discrimination is often the result of a lack of knowledge about diabetes, the law, or both. Because diabetes is usually a “hidden” disability, many employers do not understand what it is like to have diabetes. Also, employers may not understand how the law protects you. By educating your employer about diabetes, the law, and your needs and abilities, you may be able to get fair treatment.
2. **Negotiate:** If education is not enough, negotiation is the next step. It is easier to come to an agreement if you try to understand the concerns of your employer and work toward a solution you can both accept.
3. **Litigate:** Sometimes it takes legal action to end discrimination. You must start by filing an administrative complaint. If the employer is a private company or state or local government, file a complaint with either the Equal Employment Opportunity Commission (EEOC) or your state’s Fair Employment Practices Agency (FEPA). If your employer is the federal government, contact your agency’s internal Equal Employment Opportunity Office. You must act quickly—the time limit for taking legal action is often very short. If the agency does not resolve the problem, you can file a lawsuit in federal or state court.
4. **Legislate:** If the laws are not protecting you and other employees with diabetes, the next step may be going to legislators to change the laws.

We are Here to Help

The ADA fights for the rights of people with diabetes. Whether you need more information or want to take legal action, we are here to help you.

For help, call **1-800-DIABETES (800-342-2383)** or email AskAda@diabetes.org. If your issue is within our areas of service, you will receive tailored information and guidance from one of the ADA’s legal advocates. Although the ADA cannot represent you or advocate on your behalf, we can help you understand your rights and give you practical tools to solve your problem.

Additional resources are available online at diabetes.org/employmentdiscrimination.

In addition to sample forms and letters, you can find more information on specific diabetes issues, including:

- Reasonable accommodations
- Safety issues
- Termination or adverse action issues
- Commercial driving and diabetes
- Resources for employers