



Embargoed for release until Noon Pacific time, August 8, 2007

CHILDREN WITH DIABETES WIN ASSURANCE OF LEGALLY-REQUIRED SERVICES AT SCHOOL

California Department of Education & American Diabetes Association Announce Agreement on In-School Care for Such Students

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(August 8, 2007, Oakland, CA) – State Superintendent of Public Instruction Jack O’Connell joined representatives of the American Diabetes Association (ADA) today to announce a landmark agreement that ensures California students who are classified as disabled because of diabetes will be safe at school and enjoy the same legally-required educational opportunities as their peers. The agreement clarifies the rights of eligible students with diabetes in every school district throughout the state.

“Through this cooperative agreement with the ADA, the CDE is committed to ensuring that all children with diabetes in California schools have access to legally required care during the school day,” O’Connell said. “A lack of resources, uncertainty about how services are best delivered, and lack of clarity about state and federal requirements have in some instances caused hardship to parents of children with diabetes. No parent should have to put a job at risk in order to administer legally-required diabetes treatment to their child during the school day.”

The announcement brings to an end litigation, filed by four families and the American Diabetes Association in federal district court in San Francisco, alleging that some California school districts were not providing insulin administration and other services to students with diabetes-related disabilities who were legally entitled to them while at school.

Under the agreement, each local education agency (LEA) will manage the delivery of this care in the best possible way for those students whose Individualized Education Programs or 504 Plans require administration of insulin and related services during the school day. The CDE will issue a Legal Advisory to all California school districts providing guidance on health care services for students with diabetes and outlining the rights of these students under federal anti-discrimination and special education statutes—Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA), and the Individuals with Disabilities Education Act (IDEA). The Advisory explicitly states that school districts have an obligation to provide insulin administration and related services to eligible students who need the assistance.

According to the California Department of Education, state law permits seven categories of individuals to administer insulin to students at school, including school nurses or other health care professionals, a self-administering student, and family members and friends (a complete list may be found in the Legal Advisory). The agreement provides that when school nurses or other school health care professionals are not available a school employee who is unlicensed and who has been adequately trained may administer insulin pursuant to the student's treating physician's orders.

"While provision of these services by licensed professionals is preferable," O'Connell said, "given the lack of nurses in many California schools, it may not always be possible for a licensed professional to meet those needs. This agreement spells out a school district's obligation to train other qualified personnel to provide the services and support that students with diabetes are legally entitled to receive in order to attend and succeed in a public school setting."

The lawsuit was filed as a class action in October 2005 against the CDE and two Bay Area school districts (San Ramon Valley Unified and Fremont Unified), under federal disability civil rights and special education laws. Each district has entered into a separate agreement with the plaintiffs that details the care that it will provide to its students with diabetes.

"This settlement is a tremendous breakthrough for students with diabetes in California and nationwide," said Larisa Cummings, an attorney with the Disability Rights Education and Defense Fund (DREDF), a public interest law and policy center that,

along with the law firm Reed Smith LLP, represented the children and the ADA in this matter. “The CDE is setting the standard in California for ensuring that children with diabetes receive the assistance and services they need.”

The Legal Advisory will remind districts that policies limiting the type or location of diabetes care to be provided to students, without considering the individual needs of each student, violate the law. For example, policies that ban blood glucose testing in the classroom or that automatically place students needing assistance with diabetes care in a particular school are not permitted. A copy of the Legal Advisory can be found on the California Department of Education Website at <http://www.cde.ca.gov/ls/he/hn/diabetesmgmt.asp> and at the DREDF website at [http://www.dredf.org/advocacy/CDE Legal Advisory on Rights of Students with Diabetes.pdf](http://www.dredf.org/advocacy/CDE%20Legal%20Advisory%20on%20Rights%20of%20Students%20with%20Diabetes.pdf)

The San Ramon Valley Unified School District recently adopted an approach that involves training school employees to administer insulin and perform other diabetes care tasks -- adopting procedures and forms that plaintiffs hope will serve as models for districts around the state and nation.

DREDF attorneys included Arlene Mayerson and Larisa Cummings. The pro bono team of attorneys from the Oakland and San Francisco offices of Reed Smith included James M. Wood, Kenneth J. Philpot, Michael F. McCabe, Kurt Kearn, Julia Butler, Roxanne Garibay, James Heffner, Tita Bell, Kendra Jue and Kristen Soetebier. The Reed Smith team donated more than \$2.6 million worth of pro bono legal services to the case.

“This agreement changes the landscape for children with diabetes and helps ensure that they receive the assistance they need from school personnel so they can take part in all educational programs,” said Mr. Wood. “It is truly amazing the level of change that can be effected when the legal expertise of a national disability rights organization like DREDF, the medical and policy expertise of the ADA and the pro bono resources and power of an international law firm are applied to a critical public policy issue.”

Parents of children with diabetes throughout California hailed today’s announcement as an important step forward.

“This favorable outcome is a tremendous victory -- not just for students who have diabetes and their families, but for schools themselves. Clarifying responsibilities is a major step towards facilitating better communication between schools and parents and very simply providing kids both with what they need and are entitled to have,” said Laura (Lahle) Wolfe, parent of Elizabeth Ehrlich of Upland, California. Elizabeth’s parents removed her from the Upland Unified School District because they believed the district was not providing her with adequate diabetes care services.

“This is a significant achievement in the national effort toward improving the health of children with diabetes who must have the ability to control their blood glucose levels during the many hours spent at school and in school-related activities,” said Ann Albright, PhD, RD, and President, Health Care & Education of the American Diabetes Association. Dr. Albright, who has great expertise on this issue from her experience as the former Chief of the California Diabetes Prevention and Control Program, added, “The support of school nurses and other trained adults in school settings is essential to these children’s day-to-day health and their longer-term survival. We hope other states will look to this model agreement with the CDE in improving their efforts in diabetes care.”

About the American Diabetes Association (ADA)

The American Diabetes Association is the nation’s leading voluntary health organization supporting diabetes research, information and advocacy. The Association’s advocacy efforts include helping to combat discrimination against people with diabetes; advocating for the increase of federal diabetes research and programs; and improved access to, and quality of, healthcare for people with diabetes. Founded in 1940, the Association’s mission is to prevent and cure diabetes and to improve the lives of all people affected by diabetes. In 2004, the ADA launched its "Safe at School" campaign, a multi-faceted effort to ensure that all students with diabetes are medically safe at school and have the same access to educational opportunities as their peers. The Campaign is supported by the medical and scientific expertise of the ADA and the energy and commitment of its top volunteer leaders and grassroots advocates.

About Disability Rights Education and Defense Fund, Inc. (DREDF)

Founded in 1979 by people with disabilities and parents of children with disabilities, the Disability Rights Education and Defense Fund, Inc. (DREDF) is a national law and policy center dedicated to protecting and advancing the civil rights of people with disabilities through legislation, litigation, advocacy, technical assistance, and education and training of attorneys, advocates, persons with disabilities, and parents of children with disabilities. DREDF is a Parent Training and Information Center under IDEA as well as a Community Parent Resource Center for Foster Children with Disabilities.

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