

Appendix L: Sample ADA/FMLA Letters

Sample A: ADA Letter

Ms. President and CEO
Any Street, Any Town
Anywhere, USA

RE: *Employee*

Dear Ms. President and CEO:

I have been retained by Employee, whose employment with Employer was severed by letter dated February 3, 2005.

As you know, Employee joined Employer in October 2004. Unfortunately, he became ill and required surgery on an emergency basis on October 29, 2004. Employee expected to return to work on December 2, 2004; in fact he did so. This was after you wrote him a November 28, 2004 letter explaining what you believed to be Employee's leadership role in strategic business development moving into the future.

On November 29, 2004, when Employee returned to work, he came to you and told you that he would require additional surgery in the coming year. He was not obligated by law or contract to do so. He gave you this information far in advance as a courtesy, because he is a responsible employee and wanted Employer to have plenty of time to schedule around his additional surgery. He even went so far as to offer to accept a reduction in pay as a result of his illness – something he certainly was not obligated to do.

Your first, and clearly correct, response was to discuss how Employee could continue to meet his obligations to Employer despite his illness. *Stephenson v. United Airlines, Inc.*, 2001 WESTLAW 580459 (9th Cir. 2001) (Americans with Disabilities Act ("ADA") requires employer and employee to engage in interactive process to fashion accommodation). In your November 28 letter, you already indicated that supervision of IT staff had been delegated to Someone, and that Employee's "position will not entail any operational responsibilities for the programs of the Group." Thus, since Employee has no direct supervisory responsibilities, much of his work could be done at home. Employee's disclosure of the need for additional surgery, coupled with an offer to accept a lower salary and a reasonable request that he be permitted to work from home part-time after surgery, is precisely the interaction that the Americans with Disabilities Act requires.

Yet, instead of pursuing your initial response to learning that Employee would require additional surgery by continuing to discuss ways in which Employer might adjust during a period of recuperation, late in the day on [date], in a conference call with Employee and Witness, you informed Employee that his employment was to be

terminated due to his need for additional surgery. This was followed by your letter dated [date]. Based on your “welcome back” letter, as well as your express statements during the conference call and the timing of the termination, it is clear that Employee’s employment was terminated because he expects to have additional surgery. Nothing else happened that could have led to Employee’s termination.

I should not be required to recite the law to you; what you did is so obviously illegal as to require little discussion. Employee is a person with a disability who is able to perform the essential functions of his job with minor accommodation, such as working from home on a part-time basis after a major surgery. An employer has an obligation to discuss possible accommodations. *Stopka v. Alliance of American Insurers*, 1996 WESTLAW 717459 (N.D. Ill. 1996) (employer is required to discuss accommodations with patient with inflammatory bowel disease). He is not asking for paid leave to which he is not entitled, nor is there any indication at all that he will not be able to do his job once his surgeries are behind him. Employer wooed Employee away from his previous job by actively soliciting him. Now, Employer seems to think that two weeks’ severance is sufficient compensation for a blatant violation of the ADA and other laws.

Employee believes that he is entitled to compensatory damages for both back and front pay, until Employee finds other employment. We will expect to hear from you by the end of the month. If we have not heard from you at that time, we will pursue Employee’s other remedies.

Thank you.

Sincerely,

Patient or Attorney

Sample B: FMLA Letter

Mr. John Doe
President
ABC Company, Inc.
Anywhere, USA

RE: Patient X

Dear Mr. Doe:

I have been retained by Patient X regarding the termination of her employment, in an effort to reach a resolution short of litigation.

As you know, Ms. X was the Supervisor at ABC Co. ("ABC Co."), where she worked from 1997 until her termination last August in the midst of a Family and Medical Leave on the ground of "failure to provide requested information." Ms. X started as an LPN case manager at a salary of \$27,000 per year, and rose through the ranks to the position she held when she was fired, earning \$52,500 plus bonus per year. In addition, she had health insurance and other benefits through ABC Co. ABC Co. self-insures the health insurance benefits.

ABC Co. employs far more than 50 people. According to Ms. X, you employ 80-100 people in the office, with other offices across the Eastern seaboard.

Medical Reports

Ms. X was diagnosed with ulcerative colitis ("UC"), a form of inflammatory bowel disease ("IBD") in 2003. Her disease was found in her sigmoid colon, rectum, and cecum. Beginning in May 2004, Ms. X had the first real flare of her disease. As her doctor's notes indicate, Ms. X noted that she was under significant stress at work, and began to notice bleeding as well as severe diarrhea, as well as joint pain, which is a common secondary effect of IBD. Her doctor in fact advised her on June 29, 2004 to take a leave of absence from work.

Dr. K's June 29, 2004 note to Patient at ABC Co. documented the severity of Ms. X's ulcerative colitis at the time, and indicated that she required a temporary disability leave. Dr. K's note indicates that he believed a three-month leave would be necessary "in order to allow her colon to appropriately improve." On July 9, 2004, Dr. K again wrote again asking that Ms. X be permitted a three-month leave of absence, from May 24, 2004 to August 24, 2004 in an effort to keep her in a stress-free environment in an effort to resolve her flare without surgery. As you know, Ms. X did not begin her leave in May, when her doctor would have liked her to, but instead stuck it out until the end of June, further demonstrating her commitment to ABC Co. Dr. K's projection was correct; by the time of her discharge, Ms. X reports that she was ready to return to work on August 24, as Dr. K had predicted.

Contacts with ABC Co.

In a letter dated June 29, 2004 – the same date as Dr. K's first letter to Patient X – Patient X wrote Ms. Supervisor to advise her of her rights under the Family and Medical Leave Act ("FMLA"), tacitly acknowledging that the FMLA does apply here. Ms. X was directed to make a written request for leave to her manager, Supervisor. Patient correctly noted that, when the leave is not foreseeable, the employee's obligation is to give as much notice as practicable. Ms. X received this letter on July 5, 2004, and wrote Supervisor on that date requesting FMLA leave for 12 weeks, as set forth in Dr. K's letter to Patient. Ms. X noted that she would comply with all FMLA requirements, including communicating with Supervisor at least every 30 days. She also indicated that she intended to return to ABC Co.

However, ABC Co. did not wait for further updates. Instead, Ms. H sent Ms. X a termination letter dated August 3, 2004, alleging the following:

Your failure to respond to previous requests for information was grounds for employment termination, but we wanted to give you this additional opportunity to qualify for benefits. In any event, in accordance with our company policy, because of your extended absence from work and because you may qualify for long term disability, you no longer will be an employee of ABC Co. Company as of [the date disability benefits expire].

First, Ms. X did not receive any prior request for information, as Ms. X told ABC immediately upon receipt of this letter. It is impossible for Ms. X to respond to this alleged failure to respond to a request for information when she does not know what it was and when or where it was sent, although it is worth noting that Ms. H used an incorrect zip code, which might explain some of the problem. By letter dated [date], ABC disputed the “assertions” made by Ms. X in response to her termination letter, but did not see fit to explain what prior request(s) for information she was referring to in her earlier letter.

Second, and far more significantly for legal purposes, ABC was quite clear – the ground for Ms. X’s termination was her absence from the workplace and the possibility that she might be eligible for long term disability. This termination occurred while Ms. X was out on FMLA leave. Ms. X had complied with all FMLA requirements, including submitting two notes from her treating physician, following the Company’s procedure for requesting FMLA leave, as outlined in Patient X’s letter, by requesting FMLA leave in writing as soon as she became aware that it would be necessary, pursuant to her doctor’s advice. She maintained contact with ABC Co. every 30 days. In short, she was fired for being absent during a FMLA leave. I trust that you and your Company – experts in employee benefits – know that this is patently illegal. *See* 29 U.S.C. § 2615 (a)(1) (“It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this subchapter”).

ABC Co. Policy

Like most large employers, ABC Co. maintains an employee manual. In it, the Company states the following:

It is the policy of the Company to terminate employment because of an employee’s resignation, retirement, reduction in the work force, employee misconduct or unsatisfactory job performance.

ABC Co. Employee Manual § 1234 (hereinafter “Manual”). None of those reasons is present here.

The Manual contains a section on the FMLA. In particular, the Manual defines a "serious health condition" to include "an absence or incapacity of more than three days during which there is continuing treatment by or under the supervision of a health care provider; or continuing treatment by or under the supervision of a health care provider for a chronic or long term health condition" Manual at § 4321. This language is almost identical to the FMLA itself. The Manual continues to set forth the requirements for taking FMLA leave: a written leave request; a medical certification; and contact with ABC Co. no less than every 30 days. Ms. X followed these requirements to the letter.

The critical Manual language is the following:

At the end of an FMLA leave, unless the employee cannot perform the essential functions of the job, the employee will be restored to the position held when the leave began, or to an equivalent position, with equivalent employment benefits, pay (plus any unconditional pay increases which may have occurred during the employee's leave), and other terms and conditions of employment.

In this instance, ABC Co. did not comply with either the FMLA or its own policies. As a matter of law, ABC Co.'s Manual becomes part of the employment contract, so even in the absence of a governing federal law, ABC Co. would have breached the employment contract with Ms. X. Thus, the above sections of the Manual, as well as the provision requiring ABC Co. to conduct an exit interview, continuation of health insurance benefits, and other policies all should have applied, but were not followed. ABC Co. even terminated Ms. X's health insurance immediately upon her termination, only correcting this glaring error when Ms. X protested.

Analysis and Conclusions

This is about as clear a case of violation of the FMLA that one can imagine. The employee starts the FMLA leave, having provided a written leave request, a medical certification, and regular contact with the office. In the middle of the leave, solely because of the leave and the possibility – perhaps unfounded – that Ms. X could be eligible for long-term disability, she is fired. ABC Co. did not even try to hide its real reasoning when terminating Ms. X. It terminated her because she availed herself of her rights under the FMLA.

Frankly, it doesn't take much in the way of legal analysis to know that what ABC Co. did in this instance violates the FMLA. The alleged "failure to respond" to requests for information remains unexplained and, thus, appears to be pretextual, at best. What is blatantly clear is that one of the most significant factors in ABC Co.'s decision to terminate Ms. X is her "extended absence from work." This is stated, explicitly, as a ground for termination. This astounding candor makes a lawyer's job very easy. ABC Co. terminated Ms. X because she took a FMLA leave.

The only other rationale stated by ABC Co. is the possibility that Ms. X would qualify for long-term disability. At best, all this does is shift the legal violation from the FMLA to the Americans With Disabilities Act. Employers cannot fire people – especially people out on FMLA leave, who have stated an intent to return to work at the expiration of their leave, like Ms. X – solely because of conjecture, which may or may not prove true, regarding her eligibility for long-term disability benefits. If, at the end of her FMLA leave, Ms. X had been unable to return to work and was applying for long-term disability, ABC Co. would not have had to terminate Ms. X's employment; she would have had to resign. She knew that if she could not return to work at the end of the FMLA leave, she could not expect ABC Co. to wait any longer for her return to work. However, not only did Ms. X always intend to return to work, but she feels that she would have been able to do so in that her condition was improving during her leave, at least until this illegal termination greatly increased her stress.

ABC Co. did not wait to see if Ms. X was well enough to return to work. It did not avail itself of the option of having Ms. X's condition assessed by another physician. It did not notify Ms. X that the request for FMLA leave was not granted. It did nothing whatsoever to justify its conduct. Even if, for the sake of argument, one assumes that ABC Co. acted at all times in good faith, and that it did not intentionally violate the law, it is fair to say that this matter was handled horribly, erroneously, and regrettably. And it is fair to provide Ms. X with a remedy.

Under the FMLA, the measure of damages can be lost wages, or actual monetary losses sustained by the employee, plus interest. 29 U.S.C. § 2617. That is the remedy for good faith violations. An additional amount is awarded in cases in which there is no reasonable ground for believing that the act or omission was not a violation of law, such as when a company that specializes in employee benefits, which has an employee manual that explains the employee's rights under the FMLA, fires the employee in the middle of an FMLA leave.

In addition, Ms. X has been prohibited from getting her personal belongings from ABC Co. She has been told that the police will be called, and ABC Co. will press trespassing charges, if she walks onto the premises – a position that seems unduly punitive in a situation in which the employee has not committed any wrongdoing. ABC Co. refuses to ship her belongings to Ms. X, or to allow anybody else to pick them up for her. Clearly, this must be remedied.

Finally, Ms. X has been told by employees and vendors of ABC Co. that ABC Co. has been informing other potential employers that she is chronically ill and may never work again, and that she has “mental problems.” This stops now or litigation will be inevitable.

However, Ms. X still wishes to avoid litigation. She has not (at least yet) been granted long-term disability coverage, and has had no source of income since being fired. She has had to pay for her continuation health insurance, and to suffer great stress as a result of ABC Co.'s actions. Since the violation of law is so clear here, it is my hope, and

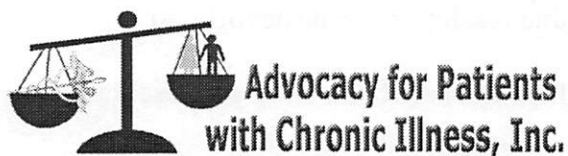
Ms. X's, that we will be able to negotiate a reasonable severance for an employee who gave ABC Co. more than seven years of her life. If ABC Co. shares this goal, I am confident that a reasonable resolution can be negotiated.

I will expect to hear from ABC Co. or its representative no later than October 31, 2004. Thank you.

Sincerely,

Patient or Attorney

Appendix M: Template Section 504 Plan



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Suite 306
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(860) 674-1370 (phone)
(860) 404-5127 (fax)
www.advocacyforpatients.org
patient_advocate@sbcglobal.net**

Template Section 504 Plan for Children with Inflammatory Bowel Disease

The following was written by two psychologists, a social worker, and Advocacy for Patients with Chronic Illness, Inc., all of whom specialize in chronic illness. It is intended to include absolutely anything and everything that a child with IBD might encounter at school. It is not intended that all of this plan will apply to any one child; you can pick and choose the parts of it that apply to your child.

Although this template focuses on IBD, it can be tailored to any chronic illness.

Section 504 Plan for _____
School _____
School Year _____

Nature of the Disability

This student has a form of Inflammatory Bowel Disease ("IBD") called _____ (Crohn's disease or ulcerative colitis). IBD is a chronic disease affecting the intestines. Ulcerative colitis affects the colon; Crohn's disease can affect any part of the digestive track, from the mouth to the anus. The most common symptoms are diarrhea, abdominal and rectal pain and cramping, nausea, vomiting, fatigue, and arthritis-like joint pain. Although its cause is unknown, IBD involves the immune system and causes inflammation and ulceration of the lining of the intestines. The emotional and physical pieces are interrelated in complex ways, and patients can experience flare-ups during times of emotional tension and stress. Changes in cognitive function including compromised attention and concentration, reduced capacity to process information, disruptions in memory and reduced ability to multitask are also manifestations of this disease. Changes in physiological functioning of the gastrointestinal tract characteristic of this disease can be exacerbated during period of environmental and/or psychological stress. The stress in/and of itself does not cause the disease.

Treatments can include immuno-suppressant drugs that render patients more susceptible to illness and intensify reductions in neurocognitive functioning described above. Patients may be on a restricted diet; may need to eat several small meals per day; and most likely will need to take medication during the school day. Some treatments are provided intravenously in the outpatient hospital setting that may cause a student to miss multiple days of school.

Although surgery is avoided to the extent possible, students affected by IBD may require surgery, including surgical revisions of the digestive track, such as ileostomy and colostomy. Such procedures involve a small piece of the intestine (the stoma) being pulled through the skin and a pouch worn outside of the abdomen to collect waste. Other surgical alternatives create a pouch inside the abdomen. Both procedures require students to have access to a bathroom facility to empty their pouches, and to clean themselves as needed.

Students with surgical resections of the intestines may suffer from the lack of a normal length of intestine, especially when part of the small intestine has been removed. These students may suffer particularly bad diarrhea and altered bowel demands, again necessitating easy access to the bathroom.

Students with IBD tend to be over-achievers or “type-A” personalities and work extremely hard to compensate for their illness and its effects on daily functioning.

Students with active IBD will need to use the bathroom several times a day – sometimes as many as 20 – often on a moment’s notice in order to avoid fecal incontinence. Incontinence still may occur, and students who suffer this symptom will need to be able to clean themselves and change clothes during the school day. IBD is a chronic illness that is cyclical; patients can face associated gastrointestinal symptoms in a recurrent pattern, with periods of symptom inactivity in between active flare-ups and complications. Symptoms may worsen in an unpredictable manner and conversely, may go into remission for varying lengths of time. Medications can help manage the discomfort and inflammation, but are not cures for IBD.

Introduction to the Plan

This is a Plan developed under Section 504 of the Rehabilitation Act of 1973 (“Section 504”), the Americans with Disabilities Act (“ADA”), and the Individuals with Disabilities Education Act (“IDEA”) to identify the health care-related needs of the student, as well as services and accommodations to be provided to the student.

_____ shall be the point person at the school for purposes of carrying out the provisions of this Plan. This person shall be known as the Plan Coordinator. The Plan Coordinator will educate him/herself about the nature of IBD, the treatments the student is receiving, the side-effects of the treatments, and the student’s particular symptoms and needs. In addition, the Plan Coordinator shall be responsible for

ensuring that the provisions of this Plan are carried out and he/she shall be the liaison between the student, his/her family and the school personnel.

For purposes of this Plan, _____ (the student) is a person with a disability under Section 504 and the ADA. He/she is significantly impaired in performance of the major life activity of disposing of bodily waste.

The purpose of this Plan is to maintain the student's optimal participation in his/her academic curriculum and educational goals, aid in the management of his/her illness, and reduce the student's stress. This Plan overrides any written or verbal policies established in this School District that may conflict with the Plan in any way.

Any and all communications pursuant to this Plan shall be in writing. Email and facsimile shall be accepted forms of written communication.

The Plan Coordinator and Due Process Rights

The Plan Coordinator shall provide each of the student's teachers, including substitute teachers, with a copy of this Plan, and shall instruct them to comply with the terms of this Plan.

If the Plan Coordinator is unable to obtain compliance with this Plan by any teacher or other school personnel, he or she shall notify the School Principal immediately, and shall recommend an action plan, including but not limited to discipline of non-compliant teachers if necessary. School Principal shall respond to each such communication from the Plan Coordinator within one (1) school day, and shall accept the Plan Coordinator's recommended action plan unless there is good cause for declining to do so. "Good cause" shall not include fiscal considerations.

If the School Principal declines to adopt any element or portion of the recommended action plan, he or she shall put his or her reasons in writing within one (1) school day of receipt of the recommended action plan, and this writing shall be sent to the parent(s) or legal guardian and the Plan Coordinator. In addition, the School Principal shall provide a copy of both this Plan and the writing referred to in this paragraph to an official of the School District who, at minimum, has authority to institute corrective measures on the District's behalf.

Both the parent(s) or legal guardian and the Plan Coordinator shall have the authority to request a due process hearing if the School Principal declines to accept the Plan Coordinator's action plan. This hearing shall be presided over by three members of the School District who are not in any way subordinate to the School Principal or Plan Coordinator. This hearing shall be in addition to, not instead of, any due process rights students and their parent(s) or legal guardian have under the ADA, Section 504, and/or the IDEA.

The Student's Symptoms and Needs

_____ (the student) has the following symptoms and needs, which may change over time:

- _____ Diarrhea (estimated ____ bathroom trips per day)
- _____ Pain and cramping (rated a ____ out of 10, with 10 being the worst)
- _____ Fatigue
- _____ Nausea
- _____ Vomiting (estimated ____ times per day)
- _____ Student has had surgery (____ times)
- _____ Student has an ostomy or other surgical revision of the digestive track
- _____ Student takes medication during the school day
- _____ List medications and dosages here:

_____ Student has dietary restrictions
Explain here: _____

- _____ Student receives treatments/office visits that require absences from school
Frequency: every ____ weeks
Expected duration of absence: ____ days per treatment
- _____ Student requires school staff assistance with:
 - _____ medication
 - _____ dietary needs
 - _____ ostomy or other pouch emptying and cleaning
 - _____ Other (specify): _____

_____ Student needs to maintain a change of clothing at school and may need privacy to clean him/herself and change clothes

_____ Side effects of student's particular medications may cause/impact:

- _____ Headaches
- _____ Difficulty focusing, concentrating, sustaining attention
- _____ Hand/Limb tingling or tremors
- _____ Other (specify): _____

_____ Other (explain): _____

Accommodations (select as necessary)

1. The student will be provided with a written “any time” bathroom pass and shall be permitted to use the bathroom, without accompaniment by either school personnel or a student “buddy,” at any time, without asking permission, and without penalty.
2. The Plan Coordinator shall walk the student through the school at the inception of this Plan to identify which bathroom facility the student will use when in each class. If a student bathroom is not immediately available, the Plan Coordinator will identify a bathroom closest to the door of the classroom, or a more private bathroom if available, such as in the nurse’s office or a staff bathroom. This will help to reduce anticipatory anxiety during times of active flare-ups related to the socially embarrassing nature of some of the IBD symptoms. If school bathrooms are locked for security reasons, the student will have access to a key to other bathrooms closer to the student’s classroom.
3. The school nurse will provide the student with a place to lie down if necessary during the school day. Children will be allowed to store a change of clothing in the nurse’s office.
4. The student will be permitted to carry a small bag or knapsack throughout the day, which may be subject to inspection, for immediate access to sanitary products to clean him/herself, snacks, a change of clothing, medication (if the student is self-administering medication), and other items necessitated by IBD.
5. The student will be permitted to carry and drink water, eat small meals, candy (to treat dry mouth), or snacks throughout the day in or out of class, as the student deems necessary or appropriate.
6. The student will be permitted to administer his/her own medications in school. If for medical reasons the student is not permitted to administer his/her own medications, the medications will be left with the school nurse, who will administer them to the student at times consistent with prescribing instructions. If the school nurse requires training in administration of the student’s medication, the Plan Coordinator shall ensure that the school nurse receives such training within ten business days of the date of this Plan.
7. There will be “stop the clock testing.” “Stop the clock testing” means that, when the student is taking an exam, if he/she needs a bathroom break or a break due to pain, the time for completing the test will be extended by the amount of time the student spends away from the testing room. This accommodation shall be provided without penalty, and shall apply to all tests including but not limited to State Standardized Testing and course exams.
8. If, because of his/her IBD symptoms or medical treatments, the student is unable to take an exam or submit a major project on a given day, the exam or major project deadline will be rescheduled. Cumulative term grades will not be determined until the

student has had opportunity to take the make-up exam or complete the major project. This accommodation shall be provided without penalty, and shall apply to State Standardized Testing as well as course exams, term papers and projects.

9. The student shall not be required to take more than one major test per day. The Plan Coordinator will be advised of all planned exams by the student's teachers. If an exam needs to be rescheduled, the Plan Coordinator will make the necessary arrangement with the teachers. Brief quizzes may be given without prior notice to the Plan Coordinator. A "brief quiz" shall be defined as a quiz that will take thirty (30) minutes or less to complete. "Stop the clock testing" will apply to all brief quizzes. This accommodation shall be provided without penalty, and shall apply to State Standardized Testing as well as course exams.
10. Only one major project shall be due on any given date. The Plan Coordinator will be advised by the student's teachers of all planned major projects. If a major project needs to be rescheduled, the Plan Coordinator will make the necessary arrangement with the teachers. "Major projects" are defined as those that are assigned more than one week before they are due. If the student is unable to meet a deadline on any project due to anything related to his/her IBD symptoms and treatment requirements, the project deadline will be rescheduled. This accommodation shall be provided without penalty.
11. The student will be given assistance to help him/her make up any classroom time missed due to the student's IBD, as set forth below. If the student is absent from school for more than one day, or if the absence is planned, the student's parent(s) or legal guardian shall notify the Plan Coordinator. The Plan Coordinator shall ensure that (a) each teacher provide the student with an updated syllabus, lesson plans, copies of all visual aids, and written homework assignments within 48 hours of when they were presented to the class so that the student can keep up with reading and some school work while absent; (b) each teacher shall ensure that a note-taker in each class who is acceptable to the student will take notes for the student when he/she is absent, and that note-taker has permission to photocopy notes on days when the student is absent, or on days when the student is present, but unable to take notes due to difficulty concentrating or writing, or when the student is out of the classroom to take care of medical or bathroom needs; (c) on his/her return to school, the student shall meet with the Plan Coordinator, who will assist him/her to schedule make-up tests and assignments; and (d) assist the student to prioritize the work that was missed due to absence. The Plan Coordinator shall make arrangements to ensure that all written materials, including homework assignments, class notes, syllabi, lesson plans, and visual aids are obtained by the student each day, either by providing them to the parent(s) or legal guardian to be picked up, sending them home with a sibling or neighbor who attends the same school, or other method assured to result in daily delivery of the written materials mentioned above. Any and all make-up work shall be designed to show the student's competence in the subject area; quality rather than quantity of the make-up work shall be emphasized. A teacher shall have the right to waive, modify, substitute or amend assignments so as to facilitate the student's ability to catch up on missed work. This accommodation shall be provided without penalty.

12. If the student is absent from school for an extended period of time (i.e., more than 7 consecutive school days), the Plan Coordinator shall determine whether the student is physically well enough to receive in-home or hospital tutoring. If he/she is physically well enough, such in-home or hospital tutoring shall be provided at the school's expense, beginning within 48 hours of the determination that such tutoring is appropriate, in the subjects that the student is currently studying, by tutors who are knowledgeable in the subjects that the student is currently studying. If in-home tutoring is not appropriate, or if the absence is for fewer than 7 consecutive school days, upon the student's or parent's or legal guardian's request, the Plan Coordinator shall determine whether the student requires extra help to make up missed work and, if so, shall coordinate with the teacher(s) to ensure that in-school tutoring is provided as necessary. If in-home or hospital tutoring is appropriate, the school shall provide a sufficient number of hours a day of tutoring so as to keep the student current in his/her classes and assignments. Teachers shall accept any and all work performed under the supervision of a tutor as if it were done at the teacher's instruction. Work performed under the supervision of the tutor shall be designed to keep the student current in his or her assignments. Any and all assignments shall be designed to show the student's competence in the subject area; quality rather than quantity of the work shall be emphasized. This accommodation shall be provided without penalty.
13. The student will not be penalized for tardiness or absences required for medical appointments and/or illness. If the school gives an award for perfect attendance, the student will remain eligible for that award if his/her only absences are due to medical appointments and/or treatment. If the student is tardy, he/she will be permitted to participate in school for that portion of the day for which he/she is in attendance.
14. The student will be permitted to have and store extra sets of relevant books at home or on various levels of the school, so the student does not need to carry heavy books back and forth, or around to all classes for the length of the school day. This may be relevant if disease activity impacts bone density, or the student's weight or causes fatigue. Where available, the student will be permitted to use school's elevator to get to classes held on various levels of the school in a timely fashion.
15. The student will be permitted to participate in all field trips and extracurricular activities without restriction and with all accommodations and modifications set forth in this Plan. When outside of the school building, the supervising school personnel will identify for the student the location of bathroom facilities. A parent or legal guardian or someone designated by the parent or legal guardian may drive the student to the field trip or extracurricular activity location if it takes more than a half-hour to arrive at the location so that the student can stop for bathroom breaks.
16. The student should be permitted to self-monitor his/her energy level and fatigue during gym class to determine if he/she feels capable of participating in a given physical education unit. If there is ongoing non-participation in gym class due to fatigue or other physical symptoms, the physical education teacher shall notify the Plan Coordinator, who shall notify the student and his/her parent(s) or legal guardian. The Plan Coordinator shall inform the student and parent(s) or legal guardian, who

shall be responsible for seeking medical care, and medical verification of contraindication of physical exertion. This accommodation shall be provided without penalty.

17. The student will be encouraged to engage fully in all school activities, and will not be discouraged from taking medication on time, eating snacks on time, complying with all dietary restrictions, taking bathroom breaks, or any of the other accommodations set forth above. All of the provisions of this Plan shall be provided without penalty to the student.
18. Alternate seating must be available to the student for easy access to the classroom door to facilitate bathroom breaks and reduce anticipatory anxiety. The student may alter location in classroom seating charts, as well, if a neighboring student has or appears to have a communicable illness.
19. The school shall notify the student or his/her parent(s) or legal guardian of an outbreak of chicken pox or other infectious disease as to which the student is at a greater risk due either to IBD or immuno-suppressant medication.
20. The student shall be permitted to carry a cellular telephone, and be allowed to use it in an emergency that precludes the student from reaching a school telephone to contact his or her parent(s) or legal guardian.
21. Any teacher or other school personnel having questions about this Plan shall raise those questions with the Plan Coordinator. If the Plan Coordinator believes that there are concerns that are not addressed in this Plan, the Plan Coordinator shall notify the parent(s) or legal guardian and schedule a meeting that shall include the parent(s) or legal guardian and the student.
22. Academic accommodations necessitated by changes in cognitive functioning due to IBD symptoms/diagnosis must be addressed and considered separately on a case-by-case basis.

Emergency Contacts

In case of a medical emergency, school personnel will notify the Plan Coordinator, who will call _____ at the following telephone number(s):

Home: _____

Work: _____

Cell: _____

Other: _____

Signed: _____

Parent or Legal Guardian

Plan Coordinator

Parent or Legal Guardian

School Principal

School Nurse

Student (if able to understand
considerations)