



## Section 504 Protections for Students with Anxiety Disorders

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

### ***What is an anxiety disorder?***

According to the [National Institute of Mental Health](#), an anxiety disorder is different from the occasional anxiety that is a routine part of life and can interfere with daily activities such as schoolwork and relationships. For a person with an anxiety disorder, their feelings of anxiety persist and can get worse over time. Symptoms of an anxiety disorder include having difficulty concentrating, having headaches, stomachaches, difficulty controlling feelings of worry, having a sense of panic, fear of an object or situation, feelings of being out of control, or feelings of self-consciousness or fearing that people will judge them negatively. Anxiety disorders often develop during childhood or teen years and can continue later in life. People with anxiety disorders can often, but not always, have other disabilities, such as depression or an eating disorder, and are at higher risk for suicide than those without anxiety disorders.

### ***Can a student with an anxiety disorder have a disability under Section 504?***

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

An anxiety disorder can, for example, substantially limit concentrating, which is a major life activity under Section 504. [29 U.S.C. § 705\(20\)\(B\)](#) (incorporating [42 U.S.C. § 12102\(2\)\(B\)](#)).

Whether an anxiety disorder substantially limits concentrating or any other major life activity can be established, for example, through a clinical evaluation performed by a student's pediatrician or general physician or by a psychological evaluation using diagnostic criteria in the Diagnostic and Statistical Manual of Mental Disorders (DSM). A school may, however, 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 the Individuals with Disabilities Education Act. Parents also may have additional rights under that statute and its 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 an anxiety disorder affect a student's experience in school?***

Students with an anxiety disorder may:

- be absent from school due to medical appointments;
- feel overwhelmed when completing school work, or take a long time to process information;
- avoid situations or circumstances that cause anxiety or panic such as after-school extracurricular clubs and social activities;
- be afraid to contribute to class discussions or offer their ideas; and/or
- isolate themselves.

## Section 504 Obligations for Public Elementary and Secondary Schools

### ***What must public elementary and secondary schools do to ensure students with an anxiety disorder receive a free appropriate public education?***

Section 504 grants elementary and secondary students with disabilities the right to a free appropriate public education (FAPE). [34 C.F.R. § 104.33](#). This includes the school's obligation to identify and evaluate a student who needs or is believed to need special education or related aids and services because of a disability. [34 C.F.R. § 104.35](#).

This evaluation obligation can be triggered, for example, by a teacher observing the symptoms of an anxiety disorder. The symptoms of an anxiety disorder are extensive and can vary by type, but can include, for example, any of the following:

- irritability, tenseness, or restlessness
- headaches, muscle aches, stomachaches, or unexplained pains
- difficulty concentrating
- pounding or racing heart
- feelings of being out of control
- trouble sleeping and/or
- feelings of intense anxiety when dealing with unavoidable objects and situations.

Similarly, if a parent informs their child's school that the student has an anxiety disorder, and the school has reason to believe the anxiety disorder is a disability and the student needs special education or related aids and services as a result, the school would be obligated to evaluate the student.

Students who are identified as having a disability are entitled to a broad range of related aids and services, as appropriate, such as counseling or tutoring. During the course of the evaluation, the group of knowledgeable people (often referred to as a Section 504 Team) determine what a student needs in school. Students may also require certain modifications (sometimes referred to as accommodations) to meaningfully access or benefit from the school's educational opportunities, and students are not necessarily required to request such modifications. [34 C.F.R. § 104.4](#). 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 or related aids and services. For example:

- providing the student the opportunity to take tests alone in a different location, or with extra time;
- offering alternatives to large group-centered activities or events;
- 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 symptoms of their anxiety disorder hinder a student's ability to complete their work; and/or
- allowing the student to take extra breaks, as needed from class.

Some modifications might only be needed while a student is in elementary and secondary school, while others might be needed throughout a student's entire educational career.

The group of knowledgeable people might also need to change the location in which a student receives their education, while always remaining mindful of the obligation to educate students with disabilities alongside students without disabilities to the maximum extent appropriate to the needs of the student with the disability. [34 C.F.R. § 104.34](#).

### ***What must public elementary and secondary schools do with respect to bullying and harassment?***

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 fear or discomfort of being in social situations, need to complete assignments in a separate setting, or regular visits to the guidance counselor.

In addition, Section 504 may require a school to respond to bullying or harassment of a student with a disability on any basis – regardless of why the student is being bullied or harassed. If the school suspects that, as a result of the effects of the bullying, the student's needs have changed such that the student may no longer be receiving FAPE, the Section 504 team must determine the extent to which additional or different services are needed, ensure that any needed changes are made promptly, and safeguard against putting the onus on the student with the disability to avoid or handle the bullying.

For example, counseling or other appropriate related services, identified in consultation with that student's parent or guardian, may need to be offered to a student in order to address any effects, including the denial of FAPE, that the student may have experienced as a result of the harassment.

### ***Transition to postsecondary education***

Students should be aware that while public elementary and secondary schools must identify and evaluate students with disabilities, postsecondary schools are not required under Section 504 to do either. Once a student enters a postsecondary environment, in general, the student must advocate for themselves. If a student decides they want any reasonable modifications, it is generally up to the student to inform the postsecondary school of their disability and request what they need, usually to a disability services office. Once a student has made such a request, schools may request reasonable documentation that explains or supports the student's need for modifications. While students may request reasonable modifications at any time, requests made early (even before the start of the school year) are more likely to be granted in time to be most effective.

## Section 504 Obligations for Postsecondary Schools

### *What reasonable modifications could a student with an anxiety disorder need?*

If a postsecondary student's anxiety disorder has resulted in the student having a disability under Section 504, that student may require certain reasonable modifications (sometimes referred to as accommodations) to meaningfully access or benefit from the school's educational opportunities. [34 C.F.R. § 104.44](#). These reasonable modifications must be individualized, as the needs of students with disabilities vary.

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

- extended testing time in a reduced distraction environment;
- a single room in a dormitory, at the reduced double room rate, to avoid the need for a roommate;
- a reduced course load;
- 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 symptoms of their anxiety disorder hinder a student's ability to complete their work; and/or
- long-term voluntary medical leave from school to receive treatment.

## Section 504 Obligations of Elementary, Secondary, and Postsecondary Schools

Schools must treat students with disabilities on an individualized basis. For example, reasonable modifications must be individualized, as the needs of students with disabilities vary. For example, one fourth grade student's separation anxiety disorder treatment plan established by a doctor might recommend that the student's lunch be coordinated with their sibling's lunchtime even though the sibling is in a different grade and the two grades don't usually have lunch at the same times. But for another student with a different anxiety disorder, for example social anxiety disorder, the treatment plan might recommend the student be allowed to eat in private, so a modification for that student might be to allow that student to eat in a private space. Further, even though students with anxiety disorders are at higher risk of suicide than those without an anxiety disorder, schools must not respond based on speculation, stereotypes, or generalizations, but rather must individually assess each student's risk before taking any action with respect to that student.

Furthermore, even if a student with an anxiety disorder has a disability but does not need reasonable modifications, they would still be protected from discrimination, such as disability-based harassment or being excluded or treated differently because of their anxiety disorder. For example, a student with a fear of flying that is a disability may not be excluded from a postsecondary student teaching opportunity solely because they have a fear of flying. Additionally, if a school believes a student has an anxiety disorder and excludes or otherwise discriminates against the student on that basis, the school violates Section 504, even if the student does not have an anxiety disorder.

## Remedies

### ***What remedies might an elementary, secondary, or postsecondary school need to provide if it does not appropriately address a student's anxiety disorder?***

If a school violates the Section 504 rights of a student with an anxiety disorder, 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;
- conduct an all-school environment assessment and effort to overhaul a culture of bullying or harassment;
- excuse absences incurred due to anxiety disorder treatment or symptoms and correct student records regarding unexcused absences; and/or
- train faculty and staff on how an anxiety disorder may manifest; on addressing peer-to-peer bullying and harassment; on reducing mental health stigma; and on how living with an anxiety disorder 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\\_eos@ed.gov](mailto: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.*