



Section 504 Protections for Students with Migraine

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

What is migraine?

According to the [Department of Health and Human Services](#) and the [National Institute of Neurological Disorders and Stroke](#), migraine is a medical condition commonly characterized by severe headaches, nausea, vomiting, and/or increased sensitivity to light, noise, or odor. Symptoms can also include motor challenges, vertigo, mood changes, fatigue, confusion, and visual impairments. Individuals with migraine experience migraine attacks – periods of time when migraine symptoms are active. The frequency and duration of migraine attacks can vary significantly from person to person. Although triggers can differ among people with migraine, they may include lights, sounds, and odors.

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

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

Migraine can, for example, substantially limit the operation of the neurological and brain systems, which are major bodily functions, and therefore major life activities under Section 504. [29 U.S.C. § 705\(20\)\(B\)](#) (incorporating [42 U.S.C. § 12102\(2\)\(B\)](#)).

Migraine can also affect an individual's seeing, speaking, learning, reading, concentrating, thinking, and communicating, which are all major life activities under Section 504. [29 U.S.C. § 705\(20\)\(B\)](#) (incorporating [42 U.S.C. § 12102\(2\)\(A\)](#)).

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).

Whether a student has migraine can be established by a medical examination (including a discussion of the patient's symptoms and, in some cases, tests such as a blood test, MRI, or computerized tomography (CT) scan). But medical examinations are often not required to determine that a student is substantially limited in a major life activity. For example, a student's history of headaches, nausea, and sensitivity to light may provide sufficient information to determine that a student has migraine that substantially limits a major life activity. 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 migraine affect a student's experience in school?

Students with migraine may:

- leave class frequently due to the onset of migraine attacks and/or to use the restroom due to migraine symptoms of nausea and vomiting;
- be absent from school due to medical appointments and migraine attacks;
- have difficulty concentrating due to headache, fatigue, confusion, and other neurological symptoms;
- experience symptoms during a migraine attack, including sensitivity and distress in response to stimuli of light, sound, and odor; vision loss or disturbances; motor challenges, including poor muscle coordination; slurred speech; and changes in mood;
- fall asleep or appear tired in class due to fatigue after a migraine attack; and/or
- have an ongoing sense of fear or stress about the possibility of a migraine attack.

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

If the student's migraine 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:

- adjusting learning environments, such as by using non-fluorescent classroom lights and removing artificial air fresheners, to limit potential migraine triggers and exacerbations; or modifying rules to permit students to wear sunglasses or a hat in class;
- providing alternative material formats, such as audio textbooks and speech-to-text and text-to-speech tools, to limit the student's exposure to computer screens, because bright light is a common migraine trigger and exacerbator, and to limit the need for use of print materials when the student is experiencing visual disturbances;
- granting periodic requests by students or parents for distance learning or the provision of necessary instructional materials for use at home when migraine-related symptoms intensify, making it difficult for a student to leave home;
- 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 migraine hinders a student's ability to complete their work;
- allowing periodic rest breaks or as-needed rest periods and providing extra time when the student experiences a migraine during a course examination; and/or
- allowing the student to consume water and snacks during instruction in order to prevent a migraine attack; providing access to a quiet darkened room (such as the school nurse's office or campus health center) for rest and recovery during a migraine attack; and permitting access to a student's medication to prevent or treat a migraine attack as needed.

Furthermore, even if a student with migraine 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\(i\)\(1\)\(ii\) & \(iii\)](#). Such bullying or harassment, for example, could be related to a student's absences and to false and derogatory stereotypes, where those with migraine are called weak or lazy.

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

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

- offer the student an opportunity to re-take classes, tests, or assignments without penalty or negative consequence to the student;
- excuse absences incurred due to migraine and correct student records regarding unexcused absences; and/or
- train faculty and staff on addressing peer-to-peer bullying and harassment and on how migraine may manifest and impact a student physically, psychologically, socially, and academically.

What can be done if a student 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_eos@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.