



Section 504 Protections for Students with GER or GERD

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

What are GER and GERD?

According to the [National Institutes of Health](#), GER happens when stomach contents come back up into the esophagus. GERD is a more severe and long-lasting condition in which GER causes repeated symptoms or leads to complications over time. Symptoms such as heartburn and regurgitation are common; however, chest pain, nausea, difficulty swallowing, vomiting, chronic cough, and hoarseness sometimes occur.

Can a student with GER or GERD have a disability under Section 504?

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

GER or GERD can, for example, substantially limit the operation of the digestive system, 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\(2\)\(B\)](#)).

Whether GER or GERD substantially limits the operation of the digestive system can be established by a medical examination or medical tests (such as an x-ray or endoscopy). But medical tests are often not required to determine that a student is substantially limited in a major life activity. For example, a student's history of vomiting when trying to eat and inability to sleep undisturbed due to regurgitating food may provide sufficient information to determine that a student has GER or GERD that substantially limits a major life activity. 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 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 GER or GERD affect a student's experience in school?

Students with GER or GERD may:

- frequently arrive late to class due to bouts of vomiting;
- be absent from school due to medical appointments;
- fall asleep in class due to an inability to sleep at night;
- leave class frequently to go to the restroom; and/or
- become restless or inattentive during instruction due to chest or throat pain or discomfort.

What might a school need to do to address a student's GER or GERD?

If the student's GER or GERD 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 such as:

- allowing the student to eat snacks during instruction or—in an elementary or secondary school setting—go to lunch early or late;
- granting periodic requests by students or parents for distance learning or the provision of necessary instructional materials for use at home when GER- or GERD-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 GER or GERD hinder a student's ability to complete their work; and/or
- allowing the student to leave class to use the restroom as needed.

Furthermore, even if a student with GER or GERD 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 repeated episodes of belching, falling asleep in class, or frequent trips to the restroom.

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

If a school violates the Section 504 rights of a student with GER or GERD, 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 GER and GERD and correct student records regarding unexcused absences; and/or
- train faculty and staff on addressing peer-to-peer bullying and harassment and on how GER and GERD may manifest and 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_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.