

Section 504 Plans and Individualized Education Plans (IEP)

Find out if a Section 504 Plan or Individualized Education Plan (IEP) could help support academic success for your child living with migraine.

Students with migraine often benefit from accommodations at school. A Section 504 Plan is geared toward ensuring a student has equitable access to a learning environment. An IEP focuses on educational benefits and often includes direct services. This guide outlines the differences between a Section 504 Plan and an IEP, as well as helpful information for parents navigating this process.



What is a 504 Plan?

A Section 504 plan is a plan developed under the **Rehabilitation Act of 1973**, an anti-discrimination civil rights statute that requires any agency receiving federal funds (such as a school) to ensure people with disabilities have equal access to all programs and benefits. A Section 504 Plan can provide reasonable **accommodations or modifications** of policies, practices or procedures to ensure that a student who has a disability has the same **access to curriculum and instruction and opportunity for academic success** as their peers who do not have a disability. Note that the Section 504 Plan does not specifically limit the types of aides or services that can be provided to “accommodations.” The law requires federal aid recipients to provide students with disabilities with appropriate educational services designed to meet the individual needs of such students to the same extent as the needs of students without disabilities are met.

This may consist of education in regular classrooms, education in regular classrooms with supplementary aides or services, and/or special education and related services. Implementation of an IEP is also a means of meeting the Section 504 Plan standard, although a student need not qualify for an IEP under the IDEA to have a Section 504 Plan.

A Section 504 Plan does not include federal funding or a case manager, so it is primarily the **responsibility of the parent** and/or student to ensure the plan is followed. For elementary and secondary school students, a Section 504 Plan does require a group of “knowledgeable persons”—often called a Section 504 Plan Team—to determine the extent to which services are needed or should be adjusted. Teachers are also required to implement the provisions of the Section 504 Plans of students for whom they are responsible.

See U.S. Department of Education, Office for Civil Rights, Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools (Dec. 2016); U.S. Department of Education, Office for Civil Rights, FAQs About Section 504, Protecting Students With Disabilities (ed.gov).

What is an IEP?

An Individualized Education Program (IEP) is a part of the federal Individuals with Disabilities Education Act (IDEA). There are 13 categories of disability in which a child is eligible for an IEP and the modifications that come with it. Students with migraine, if eligible, typically fall within the category “Other Health Impairment.” 34 C.F.R. § 300.8

An IEP outlines **specific services** to support students with disabilities. These services may include things like specialized academic instruction, medical evaluation from a neurologist, neuropsychological evaluation and nursing services for medication and rest. These services are made possible through **federal funding** and usually take place during the school day. A scheduled re-evaluation occurs at least once every three years, but the IEP Committee must also review an existing IEP annually to determine whether the annual goals for the child are being achieved. See 34 C.F.R. § 300.324(b).

IEPs are only facilitated in public schools, but a student who attends private school will have access to educational services, assessments and federal support in the district where the private school is located. Private schools that receive federal funds (e.g., school lunch programs, transportation, Title 1, etc.) are required to abide by Section 504 and IDEA. How that may be accomplished varies by state law, regulation and local policy. In some jurisdictions, it is complicated; in others, it is quite straightforward.

What are migraine-specific considerations?

Depending on their specific circumstances, your child may qualify for accommodations and/or modifications at school. Both are personalized to your child's needs; however, accommodations do not change the academic work or curriculum, while modifications do. For example, having more time to complete an assignment may be an accommodation, whereas reducing the length or requirements of an assignment may be a modification.

Examples of accommodations that may be helpful for children with migraine include:

- A separate classroom for taking tests with optimal lighting and/or fewer distractions
- Additional time to complete assignments or assessments
- Nurse-provided rest areas and medication
- Allowances to reduce triggers, such as using assistive devices like hoods, sunglasses, etc.

- Access to audiobooks as well as speech-to-text and text-to-speech tools to reduce time looking at screens and print materials
- The ability to stand, walk, take breaks or drink water at the student's discretion
- Excused absences for medical appointments
- Recorded lectures for future listening
- Access to a notetaker or a teacher's notes is generally considered an accommodation, although allowing a student to take an open-note test on an exam would be an example of a modification.

Examples of modifications that may be helpful for children with migraine include:

- Modified assignments and/or tests
- Reduced length of assessments, or the option to receive verbal assessments
- Reduced volume of assignments or a representative amount of work to demonstrate mastery

Frequently Asked Questions

How do I know if a Section 504 Plan or IEP is right for my child?

Whether a child needs a Section 504 Plan or an IEP should be determined in conversation with a larger team, including not just parents and/or guardians but also teachers, school personnel, doctors and experts. All decisions about eligibility, goals, accommodations, modifications and services must be made by "knowledgeable people (for example, school nurses, teachers, counselors, psychologists, school administrators, social workers, doctors, etc.) who, in interpreting evaluation data and determining the needed services, carefully review and analyze information collected from a variety of sources (for example, the pediatrician's report; aptitude and psychological test results; the student's grade reports; teacher observations; the student's social and cultural background; the student's family)." See U.S. Department of Education, Office for Civil Rights, Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools (Dec. 2016) at 17.

Parents need to request that doctors and other experts be a part of the evaluation process and that the evaluation considers information collected from a variety of sources. (For example, your child's doctor can write a letter to the school outlining your child's symptoms and other relevant information about their condition.)

If you aren't sure where to start, you may request a special education evaluation to determine whether your child needs a Section 504 Plan or an IEP. After that, the process will begin under both, and the team can determine together which makes the most sense, given the child's needs.

Section 504 does not provide a specific amount of time for school districts to complete an evaluation. Under IDEA, an initial evaluation for an IEP must be conducted within 60 days of receiving parental consent for the evaluation, or within a timeframe established by the state.

See U.S. Department of Education, Office for Civil Rights, Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools (Dec. 2016) at 17.

Both a Section 504 Plan and IEP can include similar **accommodations**, but if your student requires a **modification** to the curriculum, it may make sense to go straight to establishing an IEP. A modification is a change in the curriculum. For example, instead of writing a three-page essay on weather patterns for science class, your student's assignment could be to gather six photos of different types of clouds.

How often can I update a Section 504 Plan or IEP?

After the initial evaluation for an IEP, further evaluations must be conducted at least every three years. You or your child's teacher may request additional evaluations before this three-year mark if conditions warrant one. Reevaluations start with a review of existing data, including evaluations and information provided by the child's parents or guardians. Informed parental consent is required for any reevaluation, but is not required for this review of existing data. As with initial evaluations, these reevaluations are meant to determine your child's specific needs and identify any additional data needed to make an assessment. An IEP team will also review an existing IEP annually to determine whether the annual goals for the child are being achieved. See 34 C.F.R. § 300.324(b)

Frequently Asked Questions

How should I decide how many and which accommodations to request?

Your child is often the best assessor for what types of accommodations would be helpful. Talk to your child or ask that they write a list of everything that would help them get a good grade in their class. While not every accommodation may be granted, it is always better to ask for it than assume the answer is no.

What should I do if the school is not supporting my requests?

Approach the Section 504 Plan or an IEP conversation as a negotiation process. Make sure all requested accommodations are valid and relevant to your student's needs but know that there's no such thing as too many accommodations. Section 504 Plans and IEPs can be very robust and detailed.

What to do if you are not receiving appropriate support:

1. Review the Notice of Procedural Safeguards booklet the school provides in response to your first request for evaluation.
2. Parents concerned about a Section 504 Plan may first reach out to a 504 coordinator or a state parent advocacy center and may ultimately file a federal complaint with the U.S. Department of Education Office of Civil Rights (OCR), which enforces Section 504 of the Rehabilitation Act.
3. If parents disagree with a proposed IEP or Section 504 Plan, they may request a due process hearing and review from the local State educational agency and appeal to State or Federal court. Parents may contact the U.S. Department of Education Office of Special Education and Rehabilitative Services (OSERS) for more information.
4. Contact the Department of Education in your state or the Section 504 Coordinator for your school district and request information about parental rights and clarification about the accommodations your child may qualify for based on their circumstances. In cases where a child is being refused IEP accommodations for which they qualify, parents may request a hearing and

review from the local state educational agency and appeal to State or Federal court. See ADA, Guide to Disability Rights Laws (June 16, 2022), <https://www.ada.gov/resources/>.

It is important to note that under the procedural safeguards for Section 504 and IDEA, there is a specific timeline and process for appealing IEP and Section 504 decisions. Not following that specific process can create major issues down the road. Make sure that all correspondence with the school is in writing and submitted according to your state's timelines. You can also **connect with a local advocacy group** that offers parent-to-parent educational advocates to better understand your options.

Please also note that the school may have programs for struggling students who don't qualify for an IEP or a 504 plan. These programs can include one-on-one tutoring, peer mentoring and special help such as a reading specialist who helps a child with phonics. Be sure to ask what extra help your school offers students who are struggling.

What happens when my child goes to college?

Any college that receives federal funds is required to have an ADA and 504 coordinator. A Section 504 plan or an IEP is a "record of disability" and helps establish the need for a new plan to be developed by the college. As soon as the student is admitted, they can bring an IEP to the college and request a Section 504 Plan.

Disclaimer: Please note that the structure of special education services may differ based on your child's school and state. While federal law outlines what all states must do to meet students' needs, there is also room for interpretation state-by-state. For the most accurate information, please check with your state's Parent Training and Information Center.

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