



Section 504 Protections for Students with Epilepsy

Section 504 of the Rehabilitation Act of 1973 is a Federal civil rights law that protects students from disability-based discrimination in schools (including preschools, K-12 schools, colleges, universities, and other postsecondary institutions) that receive Federal financial assistance.

Under Section 504, a student with epilepsy can be a student with a disability for purposes of Section 504 if the student's epilepsy substantially limits one or more of the student's major life activities. [34 C.F.R. § 104.3\(i\)\(1\)\(i\)](#).

What is epilepsy?

According to the [National Institute of Neurological Disorders and Stroke](#), epilepsy is a chronic brain disorder in which groups of nerve cells in the brain sometimes send the wrong signals and cause seizures. For some, these seizures may cause loss of consciousness, falls, or convulsions (muscles contract repeatedly). For others, the person remains conscious during the seizure but may experience involuntary movements, sensations, emotions, and/or behaviors. Some people recover immediately after a seizure, while others may take minutes to hours to feel like themselves again. During this time, they may feel tired, sleepy, weak, or confused. A person's memory may also be affected by a seizure.

The Office for Civil Rights (OCR) enforces Section 504 against entities that receive Federal financial assistance from the Department of Education.

In addition to the rights and obligations discussed in this fact sheet, a child with a disability attending a public K-12 school may have additional rights under Section 504 (such as the right to a free appropriate public education ([34 C.F.R. § 104.33](#))) and the Individuals with Disabilities Education Act. Parents also may have additional rights under those statutes and their implementing regulations.

OCR also shares in the enforcement of Title II of the Americans with Disabilities Act (ADA) with the Department of Justice (DOJ), and DOJ enforces Title III of the ADA. Both Title II and Title III can also apply to schools. For information, see DOJ's ADA home page at www.ada.gov or contact DOJ at 1-800-514-0301, 1-833-610-1264 (TTY).

Can a student with epilepsy have a disability under Section 504?

Yes. A student with epilepsy has a disability if their epilepsy substantially limits one or more of their major life activities.

According to the Department of Justice, epilepsy will, in virtually all cases, substantially limit normal neurological function, [28 C.F.R. § 35.108\(d\)\(2\)\(iii\)\(I\)](#), which is a major bodily function and therefore a major life activity under Section 504. [29 U.S.C. § 705\(2\)\(B\)](#) (incorporating [42 U.S.C. § 12102\(2\)\(B\)](#)).

Epilepsy can also affect an individual's walking, learning, concentrating, thinking, and communicating, which are also major life activities under Section 504. [29 U.S.C. § 705\(2\)\(B\)](#) (incorporating [42 U.S.C. § 12102\(2\)\(A\)](#)).

Whether a student has epilepsy can be established by scans and imaging techniques such as an electroencephalogram (EEG), computerized tomography (CT scan), magnetic resonance imaging (MRI), and by blood tests. A school may always accept that a student has a disability without any documentation or medical tests.

Under Section 504, the issue of whether an impairment substantially limits a major life activity should not demand extensive analysis. 29 U.S.C. § 705(20)(B) (incorporating 42 U.S.C. § 12102(4)(B), which incorporates § 2(b)(5) of the findings and purposes of the ADA Amendments Act of 2008).

The term substantially limits must be construed broadly in favor of expansive coverage, to the maximum extent permitted by the statutory language. 29 U.S.C. § 705(20)(B) (incorporating 42 U.S.C. § 12102(4)(A)).

An impairment does not need to prevent, or significantly or severely restrict, an individual from performing a major life activity in order to be considered substantially limiting. It is enough that an impairment substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population. Additionally, an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. 29 U.S.C. § 705(20)(B) (incorporating 42 U.S.C. § 12102(4)(B), which incorporates § 2(a)(7)-(8), (b)(5)-(6) of the findings and purposes of the ADA Amendments Act of 2008, and § 12102(4)(D)).

The beneficial effects of mitigating measures, such as medication, used by an individual, must be disregarded in determining whether an impairment substantially limits a major life activity of an individual. 29 U.S.C. § 705(20)(B) (incorporating 42 U.S.C. § 12102(4)(E)).

How can epilepsy affect a student's experience in school?

Students with epilepsy may:

- be absent from school due to medical appointments, seizures, the side effects of anti-seizure medication, hospitalization, or care at home; and/or
- experience isolation from peers to avoid activities that risk triggering a seizure.

Before a seizure, students with epilepsy may:

- have difficulty concentrating;
- have an ongoing sense of fear or stress about the possibility of a seizure; and/or
- exhibit behavioral problems and/or mental health issues prior to the onset of seizures.

During a seizure, students with epilepsy may:

- lose consciousness, fall, or faint;
- experience a sudden onset of extreme emotions such as joy, sadness, or anger;
- hear, smell, taste, see, or feel things that are not real; and/or
- display repetitive behaviors such as blinks, twisting, jerks, twitches, mouth movements, or walking in a circle.

After a seizure, students with epilepsy may:

- experience an impact on their mental health, including depression and anxiety;
- experience extreme fatigue, nausea, confusion, or headaches, or pain in the muscles that contracted during the seizure; and/or
- experience some degree of memory loss or an inability to concentrate.

What might a school need to do to address a student's epilepsy?

If the student's epilepsy has resulted in the student having a disability under Section 504, that student may require certain modifications (sometimes referred to as accommodations) to meaningfully access or benefit from the school's educational opportunities. [34 C.F.R. §§ 104.4, 104.44](#). This is true even if the student is not substantially limited in the major life activity of learning.

Section 504 may require a school to provide modifications. For example:

- allowing the student to make up work, without penalty, and excusing late arrivals and absences when they miss class due to a medical appointment or when epilepsy-related symptoms or treatment hinder a student's ability to complete their work;
- providing extra time to complete assignments, access to a quiet space for tests, preferred seating, periodic rest breaks, and other modifications that may be necessary for a student who occasionally has difficulty concentrating or has changes in behavior or mood;
- granting periodic requests by students or parents for distance learning or the provision of necessary instructional materials for use at home when epilepsy-related symptoms or treatment intensify, making it difficult for a student to leave home;
- allowing the student who is capable of doing so to carry medication and self-administer the medication at prescribed times or if they sense a seizure may be coming on; for students in an elementary or secondary school setting, ensuring school staff are trained on how to respond appropriately if a student in their classroom has a seizure; and/or
- allowing the student to leave class to visit the school nurse's office to rest following a seizure or to recover from the debilitating effects of anti-seizure medication.

This fact sheet does not comprehensively address the assistance with epilepsy-related medical issues a school may be required to provide. In the elementary and secondary setting, students with epilepsy may also require some additional level of assistance with symptoms like seizures, falling, and loss of consciousness. This assistance could range from assistance only in an emergency to a trained school staff member providing ongoing assistance.

Furthermore, even if a student with epilepsy has a disability but does not need modifications, they would still be protected from discrimination, such as disability-based harassment. For example, Section 504 may require a school to respond to bullying or harassment targeted at students because of their medical condition, or because they are regarded as or have a record of having a disability. [34 C.F.R. § 104.3\(j\)\(1\)\(ii\) & \(iii\)](#). Such bullying or harassment, for example, could be related to a student's absences, seizures, or repetitive facial or other body movements.

What remedies might a school need to provide if the school does not appropriately address a student's epilepsy?

If a school violates the Section 504 rights of a student with epilepsy, the school may be required to, among other things:

- offer the student an opportunity to re-take classes, tests, or assignments with appropriate modifications if needed, and without penalty or negative consequence to the student;
- excuse absences incurred due to epilepsy and the side effects of seizure medication, and correct student records regarding unexcused absences; and/or
- train faculty and staff on how epilepsy may manifest; on addressing peer-to-peer bullying and harassment; and on how living with epilepsy may impact a student physically, psychologically, socially, and academically.

What can be done if a student or parent believes a school is not meeting its obligations under Section 504?

- Section 504 requires schools to develop and implement a system of policies and procedures to address concerns and disagreements that may develop between schools and students. [34 C.F.R. §§ 104.7, 104.36](#). Parents and students may choose to initiate proceedings in keeping with these policies and procedures.
- Students, parents, or others who would like to request technical assistance from the Office for Civil Rights (OCR), or who would like to file a complaint, may do so by contacting the [OCR enforcement office that serves their State](#).

For more information on disability-related issues, please visit OCR's [Disability Discrimination](#) webpage.

To request language access services or resources, which may include oral technical assistance or written translation of Department information, free of charge, contact OCR@ed.gov.

If you need more information about interpretation or translation services, call 1-800-USA-LEARN (1-800-872-5327) (TTY: 1-800-877-8339). To request documents in alternate formats such as Braille or large print, contact the Department at 202-260-0818 or ofe@ed.gov.

This fact sheet does not have the force and effect of law and is not meant to be binding, beyond what is required by statutory and regulatory requirements. All enforcement determinations made by OCR are based on the particular factual circumstances presented in each individual case.