



## Section 504 Protections for Students with Cancer

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

### ***What is cancer?***

According to the [National Cancer Institute](#), cancer is a disease in which some of the body's cells grow uncontrollably. Symptoms vary depending on the type of cancer and on the type of treatment. Treatment for cancer can include surgery, radiation therapy, and chemotherapy, which can lower white blood cell (WBC) counts. Low WBC counts can increase infection risk and can also be caused by cancer itself. Cancer alone and cancer treatment may also cause nausea and vomiting, motor changes, sensory changes, cognitive changes, weight changes, and mood or behavior changes.

### ***Can a student with cancer have a disability under Section 504?***

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

According to the Department of Justice, cancer will, in virtually all cases, substantially limit "normal cell growth," [28 C.F.R. § 35.108\(d\)\(2\)\(iii\)\(F\)](#), which is a major bodily function and therefore a major life activity under Section 504. [29 U.S.C. § 705\(20\)\(B\)](#) (incorporating [42 U.S.C. § 12102\(2\)\(B\)](#)).

Cancer can also substantially limit other major bodily functions, including the immune system, and can also affect an individual's concentrating and eating, among other activities, which are also major life activities under Section 504. [29 U.S.C. § 705\(20\)\(B\)](#) (incorporating [42 U.S.C. § 12102\(2\)\(A\)-\(B\)](#)).

Whether a student has cancer can be established by medical tests (such as a blood chemistry test, complete blood count, urinalysis, imaging tests, or a biopsy). A school may always accept that a student has a disability without any documentation or medical tests.

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](http://www.ada.gov) or contact DOJ at 1-800-514-0301, 1-833-610-1264 (TTY).

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 cancer affect a student's experience in school?***

Students with cancer may:

- be absent from school due to medical appointments, the side effects of cancer or cancer treatment, hospitalization, or care at home;
- have difficulty concentrating;
- have reduced immunity to colds or other contagious illnesses;
- experience increased thirst and dehydration and/or difficulty eating;
- experience changes in appearance; and/or;
- have an ongoing sense of fear or stress about cancer and cancer treatment.

## ***What might a school need to do to address a student's cancer?***

If the student's cancer 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 cancer-related symptoms or treatment hinder a student's ability to complete their work;
- adjusting a student's school schedule to include extra time to travel between classes, preferred locker or parking assignments, and periodic rest breaks or as-needed rest periods;
- preferred seating and other modifications that may be necessary for a student who occasionally has difficulty concentrating or has changes in behavior or mood;
- allowing the student to consume water and snacks during instruction, or—in an elementary or secondary setting—go to lunch early or late;
- adapting requirements for the required level of activity for participation in strenuous physical activities, such as in physical education and recess activities;
- providing prompt notification in a non-personally identifiable form when another student in the class has a contagious illness, such as the flu, COVID-19, chicken pox, or measles;
- allowing the student to use the restroom as needed and/or;
- granting periodic requests by students or parents for distance learning or the provision of necessary instructional materials for use at home when cancer-related symptoms or treatment intensify, making it difficult for a student to leave home;

This fact sheet does not comprehensively address the assistance with cancer-related medical issues a school may be required to provide. In the elementary and secondary setting, students with cancer may also require some additional level of assistance with medication or catheters or with symptoms like headaches, fatigue, and vomiting. 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 cancer 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, changes in physical appearance due to weight loss or gain or hair loss, or inability to participate in certain activities.

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

If a school violates the Section 504 rights of a student with cancer, 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 cancer and cancer treatment and correct student records regarding unexcused absences; and/or
- train faculty and staff on how cancer may manifest; in the elementary or secondary school setting, on students' cancer-related care/emergency plans; on addressing peer-to-peer bullying and harassment; and on how living with cancer 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](mailto: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\\_eeos@ed.gov](mailto:ofe_eeos@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.*